



Flagstar Private Bank Business Product Terms and Conditions

Effective Date: February 2, 2024

Flagstar Bank, N.A. – Private Bank
Business Product Terms & Conditions

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PART I: INTRODUCTION

These Business Product Terms and Conditions (“**Agreement**”) together with the other Service Documentation (as defined below) governs the terms under which the Private Bank of Flagstar Bank, N.A. (“**Bank**”) provides Cash Management services to Client. “**Client**” refers to the Bank customer identified on the Acceptance that was signed to enroll such Bank customer in a Service. This Agreement shall be deemed to amend and supersede in its entirety all prior agreements entered into between Bank and Client governing the Services.

Client and Bank will agree upon the Services to be provided, and each Service is subject to Bank’s approval. Client must properly complete and submit any Service Application in accordance with

the Service Application instructions and Bank's requirements. Bank reserves the right to reject Client's Service Application for any reason, including because Bank determines in Bank's own judgment that Client's access to the Service may expose Bank to an increased risk. Client may not begin using a Service until Bank has approved Client's Service Application and enrolled Client in the Service.

The Service Documentation contains the terms governing each Service and includes:

- (a) This Agreement (which contains the General Terms and the Service Terms);
- (b) The Acceptance (which indicates Client's acceptance of the Service Documentation);
- (c) The Account Agreement (which governs the Account Client uses in connection with the Service);
- (d) The Service Application (which may be required by Bank for setting up access to a Service and which may contain setup information for the Service in which Client is enrolling); and
- (e) All other documentation related to the Service, including as applicable product briefs, product reference guides, user guides, Fee Schedules, terms of use, Software, Software licenses, specifications, instructions, and notices).

The documents and individual provisions of the Service Documentation are intended to be read together as one agreement between Client and Bank. Except as expressly provided in this Agreement, if there is a conflict among the documents that are part of the Service Documentation, they will govern in the order listed above.

Client's use of a Service confirms Client's receipt of, and agreement to be bound by, this Agreement and all Service Documentation. Client should retain a copy of this Agreement, and any documentation related to this Agreement and any Service, for Client's records.

PART II: GENERAL TERMS

1. Construction and Interpretation

Capitalized terms used in this Agreement have the meaning provided in Part IV (Glossary).

Unless the context otherwise requires:

- (a) References to a particular agreement, instrument, or document shall include all renewals, extensions, modifications, amendments and restatements of such agreement, instrument, or document;
- (b) References to the plural number shall include the singular number (and vice versa);

- (c) References to “herein,” “hereunder,” “hereof,” or like words shall refer to this Agreement as a whole and not to any particular part, section, subsection, or clause contained in this Agreement; and
- (d) The headings in this Agreement are intended for convenience of reference and shall not affect its interpretation and shall not be deemed a part of this Agreement.

2. Changes to Services; Amendments

Client acknowledges and agrees that Bank may make any changes to a Service or the terms and fees in the Service Documentation. When required by Applicable Law, Bank will notify Client of the change. Bank may, at any time and without liability, modify or discontinue all or part of a Service (including access to the Service via third-party links); charge, modify, or waive any fees required to use a Service; or offer enhancements to some or all users of a Service.

Bank may amend this Agreement at any time by sending notice to Client by regular mail, email, electronic communication, posting on the Website, posting to Internet Banking (if Client is enrolled in Internet Banking), or any other means Bank uses to communicate to Client. The use of a Service by Client (or by any Client Agent) or Client’s failure to terminate or cancel all Services after the effective date specified in the notice of any amendment to this Agreement constitutes Client’s acceptance of such amendment.

3. Term and Termination

The term for each Service shall begin after Client has provided Bank with all applicable Service Applications and Bank has reviewed and approved the Service Applications and enrolled Client in the Service.

This Agreement and each Service will continue in effect until terminated by either party in accordance with this Section II.3 (Term and Termination).

Bank may suspend or terminate access to any Service, or suspend or terminate any Administrator and/or User’s access to such Service:

- (a) For any reason or no reason upon thirty (30) days’ prior written notice to Client.
- (b) Without prior notice to Client if:
 - (i) Bank reasonably suspects that Client or any Client Agent has committed, is committing, or will commit an act of fraud, dishonesty, or conduct suspicious activity;
 - (ii) Client breaches or fails to comply with any provision of this Agreement or the terms of any Software license;
 - (iii) Client becomes subject to any insolvency or bankruptcy proceeding, receivership, liquidation, reorganization, or other similar proceeding, or Client files a petition under any bankruptcy or insolvency law;

- (iv) Bank determines in its sole discretion that continuing to provide a Service or access to a Service to any Administrator and/or User may place Bank at risk of financial loss or result in an unacceptable credit exposure;
- (v) Bank determines in its sole discretion that a material adverse change has occurred in Client's ability to perform its obligations under the Service Documentation;
- (vi) Client closes the Accounts used in connection with the Service;
- (vii) Bank determines in its sole discretion that the continued provision of the Service(s) in accordance with the terms of this Agreement would violate Applicable Law, or there is any change in Applicable Law that substantially and materially alters the ability of Bank to perform a Service hereunder or would subject Bank to unacceptable risk of loss;
- (viii) Bank is required to do so to comply with Applicable Law or is instructed to do so by a Governmental Authority; or
- (ix) Client refuses to cooperate with Bank or comply with requests from Bank as provided under Section II.10 (Audit).

Client may terminate use of any Service for any reason or no reason upon thirty (30) days' prior written notice to Bank.

Upon termination of the Agreement or access to a Service for any reason, Client shall, unless otherwise agreed to in writing with Bank:

- (a) Immediately cease using the Service (and instruct any and all Client Agents to do the same);
- (b) Return or destroy any item that Bank may direct Client to return or destroy, including any Check, Check stock, or equipment; and
- (c) Remit to Bank all amounts due to Bank.

Any suspension or termination of a Service or this Agreement shall not affect any of Client's obligations arising prior to such suspension or termination. Client understands that, when a Service is suspended or terminated, any previously scheduled transactions will not be completed. Client understands that any licenses provided under this Agreement shall end, and Bank shall not be liable to Client or any third party for termination of access to a Service or for termination of the Agreement. All reasonable expenses incurred by Bank in terminating the relationship under this Agreement shall be borne by Client.

4. Fees and Charges

Client shall pay to Bank the Service Fees in the amount of and according to the terms set forth in the Fee Schedule. Client will pay any sales, use, value added, utility, excise or other taxes, or other governmental charges that Bank or Bank Agent is required to pay or collect in providing a Service.

Without requiring prior notice to or prior approval of Client, Bank may debit the Account that Client has designated to be charged in the amount of these Service Fees. If the Account designated by Client does not have sufficient funds to pay all Service Fees, then Bank may debit any other account that Client maintains with Bank and may suspend or terminate access to the Service. If a Service is terminated prior to month end, Client shall remain liable for the full amount of the Service Fees for that month.

Client acknowledges and agrees that third parties may assess other fees and charges and bill and collect those fees and charges separately.

Client may be automatically enrolled in Account Analysis when utilizing various services that have associated Service Fees charged by Bank. When enrolled, Client may be able to use Service Allowance to offset certain Service Fees. Any available Service Allowance in excess of accrued Service Fees during any particular Statement Cycle Period, resulting in a Surplus, shall not be paid to Client and shall not roll forward into any subsequent Statement Cycle Period. If an enrolled Client's Account contains funds belonging to third parties, Client represents that Client's use of any related Service Allowance is not limited by Applicable Law or any agreement with such third parties, and that Client has any required authorization from such third parties for its use.

If enrolled in Account Analysis, Client authorizes Bank to collect Service Fees first by applying any Service Allowance Client has earned through Account Analysis. If the available Service Allowance is insufficient to cover payment of full amounts due for Service Fees in a Statement Cycle Period, resulting in a Deficiency, the remaining Service Fees owed by a Client enrolled in Account Analysis may, at Bank's discretion, either be invoiced to Client or debited from the Account that Client has designated to be charged for such purpose.

5. Cut-off Time

Client acknowledges and agrees that the Services may be subject to Cut-off Times, and that if Bank receives any information, instructions, or item subject to a Cut-off Time after the applicable Cut-off Time or on a day other than a Business Day, such information, instruction, or item may be deemed received by Bank as of the next Business Day. Client can obtain information on Bank's current Cut-off Times by contacting Bank at the phone number or email address set forth in Section II.22(a)(ii) (Notice).

6. Confidentiality

(a) Confidential Information

Client acknowledges that all Confidential Information is the confidential property of Bank or its Bank Agent.

Client will, and will ensure that Client Agents will, treat the Confidential Information as confidential. Client will not disclose or otherwise make available Confidential Information in any form to any person other than Client's employees, subsidiaries, affiliates, and agents who need to know such information solely for the purposes contemplated under this Agreement and who are (a) legally or contractually restricted from disclosing the Confidential Information under terms at least as restrictive as those stated in this Agreement, and (b) required to keep the Confidential Information confidential using the same care and discretion that Client would use with respect to its own confidential information, property, and trade secrets, but in no event, less than reasonable care.

(b) Client Data

Bank shall treat as confidential and shall not disclose Client Data, except that, to the extent permitted by Applicable Law, Client authorizes Bank and any affiliate of Bank to disclose Client Data:

- (i) For the purpose of and only to the extent necessary for providing a Service;
- (ii) To any Bank Agent in connection with providing a Service;
- (iii) As required by Applicable Law;
- (iv) To investigate an alleged error; or
- (v) To confirm information about Client in connection with a Service.

Bank shall not provide Client Data to a Bank Agent unless such Bank Agent agrees to keep the Client Data confidential and to use Client Data only to assist Bank in providing the Services. Notwithstanding the foregoing, Client authorizes Bank and any Bank Agent to use Client Data for improvements to Bank or Bank Agent's products and services.

If Client uses a Client Agent in connection with a Service, then Client authorizes Bank to disclose to such Client Agent any information that Bank would provide to Client with respect to the Service, including Client Data. Client acknowledges and agrees that any Client Agent granted access to a Service will have access to Client Data for all Accounts identified in the Service Application and designated for access to the Service, or otherwise linked to Client's Account. Client alone is responsible, and Bank shall not be liable, for any unauthorized use of Client Data by any User or any other person using Access Credentials.

Information Client provides to Bank through the Services will be governed by, and Bank will only use in a manner which is consistent with, Bank's Privacy Policy, which is available at <https://www.flagstar.com/commercial/commercial-and-private-banking/agreements-and-disclosures.html>.

7. **Security Procedure**

Client agrees that the Security Procedure for Client's Initiation Method for the Service is mandatory as Bank will use such Initiation Method to detect or prevent an unauthorized access to

or use of Service and to verify the authenticity of a Transaction. The purpose of the Security Procedure is to verify the authenticity of the Transaction. Bank will not use the Security Procedure to detect an erroneous or duplicate Transaction. Client will be responsible for any erroneous or duplicate Transaction Bank receives in Client's name. Client agrees to be bound by each Transaction, whether or not authorized by Client that is issued in Client's name and accepted by Bank in compliance with the Security Procedure for the Service.

Client agrees that each Security Procedure for the Initiation Method for each of the Services (a) best meets Client's requirements with regard to the size, type, and frequency of Client's Transactions, and (b) is commercially reasonable.

Client agrees that any action taken by Bank or Bank Agent beyond the Security Procedures referred to in this Agreement in an attempt to detect or prevent an unauthorized access to or use of a Service, shall not be deemed to be a part of the Security Procedures regardless of how often such action may be taken by Bank or Bank Agent.

In the event of any conflict between this Section II.7 (Security Procedure) and any provision in the Service Terms, the provision in the Service Terms will prevail, but only to the extent necessary to resolve such conflict.

8. Use of Bank Agents

Client agrees that Bank may from time to time contract with and utilize Bank Agents and other third parties in providing a Service or performing any of its rights or responsibilities under this Agreement. Client acknowledges and agrees that Bank's ability to provide the Services may be contingent upon the continuing availability of certain services provided by Bank Agents. Bank shall not be liable for any errors or negligence of Bank Agents and other third parties, or the suspension of or failure to provide a Service as a result of any error, negligence, or nonperformance by Bank Agents or other third parties. Client agrees to assume all such risk associated with use of Bank Agents. In the performance of all work, Bank and Bank Agents are independent contractors and each has the sole right to supervise, manage, control and direct the performance of the details of said work to be performed by them. Client is interested only in the results obtained and the prompt performance of the obligations and agreements hereunder.

9. Client Employee and Client Agent Compliance with Agreement

Client agrees that in using any Service, Client will comply with this Agreement and with all procedures and requirements of Bank and Bank Agents relating to the Service. Prior to Client utilizing a Client Agent for a Service, Client shall notify Bank of the Client Agent in writing and Bank may reject the proposed Client Agent in Bank's sole and exclusive discretion. In such event, all instructions received by Bank from Client Agent are hereby authorized by Client. All acts and omissions of Client Agent shall be the acts, omissions, and responsibility of Client and shall be governed by the provisions of this Agreement. Client agrees, jointly and severally with Client Agent, to indemnify and hold Bank harmless from any and all Losses of any kind (including the reasonable fees and disbursements of counsel in connection with any investigative, administrative, or judicial proceedings, whether or not Bank shall be designated a party thereto), which may be incurred by Bank relating to or arising out of the acts or omissions of Client Agent on behalf of

Client. Client and Client Agent shall execute any such other agreement(s) or documents as deemed necessary or appropriate by Bank prior to the initiation or any continuation by Client Agent of any Services on Client's behalf. Notice of any termination of Client Agent's authority to use one or more of the Services on Client's behalf shall be given to Bank in writing. Such termination shall take effect after Bank receives written notice of such termination and Bank has had a reasonable opportunity to act on that notice. Client agrees that Bank retains the right to reject any transactions initiated by Client Agent in its sole discretion.

10. Audit

BANK MAY FROM TIME TO TIME REQUEST FINANCIAL OR OTHER INFORMATION FROM CLIENT IN ORDER TO EVALUATE A CONTINUATION OF THE SERVICES TO BE PROVIDED BY BANK HEREUNDER AND/OR ADJUSTMENT OF ANY LIMITS INCLUDING THE DOLLAR LIMIT(S) SET BY OR PURSUANT TO THIS AGREEMENT. CLIENT SHALL PROMPTLY PROVIDE TO BANK THE REQUESTED INFORMATION IN THE FORM REQUIRED BY BANK. CLIENT AUTHORIZES BANK TO INVESTIGATE OR REINVESTIGATE AT ANY TIME ANY INFORMATION PROVIDED BY CLIENT IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES.

BANK SHALL HAVE THE RIGHT TO INITIATE AN AUDIT OF CLIENT FOR COMPLIANCE WITH THIS AGREEMENT, APPLICABLE LAW, AND THE RULES. CLIENT AUTHORIZES BANK AND BANK AGENT TO, UPON REASONABLE NOTICE BY BANK, ENTER CLIENT'S BUSINESS PREMISES OR ANY LOCATION WHERE CLIENT OR CLIENT AGENTS USE THE SERVICE FOR THE PURPOSE OF PERFORMING AN AUDIT. SUCH AUDIT BY BANK MAY INCLUDE AN AUDIT OF CLIENT'S OPERATIONAL CONTROLS, RISK MANAGEMENT PRACTICES, SECURITY PROCEDURES, INFORMATION TECHNOLOGY INFRASTRUCTURE, AND STAFFING AND CLIENT'S NEED FOR TRAINING AND ONGOING SUPPORT. CLIENT SHALL COOPERATE FULLY WITH SUCH AUDIT.

CLIENT ACKNOWLEDGES AND AGREES THAT BANK MAY MANDATE SPECIFIC INTERNAL CONTROLS AT CLIENT'S LOCATION(S), AND CLIENT SHALL COMPLY WITH ANY SUCH MANDATE. IN ADDITION, CLIENT SHALL ALLOW BANK TO REVIEW AVAILABLE REPORTS OF INDEPENDENT AUDITS PERFORMED AT THE CLIENT LOCATION RELATED TO INFORMATION TECHNOLOGY, THE SERVICES TO BE PROVIDED BY BANK, AND ANY ASSOCIATED OPERATIONAL PROCESSES. IF REQUESTED BY BANK, CLIENT SHALL COMPLETE A SELF-ASSESSMENT OF CLIENT'S OPERATIONS, MANAGEMENT, STAFF, SYSTEMS, INTERNAL CONTROLS, TRAINING, AND RISK MANAGEMENT PRACTICES THAT WOULD OTHERWISE BE REVIEWED BY BANK IN AN AUDIT OF CLIENT.

11. Reliance

Bank may rely on the accuracy of all information provided to Bank by Client. Client shall promptly inform Bank of any such incorrect data or information. Neither Bank nor Bank Agents shall be liable for any failure in performance under this Agreement, to the extent such failure is the result of inaccurate information supplied by Client or anyone acting on behalf of Client. Client shall bear

the cost of correction and pay all direct costs arising therefrom if the correction of such data results in costs to Bank or Bank Agent that exceed those incurred in the process of routinely receiving and preparing correct data for normal usage.

Client will cooperate with Bank in the investigation and resolution of any alleged errors related to Client's use of a Service, regardless of the cause or source of any such alleged errors.

12. **Representations and Warranties**

In addition to any representations and warranties contained in the Service Documentation, each time Client uses a Service, Client represents and warrants to Bank:

- (a) That the individual executing the Client's Acceptance and any Service Application on behalf of Client is duly authorized by all necessary action to execute, on behalf of Client, the Acceptance and any Service Application;
- (b) That Client's use of the Service complies with the terms and conditions set forth in the Service Documentation and with Applicable Law;
- (c) That Client has received and agrees to the Service Documentation;
- (d) That Client is a duly incorporated and validly existing legal entity in good standing financially and is not subject to any insolvency or bankruptcy proceeding;
- (e) That Client, Client Agents, and Client's Authorized Representatives are accurately described in the Service Documentation;
- (f) That Client has full power and authority to execute, deliver and perform the obligations under this Agreement;
- (g) That Client has consulted or declined to consult with counsel and/or experts of its own selection prior to agreeing to the Service Documentation;
- (h) That Client's use of the Service is for business purposes only and is not for personal, family, or household purposes; and
- (i) Client and/or Client Agent has all appropriate hardware, software, and access to the internet that may be required for the Service.

13. **Compliance with Applicable Law**

Client shall comply with all Applicable Law when using a Service.

14. **No Waiver**

Bank shall not be deemed to have lost any of its rights under this Agreement because they have not been exercised. None of Bank's rights under this Agreement can be affected or waived orally or by any act, acquiescence, practice, course of action, course of dealing, previous action, or failure

to act. No waiver shall be effective unless made in writing and signed by an authorized officer of Bank who has full knowledge of all facts and then only to the extent set forth in such writing.

15. Limitation of Liability

Client acknowledges that Bank's willingness to provide the Services is based on the limitations and allocations of liability contained in this Agreement. Bank has only those duties and responsibilities specifically and expressly set forth in the Service Documentation. Unless expressly prohibited or otherwise restricted by Applicable Law, the liability of Bank in connection with the Services will be limited to actual Damages sustained by Client and only to the extent such Damages are a direct result of Bank's gross negligence or willful misconduct. In no event shall Bank be liable for any consequential, special, incidental, indirect, punitive, or similar loss or damage that Client may suffer or incur in connection with the Services, including attorneys' fees, lost earnings, or profits and loss or damage from subsequent wrongful dishonor resulting from Bank's acts, regardless of whether the likelihood of such loss or damage was known by Bank and regardless of the basis, theory, or nature of the action on which a claim is asserted. Bank shall not be liable for Losses of any kind to any third party or for any act or omission of Client or Client Agent or any third party.

Client is responsible, and Bank shall not be liable, for any Losses to Client as a result of Client's failure to comply with the Service Documentation or Applicable Law. Bank shall not be responsible for Client's acts or omissions (including the amount, accuracy, timeliness of transmittal, or due authorization of any Entry, Payment Order, or other instruction received from Client) or the acts or omissions of any other person, including any ACH processor, any Federal Reserve Bank, any financial institution or bank, any transmission or communication facility, any receiver, or receiving depository financial institution, including the return of an Entry or rejection of a Payment Order by such receiver or receiving depository financial institutions, and no such person shall be deemed a Bank Agent.

In addition, Bank shall be excused from any failure to act or delay in acting in connection with a Service if such action would result in Bank exceeding any limitation upon its intra-day net funds position established pursuant to present or future Federal Reserve guidelines or in Bank's otherwise violating any provision of any present or future risk control program of the Federal Reserve or any Applicable Law. In no event shall Bank be liable for any Losses resulting from Bank's action or inaction that is consistent with regulations issued by the Federal Reserve Board, operating circulars issued by a Federal Reserve Bank or general banking customs and usage. To the extent required by Applicable Law, Bank will compensate Client for loss of interest on funds as a direct result of Bank's failure to comply with such laws in executing electronic transfers of funds, if such failure was within Bank's control. The maximum period for which Bank shall be liable for interest (where Bank is liable for such interest) on any amount to be refunded or paid to Client is thirty (30) days and such interest shall be calculated at the rate, if any, paid by Bank on the Account or shall be calculated by using the rate equal to the average federal funds rate at the Federal Reserve Bank of New York for the period involved. At Bank's option, payment of such interest may be made by crediting the Account. Bank shall not be liable for Client's attorney's fees in connection with any such claim.

Bank recommends that Client use certain Services and features to help to prevent potential fraud losses. These Services and features include the Positive Pay Service (Section III.1(a)(ii)), ACH Selective Item Processing (Section III.2(o)), ACH Block (Section III.2(p)), dual control for payment transactions, and any other Service or features related to fraud prevention that Bank may offer. For all present and future accounts opened by Client at Bank, including accounts in the name of all subsidiaries and affiliates, if Client fails to implement any of the fraud prevention Services or features identified above but continues to use the accounts, Client's continued use constitutes its agreement that Client has elected not to use such fraud prevention Services or features and will bear any fraud losses that would have otherwise been prevented by proper use of such fraud prevention Services or features.

Except as otherwise expressly provided in this Agreement, Bank shall not be liable for any Losses caused by any act or omission of any third party; for any charges imposed by any third party; or for any Losses caused by any failure of the hardware or software utilized by a third party to provide Services to Client.

Bank's sole liability for Losses to Client for any Damages whatsoever and regardless of the form of action shall be limited to direct Damages sustained by Client. In no event will Bank's liability for Losses exceed the average monthly Service Fees incurred by Client for the two (2) calendar months immediately preceding the event(s) giving rise to Client's claim or such fewer number of preceding months as this Agreement has been in effect. The foregoing limitation shall apply notwithstanding any failure of essential purpose of any limited remedy.

Notwithstanding any of the foregoing, for transactions which are subject to the Expedited Funds Transfer Act and its implementing Regulation CC and the UCC Article 4A, Bank shall be liable for such Damages as may be required or provided under UCC Article 4A, as applicable, except as otherwise agreed in this Agreement. This Agreement is only between Bank and Client, and Bank shall have no liability hereunder to any third party.

Bank is not liable for failing to act sooner than required by this Agreement or Applicable Law. Bank also has no liability for failing to take action if Bank had discretion not to act or no regulatory requirement to act.

16. Indemnification

Client is liable for and agrees at all times to indemnify, defend, release, and hold harmless Bank and Affiliated Entities from and against any and all Losses incurred with the exception of Regulation CC referenced above, made or brought against Bank or Affiliated Entities resulting from or directly or indirectly arising out of:

- (a) Client's use of a Service;
- (b) Any act or omission of Client or Client Agent in connection with this a Service;
- (c) Any breach of the Service Documentation or Applicable Law by Client;

- (d) Bank or Bank Agent's endorsement on Client's behalf of any Check or Item or warranty thereof (unless directly caused by Bank's gross negligence or willful misconduct);
- (e) Client's lack of authority to make the warranties provided herein;
- (f) Any claim of any person that (i) Bank or an Affiliated Entity is responsible for any act or omission of Client, or (ii) a Payment Order contravenes or compromises the rights, title, or interest of any third party, or contravenes any Applicable Law;
- (g) Any act or omission of Bank or an Affiliated Entity within the scope of Bank or the Affiliated Entity's authority in connection with a Service; or
- (h) Bank or an Affiliated Entity's acting in good faith on instructions Bank or the Affiliated Entity believed to be from Client or a person or entity acting on Client's behalf or otherwise complying with the Service Documentation.

Client further agrees at all times to indemnify, defend, release and hold Bank and Affiliated Entities harmless against all Losses that Bank or Affiliated Entities may incur in defending, prosecuting, settling, or discontinuing any proceedings, actions or claims in consequence of or arising directly or indirectly out of this Agreement, a Service, Bank, or Bank Agent's endorsement on Client's behalf of any Item of Payment or warranty thereof.

17. No Warranties

BANK (AND ANY BANK AGENTS INVOLVED IN A SERVICE) MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY IMPLIED WARRANTY ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE WITH RESPECT TO THE SERVICES PROVIDED HEREUNDER, AND CLIENT SHALL NOT TAKE ANY ACTION THAT WOULD INDICATE OR IMPLY OTHERWISE. CLIENT AGREES THAT USE OF A SERVICE, SOFTWARE, AND ALL INFORMATION SERVICES AND OTHER CONTENT (INCLUDING THAT OF BANK AGENTS OR OTHER THIRD PARTIES), IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS.

WITHOUT LIMITING THE FOREGOING, BANK (AND ANY BANK AGENTS INVOLVED IN A SERVICE) MAKES NO WARRANTY THAT A SERVICE (OR ANY SOFTWARE IN CONNECTION WITH THE SERVICE) (A) WILL MEET CLIENT'S REQUIREMENTS; (B) WILL BE FREE FROM DEFECTS OR VIRUSES; (C) WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE; (D) THAT ANY RESULTS OBTAINED FROM A SERVICE WILL BE ACCURATE OR RELIABLE; OR (D) THAT ANY ERRORS IN A SERVICE OR TECHNOLOGY WILL BE CORRECTED. CLIENT'S USE OF THE SERVICES IS AT CLIENT'S OWN DISCRETION AND RISK, AND CLIENT IS SOLELY RESPONSIBLE FOR ANY DAMAGE RESULTING FROM CLIENT'S USE.

18. Force Majeure

Bank is excused from failing to perform or any delay in performing any of its obligations under this Agreement if such failure or delay is due to any cause beyond Bank's reasonable control, including, acts of God, war, acts of a civil or military authority, terrorist acts, embargoes, riots, strikes, work stoppages, fires, storms, pandemics, epidemics, explosions, delays by suppliers, theft, shortage of adequate transportation facilities, shortages of parts or materials, changes in Applicable Law, power failures, or communication line interruptions.

19. Governing Law

This Agreement is made in the County of New York, State of New York, and shall be governed by and construed in accordance with the laws of the State of New York and applicable federal law without regard to choice of law principles.

20. Dispute Resolution

The Dispute Resolution provisions set forth in the Account Agreement are hereby incorporated into this Agreement by reference.

21. Injunctive Relief

Except as otherwise provided hereunder, the remedies provided under this Agreement are not exclusive of the remedies available to Bank or Client at law or in equity. Without limiting the foregoing, Client acknowledges that Client's breach of its obligations under this Agreement may cause irreparable harm or injury to Bank or Bank Agent and that Bank or Bank Agent, without the requirement of posting bond or other security, may seek and obtain injunctive or other equitable relief against such breach or threatened breach without prejudice to any other remedies which may be available to it.

22. Notice

(a) Generally

Except as otherwise expressly provided in the Service Documentation, Bank shall not be required to act upon any notice or instruction received from Client or any other person or to provide any notice or advice to Client or any other person with respect to any matter. Notwithstanding the foregoing, should Bank act upon any notice or instruction, Bank shall have a reasonable time in which to act, after actual receipt of the notice or instruction.

If Client receives notice of a claim relating to a Service, Client shall promptly provide Bank with written notice of such claim.

Except as otherwise expressly provided in the Service Documentation, any written notice or other written communication required or permitted to be given in connection with a Service may be delivered:

- (i) To Client (A) by postal mail, overnight courier, or email; (B) if Client is enrolled in Internet Banking, by posting to Internet Banking; or (C) by any other means of electronic communication in which Client is enrolled.

(ii) To Bank:

- (A) For legal matters, by postal mail or overnight courier to Bank's Legal Department at 1400 Broadway, New York, NY 10018; or
- (B) For all other matters, by postal mail, overnight courier, or email to the Private Client Group at the Financial Center of Bank that maintains Client's Account, unless otherwise specified in the Service Documentation. Client may contact Bank 24/7 at the phone number set forth in Section II.22(b) (Notice) to obtain the contact information for the appropriate Private Client Group.

Any notice to Client shall be sufficient if Bank sends it to Client's last known address or email address appearing on Bank's records. Except as otherwise provided in the Service Documentation, notices to Client are effective upon receipt.

(b) Contact for 24/7 Support

Bank's Client Care Services and Support is available 24/7. Call 1-866-744-5463. Individuals with speech or hearing disabilities: Please utilize a telecommunications relay service, which may be reached by dialing 7-1-1, to connect with an operator who can assist you with communicating with a Bank Client Services Associate at 1-866-744-5463.

(c) Contact for Security Matters

For security concerns or breaches or other security-related matters, Client shall immediately notify Bank by phone at 1-646-802-3911 and by email at Information.Security@flagstar.com.

(d) Additional Information

Financial Centers of Bank are open Monday – Friday. Hours of operation vary. Visit Bank's website or Private Client Offices page for a complete listing.

To report a lost or stolen ATM/DEBIT card, please call 1-866-744-5463, option 6.

Bank may monitor, record, and retain Client's communications with Bank for purposes including, but not limited to, authentication, quality control, and training at any time without further notice to anyone, unless Applicable Law requires further notice. To the maximum extent permitted by Applicable Law, Client consents to such monitoring and recording. Monitored and recorded communications include phone conversations, electronic messages and records, and other data transmissions. Client agrees that any recorded communications may be admitted as evidence in any litigation, arbitration, controversy, hearing, or other proceeding.

23. **Entire Agreement**

The documents and individual provisions of the Service Documentation are intended to be read together as one agreement between Client and Bank. The Service Documentation constitutes the complete and exclusive expression of the terms of the agreement between Client and Bank with

respect to its subject matter and supersedes (a) all existing agreements; (b) all prior or contemporaneous proposals, understandings, representations, conditions, warranties, covenants, or other communications; and (c) all other oral, written, or other communications between Client and Bank concerning its subject matter. Client acknowledges that it has not been induced to enter into this Agreement by any representation or warranty not set forth in the Service Documentation. Bank and Client further agree that this Agreement may not in any way be explained or supplemented by any prior or existing course of dealing between Client and Bank or by any other prior performance between Client and Bank.

24. Severability

If any provision of this Agreement (or any portion thereof) shall be held to be invalid, illegal, or unenforceable and is struck due to its invalidity, illegality, or unenforceability, the validity, legality, or enforceability of the remainder this Agreement shall not in any way be affected or impaired. Bank shall incur no liability to Client due to the invalidity, illegality, or unenforceability of any provision of this Agreement (or any portion thereof) that may be struck.

25. Assignment; Successors

Bank may assign this Agreement, or any part thereof or rights or duties hereunder, without Client's consent. Client may not assign this Agreement, or any part thereof or rights or duties hereunder, without the prior written consent of Bank, and any such attempted assignment shall be void.

This Agreement shall be binding upon and shall inure to the benefit of Client and Bank and their respective legal representatives, respective successors, and permitted assigns.

26. Third Party Beneficiaries

Except as expressly provided in this Agreement, the benefits of this Agreement do not inure to any third party, and nothing contained herein shall be construed as creating any right, claim, or cause of action in favor of any such third party.

27. Ownership of Services

Client acknowledges and agrees that all technology, Software, and systems (including any improvements, enhancements, modifications, variations, or derivative works thereof) used by Client in the performance of the Services is owned or licensed by Bank or Bank Agents and constitutes the sole and exclusive property of Bank, Bank Agents, or third parties, as applicable. All right, title, and interest in and to the patent, copyright, trademark, trade secret, and any other intellectual property rights in such technology, Software, and systems will remain solely with Bank, Bank Agents, or third parties, as applicable. Any unauthorized use, reproduction, linking, or distribution of any technology, Software, and systems used by Client in connection with a Service is strictly prohibited, and Client may not use such technology, Software, and systems for any other purpose, including commercial purposes, such as co-branding, linking, or reselling, without prior written consent of Bank.

28. Technical Requirements

Client will, at its sole cost and expense, unless otherwise agreed to by Bank, use computer hardware and software that meets all technical requirements necessary for any Service as may be specified in the Service Documentation, including software and hardware that meets Bank's software and hardware requirements (as specified at <https://www.flagstar.com/commercial/commercial-and-private-banking/online-and-mobile-banking.html>). Client agrees that Bank's provision of the Services may be subject to Client having computer hardware and software that meets all the technical requirements necessary for any Service. Bank may terminate a Service if Client does not use computer hardware or software that meets all technical requirements necessary for the Service. Client is solely responsible for the payment of any and all costs and expenses associated with meeting and maintaining all technical requirements and additional items necessary for the proper use of a Service. Client acknowledges and agrees that it is solely responsible for the operation, maintenance, and updating of all equipment, software, and services used in connection with any Service and the cost thereof. Client shall perform, or cause to be performed, all vendor recommended maintenance, repairs, upgrades, and replacements, and such performance shall be rendered by properly trained personnel.

29. Software License

This Section II.29 (Software License) applies to all Software that Bank provides to Client, unless a separate license agreement is provided for specific Software (including any "click-wrap" software license Client may receive).

Client acknowledges and agrees that Bank is the owner of all right, title, and interest in and to the Software to be used for access to a Service. Bank retains all right, title, and interest in and to the patent, copyright, trademark, trade secret, and any other intellectual property rights in the Software and any derivative works thereof, subject only to the limited licenses set forth in this Agreement. Client does not acquire any other rights, express or implied, in the Software other than those rights expressly granted under this Agreement.

Subject to the terms and conditions of this Agreement, Client is hereby granted a limited, nonexclusive, nontransferable license to use the Software in accordance with the terms of this Agreement. All rights not expressly granted to Client by this Agreement are hereby reserved by Bank. Nothing in this license will entitle Client to receive hard-copy documentation, technical support, telephone assistance, or updates to the Software. Upon termination of this Agreement or the applicable Service, Client agrees to immediately delete all copies of the Software in Client's possession or control.

Client shall not: (a) modify, revise, or create any derivative works of the Software; (b) decompile, reverse engineer, or otherwise attempt to derive the source code for the Software; (c) redistribute, sell, rent, lease, sub-license, or otherwise transfer rights to the Software; or (d) remove or alter any proprietary notices, legends, symbols, or labels in the Software, including any trademark, logo, or copyright.

THE SOFTWARE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. NO WARRANTY IS PROVIDED THAT THE

SOFTWARE WILL BE FREE FROM DEFECTS OR VIRUSES OR THAT OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED. CLIENT'S USE OF THE SOFTWARE AND ANY OTHER MATERIAL OR SERVICE DOWNLOADED OR MADE AVAILABLE TO CLIENT THROUGH THE SOFTWARE IS AT CLIENT'S OWN DISCRETION AND RISK, AND CLIENT IS SOLELY RESPONSIBLE FOR ANY DAMAGE RESULTING FROM THEIR USE.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL BANK OR AFFILIATED ENTITIES BE LIABLE FOR ANY DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE, INCLUDING ANY GENERAL, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH ANY CLAIM IS BASED. IN ANY CASE, LIABILITY OF BANK OR ANY OF THE OTHER PERSONS OR ENTITIES DESCRIBED IN THE PRECEDING SENTENCE ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE SHALL NOT EXCEED IN THE AGGREGATE THE LESSER OF \$10.00 OR THE SUM OF THE FEES PAID BY CLIENT FOR THIS LICENSE.

The Software is commercial computer software subject to RESTRICTED RIGHTS. In accordance with 48 CFR 12.212 (Computer software) or DFARS 227.7202 (Commercial computer software and commercial computer software documentation), as applicable, the use, duplication, and disclosure of the Software by the United States of America, its agencies or instrumentalities is subject to the restrictions set forth in this Agreement.

30. Single Sign-On

Single Sign-On ("SSO") is an authentication method that enables Client to authenticate its identity with Third-Party Content made available through Internet Banking and Mobile Banking by using only Client's Access Credentials. SSO authenticates Client for all SSO-enabled Services to which Client has been granted access in accordance with the applicable terms with such third-party. Client must agree to the additional disclosures and specific terms for using these Services when Client enrolls. In order to use SSO, Client must be enrolled in Internet Banking or Mobile Banking.

By enrolling in SSO, Client authorizes all its Users to use any Access Credentials for SSO and to receive Services from the applicable third party, even though access to such Third-Party Content otherwise might not have the same authentication and security features as Bank. In accordance with the Agreement, Client agrees that Client is liable for any Losses caused by any loss, theft, misplacement, disclosure, unpermitted access, or delay in accessing any Access Credentials, and such Losses may include Losses with respect to such third parties. Therefore, Client assumes all risk arising from the use of, and access to and from, any such Third-Party Content enabled by SSO. In accordance with the Agreement, Client will cause each User to safeguard the confidentiality and security of any Access Credential issued to it, including by protecting it from being copied, lost, stolen, misplaced, or, subject to Applicable Law, disclosed to, or accessed by, any other person. Client agrees to notify Bank immediately of any unauthorized disclosure of Access Credentials. Client agrees to implement and maintain effective and appropriate policies, procedures, and controls to comply with the Agreement. In addition to the indemnification obligations set forth herein, Client is liable for and agrees at all times to indemnify, defend, release,

and hold harmless Bank and Affiliated Entities from and against any and all Losses incurred by or made or brought against Bank or any Affiliated Entities resulting, or directly or indirectly arising, from Client's use of SSO. By using SSO, Client acknowledges that Bank is not responsible for any content of any Third-Party Content.

IN ADDITION TO THE LIMITATION OF LIABILITY PROVISIONS HEREIN, CLIENT AGREES AND ACKNOWLEDGES THAT SSO IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE AND NON- INFRINGEMENT. BANK MAKES NO WARRANTY THAT SSO OR ANY THIRD-PARTY CONTENT WILL BE FREE FROM DEFECTS OR VIRUSES OR THAT OPERATION OF SSO OR ANY THIRD-PARTY APPLICATION OR WEBSITE WILL BE UNINTERRUPTED. CLIENT'S OR CLIENTS' USERS' USE OF SSO OR ANY THIRD-PARTY CONTENT AND ANY OTHER MATERIAL OR SERVICES DOWNLOADED OR MADE AVAILABLE THROUGH OR IN CONNECTION WITH SSO OR ANY THIRD-PARTY APPLICATION OR WEBSITE IS AT YOUR OWN DISCRETION AND RISK, AND YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE OR LOSS RESULTING FROM THEIR USE.

31. Feedback

If Client or a User provides Bank with any ideas, proposals, suggestions, or other materials, whether related to the Service or otherwise, Client acknowledges and agrees that such ideas, proposals, suggestions, or other materials are not confidential. Client also acknowledges and agrees that Client's provision of such ideas, proposals, suggestions, or other materials is gratuitous, unsolicited, may be used by Bank without restriction, and does not create any fiduciary or other obligations for Bank.

32. USA PATRIOT Act Notice

To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this means for Client: When Client opens an account, Bank will ask for Client's name, address, date of birth, and other information that will allow us to identify Client. Bank may also ask to see a driver's license or other identifying documents.

33. Survival

The following provisions will survive the termination of this Agreement: Section II.1 (Construction and Interpretation); Section II.3 (Term and Termination); (Section II.6 (Confidentiality); Section II.15 (Limitation of Liability); Section II.16 (Indemnification); Section II.17 (No Warranties); Section II.19 (Governing Law); Section II.20 (Dispute Resolution); Section II.21 (Injunctive Relief); Section II.23 (Entire Agreement); Section II.24 (Severability); Section II.26 (Third Party Beneficiaries); Section II.27 (Ownership of Services); and this Section II.33 (Survival). In addition, all other indemnifications and limitations of liability set forth in this Agreement will survive termination of this Agreement.

PART III: SERVICE TERMS

1. Account Reconciliation and Positive Pay Service

(a) Service Description

The Service allows Client to select from the following:

(i) Account Reconciliation

Account Reconciliation allows Client to provide Bank with information regarding Checks written by Client, and Bank will reconcile that information with activity on Client's Account in order to help Client reconcile and manage the Check-related credit and debit activity in Client's Account. Account Reconciliation is offered as a Check-only service by Bank.

Client shall send to Bank by SFTP, Internet Banking, or any other manner agreed to by Bank, one or more Data File(s) containing all Checks written against the Account, and Bank shall compare those Checks to the Checks that were presented for payment. Bank shall provide Client with Reconciliation Information and Data Files via SFTP, Internet Banking, or any other manner agreed to by Bank. Within five (5) to ten (10) Business Days of the end of each Statement Cycle Period, Bank shall make a Reconciliation Report of all Check activity available to Client. Each Reconciliation Report made available on Internet Banking will remain available for a maximum of thirty-one (31) days from date of posting.

(ii) Positive Pay

Positive Pay is a fraud deterring service that involves the comparing of Check data provided by Client to Bank against Checks that are presented to Bank for payment. Positive Pay is offered as a Check-only service by Bank.

Bank offers three Positive Pay options:

- (A) Positive Pay: Client shall provide Bank a Data File identifying all Checks written against the Account that Business Day. Each Business Day, Bank shall match all Checks presented for payment on the Account to the Checks submitted by Client on the Data File and shall present to Client any Exceptions for Client's review and decision. Client must login to Positive Pay each Business Day to respond to Exceptions no later than the applicable Cut-off Time on the Business Day the Exception is made available to Client by selecting a decision to pay or return the unmatched Checks. If a response is not received by Bank by the Cut-off Time, Bank shall process any Exception by either paying or returning those Checks in accordance with Client's Default Decision. Client agrees and acknowledges that Bank will not review nor attempt to match the payee on the Check, unless Client has elected to receive Positive Pay Payee, even if Client has provided Bank with the payee information.

With Positive Pay, Client has sole responsibility for matching the payee on the Check as provided by Client in the Data File.

- (B) Positive Pay Payee: Client shall provide Bank with a Data File with detailed data that includes payee information as it appears on the printed Check of all Checks written against the Account that Business Day. Each Business Day, Bank shall match all Checks presented for payment on the Account, including the payee information, to the Check details submitted by Client on the Data File and will present Exceptions. Client must login to Positive Pay and respond to Exceptions no later than the applicable Cut-off Time on the Business Day the Exceptions are made available to Client by selecting a decision to pay or return the unmatched Checks. If a response is not received by Bank by the Cut-off Time, Bank shall process Exceptions by either paying or returning those Checks in accordance with Client's Default Decision.
- (C) Reverse Positive Pay: Bank shall provide Client with prior day Paid Check Information of all the Checks presented for payment on Client's Account on that Business Day. It is solely Client's responsibility to login to Positive Pay to review the Paid Check Information and decide to pay or return the Checks presented to Client. Client must respond no later than Cut-off Time on the Business Day the Paid Check Information is made available to Client. If Bank does not receive a response from Client by the applicable Cut-off Time on any Check, Bank will pay all Checks for which there is no response.

(b) Service Enrollment

Account Reconciliation may be initiated in the middle of a Statement Cycle Period, but such Account Reconciliation will contain data only as of the start date of the Service and, therefore, may or may not contain all the transactions for the Statement Cycle Period. If Account Reconciliation is activated on the first Business Day of a Statement Cycle Period, the Account Reconciliation will reflect data for the entire Statement Cycle Period.

(c) Verification

Each matching Check will be paid without Bank performing its customary (or any other) Check verification procedures. Without limiting the foregoing, Bank is not obligated to verify signatures on any Checks that match the information Client provides in the Data File or that Client fails to reject. Client agrees Bank may compare the information Client provides in the Data File with information that is encoded on the Checks presented to Bank for payment, but Bank is not required to physically examine matching Checks to confirm that they are properly signed, completed, and encoded. Bank may rely on the process described in the Service Documentation, and it will be deemed a commercially reasonable standard of care.

(d) Reconciliation Reports to Client

Reconciliation Reports will be made available to Client on Internet Banking for a maximum of thirty-one (31) days from the posting date, after which the Reconciliation Reports will no longer be available.

(e) Security Procedures

(i) SFTP Security Procedures

Reconciliation Information and Data Files provided via SFTP will be encrypted, and the Reconciliation Information and Data Files shall be readable only by Client and Bank. Client agrees to keep the encryption Software secured at all times and to forbid and prevent unauthorized access to such Software.

(ii) Internet Banking Security Procedures

The Service cannot be used by Client until Client receives a User ID for the company, and each User receives his or her User ID and temporary Password from Bank. The Password acts as Client's signature. Users may change their applicable Password at any time. Client agrees to: (1) keep the Password secure and strictly confidential and not to disclose it to any unauthorized persons; (2) instruct each User that he or she must keep his or her Password secure and confidential and not to disclose it to any unauthorized persons; (3) immediately notify Bank and change Client's Password if Client knows or believes the Password has been lost or stolen or have become known to an unauthorized person; and (4) instruct Users to immediately notify Bank and change User's Password if User believes his or her Password has been lost or stolen or has become known to an unauthorized person. Bank will have no liability to Client for any unauthorized approvals or returns made or information obtained through the use of Client or User's Password that occurs before Client or User has notified Bank of Password being lost or stolen or its possible unauthorized use, and Bank has had a reasonable opportunity to act on that notice. Bank may discontinue Client's use of the Service at any time without prior notice to Client in order to assist Bank in maintaining the security of the Service. Client agrees that any action taken by Bank beyond the Security Procedures referred to in Section III.1(e) in an attempt to detect or prevent an unauthorized use of the Service, or an error in the transmission or content of a Data File, shall not be deemed to be a part of the Security Procedures regardless of how often such action may be taken by Bank. Bank may suspend or cancel the Password even without receiving such notice from Client or User, if Bank suspects a Password has been lost or stolen or is being used in an unauthorized or fraudulent manner.

(iii) Client Acknowledgement

CLIENT AGREES AND ACKNOWLEDGES THAT USE OF THE SECURITY PROCEDURES TO SEND AND RECEIVE DATA FILES AND RECONCILIATION INFORMATION ARE ACCEPTABLE SECURITY PROCEDURES FOR THESE PURPOSES AND SHALL BE DEEMED TO BE COMMERCIALY REASONABLE IN LIGHT OF CLIENT'S PARTICULAR NEEDS AND CIRCUMSTANCES.

(f) Client's Obligations

- (i) Client shall provide Bank with accurate and complete Data Files no later than the Cut-off Time and in accordance with Bank procedures.
- (ii) Client agrees that it assumes full responsibility for the completeness and accuracy of all information furnished to Bank.
- (iii) Client agrees that Client's use of the Service does not affect any of Client's obligations to discover and report, with respect to Client's Accounts (including joint accounts where permitted): (A) unauthorized signatures, alterations, or endorsements on Checks and/or (B) unauthorized requests and other discrepancies.
- (iv) Client's use of the Service or Bank's receipt of information associated with these Services do not increase Bank's duty with respect to Accounts or the payment of Checks.
- (v) Client agrees to comply with laws in all relevant jurisdictions as needed to permit the processing of data by both Client and Bank in connection with the Service.
- (vi) Client understands and agrees that Bank's stop payment procedures and the Service operate separately. Client shall not use the Service for Bank's stop payment service and will not use the Service as a substitute for a stop payment order.
- (vii) Client acknowledges and agrees that the Service may not identify counterfeit or duplicate Checks that contain the same Check serial number and amount as the items described in Client's Check issuance data. Client agrees to review promptly all Statements, returned Checks, Reconciliation Information, and other Check and transaction information that Bank makes available to Client.
- (viii) Agrees that Authorized Representatives designated on the Service Application are authorized to instruct Bank in connection with issues related to the Service.
- (ix) Each Business Day, Client shall review Exceptions and make Exception decisions. If Client does not provide Bank with an Exception decision by the Cut-off Time on any Business Day, Client's Default Decision will be applied.

(g) Representations and Warranties

By transmitting the Data File to Bank, Client represents and warrants that all Checks that match the information in the Data File are properly payable. Client acknowledges that Bank is not responsible for detecting any Client error contained in any Data File sent by Client to Bank. Client shall update the Data File in file format required by Bank upon issuance of each Check.

(h) Unauthorized Access to or Use of the Service

If Client believes or knows that (i) the Access Credentials have been lost or stolen or accessed or copied without authorization; (ii) unauthorized Data Files have been given to Bank through use of the Service; (iii) a Data File has been downloaded without authorization by Client; (iv) Reconciliation Information has been received by an unauthorized person; or (v) the Service has been used without authorization, then Client shall immediately, but no later than within 24 hours, call Bank at the phone number set forth in Section II.22(c) (Notice). In addition, Client agrees to mail a written report of such loss; theft; or unauthorized access, downloading, copying, or use to the address set forth in Section II.22(a)(ii) (Notice).

(i) Limitation of Liability

Client's use of the Service does not impute Bank liability for fraud losses, not prevented. Client agrees to implement a program to help safeguard its business accounts against fraud. Bank or any Bank Agent shall not be liable or responsible for any inaccurate or incomplete Reconciliation Information as a result of any incomplete, inaccurate, missing, or late Data Files that Client has provided to Bank or should have provided to Bank.

2. **ACH Service**

(a) Service Description

The Service allows Client to originate Entries through Bank to transfer funds to and from accounts of Receivers, including Client's employees or customers, at Bank and at other Participating Depository Financial Institutions by means of the ACH system. Subject to the terms of this Agreement, Bank is willing to act as an ODFI with respect to such Entries. For any Entry created under this Service, Client is deemed to be the Originator under the Rules. Bank may provide the Service itself or through use of Processor.

The Service also allows Client to receive Entries and allows Client to direct Bank, as an RDFI, to block certain Entries to Client's Accounts.

The Service is governed by the Rules, and Client acknowledges having or having access to a copy of the Rules, including any amendments or other changes to the Rules.

(b) Transmittal of Entries by Client

- (i) Entries initiated by Client or Client Agent shall be in accordance with the procedures and specifications set forth by Bank in the Service Documentation. Entries shall be sent by electronic transmission to Bank's or Processor's internet site by use of any electronic means acceptable to Bank or Processor. Entries shall be deemed received by Bank when (A) the electronic transmission of the Entry to Bank or Processor is successfully completed; and (B) Bank or Processor receives a written request sent via email or electronic transmission requesting that the Entry be processed (or cancelled or amended), unless such requirement under this Section II.2(b)(i)(B) has been waived by written agreement between Client

and Bank. If Client fails to comply with Bank procedures set forth in the Service Documentation, Bank may, but shall not be required to, process such Entries.

- (ii) Entries shall be delivered or transmitted to Bank not later than the Cut-off Time and the number of days prior to the Effective Entry Date specified by Bank. The total dollar amount of Credit Entries transmitted by Client to Bank on any Business Day shall not exceed the Dollar Limit. The total dollar amount of Debit Entries transmitted by Client to Bank on any one (1) Business Day shall not exceed the Dollar Limit. Client may not reinitiate Entries except as permitted by the Rules.
 - (iii) Client shall obtain authorization as required by the Rules from the person or entity whose account will be debited or credited as the result of an Entry initiated by Client. Client shall retain such authorization in original form while it is in effect and the original or a copy of each authorization for two (2) years after termination or revocation of such authorization, or such longer time as may be required by the Rules. Without limiting the generality of the preceding sentence, the authorization obtained by Client for a Debit Entry to a Consumer Account must be in writing and signed or similarly authenticated by the Receiver in accordance with the Rules, except as expressly provided in the authorization sections of the Rules for specific types of Entries. Immediately upon request, Client shall furnish the original or a copy of the authorization to Bank or any other affected Participating Depository Financial Institution, as defined in the Rules.
 - (iv) Subject to Bank's approval, Client may utilize one or more Client Agents to deliver Entries to Bank or, if requested by Bank, directly to Bank's Processor. For purposes of this Agreement, where Client or Client Agent utilizes one or more vendors to transmit Entries to Bank or Processor, each such vendor is itself also a Client Agent. Client acknowledges and agrees that a Client Agent shall be considered a Third-Party Service Provider, and not a Third-Party Sender, under the Rules.
- (c) Processing, Transmittal, and Settlement by Bank
- (i) Subject to the terms of this Agreement, Client authorizes Bank and Processor to, and Bank or Processor shall, (A) process accepted Entries which Bank or Processor believes in good faith were received from Client or Client Agent and that conform with the file specifications set forth in the Rules, (B) transmit such Entries as an ODFI to the ACH Operator selected by Bank, and (C) settle for such Entries as provided in the Rules.
 - (ii) Bank or Processor shall transmit such Entries to the ACH Operator prior to the Effective Entry Date shown in such Entries, provided (A) such Entries are received by Bank by Cut-off Time or by Processor by such time designated by Processor on a Business Day, (B) the Effective Entry Date is

at least two (2) days after such Business Day, and (C) the ACH Operator is open for business on the Effective Entry Date. For purposes of this Agreement, Entries shall be deemed received by Bank or Processor at such times as the applicable requirements have been met with respect to such Entries. If any requirement of this Section III.2(c)(ii) are not met, Bank or Processor may, in their sole discretion, either transmit such Entries to the ACH Operator as provided in this Section III.2(c)(ii) or use reasonable efforts to transmit such Entries to the ACH Operator by Bank's or Processor's next processing deadline, which is a Business Day and a day on which the ACH Operator is open for business.

(d) On-Us Entries

Subject to the terms of Section III.2(f), 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 clauses (A) and (B) of Section III.2(c)(ii) are met. If either of those requirements is not met and subject to the terms of Section III.2(f), Bank shall use reasonable efforts to credit or debit the Receiver's account in the amount of such Entry on the next Business Day following such Effective Entry Date. An On-Us Entry may not be processed through the ACH Network, but Client is deemed to make all representations and warranties as if the Entry were not an On-Us Entry.

(e) Rejection, Correction of Entries

Notwithstanding anything in this Agreement to the contrary, Bank and Processor shall have the right to reject any Entry for any reason whatsoever, including an Entry which does not comply with Bank procedures, the Rules, or any other requirements, or which contains an Effective Entry Date less than two (2) days after the Business Day such Entry is received by Bank or Processor, or any failure by Client to comply with its Account balance obligations in this Agreement. Bank or Processor shall notify Client or Client Agent by electronic transmission, email, or telephone of such rejection no later than the Business Day such Entry would otherwise have been transmitted by Bank or Processor to the ACH Operator or, in the case of an On-Us Entry, its Effective Entry Date. Bank shall have no responsibility or liability to Client in connection with the rejection of any Entry or for failing to provide notice of a rejection. Bank is not obligated to pay Client interest for the period before Client receives the notice of rejection. If an Entry is rejected for any reason, it is Client's responsibility to correct the Entry that Client intends to resubmit. If the amount of any Entry or Entries received by Bank or Processor do not agree with any corresponding transmittal information provided by Client pursuant to this Agreement, Bank may in its sole discretion reject or correct the Entry or Entries. If Bank determines in its sole discretion to correct an Entry, Client shall be deemed for purposes of this Agreement to have delivered the Entry to Bank as it has been corrected by Bank pursuant to this Section III.2(e).

(f) Cancellation, Reversal, or Amendment by Client

Client shall have no right to cancel, reverse, or amend any Entry after its receipt by Bank or Processor. However, Bank may use reasonable efforts to act on a request by Client for cancellation

of an Entry prior to Bank or Processor transmitting it to the ACH Operator or, in the case of an On-Us Entry, prior to crediting or debiting a Receiver's account, provided such request complies with Security Procedures and other requirements, but Bank shall have no liability if such cancellation is not effected. Client's request must include the reason for the cancellation, reversal, or amendment. Client agrees to indemnify Bank in connection with any such request from Client. Obligations under this Section III.2(f) will survive the termination of this Service.

(g) Notice of Returned Entries

- (i) Bank or Processor shall notify Client or Client Agent, by electronic transmission, email, or telephone of the receipt of a returned Entry or dishonored returned Entry from the ACH Operator no later than one (1) Business Day after the Business Day of such receipt. Except for an Entry retransmitted by Client in accordance with the requirements of this Agreement, Bank or Processor shall have no obligation to retransmit a return Entry with respect to the original Entry.
- (ii) In the event that an Entry is returned as unauthorized or authorization revoked, Client will contact the necessary parties and resolve any dispute. During this process, Client may ask Bank to request from the RDFI a copy of the "Written Statement of Unauthorized Debit." Bank will attempt to obtain the form and deliver it to Client if received. Client agrees not to re-originate any transaction returned as unauthorized or as authorization revoked unless and until the Receiver reauthorizes the Entry or Entry stream. In the event the rate of unauthorized transactions exceeds the permissible limit based on the calculations noted in the Rules, Client will share the data requested by Bank based on the Rules and will immediately begin the process of bringing the rate below that threshold.

(h) International ACH Transactions

Client shall not originate any IAT Entries. Bank has no obligation to act on any Entries that Bank determines in its sole discretion should have been coded as IAT Entries.

(i) Payment

- (i) On the Effective Entry Date, Client shall either have a sufficient Available Balance in the Account to cover the amount of each Credit Entry transmitted by Bank or Processor, or if Client has an insufficient Available Balance, Bank may overdraft Client's Account pursuant to the Account Agreement. Notwithstanding the foregoing, Bank reserves the right to require Client to have a sufficient Available Balance in the Account to cover the amount of a Credit Entry transmitted by Bank or Processor, pursuant to this Agreement, on a date earlier than the Effective Entry Date.
- (ii) Bank shall not be required to pay Client the amount of any Debit Entry or credit reversal before Bank receives final settlement for such Entry. Any such payment by Bank shall be made by credit to the Account. Any such

credit provided prior to the time of final settlement shall be provisional and Bank shall have the right, without prior notice or demand by Bank, to immediate repayment by Client of the amount of such credit upon Bank's receipt of notice that final settlement has not occurred. In addition, Bank shall have the right, without notice or demand, to immediate repayment by Client of the amount of any Debit Entry returned or rejected and any adjustment Entry for which Bank or Processor is required to settle under the Rules and for which Client or Client Agent has previously received credit, at the time Bank receives such rejection, return, or adjustment Entry, as applicable, or notice thereof.

(j) The Account

- (i) Bank may, without prior notice or demand, obtain payment of any amount due and payable to it under this Agreement by debiting the Account and shall credit the Account for any amount received by Bank to which Client is entitled under this Agreement by reason of the return of a Credit Entry transmitted by Bank or Processor for which Bank has previously received payment from Client. Such credit shall be made as of the day of such receipt by Bank, if a Business Day.
- (ii) Funds from any credits to the Account to which Client is entitled under this Agreement will be available to Client on the day of receipt of the credit by Bank, if a Business Day.
- (iii) If Bank or Processor in its discretion accepts an Entry from Client for the credit of another account, and there does not exist on the Settlement Date (or for an On-Us Entry, on the Effective Entry Date), an available credit balance in the Account sufficient to cover the amount of the Entry, or if any amount is due and payable to Bank under this Agreement and there does not exist, at that time, an available credit balance in the Account sufficient to cover the amount due and payable, then Bank, in its sole discretion, may overdraft the Account. If Bank permits one or more overdrafts, Bank is not establishing a course of conduct and it shall not mean that Bank will pay other overdrafts in the future.

(k) Account Reconciliation

Entries accepted and processed by Bank or Processor will be reflected on Client's Statement issued by Bank with respect to the Account pursuant to the agreement between Bank and Client. Client shall review the Statement and notify Bank of any discrepancies or errors, including unauthorized Entries, as set forth in the Account Agreement.

(l) Credit Approval

In utilizing the ACH system in performance of this Agreement, Bank must make certain warranties on behalf of Client. Specifically, Bank is charged with assuring the financial soundness of Client to make the intended Entries. Bank must approve all Entries and may request financial information

from Client and/or a separate credit agreement. Bank shall also be authorized to obtain credit reports on Client as may be necessary from time to time. Bank may also assign Client a Dollar Limit. Client acknowledges that the Dollar Limit is solely for the protection of Bank and its assets. Client understands that daily requests for Entries exceeding the Dollar Limit are honored solely at the discretion of Bank. Requests not honored may be communicated by Bank to Client.

(m) Client Representations and Covenants; Indemnity

- (i) With respect to each Entry transmitted by Client or Client Agent, and each time Client uses the Service, Client represents to Bank and agrees that (A) Client has obtained appropriate authorization, in writing and authenticated, from each Receiver for each Entry authorizing the crediting or debiting 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 or debiting by Bank as provided herein; (C) Entries transmitted to Bank or Processor by Client or Client Agent are limited to those types of Entries set forth in the Service Documentation; (D) Client shall perform its obligations under this Agreement in accordance with all Applicable Law, including laws, regulations, and orders administered by FinCEN and OFAC and any state laws, regulations, or orders applicable to the providers of ACH payment services; (E) Client has or has access to a copy of the Rules; (F) Client makes the same warranties to Bank as Bank makes under the Rules; and (G) the information contained in each Entry is correct.
- (ii) Regardless of whether an Entry is sent through the ACH network, Client shall be bound by and comply with the Rules, including the provisions thereof making payment of an Entry by the RDFI to the Receiver provisional until receipt by the RDFI of final settlement for such Entry; and Client specifically acknowledges that it has received notice of that Rule and of the fact that, if such settlement is not received, the RDFI shall be entitled to a refund from the Receiver of the amount credited, and Client shall not be deemed to have paid the Receiver the amount of the Entry. In addition, Client warrants to Bank that each institution it provides to Bank or Processor regarding an account of a Receiver has been authorized by the Receiver. Client agrees that Client shall be acting as the agent of the Receiver in regard to providing instructions pertaining to the account of the Receiver. For every Entry delivered to Bank by Client or Client Agent, Client authorizes Bank to initiate and transmit and to credit or debit, as applicable, the amount of each such Entry to the Account or to the Receiver's Account, as applicable.
- (iii) Client acknowledges that the Rules impose specified warranties on Client or Bank pertaining to Entries exchanged through the ACH system and that these warranties may vary depending on the type of Entry. Without limiting the generality of all other indemnifications set forth in this Agreement, Client agrees that it shall indemnify and hold Bank harmless from and

against any and all Losses which may be claimed against Bank or Processor for any alleged or actual breach of such a warranty relating, directly or indirectly, and in whole or in part, to an Entry transmitted by Client or Client Agent to Bank or Processor or other act or omission of Bank or Processor pursuant to this Agreement.

(iv) Client acknowledges and agrees that Client is responsible for all actions performed by a Client Agent on its behalf.

(n) Credit Entries Received by Bank

(i) Bank is not obligated to notify Client of Bank's receipt of a Credit Entry designating Client as a Receiver. Notice of such receipt will be provided as part of Client's Statement.

(ii) Both Bank and Client as a Receiver shall be subject to the provision of the Rules which state that (A) the credit given by an RDFI to the Receiver of a Credit Entry is provisional until the RDFI has received final settlement or payment for such Entry and (B) if such settlement or payment is not received, the RDFI is entitled to a refund from the Receiver in the amount credited, and the Originator of the Entry shall not be deemed to have paid the Receiver the amount of such Entry. Client acknowledges and agrees that Client is obligated to Bank for the amount of the payment, and Bank is authorized to charge Client's account(s) maintained at Bank for any amount paid to Client.

(o) ACH Selective Item Processing

(i) Client may direct Bank, as an RDFI, to reject or accept certain Entries to Client's Accounts in accordance with Client's Authorization Criteria, as specified by Client in the Service Application ("**ACH Selective Item Processing**"). Bank will provide Client a report of Entries that do not meet Client's Authorization Criteria, and Client shall, by the applicable Cut-off Time, instruct Bank whether each Entry in the report should be rejected or accepted. If Client does not provide such instruction or if Client instructs Bank to reject an Entry, Bank will return the Entry to the ODFI.

(ii) ACH Selective Item Processing does not apply and shall not be used for the following types of ACH-related transactions, whether or not Client has addressed these in the Authorization Criteria: (A) debits or credits to Client's Account to offset any Entries originated by Client through Bank; (B) reversals of previously received Entries; (C) returns or reversals by the RDFI of Entries originated by Client through Bank; (D) reclamation Entries; (E) debits to Client's Account initiated by Bank or Affiliated Entities to correct processing errors, effect back valuations, make other adjustments or for fees, charges or other amounts Client owes Bank or Affiliated Entities; (F) debits to Client's Account that Bank posts pursuant

to its internal procedures in order to comply with Applicable Law; and (G) an Entry that would be returned for any reason under the Rules.

- (iii) The Service shall be used only to protect a Client's Accounts from external fraud and not to block or return a transaction Client may have originated.

(p) ACH Block

- (i) Client may direct Bank, as an RDFI, to reject all Entries to Client's Accounts or to reject all Entries to Client's accounts initiated by identified third parties in accordance with Client's Block Authorization, as specified by Client in the Service Application ("**ACH Block**").
- (ii) ACH Block does not apply and shall not be used for the following types of ACH-related transactions, whether or not Client has addressed these in the Block Authorization: (A) debits or credits to Client's Account to offset any Entries originated by Client through Bank; (B) reversals of previously received Entries; (C) returns or reversals by the RDFI of Entries originated by Client through Bank; (D) reclamation Entries; (E) debits to Client's Account initiated by Bank or Affiliated Entities to correct processing errors, effect back valuations, make other adjustments or for fees, charges or other amounts Client owes Bank or Affiliated Entities; (F) debits to Client's Account that Bank posts pursuant to its internal procedures in order to comply with Applicable Law; and (G) an Entry that would be returned for any reason under the Rules.
- (iii) The Service shall be used only to protect a Client's Accounts from external fraud and not to block or return a transaction Client may have originated.

(q) Limitation of Liability

Bank shall not be responsible for Client's or Client Agent's acts or omissions, including the amount, accuracy, timeliness of transmittal, or due authorization of any Entry received from Client or a Client Agent or those of any other person, including any Federal Reserve Bank or transmission or communications facility, any Receiver or RDFI, including the return of an Entry by such Receiver or RDFI, and no such person shall be deemed a Bank Agent.

(r) Security Procedure

- (i) If an Entry (or a request for cancellation or amendment of an Entry) received by Bank or Processor purports to have been transmitted or authorized by Client or Client Agent, it will be deemed effective as Client's Entry (or request), and Client shall be obligated to pay Bank the amount of such Entry as provided herein even though the Entry (or request) was not authorized by Client, provided that the Entry complied with all Security Procedures and Bank acted in good faith with respect to such Entry (or request).

- (ii) Client and any Client Agent agree to keep Client's Access Credentials safe and secure and not disclose them to anyone other than a person or entity authorized and permitted by Client to send Entries to Bank or Processor on behalf of Client. Entries transmitted by Client or Client Agent to Bank or Processor shall be encrypted using a technology that provides a commercially reasonable level of security that complies with applicable regulatory requirements. Subsequent to delivering an Entry, Client or Client Agent will send a File Transmittal to Bank or Processor. Bank or Processor will reconcile the Entries to the File Transmittal received via email or electronic transmission and will not transmit the Entry unless they are reconciled or unless Bank and Client have waived the File Transmittal requirement by written agreement.
- (iii) Client agrees to comply with the Security Procedures set forth herein and agrees that such Security Procedures are acceptable and shall be deemed commercially reasonable. The unique transmission information Bank and/or Processor will provide Client is confidential and shall be disclosed only to those employees and agents who are required to know them. Any breach of confidentiality shall be promptly reported to Bank.
- (iv) If an Entry (or request for cancellation or amendment of an Entry) was received by Bank or Processor in accordance with Bank procedures, Client shall be obligated to pay the amount of the Entry as provided therein, whether or not that Entry was erroneous in any respect.
- (v) No Security Procedure has been established or shall be deemed to exist for the detection of errors committed by Client with respect to any Entry or File Transmittal issued in Client's name, and Bank shall have no liability to Client or any Receiver as a result of Bank's or Processor's acceptance of such Entry or File Transmittal.

(s) Data Security Requirements

Client and Bank shall establish, implement, and update, as appropriate, policies, procedures, and systems with respect to the initiation, processing, and storage of Entries that comply with the Rules and applicable regulatory guidelines and are designed to (i) protect the confidentiality and integrity of Protected Information until its destruction; (ii) protect against anticipated threats or hazards to the security or integrity of Protected Information until its destruction; and (iii) protect against unauthorized use of Protected Information that could result in substantial harm to a natural person.

(t) Inconsistency of Name and Account Number

Client acknowledges and agrees that, if an Entry describes the Receiver inconsistently by name and account number, payment of the Entry transmitted by Bank or Processor to the RDFI may be made by the RDFI (or by Bank, in the case of an On-U's Entry) on the basis of the account number, even if it identifies a person different from the named Receiver, and that Client's obligation to pay the amount of the Entry to Bank is not excused in such circumstances.

(u) Notification of Changes

Bank or Processor shall notify Client or Client Agent of all notifications of changes, refused notification of changes, or corrected notification of changes received by Bank or Processor related to Entries transmitted by Client or Client Agent no later than two (2) Business Days after receipt thereof. Client shall ensure that changes requested by the notification of change or corrected notification of change are made within six (6) Business Days of Client's receipt of the notification of change information from Bank or prior to initiating another Entry to the Receiver's account, whichever is later. Client shall indemnify and hold harmless Bank against any fine, assessment, or other cost or expense incurred or suffered by Bank or any other person resulting from or arising out of Client's failure to make such change as required in this Agreement or the Rules. Client's failure to make such change may also result in Bank revoking Client's authority to use the Service. The indemnification obligations under this Section III.2(u) will survive the termination of this Service.

(v) Pre-notification

At Client's option and in accordance with the timing and formatting requirements in the Rules, Client may send pre-notification to Receiver through Bank that Client intends to initiate an Entry or Entries to a particular account. If RDFI notifies Bank that such pre-notification has been rejected by an RDFI within the prescribed period, or that an RDFI will not receive Entries without having first received a copy of the authorization signed by the Receiver, Client will not initiate any corresponding Entries to such accounts until the cause for rejection has been corrected or until providing the RDFI with such authorization within the time limits provided by the Rules.

(w) Prohibited Transactions

Client agrees not to transmit an Entry to Bank or Processor or to otherwise use or attempt to use the Services to be provided by Bank hereunder (i) to engage in any illegal purpose, transaction, or activity or to violate any Applicable Law, including any sanctions administered by OFAC; (ii) to breach any contract or agreement by which Client is bound; (iii) to engage in any internet or online gambling transaction, whether or not gambling is legal in any applicable jurisdiction; or (iv) to engage in any transaction or activity that is not specifically authorized and permitted by this Agreement, including transmitting to Bank or Processor an Entry of a type or with a SEC Code that is not permissible under the Service Documentation. Client acknowledges and agrees that Bank has no obligation to monitor Client's use of the Services to be provided by Bank hereunder for transactions and activity that are impermissible or prohibited under the terms of this Agreement; provided, however, that Bank reserves the right to decline to execute any transaction or activity that Bank believes violates the terms of this Agreement.

(x) Client Agent-Originated Files

Client shall not utilize a Client Agent without Bank's prior approval. The following provisions apply if a Client Agent is used:

- (i) Client authorizes and approves each Client Agent to act as its agent with respect to the Service. Client agrees that any act or omission of each Client Agent shall for purposes of this Agreement be deemed an act or omission

of Client, including that any Entry transmitted by a Client Agent for or in the name of Client shall be deemed transmitted by Client. Client further agrees that any notice, Statement, Password, sender identification number, instruction, or any other information provided by Bank to a Client Agent pursuant to this Agreement shall be deemed provided to Client.

- (ii) Client Agent must conduct an internal or external audit of compliance with the provisions of the Rules in accordance with the requirements for Third-Party Service Providers under the Rules.
- (iii) Client hereby indemnifies and holds harmless Bank against any and all loss, claim, or demand, and all costs and expenses (including reasonable attorney's fees), resulting from or arising out of any act or omission of any Client Agent, including any such loss, claim, demand, cost, or expense arising out of or resulting from the transmittal of any incorrect or untimely Entry directly or indirectly submitted to Bank or Processor by Client Agent.

(y) Notices and Instructions

- (i) Except as otherwise expressly provided herein, Bank or Processor shall not be required to act upon any notice or instruction received from Client, Client Agent, or any other person or to provide any notice or advice to Client, Client Agent, or any other person with respect to any matter.
- (ii) Bank and Processor shall be entitled to rely without confirmation on any information included in an Entry and on any written notice or other written communication believed by it in good faith to be genuine and to have been signed by a Client or a Client Agent of Client without comparing Client Agent's signature on such notice or other communication with Client Agent's signature on Bank's or Processor's records, and any such communication shall be deemed to have been signed by such person.

(z) Data Retention and Records

- (i) Client shall retain data on file adequate to permit remaking of Entries for five (5) days following the date of their transmittal by Bank and shall provide such data to Bank upon its request.
- (ii) All magnetic tapes, Entries, Security Procedures, and related records used by Bank for transactions contemplated by this Agreement shall be and remain Bank's property. Bank may, at its sole discretion, make available such information upon Client's request. Any expenses incurred by Bank in making such information available to Client shall be paid by Client. Client and Bank agree that all telephone conversations or data transmissions between them or their agents made in connection with this Agreement may be electronically recorded and retained by either party by use of any reasonable means. Bank shall not be obligated to make such recordings.

- (iii) Client and Bank shall retain the records of Entries for six (6) years and shall store such records in accordance with the security requirements specified in Section III.2(s).

(aa) Third-Party Sender

Client shall not act as a Third-Party Sender without Bank's prior approval. If approved by Bank, the following provisions apply to Entries for which Client is not the Originator:

- (i) Except as otherwise provided in this Section III.2(aa), all of the provisions of this Agreement are equally applicable to Client without regard to whether Client is an Originator or a Third-Party Sender.
- (ii) Client acknowledges and agrees that Bank does not maintain a separate contractual relationship with any of Customers for which Client intends to transmit Entries to Bank. The terms and conditions governing the relationship between Client and Customer shall be governed by the Customer Agreement between Client and Customer.
- (iii) Client acknowledges and agrees that the Customer Agreement will:
 - (A) bind Customer to the Rules;
 - (B) require Customer to assume the responsibilities and obligations, and make the representations and warranties, of an Originator, as required by the Rules;
 - (C) obtain the authorization of Customer for Client and Bank to originate Entries on behalf of Customer to Receiver's accounts;
 - (D) require Customer to receive and maintain proper authorization from the Receiver of each Entry transmitted on behalf of Customer by Client to Bank pursuant to the Customer Agreement;
 - (E) require Customer not to originate Entries that violate Applicable Law, including the regulations issued by OFAC;
 - (F) prohibit Customer from originating Entries on behalf of, or for the benefit of, any entity other than Customer itself;
 - (G) require Customer to originate only the types of Entries Client is permitted to transmit to Bank pursuant to this Agreement;
 - (H) require Customer to agree that, in the event Bank does not receive payment from Client for any Credit Entry transmitted on behalf of Customer by Client to Bank or for any Debit Entry transmitted on behalf of Customer by Client to Bank that is returned by the RDFI, Customer will pay Bank;
 - (I) contain a provision wherein Client establishes an exposure limit for Customer related to the dollar amount of Entries that may be transmitted by Client to Bank pursuant to this Agreement across multiple Settlement Dates and implements a procedure for Client to review and adjust that exposure limit periodically;
 - (J) require Customer to agree to, and to agree to be jointly and severally liable with Client to Bank for the failure to comply with, the requirements in Section III.2(s) and Section III.2(z) to the extent records of Entries, source documents or authorizations related to Entries are maintained by Customer;
 - (K) allow Client or Bank to conduct regular audits of Customer and any Entry, including to audit Customer's compliance with its Customer Agreement with Client and the Rules;

(L) require Customer to timely notify Bank of any changes to information provided to Bank for Nacha registration purposes; (M) preserve Bank's right to refuse to process an Entry for Customer; and (N) provide the right to Client to terminate or suspend the Customer Agreement for breach of the Rules in a manner that permits Client or Bank to comply with the Rules.

- (iv) Client shall ensure that each Customer has received or has access to a current version of the Rules.
- (v) Client shall use commercially reasonable methods to verify the identity of each Customer for which Client transmits Entries to Bank pursuant to this Agreement. Client shall use commercially reasonable standards to monitor each Customer's business and transactions on an ongoing basis and notify Bank promptly if Client identifies any unusual activity by Customer. Client will take appropriate actions with respect to Customer, including refusing to originate Entries for Customer.
- (vi) Client is responsible for providing Bank with any information that Bank reasonably deems necessary to identify each Customer for which Client transmits Entries to Bank pursuant to this Agreement. Client must also, upon Bank's request, provide Bank with the information required under the Rules for purposes of Bank's registration of Client as a Third-Party Sender with Nacha. Upon receipt of a request from Bank for such information, Client shall provide the requested information to Bank within two (2) Business Days.
- (vii) Bank reserves the right, in its sole discretion with or without notice to Client, to terminate or suspend Bank's agreement to process any Entries created for the benefit of any Customer, unless and until such Customer enters into a separate contractual relationship with Bank on terms satisfactory to Bank. Without limiting the generality of the preceding sentence, Bank reserves the right to terminate or suspend its agreement to process any Entries created for the benefit of any or all Customers for breach of the Rules in a manner that permits Bank to comply with the Rules. In the event Bank enters into a separate contractual relationship with any Customer for which Client had been transmitting Entries, Client will at such time be deemed a Third-Party Service Provider for purposes of that separate contractual relationship between such Customer and Bank and the Rules.
- (viii) Client, on behalf of each of its Customers, authorizes Bank to originate Entries submitted to Bank by Client on behalf of the Customers.
- (ix) Notwithstanding anything in this Agreement to the contrary, Client shall ensure that its Customer shall obtain authorization as required by the Rules from the person or entity whose account will be debited or credited as a result of an Entry initiated by Client pursuant to this Agreement, and its Customer shall retain such authorization in original form while it is in effect

and the original or a copy of each authorization for two (2) years after termination or revocation of such authorization or such longer time as may be required by the Rules. Without limiting the generality of the preceding sentence, the authorization obtained by Customer for a Debit Entry to a Consumer Account must be in writing and signed or similarly authenticated by the Receiver in accordance with the Rules, except as expressly permitted in the authorization section of the Rules for specific types of Entries.

- (x) Bank may require Client to provide information regarding Customer to verify Customer and the nature of Customer's business or to provide such other information as Bank may reasonably require.
- (xi) Client shall complete all Service Applications requested by Bank.
- (xii) Client agrees that it shall also perform the requirements of the Rules otherwise applicable to the ODFI, including monitoring the origination and return activity of its Customers across multiple Settlement Dates, enforcing restrictions on the types of Entries that may be originated through its Customers, and enforcing with respect to its Customers the exposure limit set by Client for the Customer as set forth in the Rules. Client warrants to Bank that Client is legally able to perform such requirements of the Rules otherwise applicable to the ODFI.
- (xiii) Client shall periodically conduct an assessment of the risks of its ACH activities, including its policies and procedures to ensure that effective due diligence is performed on each Customer to minimize the credit risk arising with respect to the Entries transmitted to Bank pursuant to this Agreement on behalf of the Customer. Client shall be responsible for conducting periodic audits of its Customers to: (A) ensure Customer's compliance with the Rules as an Originator; (B) monitor the creditworthiness of the Customer as an Originator; and (C) monitor Client's exposure relative to each Customer and relative to Client's exposure across multiple Settlement Dates.
- (xiv) Client shall conduct an annual audit of Client's compliance with the Rules. Client shall retain documentation supporting such audits for six (6) years from the date of the audit and shall provide such documentation supporting such audit upon request to Bank or Nacha within five (5) Business Days of such request.
- (xv) Bank may audit Client or any of its Customers (including Originators) for compliance with the Service Documentation, including this Agreement, the Customer Agreement, and the Rules.
- (xvi) In addition to any other duties, responsibilities, warranties, representations, and liabilities under this Agreement, for each and every Entry transmitted by Client to Bank for which Client is not the Originator, Client represents

and warrants to Bank that: (A) Client shall perform all of the duties prescribed in this Agreement, including the duty to enter into a contract with each Customer satisfying the requirements of this Agreement; (B) as to any obligation of Bank as ODFI performed by Client, Client has the legal ability to perform the requirements of an ODFI under the Rules; (C) Client shall perform all of its duties as a Third-Party Sender in accordance with the Rules, including identifying Customers and any security requirements under the Rules; (D) Customer is engaged in legitimate business the type, size, and frequency of transactions that Customer is originating is normal and expected for the Customer's type of business; and (E) Client shall assume all of the responsibilities of a Third-Party Sender in accordance with the Rules, including the responsibilities of ODFIs and Originators, as applicable. Furthermore, for each and every Entry transmitted by Client to Bank for which Client is not the Originator, (F) Client makes to Bank all of the representations and warranties of a Third-Party Sender in accordance with the Rules, including the representations and warranties of ODFIs and the representation and warranty that each of the Customers has agreed to assume the responsibilities of Originators under the Rules; and (G) Client assumes all of the liabilities of a Third-Party Sender in accordance with the Rules, including the liability for indemnification for failure of a Customer to perform its obligations as an Originator.

- (xvii) Client shall indemnify and hold Bank harmless against any Losses resulting directly or indirectly from or arising out of (A) any breach of any of the foregoing representations or warranties; (B) any failure of a Customer to perform its obligations as an Originator under the Rules or the Customer Agreement; or (C) any failure by Client to perform any of its obligations under the Service Documentation, including this Agreement, or the Customer Agreement.

(bb) WEB Entries

Client shall not act as an Originator of internet-initiated/mobile WEB Entries without Bank's prior approval. If approved by Bank, the following provisions apply to Client:

- (i) Additional Covenants, Representations, and Warranties for Debit WEB Entries. In addition to all other warranties set forth in this Agreement, with respect to each debit WEB Entry, Client covenants, represents, and warrants that:
 - (A) Client employs commercially reasonable fraudulent transaction detection system to screen each WEB Entry;
 - (B) Client employs commercially reasonable methods of authentication to verify the identity of the Receiver;

- (C) Client takes commercially reasonable steps to verify that routing numbers for debit WEB Entries are valid;
 - (D) Client conducts an annual data security audit to ensure that the financial information that Client obtains from Receivers is protected by security practices that include adequate levels of (1) physical security to protect against theft, tampering, or damage; (2) personnel and access controls to protect against unauthorized access and use; and (3) network security to ensure secure capture transmission, distribution, and storage until destruction of financial information; and
 - (E) Client complies with all other Rules related to WEB Entries, including authorization requirements.
- (ii) Additional Indemnification for WEB Entries In addition to all other indemnities set forth in the Agreement, with respect to each WEB Entry, Client also indemnifies and holds Bank harmless for any loss, claim, suit, damage, action, cause of action, judgment, liability, or expense (including attorney's fee and expenses) resulting directly or indirectly from or arising out of (A) the origination of WEB Entries; (B) any breach of any of the foregoing covenants, representations, or warranties; or (C) any failure by Client to perform any of its obligations under this Agreement or the Customer Agreement.

(cc) TEL Entries

Client shall not act as an Originator of telephone initiated TEL Entries without Bank's prior approval. If approved by Bank, the following provisions apply to Client:

- (i) Additional Covenants, Representations, and Warranties for TEL Entries. In addition to all other warranties set forth in this Agreement, with respect to each TEL Entry, Client covenants, represents, and warrants that:
 - (A) Client only initiates TEL Entries in circumstances in which (i) there is an existing relationship between Client and the Receiver, or (ii) there is not an existing relationship between Client and the Receiver, but the Receiver initiated the telephone call to Client.
 - (B) Client employs commercially reasonable procedures to verify the identity of the Receiver;
 - (C) Client utilizes commercially reasonable procedures to verify that the routing numbers for TEL Entries are valid; and
 - (D) Client complies with all other Rules related to TEL Entries, including authorization requirements and formatting requirements.

- (ii) Additional Indemnification for TEL Entries In addition to all other indemnities set forth in this Agreement, with respect to each TEL Entry, Client also indemnifies and holds Bank harmless for any loss, claim, suit, damage, action, cause of action, judgment, liability, or expense (including attorney's fee and expenses) resulting directly or indirectly from or arising out of (A) the origination of TEL Entries; (B) any breach of any of the foregoing covenants, representations, or warranties; or (C) any failure by Client to perform any of its obligations under this Agreement or the Customer Agreement.

(dd) ACH Services via Mobile Banking

To use the ACH Services via Mobile Banking, Client must be enrolled in Mobile Banking. In the event of any conflict between this Section III.2 (ACH Service) and Section III.16 (Mobile Banking), this Section III.2 (ACH Service) will prevail but only to the extent necessary to resolve such conflict.

To release an ACH Transaction via Mobile Banking, Client is required to use Access Credentials. Client may designate Users with approval.

(ee) ACH Services via Internet Banking

To use the ACH Services via Internet Banking, Client must be enrolled in Internet Banking. In the event of any conflict between this Section III.2 (ACH Service) and Section III.17 (Internet Banking), this Section III.2 (ACH Service) will prevail but only to the extent necessary to resolve such conflict.

To release an ACH Transaction via Internet Banking, Client is required to use Access Credentials. In addition to any other limitations imposed on Client's initiation or receipt of ACH Transactions, Client may establish lower limits on initiation or receipt of ACH Transactions via Internet Banking. An ACH Transaction initiated via Internet Banking requires one User to input ACH Transaction information and a separate User to approve the ACH Transaction. Client may designate Users with input or approval rights on the Internet Banking Service Application. Bank may establish and change at any time in Bank's sole discretion, daily limits on the dollar amount of Entries Client may initiate, and input or approval rights for any User, and Bank will have no liability to Client or any other person if Bank rejects or suspends processing any Entries that would exceed such limits or such rights.

3. Bulk Wire Service

(a) Service Description

This Service enables Client, or a Client Agent on behalf of Client, to send a Wire File to Bank via an SFTP File Transmission Method (provided by Bank) or other means agreed to by Bank in writing.

(b) Wire File Specifications

The Wire File must be formatted in accordance with the Service Documentation provided by Bank. Wires contained in the Wire File must be in USD only. Wires sent from a business Account may be domestic or international wires. Bank may impose limits on the number of wire records permitted for each Wire File, as specified in the Service Documentation. If the wire records in a Wire File exceed any limit imposed by Bank, the Wire File will be automatically cancelled. Client will be notified of the canceled Wire File via SFTP or other means agreed to by Bank in writing.

(c) Security Procedures

- (i) By using the Service, Client refuses the Security Procedures offered by Bank and described in the Funds Transfer Agreement.
- (ii) Notwithstanding Client's refusal of the Security Procedures, Bank may employ Monitoring Tools that take into account Client's Payment Order history and behavior. Bank may seek to authenticate further, including by utilizing a Call-Back, any Wire File that, based on the Monitoring Tools, Bank determines is anomalous or presents indicia of fraud. For avoidance of doubt, Bank shall have no obligation to reject any Wire File or any Payment Order that Client, or Client Agent on Client's behalf, submits via the Service, regardless of whether Bank may employ Monitoring Tools.
- (iii) Client agrees that Client and Client Agent will notify Bank immediately, but no later than within twenty-four (24) hours, of any unauthorized access to the File Transmission Method or the Service, including if (A) the Access Credentials required to access the File Transmission Method come into the possession of, or are suspected to have come into the possession of, persons not authorized by Client or Client Agent to access the selected File Transmission Method; (B) any encryption or other security software or process has been or is suspected of being compromised; or (C) any Wire Files are received by, accessed by, or sent by an unauthorized person.
- (iv) Bank may discontinue Client's use of the Service or access to a File Transmission Method at any time without prior notice to Client if necessary to maintain the security of the File Transmission Method or the Service. Client agrees that any action taken by Bank in an attempt to detect or prevent an unauthorized use of the selected File Transmission Method or the Service, including the use of Monitoring Tools, or an error in the transmission or content of a Wire File, shall not be deemed to be a part of the Security Procedures.

(d) Processing Wire Files

- (i) If, for any Business Day, Bank receives more than one (1) Wire File and/or other items payable from Client's Account, Bank may, in its sole discretion, debit Client's Account for such requests and items in the sequence set forth in the Account Agreement.

- (ii) Payment Orders contained in the Wire File will be subject to the cut-off times set forth in the Funds Transfer Agreement.
 - (iii) Bank will use any means of transmission, Funds Transfer system, clearing house, or intermediary bank that Bank reasonably selects to transfer funds, which may be different than instructions received by Client.
- (e) Client's Obligations
- (i) Client agrees that in using the Service, Client and Client Agent will comply with all terms and requirements of Bank and Bank Agents with respect to this Service, including the obligation to report errors as set forth in the Funds Transfer Agreement. Client also agrees Client and Client Agent are bound by the rules of any Funds Transfer system through which the Wire File is ultimately processed. Client further agrees that Client and Client Agent will comply with all Applicable Law.
 - (ii) Client agrees that Client or Client Agent on Client's behalf will encrypt the Wire File.
 - (iii) Client and Client Agent will maintain and keep current on all of its computers that can use the Service sufficient protection so that such use will prevent (A) the transmission of any Virus to Bank, (B) a Wire File from being transmitted to Bank due to a Virus, or (C) the theft or unauthorized disclosure of Client's Access Credentials. Client shall implement internal controls and procedures to ensure sufficient protection against unauthorized Wire Files from being sent to Bank.
 - (iv) Client agrees that Client and Client Agent will not attempt to use the Service or any technology related thereto to access information not belonging to Client and will not reverse engineer, decode, decompile, attempt to tamper with or evade or discover the method of operations, or defeat any Security Procedure designed to protect the integrity of the Service, encryption Software or Bank's systems.
 - (v) Client is liable for and agrees to indemnify and hold harmless Bank and Bank Agents for any Losses to Bank or Bank Agents as a result of Client or Client Agent failing to comply with the Service Documentation.
 - (vi) Client agrees to obtain cyber liability insurance coverage and crime/fidelity insurance coverage in amounts of at least \$1 million per policy. Client shall provide Bank evidence of such coverage, including certificate(s) of insurance.
 - (vii) Prior to initiating any Wire File to debit an account of a third party, Client or Client Agent must provide Bank with documents, in a form acceptable to Bank, evidencing the third party's authorization.

- (viii) Client is responsible for all actions performed by Client Agent on its behalf.
- (ix) Client agrees that in executing any Wire File, Bank may make use of such correspondents, agents, and Payment Order and communication systems as it deems necessary or desirable to execute such Wire File. To the full extent permitted by Applicable Law, (A) such correspondents, agents, and systems shall be deemed to be Client Agents, and Bank shall not be liable for any errors, negligence, suspension, or default of any of them or for any failure to identify the beneficiary or any mistake in payment by any of them; and (B) Bank shall not be liable for any errors, mutilations, undeliverable delivery, or failure of delivery in the transmission of any Wire File by such correspondents, agents, and Payment Order and communication systems or for any suspension of any means of communication or for any imposition of a censorship, exchange control, or other restriction by such correspondents, agents, and Payment Order and communication systems, all such risk being borne by Client. Bank is authorized by Client to instruct subsequent receiving banks to deduct their charges from the Wire File amounts.
- (x) Each Wire File, amendment, or cancellation thereof will be governed by Applicable Law. The rights and obligations of Bank and Client with respect to any Wire File will be governed by Applicable Law.

(f) Unauthorized Access to or Use of Bank's Service and/or Internet SFTP Server

If Client or Client Agent believes (i) the Access Credentials have been lost, stolen, accessed, or copied without authorization; (ii) unauthorized Wire Files have been transmitted to or received from Bank through use of this Service and/or a File Transmission Method; (iii) a File has been downloaded or uploaded without authorization by Client and/or Client Agent; or (iv) the Service and/or a File Transmission Method has been used without authorization, then Client, or Client Agent on Client's behalf, agrees to immediately, but no later than within twenty-four (24) hours, call the phone number set forth in Section II.22(c) (Notice) and report such loss, theft, or unauthorized access, transmission, or use. In addition, Client agrees to mail a written report of such loss, theft, or unauthorized access or use to Client's account officer at the Financial Center where the Account is maintained or to Bank at the address set forth in Section II.22(a)(ii) (Notice). BANK SHALL NOT BE LIABLE FOR ANY LOST OR STOLEN FILE, ACCESS CREDENTIAL, OR FOR ANY UNAUTHORIZED COPYING, TRANSMISSION OF, OR ACCESS TO, ANY FILE OR ACCESS CREDENTIAL, ANY UNAUTHORIZED USE OF THE SERVICE OR FOR ANY TRANSACTION MADE AS A RESULT OF SUCH LOSS, THEFT, USE, ACCESS, OR COPYING.

(g) Rejection of Wire Files

Bank reserves the right to reject any Wire Files for any reason, including if (i) there is an insufficient Available Balance in the Account; (ii) Bank is unable to confirm the Wire File; (iii) Bank is unable to authenticate a Wire File that appears anomalous or presents indicia

of fraud; (iv) Wire File does not comply with Bank's requirements; or (v) Bank is unable to process the Wire File. Bank will attempt to notify Client of any rejected Wire File in the manner provided in this Agreement but shall not be liable for any delay or failure in providing such notice or executing any Wire File. **BANK SHALL NOT BE LIABLE FOR ANY LOSSES SUSTAINED BY CLIENT FOR BANK'S REJECTION OF A WIRE FILE.**

(h) Cancellation or Amendment of Wire File

Bank has no obligation to cancel or amend a Wire File after Bank receives the Wire File or to cancel or amend a Wire File requested by a Standing Transfer Order in effect. If Client requests that Bank cancel or amend a Wire File and Bank is able to verify the authenticity of such a request based on the Security Procedure applicable to the File Transmission Method selected by Client, Bank will make a reasonable effort to act on that request, but Bank will not be responsible or liable if such an effort does not result in the cancellation or amendment of such Wire File. Client agrees to indemnify Bank and hold Bank harmless from any and all Losses Bank incurs in connection with Client's request to amend or cancel a Wire File. Client's obligations under this provision will survive termination of the Service.

(i) Bank's Limited Liability

In addition to limitations on Bank's liability set forth in the General Terms:

- (i) Bank has only those duties and responsibilities specifically set forth in the Service Documentation. Bank has no duty to determine whether a Wire File contains an inconsistency, duplication, or error but is authorized to accept, honor, and execute a Wire File received from Client or Client Agent on Client's behalf. Bank shall not be liable for any Losses to Client as a result of Client's failure to comply with this Agreement. Client agrees that Bank shall not be liable for the execution of, or failure to execute, any Wire File that is not in strict compliance with Bank procedures.
- (ii) Bank will not be liable for Losses of any kind resulting from the use of or the inability to use the Service; any inaccuracy of any information or amount retrieved by Bank from a Wire File; any breach of security caused by a third-party; any wires processed based on the Service (whether or not such Wire File was transmitted by an Authorized Representative acting beyond his/her scope of authority or an unauthorized party); any loss of, unauthorized access to, or alteration of a User's transmissions or data; or for the cost of procurement of substitute services, including Damages for loss of profits, use, data, or other intangibles, even if Bank had been advised of the possibility of such Damages.
- (iii) Except as otherwise expressly provided in this Agreement, Bank shall not be obligated to provide any notice or advice to Client or any third-party with respect to Wire Files.

4. **Electronic Data Interchange Reporting Service**

(a) Service Description

The Electronic Data Interchange Reporting Service enables Client to authorize and directs Bank to send to Client by eStatement or other means agreed to by Bank in writing, a report of the details received by Bank regarding each Credit Entry made by a third-party to Client's Account(s) as follows:

- (i) Client authorizes and directs Bank to deliver, via eStatement or other means agreed to by Bank in writing, ACH Credit Details, if any, received by Bank with respect to each Credit Entry made to Client's Account.
- (ii) Bank will attempt to deliver ACH Credit Details in accordance with the Service Documentation on the same Business Day that the Credit Entry is received by Bank. Client acknowledges and agrees that Bank makes no assurances whatsoever that the ACH Credit Details will be successfully sent to, or received by, Client. Furthermore, Bank shall not be responsible if, for any reason, it is unable to deliver ACH Credit Details on the Business Day that the Credit Entry was received by Bank. If Bank is made aware that Client is unable to receive Bank's eStatement or other transmission of ACH Credit Details, then Bank may attempt to resend the ACH Credit Details later that same Business Day. If ACH Credit Details cannot be sent by Bank on that same day Business Day, then Bank will attempt to send ACH Credit Details on the following Business Day. Client acknowledges and agrees that Bank will have no liability if Bank fails or is unable to complete a delivery of any ACH Credit Details and that Client shall not structure or enter into any transaction in reliance upon the expectation of receiving ACH Credit Details.

(b) Client's Obligations

- (i) Client assumes any and all risks arising from or in connection with eStatement of ACH Credit Details, including risks arising or resulting directly or indirectly from malfunctions of equipment, telephone lines and circuits, tampering or interception of the eStatement report, and any other risks, except for those risks resulting directly from Bank's willful misconduct or gross negligence.
- (ii) Client assumes all responsibility for the security of ACH Credit Details.
- (iii) Client acknowledges and agrees that it is not possible for the Service to be totally free from operator, programming, or equipment error and that errors in processing and compiling data may occasionally occur (e.g., due to the failure of others to provide accurate information, telecommunication failures, or a breakdown in an electronic data interchange).

- (iv) Client acknowledges and agrees that if Client chooses eStatement for delivery of ACH Credit Details, Client must enroll in eStatement Services and agree to the applicable Service Documentation for eStatement Services.
- (v) In addition to any other requirements set forth in the Service Documentation, Client agrees to exercise reasonable care and promptness in examining each eStatement report to discover any irregularity or inaccuracy, and Client shall notify Bank promptly in writing of any such discovery and in no event more than three (3) days subsequent to the time Bank's records indicate that the eStatement report was sent to Client. Unless otherwise required by Applicable Law, Bank's sole responsibility for any reporting errors caused by Bank will be to reprocess the information for the period in question and to submit corrected reports at Bank's own expense.

5. Statement Services

(a) Service Description

The Service enables clients to elect to receive Statements and other information related to Client's Account and Services via Electronic Statement Transmission, Combined Statement, Expedited Statement, or eStatement. By enrolling in the Service, Client agrees to the terms and conditions applicable to the Statement method(s) Client has elected to receive.

Client is responsible for reviewing Statements and reporting errors as set forth in the Account Agreement or such other applicable agreement between Client and Bank.

(b) Electronic Statement Transmission

(i) Electronic Statement Transmission Description

Electronic Statement Transmission allows transfer of Statements from Bank to Client via SFTP or other means agreed to by Bank in writing.

(ii) Security Procedures

Files will be encrypted as indicated in the Service Documentation. Client or Client Agent can access secure files by connecting to Bank's SFTP server through its preregistered IP address and using the Access Credentials provided by Bank. Bank can transmit secure files by connecting to Client's or Client Agent's SFTP server through its preregistered IP address and using the designated login ID and password provided by Client.

Client agrees that Client and Client Agent will keep the Access Credentials secured at all times and will safeguard against unauthorized access. Client also agrees that Client and Client Agent will notify Bank immediately, but no later than within twenty-four (24) hours, if Client's and/or Client Agent's Access Credentials are, or are suspected to be, compromised, or if any files are received by an unauthorized person.

CLIENT AGREES THAT USE OF ENCRYPTION AND THE ACCESS CREDENTIALS TO RECEIVE FILES AND REPORTS VIA SFTP, OR VIA OTHER MEANS AGREED TO BY BANK IN WRITING, ARE ACCEPTABLE SECURITY PROCEDURES FOR THESE PURPOSES AND SHALL BE DEEMED TO BE COMMERCIALY REASONABLE IN LIGHT OF CLIENT'S PARTICULAR NEEDS AND CIRCUMSTANCES. BANK SHALL NOT BE LIABLE FOR ANY LOST OR STOLEN FILES, ACCESS CREDENTIALS, OR ANY UNAUTHORIZED COPYING OR DOWNLOADING OF, OR ACCESS TO, ANY FILE, THE ENCRYPTION SOFTWARE, ACCESS CREDENTIALS, ANY UNAUTHORIZED USE OF ELECTRONIC STATEMENT TRANSMISSION, OR FOR ANY TRANSACTION MADE AS A RESULT OF SUCH LOSS, THEFT, USE, ACCESS, OR COPYING.

(iii) Client Use of Service after Termination

Upon suspension or termination of the Service for any reason other than Client's breach of this Agreement, Client may continue to use any Software and other materials for the Service after termination of the Service for six (6) months or for a longer period as approved by Bank.

(c) Combined Statement

Combined Statement allows Client to request Bank combine some or all of Client's Accounts, and at the end of the Statement Cycle Period, Bank will deliver to Client a single Statement that contains information for all of Client's Accounts. Client acknowledges and agrees that Client will not receive a separate Statement for any Account enrolled in Combined Statement. Combined Statement may be available only for certain Account types or Statement types.

(d) Expedited Statement

Expedited Statement allows Client to receive Statements on an expedited timeframe by directing Bank to send paper Statements via U.S. Postal Service next-day delivery or similar. Expedited Statements is only available if Client has a minimum of twenty-five (25) Statements.

(e) eStatement

(i) eStatement Service Description

The eStatement Service allows Client to use Internet Banking to access Statements for the past eighteen (18) months. Client can view, save, and print such Statements through the eStatement Service. By enrolling in the eStatement Service, Client acknowledges and agrees that Client will not receive paper Statements unless Client has specifically requested paper copies of Statements. Where Client requests a duplicate statement for Client Agent or other additional party, paper Statements will not be generated unless Client has specifically requested paper copies of Statements.

(ii) Accessing eStatement Service

To use the eStatement Service, Client must be a subscriber to Internet Banking. Client acknowledges that Client has received and agrees to the terms for Internet Banking. Client acknowledges that Client has the ability to print any Statement made available by Bank through

the eStatement Service or the ability to save electronically and visually display any Statement made available by Bank through the eStatement Service. Client understands that Bank recommends Client save and print a copy of all Statements for Client's records.

(iii) Email Address

If Client uses the eStatement Service, Client agrees to maintain a valid, active email address. Client shall promptly notify Bank of any change in Client's email address as set forth in Section II.22(a)(ii) (Notice). Bank shall not be liable for any third party-incurred fees, other legal liability, or any other issues or liabilities arising from eStatements or notifications sent to an invalid or inactive email address (or an email address owned by, registered to or used by, someone other than Client) or postal address that Client has provided.

(iv) Security Procedures

Client cannot use the eStatement Service without the necessary Access Credentials. Client agrees that the use of the Access Credentials constitutes a commercially reasonable Security Procedure. Client agrees that access to the Service through the use of the Access Credentials assigned to Client, or to any User by Client or its Administrator, shall be deemed to be authorized by Client. Client is responsible for all actions taken or purportedly taken by any person, including any Administrator, User, or Client Agent, that has been authenticated. Disclosure by Client of Access Credentials to other parties may result in other parties accessing Client Statements, and Client will be responsible for any transactions that may be completed. Client will immediately, but no later than within twenty-four (24) hours, call Bank at the phone number set forth in Section II.22(c) (Notice) if Client believes an unauthorized party has used Client's Access Credentials to use the eStatement Service.

(v) Terminating Use of eStatement

Client's ongoing consent to not receive paper Statements unless Client has specifically requested paper copies of Statements is voluntary. Client may request to receive paper copies of Statements by contacting Bank at the phone number set forth in Section II.22(b) (Notice). Subject to Bank's confirmation of Client's request, the request will be effective no later than the second Statement Cycle Period after receipt by Bank, at which time Bank will resume mailing Statements to the address of record for the Account. Unless Client requests paper Statements, Statements accessible through eStatement will constitute the sole notice Client will receive regarding Client's Account balances and the activity therein for the Statement Cycle Period covered by such Statement. Client understands that each date on which a Statement is available through eStatement shall begin the time period within which Client is required to notify Bank of any errors or irregularities in, or relating in any way to, the particular underlying Account, as required by the Account Agreement.

6. FX Web Portal

(a) Service Description

The Service is the provision of Bank's electronic FX Web Portal, offering various foreign exchange capabilities.

The Service features available to Client may vary based on the type of device used to access the Service. Depending on the access device, the Service may, for example, use different terminology and appear in different formats, provide different instructions for accessing the Service, and process instructions at different speeds. Bank will not be liable for any delays or failures in Client or any User's ability to access the Service.

By enrolling in this Service, Client agrees to the Funds Transfer Agreement contained in the Account Agreement, which is incorporated by reference and governs this Service. For purposes of this Service, if there is any conflict among the documents that are part of the Service Documentation, they will be governed in the following order: (i) the Account Agreement(s), (ii) this Agreement, (iii) the Acceptance, (iv) the Service Application, and (v) all other documents that are part of the Service Documentation.

(b) FX Transactions

To make an FX Transaction via the Portal, Client may be asked to supply certain relevant Account information. Client represents and warrants that it has the right to use the Account that is used in connection with any FX Transaction. By submitting such information, Client grants to Bank the right to provide such information to third parties for purposes of facilitating the FX Transaction. Verification of information may be required prior to the acknowledgment or completion of an FX Transaction.

Bank reserves the right, including without prior notice, to limit the available quantity of or discontinue making available FX Transactions, to bar Client or any User from making any FX Transaction, and to refuse to provide Client or any User with any FX Transaction. Although Bank may confirm FX Transactions by email, the receipt of an email FX Transaction confirmation does not constitute Bank's acceptance of such FX Transaction.

(c) Acknowledgments

In deciding whether to place an FX Transaction pursuant this Agreement, Client acknowledges that it has considered and accepted that FX Transactions carry risks, including:

- (i) Credit Risk FX Transactions entered into between Client and Bank pursuant to the Service are on a principal-to-principal basis and are, therefore, subject to the risk that Bank fails to perform its obligations to Client under this Agreement or the Account Agreement;
- (ii) Market Risk The performance and valuation of FX Transactions linked to foreign exchange rates will fluctuate due to market volatility, which may be sudden and large and may be affected by other factors including economic and political events; when entering into an FX Transaction to protect Client from risks due to changes in the rate of exchange between two currencies or, in other words, to hedge an underlying exposure to foreign exchange rate fluctuations, Client is responsible for determining the extent and nature of its underlying exposure, and the effectiveness of the FX Transaction as a hedge for such underlying exposure; any mismatch between the underlying exposure and the FX Transaction may lead to under-hedging or

over-hedging and a resultant exposure to changes in the rate of exchange between two currencies or, in other words, having an underlying exposure to foreign exchange rate fluctuations; and

- (iii) Liquidity Risk Where Bank accepts an FX Transaction in relation to foreign currencies that are or become illiquid, it is possible that execution or settlement of such FX Transaction will be affected by such liquidity.

(d) Client Obligations

- (i) Client acknowledges and agrees that Client may authorize, in accordance with Bank procedures, a User to access the Service on its behalf. Client acknowledges and agrees that each User must agree to the Service Documentation, and Client shall ensure that each User will abide by the terms of the Service Documentation as if such User is Client. Client further agrees that Client is responsible for all actions of a User performed on Client's behalf.
- (ii) Client consents to receiving by email or other delivery channels, messages from Bank related to the Service.

(e) Client Representation and Warranties

In addition to all warranties set forth in the Service Documentation, by using the Service, Client represents, warrants, and covenants to Bank that when Client submits an FX Transaction:

- (i) Client is participating in the Service and submitting an FX Transaction as principal and, with respect to spot FX Transactions, is doing so for solely commercial purposes, not for investment or speculative purposes, and in order to facilitate payment for identifiable goods, services, or direct investment;
- (ii) Client has taken into account and understand and accept the various risks associated with FX Transactions;
- (iii) Client understands that, unless Bank agrees otherwise, Bank is offering execution-only services pursuant to this Agreement, and Client has made its own independent decision to enter into this Agreement and submit an FX Transaction, including whether an FX Transaction is suitable for Client and whether an FX Transaction is appropriate or proper for Client's purposes, and Client is not relying on any communication from Bank (oral or written) as investment advice or as a recommendation to submit an FX Transaction under this Agreement;
- (iv) All information provided by Client or on Client's behalf is true, accurate, and not misleading, and Client will notify Bank as soon as possible in the event that there is any change to such information; and

- (v) Client has complied, and will comply with, all necessary consents, licenses, authorizations, and powers to enter into and perform its obligations under this Agreement and in respect of each FX Transaction, and Client has taken all necessary actions to authorize such execution and performance.

(f) Limitation of Liability

Bank will have no obligation to Client to verify or authenticate separately any communication Bank receives in Client's name through the Service, whether or not Client or User actually issued the communication. Bank may, at Bank's sole option, contact Client with respect to any communication Bank receives in Client's name, but Bank's election to contact Client with respect to one or more communication will not obligate Bank to contact Client with respect to any subsequent communication Bank receives in Client's name.

(g) Area of Use

Client covenants, represents, and warrants that Client will use the Service only within the United States. Bank reserves the right to terminate Client access to the Service if Bank determines that Client uses the Service when located outside of the United States. Client further agrees that Client will not use or otherwise export or re-export the Service, except as authorized by Applicable Law.

(h) Access Credentials

Client must register to use all or part of the Portal. Client and each User may access the Portal using the Access Credentials. Bank may require Client or a User to change the Access Credentials at any time. Client is responsible for any use or misuse of the Access Credentials. Any access to the Portal through the use of Client's or any User's Access Credentials shall be deemed to be authorized by Client. Client acknowledges and agrees that the Access Credentials are an acceptable and commercially reasonable security procedure and that the Access Credentials are intended as a security procedure to detect unauthorized use of the Portal, not to detect an error made by Client or a User when using the Services. The Access Credentials should be kept confidential. Client is solely responsible for selecting and implementing Security Procedures to ensure the confidentiality of the Access Credentials. Client's failure to ensure the confidentiality of the Access Credentials may cause Client to suffer Losses. Bank may block Client's or any User's access to the Portal if it believes that the Access Credentials have been compromised.

(i) Reporting Unauthorized Access

If Client believes someone has used or may attempt to use the Service without Client's permission, or that any other unauthorized use or security breach has occurred, Client must contact Bank immediately, but no later than within twenty-four (24) hours, as identified in Section II.22(c) (Notice). In addition, Client agrees to mail a written report of such belief to Client's account officer at the Financial Center where the Account is maintained. Telephoning is the best way to minimize Losses for any error or unauthorized transaction.

(j) Third-Party Content

Bank may make available Third-Party Content through the Service. Bank does not own any interest in, control, edit, review, or endorse any Third-Party Content. Client agrees that any Third-Party Content Client uses is provided to Client “as is.” The posting of any Third-Party Content or any other information or data in the Portal is not a recommendation by Bank of any particular Service or transaction. Bank does not guarantee and is not responsible for the accuracy, completeness, validity, timeliness, reliability, integrity, quality, legality, usefulness, or safety of any Third-Party Content or any intellectual property rights therein. Bank has no obligation to monitor Third-Party Content, and Bank may block or disable access to any Third-Party Content (in whole or part) through the Service at any time. Bank is not responsible for the actions or omissions of the third parties developing or transmitting Third-Party Content or for any decision made or action taken by Client in reliance on any Third-Party Content. CLIENT’S USE OF THIRD-PARTY CONTENT IS AT CLIENT’S OWN RISK AND IS SUBJECT TO ANY ADDITIONAL TERMS, CONDITIONS, AND POLICIES APPLICABLE TO SUCH THIRD-PARTY CONTENT (SUCH AS TERMS OF SERVICE OR PRIVACY POLICIES OF THE PROVIDERS OF SUCH THIRD-PARTY CONTENT).

(k) Downloads

Bank may make available Downloads. Such Downloads are provided for Client’s internal business use only and must be used in accordance with the terms of this Agreement. Client may not make derivative works, distribute, modify, transmit, or publically display the Downloads (or copies thereof). Client acknowledges and agrees that the Downloads are owned by Bank or Bank Agents and protected by intellectual property and other proprietary laws and rights. Client must retain all trademark, copyright, and other proprietary notices on the Downloads. All Downloads are subject to the terms and conditions of this Agreement and shall remain the property of their applicable owners.

(l) Rules of Conduct

In connection with the Portal, Client and each User shall not engage in any unacceptable or unauthorized use or activity and must not:

- (i) Post, transmit, or otherwise make available through or in connection with the Portal any materials or messages that are or may be (or contain anything that are or may be): (a) threatening, harassing, degrading, hateful or intimidating, offensive, malicious, or otherwise fail to respect the rights and dignity of others; (b) defamatory, libelous, fraudulent, or otherwise tortious; (c) obscene, indecent, pornographic, or otherwise objectionable; or (d) protected by copyright, trademark, trade secret, right of publicity or privacy, or any other proprietary right, without the express prior written consent of the applicable owner;
- (ii) Post, transmit, or otherwise make available through or in connection with the Portal any materials or messages that do not pertain to the intended use of the Portal.

- (iii) Post, transmit, or otherwise make available through or in connection with the Portal any Virus.
- (iv) Use the Portal for any purpose that is fraudulent or otherwise tortious or unlawful.
- (v) Harvest or collect information about users of the Portal.
- (vi) Interfere with or disrupt the operation of the Portal or the servers or networks used to make the Portal available, including by hacking or defacing any portion of the Portal; or violate any requirement, procedure, or policy of such servers or networks.
- (vii) Interfere with, disrupting, or attempting to gain unauthorized access to information or other accounts within the Portal.
- (viii) Restrict or inhibit any other person from using the Portal.
- (ix) Remove any copyright, trademark, or other proprietary rights notice from the Portal.
- (x) Frame or mirror any portion of the Portal, or otherwise incorporate any portion of the Portal into any product or service, without Bank's express prior written consent.
- (xi) Systematically download and store Portal content.
- (xii) Use any robot, spider, site search/retrieval application, or other manual or automatic device to retrieve, index, "scrape," "data mine," or otherwise gather Portal content, or reproduce or circumvent the navigational structure or presentation of the Portal, without Bank's express prior written consent.

(m) Information Submitted Through the Portal

Client represents and warrant that any information Client or User provides in connection with the Portal is and will remain accurate and complete and that Client or User will maintain and update such information as needed. Bank may rely on the accuracy of any information Client or User provide Bank. Client or User shall promptly inform Bank of any incorrect or outdated information. Neither Bank nor Bank Agents shall be liable for any failure in performance under this Agreement, to the extent such failure is the result of inaccurate, outdated, or incomplete information supplied by Client or by anyone acting on Client's behalf. Client shall bear the cost of correction and pay all direct costs arising therefrom if the correction of such information results in costs to Bank or any Bank Agent that exceed those incurred in the normal course of business.

(n) Submissions

Bank has no control over and is not responsible for any use or misuse (including any distribution) by any third party of Submissions. If Client or User chooses to make any Client Data, personally

identifiable information, or other information publicly available through a Submission, Client or User does so at its own risk.

(i) License

For purposes of clarity, Client or User retains ownership of its Submissions. For each Submission, Client and User hereby grants to Bank a worldwide, royalty-free, fully paid-up, non-exclusive, perpetual, irrevocable, transferable, and fully sub-licensable (through multiple tiers) license, without additional consideration to Client, User, or any third party, to reproduce, distribute, perform and display (publicly or otherwise), create derivative works of, adapt, modify, and otherwise use, analyze, and exploit such Submission, in any format or media now known or hereafter developed, and for any purpose (including promotional purposes, such as testimonials).

Client and User represent and warrant that they have all rights necessary to grant the licenses granted in this Section III.6(n)(i), and that Submissions, and the provision thereof through and in connection with the Portal, are complete and accurate, and are not fraudulent, tortious, or otherwise in violation of any applicable law or any right of any third party. Client and User further irrevocably waive any “moral rights” or other rights with respect to attribution of authorship or integrity of materials regarding each Submission that they may have under any Applicable Law under any legal theory.

(ii) Monitoring

Bank may (but has no obligation to) monitor, evaluate, alter, or remove Submissions before or after they appear on the Portal, or analyze Client or User’s access to or use of the Portal. Bank may disclose information regarding Client or User’s access to and use of the Portal, and the circumstances surrounding such access and use, to anyone for any reason or purpose.

(o) Processing FX Transactions

FX Transactions submitted on the Portal after the Cut-off Time will be processed by Bank on the following Business Day. In submitting an FX Transaction, Client authorizes Bank to credit or debit the Account any amounts owed to Client or owed by Client (as applicable), even if this results in such Account being overdrawn or any credit limit applicable to Client being exceeded.

(p) Dollar Value Limit

The dollar value of any FX Transaction submitted through the Portal shall not exceed any Dollar Limit established by Bank, in its sole discretion, and specified in the Service Documentation or as communicated to Client from time to time. If the total dollar amount of an FX Transaction submitted by Client to Bank exceeds the Dollar Limit, Bank may, at its option, refuse to accept the FX Transaction, or may accept and process the FX Transaction.

(q) Insufficient Funds

If at the time of processing an FX Transaction the Available Balance in the Account plus any available credit is not sufficient to fund the FX Transaction, then Bank has the right to (i) reject the FX Transaction, (ii) create an overdraft in the Account to the extent of the deficiency, or

(iii) transfer funds from any other Client account at Bank into the Account to cover such deficiency. If Bank permits one or more overdrafts, Bank is not establishing a course of conduct and it shall not mean that Bank will pay other overdrafts in the future.

(r) No Warranties

To the fullest extent permitted under Applicable Law: (i) the Portal, Services, FX Transactions, Downloads, and any Third-Party Content are made available to Client on an “as is,” “where is,” and “where available” basis, without any warranties of any kind, whether express, implied or statutory; and (b) Bank disclaims all warranties with respect to the FX Web Portal, Services, FX Transactions, Downloads, and any Third-Party Content, including the warranties of merchantability, fitness for a particular purpose, non-infringement, and title. All disclaimers of any kind (including in this Section III.6(r) and elsewhere in the Service Documentation) are made for the benefit of both Bank and the Affiliated Entities and their respective successors and assigns.

While Bank tries to maintain the timeliness, integrity, and security of the Portal, Bank does not guarantee that the Portal is or will remain updated, complete, correct, or secure or that access to the Portal will be uninterrupted. The Portal may include inaccuracies, errors, and materials that violate or conflict with this Agreement. Additionally, third parties may make unauthorized alterations to the Portal. If Client becomes aware of any such alteration, Client shall contact Bank in accordance with Section II.22(c) (Notice) with a description of such alteration and its location on the Portal.

7. Image Cash Letter (X9.37) Service

(a) Service Description

Bank offers the Service, which allows Client or Client Agent to transmit Check Image Transmissions to Bank or Bank Agent for deposit to the Account.

Check Image Transmissions provided by Client shall comply with the format and specifications set forth in the Service Documentation and shall be within the Cut-off Time. Client agrees to transmit X9.37 files via electronic means acceptable to Bank. Bank will provide Client with file specifications, credentials, and details on the naming convention of the files in the Service Documentation. Client authorizes Bank to process the Check Image Transmissions as Substitute Checks, Electronic Images, or Photos in Lieu, as may be applicable for further clearing through any other financial institution, clearinghouse, or Federal Reserve Bank. Client agrees that it is solely responsible for the creation and transmission of these Check Image Transmissions to Bank.

(b) Image Cash Letter Process

Client or Client’s Agent, as applicable, shall (i) prior to transmitting any Checks payable to Client properly endorse the back of those Checks and include with such endorsement the Account number of the Account to be credited; (ii) transmit the front and back of all properly endorsed Checks made payable to Client; (iii) verify that the Check Image Transmissions, including the MICR line of the Check Image Transmissions, appearing on the computer is clear; (iv) enter or verify the amount of each Check Image Transmissions next to its image as it appears on the computer; (v) enter for each Check Image Transmissions the Account number of the Account be credited;

(vi) enter any other information required by the Software or system; (vii) verify that the total amount of the Check Image Transmissions as stated on the computer equals the total of the amounts appearing on each Check that has been transmitted; (viii) submit to Bank the Check Image Transmissions by utilizing the appropriate computer command; and (ix) stamp the front of each Check Image with the words "Check 21 Processed."

(c) Maintenance of Check Image Transmissions

Client or Client's Agent, as applicable, shall (i) maintain securely all Check Image Transmissions for fourteen (14) days from the settlement date, (ii) destroy those original Checks by shredding after such fourteen (14)-day period, and (iii) ensure that all Check Image Transmissions are not retransmitted or presented for payment as an original Check. If Client has no Check Image Transmissions to transmit on a Business Day, Client may transmit a null file consisting of a header record.

(d) Client Assumption of Risk for Check Image Transmissions

If any Check Image Transmission (including any source document for purposes of this Agreement) does not meet Bank's or any transferee's standard requirements for processing, Client assumes all risk of loss or delay in processing such Check Image Transmission and authorizes Bank to either (i) process the Check Image Transmission as sent from Client, (ii) process the Checks as Photos in Lieu, or (iii) repair or attempt to repair the Check Image Transmission for further processing.

(e) Designation of Administrator

Client shall designate on the Service Application an Administrator who will oversee the Check Image Transmissions to Bank and be able to troubleshoot issues. If the Check Image Transmission file dollar amount is not identical to the transmittal report dollar amount, the Check Image Transmission will not be processed and will be placed on HOLD status until the next Business Day for resolution as may be required by Bank. Bank reserves the right to make adjustments to Client's Account based upon Checks scanned or processed incorrectly. Bank is authorized to process any Check Image Transmissions that it receives from the Administrator on behalf of Client, regardless of the identity of the individual transmitting the Check Image Transmission and without any further authority from or reference to Client, provided that the Check Image Transmissions is verified pursuant to the agreed upon Security Procedures. Client is responsible for all actions taken or purportedly taken by any person, including any Administrator, User, or Client Agent, that has been authenticated using the Security Procedures.

(f) Check Image Transmission File Deposit Time

The Check Image Transmissions must be sent to Bank prior to the Cut-off Time. Check Image Transmissions sent after the Cut-off Time are not guaranteed to be processed on that Business Day. Check Image Transmissions sent after the Cut-off Time will be processed on the next Business Day. Any Check Image Transmission will be deemed to have been received when the entire file has been written onto Bank's system and made available for Bank to validate. Based upon the size of the Check Image Transmission, there may be a significant delay between the time Client begins to send the Check Image Transmission and the completion of the transfer as stated above. As a result, Client will make every effort to send the Check Image Transmission as early

as possible. Upon acceptance of a Check Image Transmission, Bank will give Provisional Credit to the Account.

(g) Check Image Transmission Dollar Limit

The Check Image Transmission must not contain an individual Check that exceeds the Dollar Limit set by Bank. If a Check exceeds the Dollar Limit set by Bank, Bank may review the Check and approve such Check at its discretion. Client agrees that Bank shall be entitled to remove any Check over the Dollar Limit from the Check Image Transmission and further, to debit the Account for the amount of the removed Check. Client shall be solely responsible for verifying that Checks do not exceed the Dollar Limit before transmission and shall be liable for all Losses resulting from a Check being transmitted that exceeded the Dollar Limit.

(h) Check Image Transmission Account Number

The Check Image Transmission must contain only Checks that are being deposited to an Account preapproved to receive credits through the Service. If a Check Image Transmission contains Checks to be credited into an account not pre-approved to receive credits through the Service, Bank reserves the right to terminate the Service immediately and/or to withhold the availability of a corresponding amount of funds that Client has on deposit in an account with Bank. Client shall be solely responsible for verifying that only Bank pre-approved Accounts are included on the Check Image Transmission before transmission.

(i) Security Procedures

The Administrator will be provided with Access Credentials to access the Service through an SFTP portal or by other means agreed to by Bank in writing. Client agrees that use of Access Credentials is an acceptable security procedure and shall be deemed to be commercially reasonable after considering the technology available and Client's particular needs and circumstances. Client agrees that Bank is not responsible for any data breaches or Losses stemming from an authentication to the Service using the Access Credentials assigned to an Administrator.

(j) Client Liability

Client shall be solely responsible if any Check Image Transmission for which Client has been given Provisional Credit is returned or reversed, and neither Bank nor any Bank Agents shall be liable or responsible for same. Client acknowledges that all credits received for deposit are provisional, subject to verification, final settlement, or return. Information and data reported hereunder: (i) may be received prior to final posting and confirmation and is subject to correction and (ii) is for informational purposes only and may not be relied upon. Client agrees that Bank shall have no liability for the content of payment-related information as received from Client. Client shall be solely responsible for the original Checks, including storage and retrieval. Client agrees to provide a legible copy of an image or the original Check if requested by Bank within five (5) Business Days of such request. If Client is unable to provide the original or legible copy, Client shall be liable for any associated loss or claim involving the Check. Client shall be liable for all Losses resulting from a Check being transmitted more than once or a Check being presented as an original Check. Client assumes financial liability for all Check Image Transmissions that are returned unpaid for any reason or which have been presented for payment more than once, and

Bank may debit an Account for the amount of such Check Image Transmission that are returned and all Service Fees associated with the return of such Check Image Transmission.

(k) Client Representations and Warranties

CLIENT REPRESENTS AND WARRANTS TO BANK THAT: (I) EACH CHECK IMAGE TRANSMISSION CONTAINS ACCURATE AND LEGIBLE IMAGES OF ALL OF THE INFORMATION ON THE FRONT AND BACK OF THE ORIGINAL CHECKS AT THE TIME EACH CHECK WAS TRUNCATED; (II) EACH TRANSMISSION ALSO CONTAINS A RECORD OF ALL APPLICABLE MICR-LINE INFORMATION REQUIRED FOR A SUBSTITUTE CHECK AND THE ACCURATE AMOUNT OF THE CHECK; (III) EACH TRANSMISSION CONFORMS TO THE TECHNICAL STANDARDS FOR AN ELECTRONIC ITEM SET FORTH IN REGULATION J AND FEDERAL RESERVE BANK OPERATING CIRCULARS AND FOR A SUBSTITUTE CHECK SET FORTH IN REGULATION CC; (IV) NO PERSON WILL RECEIVE A TRANSFER, PRESENTMENT OR RETURN OF, OR OTHERWISE BE CHARGED FOR, THE CHECK (EITHER THE ORIGINAL CHECK, OR A PAPER OR ELECTRONIC REPRESENTATION OF THE ORIGINAL CHECK) SUCH THAT THE PERSON WILL ASKED TO MAKE PAYMENT BASED UPON A CHECK IT HAS ALREADY PAID; (V) CLIENT WILL NOT REDEPOSIT THROUGH THIS SERVICE ANY CHECK IMAGE TRANSMISSION REPRESENTING A CHECK PREVIOUSLY DEPOSITED AND RETURNED TO CLIENT; (VI) CLIENT WILL EMPLOY COMMERCIALY REASONABLE SECURITY MEASURES AND FIREWALLS SUFFICIENT TO PROTECT THE CHECK IMAGE TRANSMISSIONS AND STORAGE TO ENSURE NO UNAUTHORIZED ACCESS OR DUPLICATE PRESENTMENT; AND (VII) CLIENT WILL ONLY CREATE CHECK IMAGE TRANSMISSIONS FOR CHECKS THAT ORIGINATED AS PAPER CHECKS.

(l) Client Indemnification

IN ADDITION TO ANY OTHER INDEMNIFICATION OBLIGATIONS SET FORTH IN THIS AGREEMENT, AND EXCEPT FOR LOSSES OR EXPENSES CAUSED BY BANK'S FAILURE TO EXERCISE ORDINARY CARE OR WILLFUL MISCONDUCT, CLIENT AGREES TO INDEMNIFY BANK FOR ANY LOSS OR EXPENSE SUSTAINED (INCLUDING ATTORNEY'S FEES AND EXPENSES OF LITIGATION) RESULTING FROM (I) CLIENT'S LACK OF AUTHORITY TO MAKE THE WARRANTIES PROVIDED HEREIN; (II) ANY ACTION TAKEN OR NOT TAKEN BY BANK WITHIN THE SCOPE OF ITS AUTHORITY UNDER THIS AGREEMENT IN HANDLING A CHECK; (III) ANY WARRANTY OR INDEMNITY REQUIRED TO BE MADE BY BANK WITH RESPECT TO A CHECK UNDER APPLICABLE LAW OR REGULATION, INCLUDING THE CHECK CLEARING FOR THE 21ST CENTURY ACT, REGULATIONS CC AND J PROMULGATED BY THE FEDERAL RESERVE BOARD, FEDERAL RESERVE BANK OPERATING CIRCULARS, AND CLEARING HOUSE RULES; AND (IV) BANK ACTING ON WHAT IT BELIEVES TO BE INSTRUCTIONS FROM THE ADMINISTRATOR.

8. **Lockbox**

(a) Service Description

Through the Service, Client may instruct its Customers to send remittances to a Lockbox provided by Bank. Bank or Bank Agent will collect the mail sent to the Lockbox and process the remittances sent to the Lockbox by either depositing such remittances to Client's Account or forwarding them to Client as set forth in this Agreement.

Client may also elect to enroll in the Lockbox Web Portal Service, described further below. For the purposes of this Agreement, the Lockbox Web Portal will be included in any reference to the Service.

(b) Lockbox Processing

Client may instruct those of its Customers whom it desires to use the Lockbox to forward Items of Payment and accompanying invoices to the Lockbox provided pursuant to the Service. Items of Payment forwarded to the Lockbox will be retrieved from the Lockbox and processed by Bank or Bank Agent. The Service is not intended for the processing of any materials other than Items of Payment and accompanying invoices, including cash or other items of intrinsic value. Client shall instruct its Customers to only forward Items of Payment and accompanying invoices to the Lockbox and not to forward any other materials, including cash or other items of intrinsic value to the Lockbox. As between Client and Bank, Client assumes full responsibility for all cash and other items of intrinsic value forwarded to the Lockbox.

Bank or Bank Agent shall have sole access to the Lockbox and shall, on each Business Day on which the U.S. Postal Service is open for business to conduct substantially all of its usual business, collect mail from the Lockbox. Unless otherwise notified in writing by Client, Bank or Bank Agent shall process all Items of Payment received in the Lockbox which designates as payee(s) any name or names which appear on the Service Application or which, in Bank's or Bank Agent's sole judgment and discretion, appropriately resemble such names. Bank or Bank Agent shall forward at Client's expense, in accordance with Client's written notification, any Items of Payment specifically described in the Service Application that are received in the Lockbox and that Client does not wish to have processed; provided, however, that in no event shall Bank or Bank Agent be liable to Client or any third party for Losses resulting from its failure to honor instructions enclosed with or appearing on an Item of Payment asserting, in substance, that such Item of Payment represents payment of a specific part or all of an obligation, or which states that it corresponds to any particular invoice or like document not enclosed with the Item of Payment. All Items of Payment forwarded to Client by Bank or Bank Agent for any reason whatsoever shall be directed to Client's address stated on the Service Application.

Bank or Bank Agent shall endorse all Items of Payment in such form as Bank may deem necessary to perform the Service. Unless otherwise agreed to by Bank in writing, Bank or Bank Agent will not be responsible for examining an Item of Payment to determine whether the Item of Payment includes a notation such as "paid in full," "payment in full," "without recourse," or any similar statements or other instructive endorsements. Bank or Bank Agent shall process and forward for presentment all Items of Payment received in the Lockbox other than those forwarded to Client pursuant to the exclusions above, exclusions set forth on the Service Application, or otherwise excluded from the terms of this Agreement. In the event that an Item of Payment is not accompanied by an invoice, Bank or Bank Agent shall not process or endorse the Item of Payment

unless otherwise instructed by Client in the Service Application. Bank or Bank Agent has no responsibility for settlement or for any other post-entry actions.

All Items of Payment received prior to the applicable Cut-off Time shall be credited to the Account in accordance with Bank's Funds Availability Schedule currently in effect. Notwithstanding anything herein to the contrary, in the event that any Item of Payment credited to the Account is returned unpaid to Bank, or is dishonored by Bank upon which it was drawn, Bank will debit the Account for the entire amount credited to the Account in respect of such Item of Payment together with any applicable service charge. Items of Payment returned unpaid will not be re-deposited and will be forwarded to Client, and the applicable service charge will be imposed, unless otherwise instructed in writing by Client.

Bank or Bank Agent shall use due and ordinary care to follow Client's instructions as reflected in the Service Application, or any amendment thereto, with respect to the prompt processing and forwarding of copies of Items of Payment, invoices, correspondence, envelopes, advices, and item listings. In order to become effective, Client's written instructions intended to alter information made part of the Service Application must (i) be received by Bank or Bank Agent in writing pursuant to the notice provisions of this Agreement, (ii) make specific reference to the Service Application, and (iii) give Bank or Bank Agent a reasonable period of time to act thereon.

(c) Lockbox Web Portal

(i) Lockbox Web Portal Description

The Lockbox Web Portal Service allows a User to access the Lockbox Web Portal and view images of Items of Payment received at the Lockbox and deposited into the Account. User will also be able to view those Exception Items awaiting disposition and be able to approve or reject those Exception Items. Exception Items will be available on Lockbox Web Portal for three (3) Business Days so that Client can approve or reject those Exception Items. After such period, only those Exception Items that Client did not decision or made a decision to reject the Item will be returned to Client. Such Exception Items will be included in Client's daily package and will be handled manually.

(ii) Client's and Users' Obligations

Client agrees to access Lockbox Web Portal at least once each Business Day or on such other frequency as agreed to by Bank in writing. Client agrees that Client and all Users accessing Lockbox Web Portal will comply with all procedures and requirements of Bank or Bank Agent or both.

(iii) Lost or Stolen Access Credentials; Unauthorized Access of Lockbox Web Portal

If Client or a User believes any Access Credentials has been lost or stolen, if unauthorized instructions with respect to an Exception Item were given through Lockbox Web Portal, or if Lockbox Web Portal has been accessed without authorization, then Client shall immediately, but no later than within twenty-four (24) hours, call Bank at phone number set forth in Section II.22(c) (Notice) and report such loss, theft, or unauthorized access or use. In addition,

Client agrees to mail a written report of such loss, theft, or unauthorized access or instructions to the address set forth in Section II.22(a)(ii) (Notice).

(iv) Record of Lockbox Web Portal Use

Client authorizes Bank and Bank Agent to track and make a record of each User's use of Lockbox Web Portal, but neither Bank nor Bank Agent shall be obligated to track such use or make or retain any such record.

(v) Lockbox Web Portal Security Procedures

Lockbox Web Portal cannot be used until Client has designated at least one (1) User and that User has received Access Credentials from Bank or Bank Agent or both. The Access Credentials identify the User and Account(s) and act as User's signature. User will be required to change the Password or other Access Credentials periodically and can request that the Password be changed at any time. User agrees to safeguard and keep protected, secured, and strictly confidential the Access Credentials. Client agrees to notify Bank as provided in Section II.22 (Notice) should a User no longer be authorized by Client to access Lockbox Web Portal. Client will be responsible for any Losses caused by Client or a User not complying with these requirements.

CLIENT AGREES THAT USE OF THE ACCESS CREDENTIALS IS AN ACCEPTABLE SECURITY PROCEDURE AND SHALL BE DEEMED TO BE COMMERCIALY REASONABLE IN LIGHT OF CLIENT'S PARTICULAR NEEDS AND CIRCUMSTANCES. CLIENT FURTHER ACKNOWLEDGES AND AGREES THAT THE ACCESS CREDENTIALS ARE A SECURITY PROCEDURE TO PREVENT UNAUTHORIZED ACCESS TO THE SERVICE AND ARE NOT A SECURITY PROCEDURE TO DETECT AN ERROR IN THE TRANSMISSION OR CONTENT OF AN ITEM, INVOICE, EXCEPTION ITEM OR USER'S INSTRUCTION WITH RESPECT TO AN EXCEPTION ITEM.

IF LOCKBOX WEB PORTAL HAS BEEN ACCESSED OR INSTRUCTIONS WITH RESPECT TO AN EXCEPTION ITEM HAS BEEN GIVEN BY USING VALID ACCESS CREDENTIALS, THEN SUCH ACCESS OR INSTRUCTIONS SHALL BE DEEMED TO HAVE BEEN AUTHORIZED AND GIVEN BY CLIENT.

In the event of any actual or threatened breach of the security of the Access Credentials, Bank may issue Client new Access Credentials or establish new Access Credentials as soon as reasonably practicable, but Bank or Bank Agent shall not be liable to Client or any third party for any delay in taking such actions. Bank or Bank Agent reserves the right to modify, amend, supplement, or cancel any or all Access Credentials, and/or to cancel or replace any Access Credentials, at any time and from time to time in Bank's or Bank Agent's sole discretion. Client agrees that any action taken by Bank or Bank Agent beyond the Security Procedures in an attempt to detect or prevent an unauthorized access to Lockbox Web Portal, or an error in the transmission or content of a Lockbox Web Portal instruction, shall not be deemed to be a part of the Security Procedures regardless of how often such action may be taken by Bank.

(d) Retention

Bank or Bank Agent will maintain a copy of Items of Payment in accordance with its then-current record retention procedures. Bank shall endeavor, upon receipt of Client's written request and payment of Bank's costs and expenses, to make available to Client such microfilm or microfiche records or reproductions thereof. Bank shall not be responsible for any inability to provide Client such records for any reason.

(e) Bank's Liability

In no event shall Bank or Bank Agent be liable for loss of any item of intrinsic value (including cash) while in the mail, the Lockbox or Bank's possession after delivery to the Lockbox.

9. **Monogram Direct Send**

(a) Service Description

The Service enables Client and/or Client Agent to receive a Data File from Bank using SFTP or another selected File Transmission Method agreed to by Bank and Client. Client may elect the frequency of Data File receipt and the desired information contained in the Data File on the Service Application.

(b) Security Procedures

The Security Procedures used in providing the Service are stated in the Service Application for SFTP or the other specific File Transmission Method that Client has selected. Client agrees that Client and Client Agent will safeguard the Access Credentials used to protect the Data File from use by persons not authorized by Client and/or Client Agent to send, access, or download the Data Files. Client also agrees that Client and Client Agent will notify Bank immediately, but no later than within twenty-four (24) hours, should (i) Client's and/or Client Agent's Access Credentials come into the possession, or be suspected to have come into the possession, of persons not authorized by Client and/or Client Agent to send, access, or download Data Files; (ii) if any Access Credentials or Security Procedures have been or is suspected of being compromised; or (iii) any Data Files are received by, accessed by, or sent by an unauthorized person.

CLIENT AGREES THAT USE OF THE SECURITY PROCEDURE DESCRIBED IN THE SERVICE APPLICATION FOR SFTP OR OTHER DATA FILE TRANSMISSION METHOD AGREED TO BY CLIENT AND BANK CONSTITUTE AN ACCEPTABLE SECURITY PROCEDURE FOR THE TRANSMISSION OF DATA FILES AND SHALL BE DEEMED TO BE COMMERCIALY REASONABLE IN LIGHT OF CLIENT'S PARTICULAR NEEDS AND CIRCUMSTANCES.

CLIENT FURTHER AGREES THAT THE SENDING OF DATA FILES BY OR MAKING DATA FILES AVAILABLE USING SFTP OR THE OTHER FILE TRANSMISSION METHOD AGREED TO BY CLIENT AND BANK SHALL BE DEEMED TO HAVE BEEN SENT TO, OR RECEIVED BY, CLIENT AS OF THE DATE THEY ARE SENT, OR FIRST BECOMES AVAILABLE, TO CLIENT USING SFTP OR THE OTHER FILE TRANSMISSION METHOD. BANK IS UNDER NO OBLIGATION TO ACCOMMODATE DATA FILES THAT ARE PROVIDED OTHER THAN IN ACCORDANCE WITH BANK PROCEDURES, AND ANY SUCH DATA FILES THAT ARE ACCOMMODATED BY BANK ARE ACCEPTED IN

BANK'S SOLE DISCRETION AND MAY BE SUBJECT TO ADDITIONAL REVIEW BY BANK.

Bank may discontinue Client's and/or Client Agent's use of the Service and/or access to a File Transmission Method at any time without prior notice to Client if necessary to maintain the security of the File Transmission Method and/or the Service. Client agrees that any action taken by Bank beyond the Security Procedures, in an attempt to detect or prevent an unauthorized use of a File Transmission Method or the Service, or an error in the transmission or content of a Data File, shall not be deemed to be a part of the Security Procedures regardless of how often such action may be taken by Bank.

(c) Limitation of Liability

The Service allows Bank to transmit secure Data Files to Client using SFTP or another selected File Transmission Method agreed to by Bank and Client. Bank shall have no liability for any Losses to Client as a result of Bank's transmission of a secure Data File to Client using SFTP or another selected File Transmission Method, including any damages to Client's server or any other Client system.

(d) Unauthorized Access to or Use of the Service and/or File Transmission Method

If Client or Client Agent believes any of their Access Credentials have been lost, stolen, accessed, or copied without authorization; if unauthorized Data Files have been transmitted to or received from Bank through use of the Service and/or SFTP or other File Transmission Method agreed to by Bank and Client; if a Data File has been downloaded or uploaded without authorization by Client and/ or Client Agent; or if the Service and/or SFTP or other File Transmission Method agreed to by Bank and Client has been used without authorization, then Client shall immediately, but no later than within twenty-four (24) hours, call Bank at the phone number set forth in Section II.22(c) (Notice) and report such loss, theft, or unauthorized access or use. In addition, Client agrees to mail a written report of such loss, theft, or unauthorized access or use to the address set forth in Section II.22(a)(ii) (Notice).

10. **Monogram Escrow Express**

(a) Service Description

The Service allows Client, as Escrow Agent, to self-manage Escrowee's funds by creating and maintaining Sub-Accounts and moving funds between the Master Sub-Account and the Sub-Accounts.

Monogram Escrow Express is Bank's internet-based cash management platform available for Client to access the Service. To use the Service, Client must be a subscriber to Internet Banking. Client acknowledges that Client has received and agrees to the terms for Internet Banking. Monogram Escrow Express is available during the hours specified in the Service Documentation. Monogram Escrow Express is provided by Bank on an "as is," "as available" basis.

After accessing Monogram Escrow Express, Users may enter the Escrowee's information to set up a Sub-Account. Once a Sub-Account has been established, the Sub-Account can be funded by

allocating funds from the Master Sub-Account to the Sub-Account via Monogram Escrow Express. The balance of the Master Sub-Account and the balance of each Sub-Account will only be reflected on Monogram Escrow Express, and these balances will be aggregated together and reported as the balance of the Master Account. Client must provide Bank all forms required for establishing a Sub-Account, properly completed and signed. Bank will not permit the allocation of funds to the Sub-Account if appropriate documentation is not received at Bank. Additionally, Bank may close the Sub-Account without notice if documentation is not provided. When disbursements are required, Client agrees to move the appropriate funds from the Sub-Account to the Master Account, by either partial transfer of the funds in that Sub-Account, if permitted, or by the closure of the Sub-Account, so that those funds can be disbursed by Client on behalf of the Escrowee. In either case, the funds will become available for use in the Master Account the following Business Day.

The Service may be used in connection with the following Escrow Account types:

- (i) Monogram Attorney Escrow;
- (ii) Monogram Fiduciary Escrow (Non-Attorney);
- (iii) IOLA, IOLTA, or IOTA;
- (iv) Monogram 1031 Escrow; or
- (v) Monogram Rent Security Escrow.

Client acknowledges and agrees that except as expressly stated in this Section III.10 (Monogram Escrow Express), Bank is not acting as an escrow or exchange agent or in any other fiduciary capacity with respect to the Escrow Account. Client, as Escrow Agent, is Bank's customer, not the Escrowee. Only Client, as Escrow Agent, may obtain information about or conduct business related to an Escrow Account. Escrowees should be advised to contact Client with any questions related to the Escrow Account.

(b) Enrollment and Escrow Account Opening

The Master Account that Client designates on the Service Application must be an Escrow Account established in Client's name and TIN for the purpose of executing authorized transactions and linking related Sub-Accounts. Each Sub-Account will be a separate Account, established by Client on behalf of the Escrowee.

Client shall promptly furnish to Bank all documentation required by Bank, in form and substance satisfactory to Bank, evidencing Client's authority to open and operate a Master Account and any related Sub-Account. Failure to provide all required documentation within any timeframes specified by Bank may result in Bank placing a monetary hold on an Escrow Account. After Client has completed all required steps to enroll in the Service and establish an Escrow Account, Bank will provide training for Client on use of the Service.

At the time of opening a Master Account or Sub-Account, Client will designate the type of Escrow Account. Client must open an Escrow Account in the appropriate account type for the type of

Service Client has selected. Bank reserves the right to designate or require a different Escrow Account type at any time.

Bank will not be liable for incorrect or otherwise erroneous TINs certified by Client on behalf of Escrowees. Client must notify Bank of any errors with the Master Account or Sub-Account information provided during enrollment within fourteen (14) days of the date Bank mails or makes available to Client confirmation of the opening of the Master Account or any Sub-Account. Bank will not be liable for any Losses resulting from erroneous Master Account or Sub-Account information, unless Client exercises ordinary care in attempting to prevent and detect such erroneous information and give Bank prompt notice of any errors within the timeframe indicated above.

(i) Taxpayer Identification Numbers

Client will provide Bank with the TIN for Client at the time the Master Account is opened and the TIN for each Escrowee at the time that the Escrowee's Sub-Account is opened by providing to Bank an IRS form W-9 (or W-8 BEN or other appropriate W-8 form if the Escrowee is a non-resident alien) signed by Client or the Escrowee, as applicable. Interest earned in each Sub-Account will be reported to the IRS using the name and TIN provided for the Escrowee in accordance with IRS regulations. Client acknowledges that failure to provide the foregoing may result in IRS penalties, and Client agrees that Client shall be responsible for reimbursing Bank for any penalties imposed by the IRS and paid by Bank. Client assumes any and all liability and obligations imposed, now or hereafter, by the Internal Revenue Code, other applicable tax law, the IRS, and/or other applicable taxing authorities with respect to any interest earned on each Sub-Account and how that interest is reported to the IRS.

The Form 1099-INT for each Escrowee will be mailed directly to the last address shown on Bank's records for such Escrowee, and Client will be provided with interest summary reports. Client is responsible for the proper maintenance of all Sub-Accounts. Client agrees to immediately notify Bank in writing of any changes to any if the information provided to Bank about an Escrowee, including the name, address, and TIN. Client acknowledges and agrees that if Client fails to notify Bank of such changes or provide any required Escrowee information, Bank may implement back-up withholding on any interest earned on the applicable Sub-Account. Client may be subject to civil and criminal penalties if Client fail to provide Bank with a correct TIN or falsify information with respect to withholding.

(ii) Escrowee Due Diligence

Client is fully responsible for conducting appropriate due diligence on Escrowees before opening a Sub-Account. Client shall comply with all customer verification procedures set forth in the Service Documentation, and Client shall perform any other due diligence requirements that Bank, in its sole discretion, may require Client to perform on its Escrowees.

(c) Interest

For interest-bearing Escrow Accounts, refer to the applicable Account Agreement for information regarding the amount of interest paid and the method of computing interest.

Client acknowledges that local, state, or federal law may impose requirements related to the minimum rate of interest that must be paid to Escrowees. Client is solely responsible for ensuring compliance with any local, state, or federal requirements related to the minimum rate of interest to be paid on funds deposited to the Master Account or any Sub-Accounts, and Client acknowledges that the interest rates offered by Bank may not satisfy the minimum interest rate requirements under Applicable Law.

(d) Deposits

Client may make deposits to an Escrow Account on any Business Day except for Sub-Accounts that are part of a Monogram Escrow Account. For Monogram Escrow Accounts, all deposits must be made to the Master Sub-Account and then allocated by Client using Monogram Escrow Express to a Sub-Account that has been established for that Escrowee. Client agrees only to deposit funds that have been given to Client by or on behalf of the Escrowee to hold in escrow for the benefit of that Escrowee and to use Escrowee funds only as authorized by the Escrowee. Bank is authorized to accept for deposit to an Escrow Account all remittances of funds or other property from third-parties that are payable to an Escrowee or endorsed by that Escrowee. Client agrees that Bank shall not be responsible for any delay in giving a Sub-Account credit for any deposit Client makes, for the acts of any agent of Client or person or persons who Client has authorized to act on Client's behalf with respect to the Master Sub-Account and the Sub-Accounts at Bank, or for any other act that Bank thinks is appropriate provided Bank has acted in good faith.

If Client will be endorsing the Escrowees' name on Checks payable solely or jointly to the Escrowee, Client shall obtain authorization from the Escrowee, in the form and format required by Bank, to endorse on the Escrowee's behalf any escrow Checks that are payable to the Escrowee. Client agrees to provide Bank with any documentation of such authorization or other information as may be required by Bank. Such authorization is not required if the Escrowee has endorsed the Check(s) payable to the Escrowee or if the Checks are payable solely to Client as Escrow Agent for the Escrowee.

(e) Withdrawals

Withdrawals from an Escrow Account may only be made if sufficient funds are available in the Escrow Account. For the Monogram Escrow Account withdrawals from the Sub-Account may only be made by an account closeout performed by a User or by a transfer to the Master Account by a Partial Transfer User, and such funds will become available for use in the Master Account the following Business Day. Withdrawals from IOLA Accounts, IOLTA Accounts, IOTA Account, Master Accounts, and Standalone Escrow Accounts that are Monogram Business Checking accounts are not limited to transfers and may be made in any other permissible fashion. All Sub-Accounts and Standalone Escrow Accounts that are Monogram Business or Personal Insured Money Markets will be limited to a maximum of six (6) withdrawals per Statement Cycle Period for each Sub-Account. As required by federal law, Bank reserves the right to require Client to give it notice in writing of an intended withdrawal from an IOLA Account, IOLTA Account, IOTA Account, or a Standalone Escrow Account that is a Monogram Business or Personal Insured Money Market or a Sub-Account that earns interest of at least seven (7) days before Client withdraws money from that account.

(f) Sub-Account Closing

Client may close a Sub-Account at any time through Monogram Escrow Express. The interest earned on a Sub-Account will be paid to the Master Account upon closure of the Sub-Account and will be credited to the Master Account the following Business Day, and Client may disburse of the balance of the Sub-Account and the interest earned via any available disbursement method from the Master Account.

(g) Client Obligations

Client agrees that in using Monogram Escrow Express, Client:

- (i) will comply, and cause all Users to comply, with the Service Documentation and with all procedures and requirements of Bank and Bank Agent relating to the Service;
- (ii) will be solely and absolutely liable for all transactions, including interest allocations, made through Monogram Escrow Express by use of a User's Access Credentials;
- (iii) assumes all risk associated with the unauthorized use of a User's Access Credentials;
- (iv) will take whatever steps are required by Bank or Bank agent to properly implement and test the connectivity of Internet Banking and Monogram Escrow Express on those computers of Client (or of someone that Client permits to access Monogram Escrow Express) that will access Monogram Escrow Express and to ensure that the proxy server or firewall system used by such computers does not prevent access by those computers to Monogram Escrow Express;
- (v) understands the inherent risks related to Bank providing the Escrow Account through the internet;
- (vi) assumes all responsibility and liability for ensuring that each Escrowee's funds in the Escrow Account are only transferred to an Account or Sub-Account in the name of that Escrowee or disbursed for the benefit of or on behalf of that Escrowee;
- (vii) will, as the accountholder for the Master Account, be responsible for verifying that the Service satisfies any legal or regulatory requirements for Client's business;
- (viii) is responsible for completing all forms required for Bank to accept a deposit to or withdrawal from an Escrow Account; and
- (ix) acknowledges and agrees that Bank has no obligation to verify the authenticity of the Escrowee signature.

(h) Representations and Warranties

Client represents and warrants to Bank that:

- (i) Client has obtained all necessary licenses and registrations necessary to operate the Escrow Accounts;
- (ii) Client has the authority to open and operate each Escrow Account, which includes obtaining all necessary approvals and authorizations from Escrowees to (A) open and operate a Sub-Account with the name, address, and TIN of such Escrowee; (B) make each deposit and withdrawal to the Sub-Account; and (C) provide tax certifications on behalf of such Escrowee;
- (iii) Client has obtained all necessary approvals and authorizations to endorse and deposit Checks into the Sub-Account; and
- (iv) Client understands that the Accounts remains subject to the terms and conditions governing such accounts as set forth in the Account Agreement.

(i) Indemnities

In addition to any indemnification of Bank contained elsewhere in the Service Documentation, Client agrees to indemnify, defend, and hold harmless Bank and Bank Agents from, and against, any and all Losses that are incurred or sustained by Bank as a result of (i) Client depositing funds into the Escrow Account; (ii) allocating Escrowee funds between the Sub-Accounts and Master Sub-Account or withdrawing those Escrowee funds from the Master Account; (iii) Bank paying and reporting interest earned on the Sub-Account or Standalone Escrow Account in the manner requested by Client and reporting that interest to the IRS as interest earned in the calendar year in which the interest was credited to that Escrow Account; (iv) any Escrowee's property exchange failing to qualify for favorable tax treatment under U.S. federal or state tax law as a Section 1031 Exchange; (v) Client failing to obtain a W-8, W-9, or substitute W-9 signed by the Escrowee; an incorrect or improperly signed W-8, W-9, or substitute W-9; or Bank paying and reporting interest earned on the Standalone Escrow Account or Sub-Accounts; or (vi) Client or any User failing to comply with the Service Documentation.

Client indemnifies and holds Bank harmless from any liability for, or obligation as a result of, any taxes, assessments, additions for late payment, interest, penalties, expenses, and other governmental charges that may be assessed or asserted against Bank in connection with the reporting to the IRS of interest earned on each Sub-Account, the amount of such interest being reported or the payee of such interest, including costs and expenses (such as reasonable legal fees and expenses), interest and penalties.

(j) Statements

Client may view Master Account or Sub-Account Statements at any time utilizing Monogram Escrow Express. The Master Account Statement will be in addition to the Statement provided by Bank and should be viewed concurrently. The Statements that are provided on Monogram Escrow

Express will not be provided to Client in paper form. Statements will remain on Monogram Escrow Express for twenty-four (24) months, but Users may download and save the Statements. All Statements for this Service are available on Monogram Escrow Express.

Bank will provide Client with Statements for the Master Account and each Sub-Account. Client shall review each Statement, regardless of whether received by paper copy or electronic means, in a timely manner and shall notify Bank promptly in writing of any errors or irregularities, and in no event more than fourteen (14) days after the time that the Statement was first made available to Client.

Bank will provide Client with a Statement mailed to Client's address, via Monogram Escrow Express, or via another method of delivery agreed to by Bank and Client. If Client wishes to receive both electronic and paper Statements, Client may contact Bank at the contact information set forth in Section II.22(b) (Notice).

(i) Consent for Statements via Monogram Escrow Express

Client understands that pursuant to the applicable Account Agreement, Client is entitled to receive Statements in connection with the Accounts. If Client elects in the Service Application to not receive paper copies of Statements, Client authorizes Bank to discontinue sending Statements via postal mail service and, instead, to deliver such Statements to Client electronically by posting to Monogram Escrow Express or via some other method agreed to by Bank. Client understands and agrees that Bank will post the Statements to Monogram Escrow Express on the first day of the month. In the event of a delay, notification to Client will be made either via posted notice to Monogram Escrow Express or via an e-mail to a User. Client acknowledges and agree that Client will no longer receive paper copies of Statements.

Client represents and warrants that each User is authorized by Client to access Monogram Escrow Express. As long as a User is designated, Client consents to receiving Statements via Monogram Escrow Express. Client's ongoing consent to receive Statements by electronic means is voluntary and may be withdrawn at any time. Client may withdraw consent by contacting its Bank at the contact information set forth in Section II.22(a)(ii) (Notice). Subject to Bank's confirmation of Client's request, such withdrawal shall become effective no later than the second Statement Cycle Period after receipt by Bank. Upon termination, Client understands and agrees that it will additionally receive all Statements in paper form via postal mail service.

Client cannot opt out of receiving paper Statements without first obtaining Access Credentials to Monogram Escrow Express. The terms and conditions in this Section III.10(j)(i) only apply to the consent and authorization for electronic transmission of Statements provided pursuant to the Service. Provisions in other Bank agreements and disclosures may be revised from time to time and remain effective for all other aspects of the Accounts involved.

Client shall receive Statements in connection with the Escrow Account via electronic means. Client understands and agrees that each User is authorized by Client to access Monogram Escrow Express through Internet Banking, and Client consents to receiving Statements electronically by accessing Monogram Escrow Express through Internet Banking and Client authorizes Bank to suppress hard copy Statements via postal mail service. Client understands and agrees that Bank

will post the Statement to Monogram Escrow Express on the first day of the following month. In the event of a delay, notification to Client will be made either via posted notice to Monogram Escrow Express or via an e-mail to the Users. Further, Client has the option to view, print, and download Statements on Monogram Escrow Express at any time for the past twenty-four (24) months. Client understands and agrees that Client will not receive hard copies of the Statements via postal mail service if Client utilizes Monogram Escrow Express. However, should there be a requirement for hard copies of the Statements via postal mail service, Client may contact Bank. Client shall review the Statement, regardless of whether received by hard copy or electronic means, in a timely manner and shall notify Bank promptly in writing of any errors or irregularities and in no event more than fourteen (14) days after the time that the Statement was first made available to Client.

(k) Users

Client shall designate the Users in the Service Application. The Users can be Authorized Signers or those persons who have been designated by Client. Client agrees that Bank (and any interested third party) may rely upon the authority given to each User until such time that Client has removed the User, Client has provided Bank written notice of such removal on Bank's form for such purpose, and Bank has had a reasonable opportunity to act upon such notice. Client agrees that it is the responsibility of Client to immediately notify Bank of any changes in the authority of a User. Client also agrees that it is solely responsible for the transactions made and instructions given by each User and that Bank may rely and act on those transactions and instructions without Bank being liable to Client or any Escrowee. Client further agrees that each User will access and use Monogram Escrow Express only in accordance with the Service Documentation and the authority given to them by Client. Each time a User accesses, views, or conducts an allocation or transfer on a Master Sub-Account or Sub-Account, Client represents and warrants to Bank that such action is authorized by Client. If Bank receives conflicting instructions or believes that the security of Monogram Escrow Express or that of Bank may be at risk as a result of an action or failure to act by a User, Bank may at its sole discretion terminate that User's authority, or not permit the appointment of a User, without prior notice to that User or Client. If Bank determines that Client or a User has violated or failed to comply with any provision of the Service Documentation, Client's access to Monogram Escrow Express will be terminated.

(l) Security Procedures

Monogram Escrow Express cannot be accessed by the User until the User receives Access Credentials for Internet Banking. Internet Banking will allow the User to access Monogram Escrow Express the User's Access Credentials. Client agrees to instruct the User to memorize its Access Credentials and not keep any notation of the Access Credentials on or with Client's computers or where it can be accessed by anyone not authorized to use or know the User's Access Credentials. The User's Access Credentials assure that only the User or someone to whom the User has given the Access Credentials can use Monogram Escrow Express. Client agrees that the User will not give the Access Credentials to anyone not authorized by Client to Monogram Escrow Express, and Client agrees that it will call Bank immediately, but no later than within twenty-four (24) hours, if any User's Access Credentials have been lost or stolen or needs to be changed because someone previously given Access Credentials is no longer entitled to access Monogram Escrow Express or for any other reason the User's Access Credentials need to be

changed or deactivated. Client agrees that use by the User of the Access Credentials is an acceptable security procedure and shall be deemed to be commercially reasonable in light of Client's particular needs and circumstances. Client further acknowledges and agrees that the Access Credentials is a security procedure to detect an unauthorized use of Monogram Escrow Express and not a security procedure to detect an error made by a User when using Monogram Escrow Express. If a transfer or disbursement has been made from a Master Sub-Account or any Sub-Account, in whatever form, as a result of the use of User's Access Credentials with Monogram Escrow Express, then that transfer or disbursement shall be deemed by Bank to have been requested and authorized by Client. The confidentiality of the User's Access Credentials shall be safeguarded by the User. Client agrees to immediately, but no later than within twenty-four (24) hours, notify Bank of any breach of this confidentiality requirement. Bank may revoke the User's access to Monogram Escrow Express at any time without prior notice to Client if Bank deems it necessary to maintain the security of Monogram Escrow Express. Client agrees that any action taken by Bank beyond the Security Procedures in an attempt to detect or prevent an unauthorized transfer or disbursement from a Master Sub-Account or a Sub-Account, shall not be deemed to be a part of the Security Procedures regardless of how often such action may be taken by Bank. Client and User agrees to be bound by the Internet Banking terms and conditions set forth in Section III.17 (Internet Banking).

(m) Unauthorized Access

Client agrees to immediately, but no later than within twenty-four (24) hours, call Bank at the phone number set forth in Section II.22(c) (Notice) to report if Client believes any of the following has occurred or will occur:

- (i) the computer system for Monogram Escrow Express has been accessed or copied without authorization;
- (ii) Monogram Escrow Express has been used without authorization; or
- (iii) Transactions have been made by an unauthorized person.

(n) Additional Terms for Monogram Attorney Escrow Accounts and Monogram Fiduciary Escrow (Non-Attorney) Accounts

When Client elects for the Master Account to be a Monogram Attorney Escrow Account or Monogram Fiduciary Escrow (Non-Attorney) Account, the Service enables Client to establish said account. The additional terms set forth in this Section III.10(n) apply to Client's use of the Service in connection with a Monogram Attorney Escrow Account or Monogram Fiduciary Escrow (Non-Attorney) Account and supersede any conflicting terms in this Section III.10 (Monogram Escrow Express).

Interest earned in each Sub-Account will be reported to the IRS using the appropriate TIN number in accordance with IRS regulations, and a copy of such report will be sent to the Escrowee or Escrow Agent to whom the interest is reportable.

(o) Additional Terms for Monogram Escrow Express for IOLA Accounts, IOLTA Accounts, and IOTA Accounts

When Client elects for the Master Account to be an IOLA Accounts, IOLTA Accounts, or IOTA Accounts, the Service enables Client to establish non-interest bearing Sub-Accounts. The Service functions as a reporting tool that enables Client to segregate funds held for the benefit of Escrowees. No interest is accrued or reported for the benefit of an Escrowee, and the interest earned, less any service charges and fees, is remitted to the appropriate Bar Foundation by Bank each month. The additional terms set forth in this Section III.10(o) apply to Client's use of the Monogram Escrow Express for IOLA Accounts, IOLTA Accounts, and IOTA Accounts and supersede any conflicting terms in this Section III.10 (Monogram Escrow Express).

As no interest is earned on a Sub-Account, there will be no additional interest posting. Client may disburse of the balance of the Sub-Account and the interest earned via any available disbursement method from the Master Account.

(p) Additional Terms for Monogram 1031 Escrow

The Monogram 1031 Escrow Service may be used to enable Client, as a Qualified Intermediary, to perform Section 1031 Exchanges to manage Exchange Funds. The additional terms set forth in this Section III.10(p) apply to Client's use of the Monogram 1031 Escrow Service and supersede any conflicting terms in this Section III.10 (Monogram Escrow Express).

(i) Enrollment and Account Opening

Client, as Qualified Intermediary, must also have a Revenue Account at Bank, which may be money market or checking account that will be used to deposit the portion of the interest accrued for the benefit of Client.

If the Sub-Account requires a different interest rate accrual between Qualified Intermediary and Escrowee than the default that was outlined in set-up, Client shall complete all required documentation related to such interest rate accrual within the month that the Sub-Account was opened.

(ii) Interest

The interest earned on a Sub-Account will be paid to the Master Account upon the closure of a Sub-Account for the benefit of the Exchangor, and will be credited to the Master Account the following Business Day, where the Qualified Intermediary may disburse of the balance of the Sub-Account and the interest earned via any available disbursement method from the Master Account. The interest owed to the Qualified Intermediary will be credited to the Revenue Account upon closure of a Sub-Account the following Business Day.

Interest earned in each Sub-Account will be reported to the IRS using the appropriate TIN number in accordance with IRS regulations, and a copy of such report will be sent to Exchangor or Qualified Intermediary to whom the interest is reportable.

(iii) Deposits

If Client is a Qualified Intermediary, Client represents and warrants to Bank that the deposited funds have been received by the Qualified Intermediary in accordance with the Exchange Agreement.

(iv) Statements

Statements in connection with the Monogram 1031 Escrow Service are provided on Monogram Escrow Express and will not be provided to the Qualified Intermediary as a hard copy, unless specially requested by Client. The Statements that are provided on Monogram Escrow Express for the Sub-Accounts will not be provided to the Exchangors as a paper copy, unless specially requested by Client.

(v) Bank as Qualified Escrow Agent

There are instances where the Exchangor or the Qualified Intermediary party to a Section 1031 Exchange may request that Bank act as a Qualified Escrow Agent for the transaction. Entrusted with functions relating to the maintenance and administration of funds for the Section 1031 Exchange that would otherwise be performed by the Qualified Intermediary, Bank, as Qualified Escrow Agent, adds an additional layer of security for the Exchangor's funds. Each Qualified Escrow Account created includes a three (3) tier agreement that is entered into by Bank, the Qualified Intermediary, and the Exchangor. As part of each agreement, signature cards are obtained for authorized representatives of both the Exchangor and the Qualified Intermediary. Before a disbursement of funds can be made, a Distribution Authorization must be completed and signed by authorized parties as Qualified Intermediary, approved and signed by an authorized representative of the Exchangor, and submitted to Bank for review and approval. Bank will only disburse funds once all authorized signatures have been verified.

Client agrees to the Exchangor Interest Rate and the Qualified Intermediary Interest Rate, which results in a Total Interest Rate paid by Bank. Interest rates are set by Bank, in its sole discretion, and such rates are subject to change daily. Should the Total Interest Rate change, then Client directs Bank to change the Exchangor Interest Rate and Qualified Intermediary Interest Rate so that they remain in the same proportion as set forth in the Service Application.

Client agrees that Bank, as Qualified Escrow Agent, shall open a Qualified Escrow Account pursuant to the Qualified Escrow Account agreement between Bank as Qualified Escrow Agent, the Qualified Intermediary, and the Exchangor using Bank's Monogram 1031 Express for Qualified Escrow Accounts product.

Client, as Qualified Intermediary, represents and warrants to Bank that it is allowed under IRS regulations and federal tax law to receive the Qualified Intermediary Rate, whether or not such Qualified Intermediary Rate represents a portion or entire amount of the Total Interest Rate. Client agrees that Bank shall report to the IRS and other appropriate taxing authorities, as required, any and all interest earned at the Qualified Intermediary Rate as being earned by Client. Client agrees and represent to Bank that any interest or other income earned on the Escrow Account shall for the purposes of reporting such income to the appropriate taxing authorities be deemed to be earned by Client when paid at the Qualified Intermediary Rate and earned by the Exchangor when paid at the Exchangor Interest Rate. Client represents that Client and Exchangor are each a U.S. person as

that term is defined by IRS. Client agrees to provide Bank with a certification of Client's tax identification number by signing and returning a Form W-9 to Bank. Client understands that, in the event TIN is incorrect or is not certified to Client, the Internal Revenue Code, as amended from time to time, may require withholding of a portion of any interest or other income earned on the Exchange Funds. Client agrees to assume any and all obligations imposed, now or hereafter, by the applicable tax law and/or applicable taxing authorities, with respect to any interest earned at the Qualified Intermediary Rate and at the Exchangor Interest Rate or other income earned on the Exchange Funds and how that interest is reported to the applicable taxing authority and to indemnify and hold Bank harmless from any liability or obligation on account of taxes, assessments, additions for late payment, interest, penalties, expenses, and other governmental charges that may be assessed or asserted against Bank in connection with or relating to the reporting of interest earned at the Qualified Intermediary Rate and the Exchangor Interest Rate on the Escrow Account, the amount and payee of such interest and any payment made or other activities performed under the terms of this Agreement, including without limitation any liability for the withholding or deduction of (or the failure to withhold or deduct) the same, and any liability for the failure to obtain proper certifications or to report properly to Governmental Authorities in connection with this Agreement, including costs and expenses (including reasonable legal fees and expenses) interest and penalties, in each such case to the extent applicable to, or arising in respect of, the interest earned on the Escrow Account, unless such liability is caused by Bank's gross negligence or willful misconduct.

(vi) Representations, Warranties, and Covenants

With respect to the Monogram 1031 Escrow Service, Client represents and warrants to Bank that:

- (A) Client will open and operate each Sub-Account used in connection with a Section 1031 Exchange by a Client in accordance with (I) Section 1031(a) of the Internal Revenue Code and the U.S. Department of the Treasury regulations promulgated thereunder and (II) any agreements entered between Client and Exchangor;
- (B) Client has received authorization from Exchangor to act as a Qualified Intermediary in connection with a Section 1031 Exchange; and
- (C) Client has filed all required notices with the Internal Revenue Service regarding Client's status as a Qualified Intermediary.

Client agrees that, upon Bank's request, Client will provide documentation related to a Section 1031 Exchange for which the Exchange Funds are held in Sub-Account(s) at Bank, including any agreements between Client and Exchangor that (a) provide evidence of the Section 1031 Exchange services being performed by Client for Exchangor or (b) disclose the processing instructions that Client has requested that Bank perform on the Sub-Account(s).

All instructions that Client provides to Bank related to the Master Account and any Sub-Account must be in full compliance with Section 468B of the Internal Revenue Code. In addition to all other indemnifications set forth in the Service Documentation, Client agrees to indemnify, defend,

and hold Bank and Affiliated Entities harmless from and against any Losses of any kind that results directly or indirectly, in whole or in part, from any of Client's instructions or requests for any processing related to Client's Master Account or Sub-Accounts that are not in compliance with Section 468B or Section 1031(a) of the Internal Revenue Code and the U.S. Department of the Treasury regulations thereunder.

(q) Additional Terms for Monogram Rent Security Escrow

The Monogram Rent Security Escrow Service may be used to enable Client, as Landlord Escrow, to establish separate Sub-Accounts for the Tenants occupying each individual unit or apartment to be used for holding security deposits. The additional terms set forth in this Section III.10(q) apply to Client's use of the Monogram Rent Security Escrow Service and supersede any conflicting terms in this Section III.10 (Monogram Escrow Express).

Client represents and warrants that Client will comply with any applicable agreements with the Tenant and all Applicable Laws concerning the handling of Tenant's rent security. Client is responsible for notifying Tenants that security deposits have been placed on deposit into the Sub-Account with Bank.

(i) Client's Administrative Fee

Unless Bank is otherwise instructed by Client, Bank will deduct from the interest credited to each Sub-Account Client's "**Administrative Fee**," which shall be an amount set forth in the Service Application or Fee Schedule, or such other amount agreed to by Bank. This Administrative Fee will be credited to Client's Fee Account, on the day after the last Business Day of the Statement Cycle Period. The balance of the interest earned, if any, will be paid to the Tenants on a monthly basis and credited to the appropriate Tenant account. Client certifies that it is entitled to receive the Administrative Fee under Applicable Law and Client's Tenants' leases with Client.

(ii) Interest

Interest earned in each Sub-Account (before the deduction of Client's Administrative Fee) will be reported to the IRS using the appropriate TIN number in accordance with IRS regulations, and a copy of such report will be sent to the Tenant. This interest shall include Client's Administrative Fee that has been deducted from the interest earned by the Sub-Account and posted to the Fee Account.

Bank will produce a 1099-INT for each Tenant and, unless otherwise directed by Client, mail it to the Tenant at the building address and apartment number for which the Tenant Sub-Account is created.

(iii) Deposits

All Checks accepted for deposit to a Sub-Account must be payable only to, and endorsed by, Client. If a Check is made payable to a person other than Client, additional approvals or other requirements by Bank may apply.

11. **Remote Deposit Capture**

(a) Service Description

The Service allows Client to capture Images of eligible Checks using a Scanner and transmit those Images and other data to Bank or Bank Agent electronically for deposit to the Account. The Checks will be processed electronically based on the information that Client provides. Client will receive reports, be able to export information, and receive transmission of detailed information regarding Client's use of the Service if requested in Service Application. Checks deposited using the Service will be reflected on Client's Statement.

(b) Use of Service

- (i) Client shall follow all Service instructions provided by Bank for capturing and transmitting Images and other information. Client shall (A) prior to scanning any Check payable to Client, properly endorse the back of the Check and include with such endorsement the account number of the Account; (B) use the Scanner to scan the front and back of a properly endorsed Check made payable directly to Client and, if enabled, any coupon that may accompany such a Check; (C) verify that the Image of any Check or coupon, including the MICR line of the Check, are clear; (D) enter and verify the accuracy of all data and information being transmitted to Bank in connection with the Check; (E) confirm that Bank has received and has not rejected the Image and all other required data and information; and (F) confirm that the Scanner has marked each Check with the words "Electronically Presented," or similar.
- (ii) Client shall (A) maintain securely any original Check for a period of thirty (30) days from the date on which the Check has been settled; (B) destroy such a Check by shredding after such thirty (30)-day period; and (C) ensure that such a Check is not duplicated, deposited, negotiated, rescanned, or presented for payment as an original Check. Client shall be liable for all Losses resulting from a Check being presented for deposit or payment more than once. Upon request by Bank, Client shall promptly (but in all events within five (5) Business Days) provide to Bank any original Check in its possession, or a sufficient copy of the front and back of the Check, if the original Check is no longer in existence.
- (iii) If an Image received by Bank is not complete or cannot be processed for any reason, Bank may reject the Image, notwithstanding any receipt confirmation provided to Client, and charge the amount back against any Provisional Credit to the Account. Client assumes financial liability for all Checks that are returned unpaid for any reason or that have been presented for deposit or payment more than once, and Bank may debit the Account for the amount of such returned Checks and all associated Service Fees.

(c) Checks Not Permitted

Client hereby agrees that it will only scan and deposit a Check as that term is defined in Regulation CC promulgated by the Federal Reserve Board. Client agrees that the image of the Check that is transmitted to Bank shall be deemed an “item” within the meaning of UCC Article 4. Client may not use the Service to deposit or attempt to deposit any Check or other Item that (i) is payable to any person, entity, or other third party, other than Client, unless otherwise agreed to by Bank in Bank’s discretion; (ii) is drawn, or otherwise issued, by Client or any affiliate of Client, on any account of Client or of such affiliate; (iii) is in violation of any Applicable Law; (iv) Client knows or suspects, or should know or suspect, is fraudulent or otherwise not authorized by the owner of the account on which the Check is drawn; (v) Client knows or suspects, or should know or suspect, has been previously presented to a bank by any means; (vi) has been previously endorsed by a bank; (vii) has been previously returned; (viii) is drawn on financial institutions that are located outside of the United States or territories of the United States; (ix) is denominated in a currency other than USD; (x) is a remotely created Check or is, or is derived from, an electronically created item; or (xi) is not otherwise acceptable to Bank for deposit into a deposit account as provided in the Account Agreement or other agreements related to the Account.

(d) Client Representations and Warranties

In addition to all warranties under the Service Documentation, Client represents, warrants, and covenants to Bank that (i) the use of the Service and the scanning, authorization, preparation, and presentment of any Check complies with the terms and conditions set forth in this Agreement; (ii) Client will not scan any Check in which Client is not the sole payee named on the front of the Check; (iii) any Image that is submitted is a sufficient copy that is a true and correct Image of the original paper Check and has not been altered in any manner by Client or any third party acting on behalf of Client; (iv) Client has reviewed and confirmed that the MICR line information provided on the Image is identical in all respects to the original paper Check and that the encoded Check amount is accurate; (v) the original paper Check has not previously been presented for deposit or payment; (vi) Client understands that in the event that a maker of an Image asserts that the Check is unauthorized and the original Check is subsequently processed, the original Check may be dishonored; (vii) Client has no knowledge or notice of information to indicate that the Check is fraudulent or not authorized by the maker of the Check; (viii) except as described in Section III.11(i), Client or anyone acting on behalf of Client will not cause the original Check to be cashed, deposited or negotiated, or otherwise presented or used for payment or deposit in any manner, (ix) no transmission made by Client to Bank or Bank Agent contains any Virus; (x) no subsequent transferees of an Item, including Bank, shall sustain a loss as the result of the fact that an Image was presented for payment or returned instead of the original Check; (xi) all Checks and business transactions of Client are, and will be, bona fide, and all signatures on Checks are authentic and authorized; (xii) Client conducts its business and submits any Image or other data in compliance with the Service Documentation and Applicable Law; and (xiii) Client will only deposit remotely created Checks via methods approved by Bank, which shall not, without Bank’s express written consent, include the Service.

(e) Scanner and Web Application

Client may purchase a Scanner from Bank or otherwise obtain a Scanner from a third party as long as such Scanner meets the requirements set forth in the Service Documentation. If Client purchases a Scanner from Bank, Bank assigns to Client all assignable warranties, representations, and

indemnities granted to Bank by all hardware manufacturers, and all remedies for breach of such warranties, representations, and indemnities. To the extent that Bank is not permitted to assign any of such warranties and indemnities to Client, Bank shall use commercially reasonable efforts to enforce such warranties and indemnities on behalf, and at the expense, of Client to the extent Bank is permitted to do so under the terms of any applicable third-party agreements. The warranty period for any applicable Scanner warranty shall begin on the date specified by such warranty.

Client acknowledges that Bank or its Bank Agents own all right, title, and interest in and to any Software or code provided to Client, including such Software or code embedded in the Scanner or provided through the Web Application. Such Software or code, including the Web Application, is not sold to Client and will be subject to a non-exclusive and non-transferable license, and Client agrees to comply with the terms of any license that Bank provides. When access to the Service is terminated, any license to use the Equipment or any Software or code also will terminate automatically.

Client may use Equipment, including the Scanner, only for the purpose of using the Service in the manner permitted by this Agreement. Client shall only use Equipment that meets Bank's Service specifications, as determined from time to time. Client must maintain all Equipment in good condition, subject to normal wear and tear. Except for Equipment that Client purchases from Bank, upon Bank's request, Client must return any Equipment provided to Client by Bank to the address Bank directs. Client is responsible for obtaining, maintaining, and paying for all hardware and all telecommunications and other services needed to use the Service and Equipment.

Client agrees that in connection with the Service and the Equipment, Client will (i) maintain and keep current, on all of its computers and Equipment that can access the Service, sufficient protection so that such use will not result in the transmission of any Virus to Bank; (ii) provide Bank or its Bank Agent reasonable access to Equipment, as may be needed, to (A) provide servicing, including installing any upgrades, patches, or fixes, or (B) inspect and review the Scanner in person, including to verify the Scanner's physical location, upon Bank's reasonable request; (iii) not use the Service or Equipment for any purpose that is fraudulent or otherwise tortious or unlawful; (iv) not attempt to use the Service or Equipment, or any encryption Software to access information not belonging to Client; (v) not reproduce, modify, adapt, translate, create derivative works of, sell, rent, lease, loan, timeshare, distribute, reverse engineer, or otherwise exploit any portion of (or any use of) the Service or Equipment, except as expressly authorized in this Agreement, without Bank's express prior written consent; (vi) not remove any copyright, trademark or other proprietary rights notice from the Service or Equipment; (vii) not use the Service or Equipment outside the United States; (viii) not use the Equipment to process Checks through other institutions; (ix) not use the Service or Equipment at a location other than Client's regular place of business; (x) not perform or allow others to perform alterations or repairs to the Equipment without our written consent; (xi) not reverse engineer, decode, decompile, disassemble, attempt to tamper with or evade or discover the method of operations or defeat any Security Procedure designed to protect the integrity of the Service, encryption Software or Bank's or Bank Agent's computer systems; and (xii) not use any robot, spider, site search/retrieval application or other manual or automatic device to retrieve, index, "scrape," "data mine," or otherwise gather content from the Service, the Web Application, Bank or Bank Agent, or reproduce or circumvent the presentation of the Service, without Bank's express prior written consent.

(f) Security

Bank or its Bank Agent will provide Administrator(s) with Access Credentials required to access the Service. An Administrator may assign to a User the Access Credentials required to access the Service. Client remains responsible at all times for all Access Credentials issued to an Administrator and a User. Client, through the Administrator, has exclusive control over a User's designation and access to the Service. The Administrator may appoint additional Users to access the Service and make changes to a User's Access Credentials at any time.

Client is solely responsible for selecting and implementing internal security procedures as it relates to securing the confidentiality of Access Credentials. Client's failure to ensure the confidentiality of all Access Credentials may cause Client to suffer Losses. Bank may block Client's access to the Service if it reasonably determines that any Access Credentials have been compromised. Bank will promptly inform Client of any such determination.

Client agrees that use of the Access Credentials is an acceptable security procedure and shall be deemed to be commercially reasonable after considering the technology available and Client's particular needs and circumstances. Client acknowledges and agrees that the Access Credentials are used as a security procedure to detect unauthorized use of the Service and not to detect an error made by Client when using the Service. Client agrees that access to the Service through the use of the Access Credentials assigned to Client, or to any User by Client or its Administrator, shall be deemed to be authorized by Client. Client is responsible for all actions taken or purportedly taken by any person, including any Administrator, User, or Client Agent, that has been authenticated.

If Client believes (i) Equipment for the Service has been accessed or copied without authorization; (ii) Client's Access Credentials have been compromised; or (iii) the Service has been used without authorization, then Client agrees to immediately, but no later than within twenty-four (24) hours, notify Bank by calling Bank at the phone number set forth in Section II.22(c) (Notice) to report such belief. In addition, Client agrees to mail a written report of such belief to Client's account officer at the Financial Center where the Account is maintained or the address set forth in Section II.22(a)(ii) (Notice).

(g) Cut-off Time

The funds represented by a Check that is scanned and submitted through use of the Service will become available to Client in the Account in accordance with Bank's Funds Availability Schedule. For purposes of Bank's Funds Availability Schedule a Check that is scanned and submitted before the Cut-off Time will be received by Bank on that day and transmitted for settlement. A Check that is scanned and submitted through use of the Service after the Cut-off Time will be deemed received and will be processed on the next Business Day. For purposes of determining when a Check has been submitted to Bank, Bank's records shall be determinative. If the Service is not available for any reason or a Check cannot be processed by means of the Service, Client may contact Bank for alternative deposit options.

(h) Provisional Settlement; Returns

Client acknowledges that Items may be returned unpaid by the receiving institution for insufficient funds or other reasons, including issues related to the quality of the Image. In addition, Applicable Law, such as the UCC, Regulation CC, or clearinghouse rules, may permit Items to be returned for reason of alleged lack of authorization. Client acknowledges and agrees that, because Client retains the original Check, Bank may return an Image to Client. Client understands and agrees that the Image may be in the form of an electronic or paper reproduction of the original Check or a Substitute Check. Any credit or consideration given by Bank to Client with respect to any Check that is scanned and submitted through use of the Service shall be deemed provisional, and Bank shall be entitled to revoke the same without prior notice. In the event one or more Checks are returned for reason of alleged lack of authorization, Client may promptly submit to Bank a copy of the Check and any other required documentation as proof of authorization with a request that Bank forward such proof to the receiving institution for its consideration to the extent such receiving institution will accept and consider such submission.

(i) Collection

Bank, in its sole discretion, shall determine the manner in which an Item shall be presented for payment to the drawee bank. Bank, in its sole discretion, shall select the clearing agents used to collect and present the Item, and Bank's selection of the clearing agents shall be considered to have been designated by Client. Bank shall not be liable for the negligence of any clearing agent. Collection of Items is also subject to Applicable Law and the terms of the Agreement.

(j) Contingency Plan

Client agrees that, in the event Client is not able to capture, balance, process, produce or transmit an Image to Bank, or otherwise comply with the terms hereof, for any reason, including communications, equipment or software outages, interruptions, or failures, Client may transport the originals of all Checks to the closest office of Bank and deposit original Checks with Bank until such time that the outage, interruption, or failure is identified and resolved. Bank shall not be liable to Client for Losses sustained by Client as the result of the inability of Client to use the Service.

12. Remote Official Check Services

(a) Dollar Value Limit

The dollar value of any Item sent by Client to Bank through use of the Service shall not exceed the per Item dollar value limit established by Bank, in its sole discretion, and specified in the Service Application or communicated to Client from time to time. If the dollar value of an Item sent by Client to Bank exceeds the per Item dollar value limit, Bank may, at its option, refuse to accept the Item, or Bank may accept and process the Item.

(b) Description of the Service

The Service enables Client before the Cut-off Time to withdraw funds from an Account in the form of one or more Bank Checks and to print those Bank Checks directly at Client's location. The Service is accessed by Client through a browser on Client's computer by using Client's Access Credentials. After accessing the Service Client will enter the payee and amount of each Bank

Check requested and electronically transmit that information to Bank. Once that information is electronically transmitted to Bank, an Authorized Signer will complete and sign a Bank Check request form and fax that form to Client's Financial Consultant at the Financial Center of Bank where the Account is maintained, or to that Financial Consultant's Private Client Group, using the fax telephone number that is stated on the Setup Form or such other fax telephone number that is provided to Client for this purpose by Bank, Client's Financial Consultant or that Financial Consultant's Private Client Group. After Bank verifies and approves the request, Bank will contact Client by email at Client's email address stated on the Setup Form and advise Client that Bank Checks have been approved. Client will then be able to print Bank Checks on Client's MICR-enabled laser printer provided that Client's computer meets the specifications stated on the Service Documentation. Client shall utilize the appropriate MICR ink when using the Service. Client shall be responsible for any Losses related to Checks that are not readable or misread due to Client's failure to use a MICR-enabled laser printer or the appropriate MICR ink. Bank will not act upon a Bank Check request form that has been faxed to Bank unless prior to faxing that form Client has electronically transmitted to Bank in the manner stated above the payee and amount of each Bank Check requested. In order to enable Bank sufficient time to review and approve Bank Check request on the same Business Day that it has been made, Client must fax Bank Check request form before the Cut-off Time. If Bank Check request form is faxed after the Cut-off Time, then those Bank Checks might not be approved until the next Business Day. Client should consult the Service Documentation for supplemental information related to the Service. Client should contact Bank at the number provided in Section II.22 (Notice) if Client wishes to add or remove an Authorized Signer.

(c) Security Procedures

The Service cannot be used until Client receives Access Credentials from Bank or Bank Agent. The Access Credentials act as Client's signature. Client will be required to change the Password or other Access Credentials periodically and can request that the Password be changed at any time. Client agrees to safeguard and keep protected, secured, and strictly confidential, the Access Credentials and to distribute them only as necessary to persons authorized by Client to use the Service. Client agrees that it will be responsible for all Account withdrawals made and all Bank Checks issued by use of the Service with Client's Access Credentials. Client agrees that it will immediately, but no later than within twenty-four (24) hours, call Bank at the number provided in Section II.22(c) (Notice) if Client believes that any Access Credentials have been stolen, compromised, or otherwise become known to persons other than Client or persons authorized by Client to use the Service.

In the event of any actual or threatened breach of the security of the Access Credentials, Bank may issue Client new Access Credentials or establish new Access Credentials as soon as reasonably practicable, but Bank shall not be liable to Client or any third-party for any delay in taking such actions. Bank reserves the right to modify, amend, supplement, or cancel any or all Access Credentials, and/or to cancel or replace any Access Credentials, at any time and from time to time in Bank's sole discretion.

CLIENT AGREES THAT USE OF THE ACCESS CREDENTIALS IS AN ACCEPTABLE SECURITY PROCEDURE AND SHALL BE DEEMED TO BE COMMERCIALY REASONABLE IN LIGHT OF CLIENT'S PARTICULAR NEEDS AND CIRCUMSTANCES.

CLIENT FURTHER ACKNOWLEDGES AND AGREES THAT THE ACCESS CREDENTIALS ARE A SECURITY PROCEDURE TO DETECT AN UNAUTHORIZED USE OF THE SERVICE AND NOT A SECURITY PROCEDURE TO DETECT AN ERROR MADE BY CLIENT WHEN USING THE SERVICE.

IF A WITHDRAWAL HAS BEEN MADE FROM AN ACCOUNT AND/OR A BANK CHECK HAS BEEN ISSUED BY BANK AS A RESULT OF THE USE OF CLIENT'S ACCESS CREDENTIALS, THEN THAT WITHDRAWAL AND/OR BANK CHECK SHALL BE DEEMED BY BANK TO HAVE BEEN REQUESTED AND AUTHORIZED BY CLIENT.

Client agrees that any additional actions taken by Bank to attempt to detect or prevent an unauthorized Account withdrawal and/or an unauthorized issuance of a Bank Check that are beyond the Security Procedures shall not be deemed to be a part of the Security Procedures regardless of how often such action may be taken by Bank.

(d) Client's Obligations and Liability

Client agrees that in using the Service it: (i) will be solely and absolutely liable for all withdrawals made and Bank Checks issued through the Service by use of its Access Credentials; (ii) assumes all risk associated with the unauthorized use of Client's Access Credentials, Client's MICR enabled laser printers and the paper stock used to print Bank Checks that has been provided to Client by Bank, or Bank Agents; (iii) will only withdraw funds from the Account in the form of one or more Bank Checks only if there is a sufficient Available Balance in the Account to pay Bank Checks at the time Client accesses the Service; (iv) will not print and/or use a Check more than once; and (v) will take whatever steps are required by Bank or Bank Agents to properly implement and test the connectivity of the Service on those Client computers that will access the Service and to ensure that Client's proxy server or firewall system does not prevent access by those computers to the Service. After a requested Check is approved by Bank but before the Check is printed, Client may void the Check by contacting Bank using the contact information set forth in Section II.22 (Notice) and following the procedures required by Bank. After a requested Check is printed, Client may no longer void the Check, but Client may seek to stop payment of a Check by contacting Bank using the contact information set forth in Section II.22 (Notice) and following the procedures required by Bank. Client further agrees that it is liable for and agrees to indemnify and hold harmless Bank and Bank Agents from any Losses to Bank or Bank Agents as a result of Client failing to comply with the Service Documentation.

(e) Unauthorized Access to or Use of Services

If Client believes (i) the computer system for the Service has been accessed or copied without authorization, (ii) the Service has been used without authorization, or (iii) one (1) or more Bank Checks has been printed or received by an unauthorized person, then Client agrees contact Bank by phone at the number set forth in Section II.22(c) (Notice). In addition, Client agrees to mail a written report of such belief to Client's account officer at the Financial Center where the Account is maintained or to Bank at the location set forth in Section II.22(a)(ii) (Notice).

(f) Record of Use of Bank Check Service

Client authorizes Bank, Bank Agents, and their agents to track and make a record of Client's use of the Service, but neither Bank nor Bank Agents shall be obligated to track such use or make or retain any such record.

(g) Termination

Upon termination of the Agreement for any reason, Client shall (i) immediately cease issuing Bank Checks and using the Service and at the sole discretion of Bank either (A) return to Bank all unused paper stock used for printing Bank Checks or (B) certify to Bank in writing the destruction of all unused paper stock used for printing Bank Checks and (ii) remit to Bank all amounts due to Bank.

(h) Insurance

Client shall maintain, in full force and effect, cyber liability insurance coverage and crime/fidelity insurance coverage in amounts of at least \$1 million per policy. Prior to using the Service, Client shall provide Bank with evidence of such insurance in the form of a certificate of insurance or copy of the policy. Client shall annually provide Bank with evidence of insurance thirty (30) days prior to expiration of the policies.

13. Sweep (Investment, Target Balance, and Zero Balance) Service

(a) Service Description

This Service enables Client to direct Bank to automatically transfer funds to or from Client's Target Account at the close of each Business Day in order to maintain the Target Balance in the Target Account. The Service allows Client to select from the following options:

(i) Investment Sweep

At the close of each Business Day, and provided that the Available Balance in the Target Account exceeds the Target Balance, Bank shall, automatically and without additional notice to or authorization from Client, transfer from the Target Account the Available Balance in the Target Account that exceeds the Target Balance and use those funds to purchase on Client's behalf Fund shares to be held in the Fund Account. Purchase of Fund share will be made on the next Business Day after the date of transfer.

At the close of each Business Day and provided that (i) the Available Balance in the Target Account is less than the Target Balance, and (ii) there are available Fund shares in the Fund Account to sell and transfer the proceeds to the Target Account, Bank shall automatically and without additional notice to or authorization from Client sell a sufficient number of Fund shares and transfer all available amounts from the Fund Account to the Target Account so that the Available Balance in the Target Account is equal to the Target Balance.

If the value of the Fund shares in the Fund Account and the amount in the Target Account when added together does not exceed the Target Balance, all shares in the Fund Account will be sold by Bank and the proceeds transferred to the Target Account.

(ii) Target Balance Sweep

At the close of each Business Day, and provided that the balance in any of the Target Account(s) exceeds the Target Balance, Bank shall, automatically and without additional notice to Client or authorization from Client, transfer from the Target Account(s) to the Concentration Account all collected funds in the Target Account(s) that exceed the Target Balance.

At the close of each Business Day, if the balance in any of the Target Account(s) is less than the Target Balance, Bank shall, automatically and without additional notice to or authorization from Client, transfer funds from the Concentration Account into the Target Account(s), provided that funds are available in the Concentration Account, so that the Available Balance in each of the Target Account(s) is equal to the Target Balance.

Client may have multiple Concentration Accounts linked to a Target Account. If there are multiple Concentration Accounts, Client may use the Service Application to provide Bank with instructions on the order in which Bank should withdraw funds from the Concentration Accounts.

(iii) Zero Balance Sweep

The Zero Balance Sweep functions the same as the Target Balance Sweep, except the default Target Balance is \$0.00.

At the close of each Business Day, and provided that the balance in any of the Target Account(s) exceeds the Target Balance of \$0.00, Bank shall, automatically and without additional notice to Client or authorization from Client, transfer from the Target Account(s) to the Concentration Account all collected funds in the Target Account(s) that exceed the Target Balance of \$0.00.

At the close of each Business Day, if the balance in any of the Target Account(s) is less than the Target Balance of \$0.00, Bank shall, automatically and without additional notice to or authorization from Client, transfer funds from the Concentration Account into the Target Account(s), provided that funds are available in the Concentration Account, so that the Available Balance in each of the Target Account(s) is equal to the Target Balance of \$0.00.

Client may have multiple Concentration Accounts linked to a Target Account. If there are multiple Concentration Accounts, Client may use the Service Application to provide Bank with instructions on the order in which Bank should withdraw funds from the Concentration Accounts.

(b) Overdrafts of Concentration Account

In the event that the transfers from the Concentration Account to a Target Account would cause the Concentration Account to become overdrawn, Client requests that Bank advance funds to Client in an amount equal to the amount by which the Concentration Account will become overdrawn.

In those instances where Bank, in its sole discretion, permits the Concentration Account to become overdrawn, Client agrees that Bank may charge and Client will pay interest on the amount of the overdraft until funds in Client's Concentration Account become available to cover payment of the overdraft. Client agrees to the term conditions as listed on the Account Agreement and to pay all interest, fees, and charges associated with any overdraft as set forth in the Account Agreement and current Fee Schedule.

All deposits and credits, when available, will be used to pay the amount of the advanced and accrued interest, fees, and charges thereon.

Bank reserves the right to decide whether or not to permit each overdraft. If Bank permits one or more overdrafts, Bank is not establishing a course of conduct and it shall not mean that Bank will pay other overdrafts in the future.

(c) No Guarantee

Bank shall use its best efforts to comply with the terms in the Service Documentation; however, Bank does not guarantee that any transfer will be made or that the Target Account will maintain the Target Balance, and Bank shall be only liable for its own gross negligence or willful misconduct.

(d) Additional Disclosures for Investment Sweeps

MONEY MARKET MUTUAL FUNDS ARE NOT FDIC INSURED, ARE NOT GUARANTEED BY BANK, AND MAY LOSE VALUE.

AN INVESTMENT IN A MONEY MARKET MUTUAL FUND IS NOT INSURED BY THE FDIC OR ANY OTHER GOVERNMENTAL AUTHORITY. ALTHOUGH THE MONEY MARKET MUTUAL FUND SEEK TO PRESERVE THE VALUE OF EACH INVESTMENT AT \$1.00 PER SHARE, IT IS POSSIBLE TO LOSE MONEY BY INVESTING IN A MONEY MARKET MUTUAL FUND. A FUND'S YIELD WILL CHANGE BASED ON CHANGES IN INTEREST RATES AND OTHER MARKET CONDITIONS.

FOR MORE INFORMATION REGARDING MONOGRAM MONEY MARKET FUNDS, INCLUDING THE MONEY MARKET MUTUAL FUND OPTION SELECTED IN THE SERVICE APPLICATION, CLIENT SHOULD REVIEW THE CURRENT PROSPECTUS FOR THE MONEY MARKET MUTUAL FUND. CLIENT MAY CONTACT BANK USING THE CONTACT INFORMATION SET FORTH IN SECTION II.22 (NOTICE) TO OBTAIN A CURRENT PROSPECTUS. CONSIDER THE INVESTMENT OBJECTIVES, RISKS, CHARGES, AND EXPENSES OF THE INVESTMENT CAREFULLY BEFORE INVESTING. THIS AND OTHER INFORMATION ABOUT MONOGRAM MONEY MARKET FUNDS CAN BE FOUND IN A CURRENT PROSPECTUS. PLEASE READ IT CAREFULLY BEFORE INVESTING.

THE FUNDS ARE NON-AFFILIATED MONEY MARKET MUTUAL FUNDS. BANK IS NOT AFFILIATED WITH THE FUND MANAGER(S) OR DISTRIBUTOR(S) OF THE FUNDS. HOWEVER, BANK MAY RECEIVE FEES AND BENEFITS FOR THE SALE OF FUND SHARES AND RELATED SERVICES PROVIDED IN CONNECTION WITH THE FUNDS, AND SUCH PAYMENTS MAY CREATE A CONFLICT OF INTEREST.

AS WITH ANY INVESTMENT, CLIENT'S INVESTMENT IN THE FUND COULD HAVE TAX CONSEQUENCES. CLIENT SHOULD CONSIDER CONSULTING ITS TAX ADVISOR PRIOR TO INVESTING IN THE FUND.

- (i) Prospectus Client acknowledges receiving a copy of the prospectus relating to Fund shares that will be purchased using the Investment Sweep. The prospectus forms part of the Service Documentation and will control over the other Service Documentation with respect to the Fund shares. Notwithstanding the foregoing, Bank may establish minimums, maximums, limitations, restrictions and charges with respect to Fund share purchases and redemptions that are affected for Client which may be in addition to or different from those stated in the Fund prospectus.
- (ii) Statements Bank will, no less frequently than quarterly, make a Statement available to Client showing the Fund shares Client holds in the Fund Account, Client's purchases and redemptions of Fund shares, and fees incurred in connection with the Fund Account during the Statement Cycle Period.
- (iii) Termination; Suspension of Service If Client's enrollment in the Investment Sweep is terminated or suspended, accrued dividends attributable to the period when the Investment Sweep was in effect will be paid no later than the fifth (5th) Business Day of the month following the last month that the Investment Sweep was in effect.
- (iv) Shareholder Communications All shareholder communications with respect to the Fund will be forwarded to Client's current address as shown on Bank's records.
- (v) FDIC disclosures FDIC regulations require all insured depository institutions to disclose in writing to sweep account customers whether funds in a sweep account are deposits within the meaning of 12 U.S.C. 1813(l) and, if the funds are not deposits, the status such funds would have if the depository institution failed. Amounts held in a Target Account are deposits and are eligible for FDIC insurance under applicable FDIC insurance rules and limits. However, Fund shares held in a Fund Account are not deposits and will not be eligible for FDIC insurance.

NONE OF BANK'S EMPLOYEES OR BANK AGENTS HAVE BEEN AUTHORIZED TO PROVIDE ANY INFORMATION OR TO MAKE ANY REPRESENTATION REGARDING THE INVESTMENT SWEEP OTHER THAN THE INFORMATION AND REPRESENTATIONS CONTAINED IN THE SERVICE DOCUMENTATION. IF SUCH INFORMATION IS PROVIDED OR SUCH A REPRESENTATION IS MADE, CLIENT MAY NOT RELY UPON IT AS BEING AUTHORIZED BY BANK.

14. **SWIFT Payments, Advices and Statements**

(a) Service Description

This Service enables Client to use messaging services that SWIFT offers through Bank. SWIFT messaging services are provided by Bank in accordance with the SWIFT Rules. Client may use SWIFT messaging services to transmit and receive SWIFT messages to and from Bank and,

subject to Client's agreements with SWIFT, other SWIFT Participants, both domestic and foreign. Client acknowledges and agrees that the Service only permits Client to use the SWIFT messaging services permitted by Bank, and that Bank may not make available to Client all messaging services described in the SWIFT Rules.

By enrolling in this Service, Client agrees to the Funds Transfer Agreement contained in the Account Agreement, which is incorporated by reference and governs this Service. For purposes of this Service, if there is any conflict among the documents that are part of the Service Documentation, they will be governed in the following order: (i) the Account Agreement(s), (ii) this Agreement, (iii) the Acceptance, (iv) the Service Application, and (v) all other documents that are part of the Service Documentation.

This Service is a means for delivering other products and services of Bank, which may require additional approvals and documentation.

(b) Limitations of Liability

- (i) Client agrees that Bank is not responsible for any errors or delay on the part of any third party including SWIFT or any other third parties used by Bank in executing an instruction or performing a related act and no such third party shall be deemed to be a Bank Agent.
- (ii) At Client's request, Bank may process Non-Value Messages. Such Non-Value Messages may include MT199 and MT999, and any additional or successor MT messages for transmission by Bank that SWIFT might adopt and implement in the future. Non-Value Messages may be subject to form and format requirements, Security Procedures, timing requirements, and fee schedules. This Agreement does not impose any obligation on Bank or the recipient of a Non-Value Message to respond to or take action based on a non-value message or the information contained therein. Bank shall not be liable for Losses caused by Bank or any recipient's failure to take action in connection with a Non-Value Message nor shall Bank be liable for any receiving bank's failure to accept or properly authenticate a Non-Value Message. Bank's liability for Losses caused by Bank's failure to exercise ordinary care or act in good faith in processing a Non-Value Message shall not exceed the amount of any fee paid to Bank for the Non-Value Message.

(c) Client Obligations

- (i) Client agrees to comply with the SWIFT Rules.
- (ii) In the event Client no longer meets any conditions required to receive this Service, Client will immediately notify Bank, and provide such notice also in writing, and immediately discontinue sending SWIFT messages.

(d) Security Procedures

- (i) Bank and Client rely on Access Controls and, in the case of any Authenticated Message, the Authentication Procedures, if any, SWIFT requires to secure the transmission of Client's SWIFT messages. Bank has no obligation to Client to separately authenticate or verify any SWIFT message Bank receives in Client's name whether or not Client actually issued the SWIFT message. Bank may, at Bank's sole option, contact Client with respect to any SWIFT message Bank receives in Client's name, but Bank's election to contact Client with respect to one or more SWIFT messages will not obligate Bank to contact Client with respect to subsequent SWIFT messages that Bank receives in Client's name.
 - (ii) If Bank receives an Authenticated Message in Client's name that includes an instruction to place, transfer or withdraw funds from a deposit account Client maintains at Bank, the Authenticated Message is a Payment Order, and SWIFT Security Procedures are the agreed-upon Security Procedures. The purpose of the SWIFT Security Procedures is to verify the authenticity of a Payment Order, not to detect an erroneous or duplicate Payment Order. Client is responsible for any erroneous or duplicate Payment Order Bank receives in Client's name.
 - (iii) The SWIFT Security Procedures are the only Security Procedures offered for Payment Orders that Client transmits through SWIFT messaging services. SWIFT messaging services are one of a range of secure communication channels Client can access through Bank to transfer funds from Client's Account. Client agrees the SWIFT Security Procedures best meet Client's requirements with regard to the size, type and frequency of the Payment Orders issued by Client to Bank using SWIFT messaging services and the SWIFT Security Procedures are commercially reasonable.
 - (iv) Client agrees to be bound by each Payment Order, or request to cancel or amend a Payment Order, Bank receives in Client's name that is an Authenticated Message verified pursuant to the SWIFT Security Procedures.
- (e) Authorized Representatives
- (i) Client will promptly notify Bank in writing of the identity of each Authorized Representative and when a person is no longer an Authorized Representative, affording Bank in each instance a reasonable opportunity to act on Client's notification. Client will establish and maintain effective internal procedures to safeguard against unauthorized SWIFT messages. Client warrants no individual will be allowed to initiate a SWIFT message without proper supervision and safeguards.
 - (ii) In accordance with the Funds Transfer Agreement, Client agrees that Client's Authorized Representative(s), is/are authorized by Client to initiate and verify Payment Orders made via SWIFT.

- (iii) If Authorized Representative is a Third-Party Administrator, Client represents that Client has entered into an agreement with the Third-Party Administrator and Bank is authorized to take instructions from the Third-Party Administrator as an Authorized Representative of Client. Client shall ensure that any Third-Party Administrator agree to any terms and conditions or other documentation required by Bank.
- (iv) Client acknowledges and agrees that Client is responsible for all actions performed by an Authorized Representative on its behalf.

(f) Indemnification

Client acknowledges that under the SWIFT Rules, Bank makes certain acknowledgements, undertakings and obligations to SWIFT regarding Client's use of SWIFT messaging services. Client agrees to reimburse Bank for any loss Bank incurs, including Bank's reasonable attorneys' fees and legal expenses, as the result of the enforcement of any such undertakings and obligations, except to the extent the loss resulted from Bank's own negligence or intentional misconduct.

15. Standing Transfer Orders

(a) Service Description

This Service enables Client to create Standing Transfer Orders. Client acknowledges and agrees that, subject to the terms set forth in the Service Documentation, payment initiated pursuant to a Standing Transfer Order may be executed via book transfer to a beneficiary account held at Bank or as a Payment Order to a beneficiary account at another financial institution.

By enrolling in this Service, Client agrees to the Funds Transfer Agreement contained in the Account Agreement, which is incorporated by reference and governs this Service. For purposes of this Service, if there is any conflict among the documents that are part of the Service Documentation, they will be governed in the following order: (i) the Account Agreement(s), (ii) this Agreement, (iii) the Acceptance, (iv) the Service Application, and (v) all other documents that are part of the Service Documentation.

(b) Creating Standing Transfer Orders

Client may issue Standing Transfer Orders to Bank via the Service Application or such other means agreed to by Bank in writing. All Standing Transfer Orders must be denominated in USD and formatted in accordance with the Service Documentation provided by Bank.

Client shall issue Standing Transfer Orders to Bank in a timely manner sufficient to allow Bank to ensure that payment is made to the beneficiary on the payment date.

(c) Cancellation, Amendment or Modification of Standing Payment Order

- (i) Client may request cancellation, amendment or modification of Standing Transfer Order by providing Bank with notice of such cancellation, amendment or modification in the manner set forth by Bank in the Service

Documentation. Cancellation of a Standing Transfer Order does not take effect until Bank has (A) received notice of such cancellation in a form and format acceptable to Bank and (B) Bank has had reasonable opportunity to act on such notice.

- (ii) Once processing of a payment initiated pursuant to a Standing Transfer Order has begun, Client cannot cancel, reschedule or modify the payment, but Client may make a stop payment request. Bank's ability to process a stop payment request depends on whether the transfer of funds is being processed as a book transfer or a Payment Order and whether or not the payment has been processed. Stop payment requests should be made in the manner set forth in the Funds Transfer Agreement and is subject to the terms of the Funds Transfer Agreement.
- (iii) Bank reserves the right to cancel any Standing Transfer Order for any reason, including if Bank is unable to authenticate a Standing Transfer Order that appears anomalous or presents indicia of fraud or the Standing Transfer Order does not comply with Bank's requirements. Bank will attempt to notify Client of any cancelled Standing Transfer Order in the manner provided in this Agreement, but shall not be liable for any delay or failure in providing such notice or failure in executing any instruction pursuant to a Standing Transfer Order. **BANK SHALL NOT BE LIABLE FOR ANY DAMAGES OR LOSS SUSTAINED BY CLIENT FOR BANK'S CANCELLATION OF A STANDING TRANSFER ORDER.**

(d) Processing Payments

Client acknowledges and agrees that strict compliance is required with all applicable Bank procedures governing Standing Transfer Orders. Client assumes the risk for any Standing Transfer Orders that are communicated to Bank, and Client agrees that Bank shall not be liable for the payment of, or failure to pay, any payment initiated pursuant to a Standing Transfer Order that is not communicated in strict compliance with Bank procedures. Client shall indemnify and hold Bank harmless from and against any and all claims and suits, whether groundless or otherwise, and from and against any and all Losses resulting from such payment or failure to pay.

Bank will process payments initiated pursuant to a Standing Transfer Orders only on Business Days. Client agrees that if a Standing Transfer Order instructs Bank to make a payment on a day other than a Business Day, Bank may process the payment on the next Business Day. Client is responsible for ensuring there is sufficient time for any payments made pursuant to a Standing Transfer Order to be paid by the appropriate due date. Client is solely responsible for all penalties, interest charges, and other late payment fees associated with payments via the Service that are delivered after the due date.

If Client has an insufficient Available Balance to cover the amount of a payment initiated pursuant to a Standing Transfer Order then Bank may, in its sole discretion, overdraft Client's Account pursuant to the Account Agreement. If Bank permits one or more overdrafts, Bank is not

establishing a course of conduct, and it shall not mean that Bank will pay other overdrafts in the future.

(e) Representations and Warranties

Client represents and warrants that:

- (i) Client will at all times maintain enough funds in the Account to meet all payment obligations.
- (ii) All information provided to Bank in the Standing Transfer Order is complete and accurate.

(f) Security Procedures

By using the Service, Client refuses the Security Procedures offered by Bank and described in the Funds Transfer Agreement. Client acknowledges and agrees that Client Call-Backs will not occur for Standing Transfer Orders.

Standing Transfer Orders, and any cancellations, amendments, or modifications thereto, must be provided by an Authorized Representative. Client acknowledges and agrees that providing Bank with Standing Transfer Orders signed by an Authorized Representative, whether via the Service Application or such other signed writing acceptable to Bank, is a commercially reasonable security procedure given the nature of a Standing Transfer Order. Bank shall deem any writing that purports to be signed by an Authorized Representative to be a writing signed by an Authorized Representative.

(g) Indemnification

In addition to Bank's indemnity rights set forth elsewhere in the Service Documentation, Client agrees to indemnify and hold Bank harmless from and against any and all overdrafts incurred in connection with the Service or other Losses incurred by Bank, resulting from any Standing Transfer Orders or payments initiated pursuant to a Standing Transfer Order.

(h) Limitation of Liability

In addition to limitations on Bank's liability set forth elsewhere in the Service Documentation:

- (i) Bank has only those duties and responsibilities specifically set forth in this Agreement. Bank has no duty to determine whether a Standing Transfer Order contains an inconsistency, duplication, or error, but is authorized to accept, honor, and execute a Standing Transfer Order received from Client. Bank shall not be liable for any Losses to Client as a result of Client's failure to comply with the Service Documentation or any inconsistency, duplication, or error in a Standing Transfer Order. Client agrees that Bank shall not be liable for the execution of, or failure to execute, any payment initiated pursuant to a Standing Transfer Order that is not in strict compliance with Bank procedures.

- (ii) Bank will not be liable for Losses of any kind resulting from the use of or the inability to use the Service, any inaccuracy of any information or provided to Bank in the Standing Transfer Order, any breach of security caused by a third party, any payments processed based on the Service (whether or not such payments were made pursuant to a Standing Transfer Order provided by an Authorized Representative acting beyond his/her scope of authority or an unauthorized party), including Losses for loss of profits, use, data, or other intangibles, even if Bank had been advised of the possibility of such Losses.
- (iii) Except as otherwise expressly provided in this Agreement, Bank shall not be obligated to provide any notice or advice to Client or any third party with respect to Standing Transfer Orders or payments initiated pursuant to a Standing Transfer Order.

16. **Mobile Banking**

(a) Service Description

Bank offers the Service, which allows Client and any Users to access, via a Mobile Device, various financial services, including viewing balance and transaction information, mobile remote deposit capture, mobile bill payment, and transfers of funds between Client's Accounts with Bank.

(b) Mobile Banking Access

To use the Service, Client must be a subscriber to Internet Banking. Client acknowledges that Client has received and agrees to the terms for Internet Banking. Client and Users will be unable to use the Service if Client does not utilize the correct Access Credentials.

The Service features available to Client may vary based on the type of Mobile Device used to access the Service (as specified at <https://www.flagstar.com/commercial/commercial-and-private-banking/online-and-mobile-banking.html>). Not all Mobile App features are available on all Mobile Devices. The Service may use different terminology and appear in different formats than Internet Banking. Client or a User may be required to follow different instructions to access Internet Banking through a Mobile Device. Processing of payment and transfer instructions may take longer using the Service. Bank will not be liable for any delays or failures in Client or any User's ability to access the Service. The Service is provided by Bank on an "as is," "as available" basis.

Client agrees that each User of the Service must agree to the End User License Agreement. Client further agrees that Client shall be liable for any breach of the End User License Agreement by any User.

(c) Ownership of Mobile Device

Client represents and warrants that Client or any Users is the owner or authorized user of the Mobile Device used in connection with the Service, and that Client or each User is authorized to approve any applicable charges arising from Client's or such User's use of the Service. Client agrees that Bank may send messages through Client's internet, telephone, and/or Mobile Device

service provider to Client and that Client's internet, telephone, and/or Mobile Device service provider is acting as Client Agent when sending and receiving messages. Bank may use the phone number, email address, or other delivery location Bank has in Bank's records for Client or any User or other such information as Client or any User may provide to Bank to contact Client regarding Client's use of the Service.

(d) Information Security

Mobile Banking Alerts may be sent to an email address that Client or any User has provided to Bank. Because Mobile Banking Alerts are not encrypted, Bank will not include Client's full account number in such alerts. Client's internet, telephone, and/or Mobile Device service provider or other entities may also collect data from Client's use of the Service, and their practices are governed by their own policies. Bank is not responsible or liable for the acts or policies of internet, telephone, and/or Mobile Device service provider or other entities that are not Bank Agents. Subject to Applicable Law, Bank reserves the right at all times to disclose any information Client or User provides using the Service as reasonably necessary to satisfy any law, regulation, or request by a Governmental Authority, to avoid liability, or to protect Bank's rights or property. When Client or any User completes forms online or otherwise provides Bank with information in connection with the Service, Client agrees to provide accurate, complete, and true information.

Bank will not be responsible or liable for Losses arising from any disclosure of Account information to third parties, non-delivery, delayed delivery, misdirected delivery or mishandling of, or inaccurate content in, the Mobile Banking Alerts sent in connection with the Service. Bank has implemented technical and organizational measures designed to secure Client and User information from accidental loss and from unauthorized access, use, alteration, or disclosure. However, Bank cannot guarantee that unauthorized third parties will never be able to defeat those measures or use Client or User information for improper purposes.

(e) Area of Use

Client hereby represents and warrants that Client and Users will use the Service only within the United States of America. Bank reserves the right to terminate Client access to the Mobile Banking Service and block any transaction if Bank determines that Client or any User uses the Service when located outside of the United States of America. Client further agrees that Client will not use or otherwise export or re-export the Service, except as authorized by Applicable Law.

(f) Relationship to Other Banking Products

The Service is provided for Client's convenience and does not replace Client's Statement, which is the official record of Client's Account. The Service, including instructions for payments, transfers, and other transactions, may be delayed, interrupted, or otherwise negatively impacted by factors relating to (i) Client's or User's Mobile Device, (ii) Client's or User's internet, telephone, and/or Mobile Device service provider or other parties, or (iii) other reasons outside of Bank's control.

(g) Mobile Deposit

- (i) Mobile Deposit provides Client and Users with the ability to make deposits to Client's designated eligible Accounts using the Mobile App. Mobile Deposit enables Client to capture Check Images of eligible Checks using a compatible Mobile Device and transmit those Check Images and associated deposit information to Bank or Bank Agent electronically for deposit to the Account. Checks will be processed electronically based on the information that Client or a User provides. A Check Image submitted to Bank or Bank Agent electronically for deposit is not deemed received until Bank accepts and confirms receipt of the deposit. Checks deposited using Mobile Deposit will be reflected on the Statement.
- (ii) To access Mobile Deposit Client or User must have or acquire and maintain a compatible Mobile Device with the ability to take photographs and a wireless plan from a compatible wireless carrier or access to a secure Wi-Fi network. The dollar value of any Item sent to Bank through use of the Service shall not exceed the Dollar Limits established by Bank in its sole discretion. Bank reserves the right to establish frequency limits and Dollar Limits for deposits submitted through Mobile Deposit. If Client exceeds the frequency limits or Dollar Limits established for Client, Bank may, in its sole discretion, accept or refuse the Check Image deposit. If at any time Bank accepts a Check Image deposit that exceeds the frequency limits or Dollar Limits established for Client, Bank will have no obligation to accept deposits in excess of the frequency limits or Dollar Limits in the future. Bank may at any time, at its sole discretion, raise or lower the frequency limits and/or Dollar Limits of Client's Mobile Deposits. By accessing Mobile Deposit, Client authorizes Bank to provide Client and Users with access to all of Client's eligible Accounts qualified to participate in Mobile Deposit. Bank reserves the right to limit the features of Mobile Deposit available with respect to different types of eligible Accounts and different Users.
- (iii) Client and Users shall follow all Mobile Deposit instructions provided by Bank for capturing and transmitting Check Images and other information. Client shall, and ensure that Users shall: (A) prior to scanning any Check payable to Client, restrictively endorse the back of the Check "For Mobile Deposit at Flagstar Bank, N.A. Only"; (B) use the Mobile Device to scan the front and back of a properly endorsed Check made payable directly to Client; (C) verify that the Check Image, including the MICR line of the Check, are clear; (D) enter and verify the accuracy of all data and information being transmitted to Bank in connection with the Check Image; (E) confirm that Bank has received and has not rejected the Check Image and all other required data and information; and (F) mark each successfully deposited Check with the words "Mobile Deposit," or similar language.
- (iv) Photographing and submitting Check Image deposits does not constitute receipt of the deposit by Bank. Generally, Check Image deposits received prior to the Cut-off Time are processed on the Business Day of receipt. Any

Check Image deposit received after the Cut-off Time on a Business Day or on a day other than a Business Day will be processed on the next Business Day. Acknowledgement that a Check Image deposit has been received by Bank does not mean that the Check Image deposit was received error free.

- (v) Bank will notify Client via email or other means agreed to by Bank in writing of Bank's receipt of a Check Image deposit or to notify Client if a Check Image deposit is rejected in whole or in part. Client may verify receipt and the amount of the Check Image deposit credited to the Account by reviewing the Statement online or by calling Client Services at the number provided in Section II.22 (Notice).
- (vi) Client shall not, and shall ensure that all Users do not, use Mobile Deposit to deposit or attempt to deposit any Check or other Item that (A) is payable to any person, entity, or other third party, other than Client; (B) is drawn, or otherwise issued, by Client on any account of Client; (C) is in violation of any Applicable Laws; (D) Client or User knows or suspects, or should know or suspect, is fraudulent or otherwise not authorized by the owner of the account on which the Check is drawn; (E) Client or User knows or suspects, or should know or suspect, has been previously presented to a bank by any means; (F) has been previously endorsed by a bank; (G) has been previously returned; (H) is drawn on financial institutions that are located outside of the United States or territories of the United States; (I) is denominated in a currency other than USD; (J) is a remotely created Check or is, or is derived from, an electronically created Item; (K) is not otherwise acceptable to Bank for deposit into a deposit account as provided in this Agreement, or (L) is not otherwise eligible for Mobile Deposit, as determined by Bank in its sole discretion.
- (vii) Client acknowledges and agrees that Bank is not obligated to accept for deposit any Check Image that Bank in its sole discretion determines to be ineligible for Mobile Deposit. Ineligible Items include: (A) Check Images of Items drawn on banks located outside the United States; (B) Check Images that are illegible; (C) Check Images previously converted to Substitute Checks; and (D) Check Images with unreadable MICR information. The quality of any Check Image must comply with the requirements established from time to time by ANSI, the Federal Reserve Board, or any other regulatory agency, clearing house, or association. Client acknowledges and agrees that even if Bank does not identify a Check Image as ineligible, the Check Image may be returned to Bank because, among other reasons, the Check Image or any Substitute Check created from the Check Image is deemed ineligible by the financial institution upon which it is drawn or any intermediate collecting financial institution. Bank's failure to identify a Check Image transmitted to Bank as ineligible shall not preclude or limit Bank's rights or Client's obligations. Client assumes financial liability for all Checks that are returned unpaid for any reason or that have been presented for deposit or payment more than once, and Bank

may debit the Account for the amount of such returned Checks and all associated Service Fees. Client acknowledges and agrees that, because Client retains the original Check, Bank may return a Check Image to Client. Client understands and agrees that the Check Image may be in the form of an electronic or paper reproduction of the original Check or a Substitute Check. Any credit or consideration given by Bank to Client with respect to any Check that is scanned and submitted through use of Mobile Deposit shall be deemed Provisional Credit, and Bank shall be entitled to revoke the same without prior notice. In the event one or more Checks are returned for reason of alleged lack of authorization, Client may promptly submit to Bank a copy of the Check and any other required documentation as proof of authorization with a request that Bank forward such proof to the receiving institution for its consideration to the extent such receiving institution will accept and consider such submission.

- (viii) Client shall, and shall ensure that all Users shall, (A) maintain securely any original Check for a period of thirty (30) days from the date on which the Check has been settled; (B) destroy such a Check by shredding after such thirty (30)-day period; and (D) ensure that such a Check is not duplicated, deposited, negotiated, rescanned, or presented for payment as an original Check. Client is liable for all Losses resulting from a Check being presented for deposit or payment more than once. Upon request by Bank, Client shall promptly (but in all events within five (5) Business Days) provide to Bank any original Check in Client's possession, or a sufficient copy of the front and back of the Check, if the original Check is no longer in existence.
- (ix) Each time Client or User uses Mobile Deposit, Client covenants, represents, and warrants to Bank the following: (A) Client will not, and will ensure that all Users will not, scan any Check in which Client is not the sole payee named on the front of the Check; (B) any Check Image that is submitted is a sufficient copy that is a true and correct image of the original Check and has not been altered in any manner by Client, User, or any Client Agent; (C) Client or User has reviewed and confirmed that the MICR line information provided on the Check Image is identical in all respects to the original Check and that the encoded Check amount is accurate; (D) the original Check has not previously been presented for deposit or payment; (E) Client understands that in the event that a maker of Check Image asserts that the Check is unauthorized and the original Check is subsequently processed, the original Check may be dishonored; (F) Client and User have no knowledge or notice of information to indicate that a Check is fraudulent or not authorized by the maker of the Check; (G) unless otherwise permitted, Client, User, or any Client Agent will not cause the original Check to be cashed, deposited, negotiated, or otherwise presented or used for payment or deposit in any manner, (H) no transmission made by Client or User to Bank or Bank Agent contains any Virus; (I) no subsequent transferees of an Item, including Bank, shall sustain a loss as the result of the fact that a Check Image was presented for payment or returned instead

of the original Check; (J) all Checks and other transactions by Client or User are, and will be, bona fide, and all signatures on Checks are authentic and authorized; (K) Client or User will submit Check Images or other data in compliance with this Agreement and Applicable Law; (L) Client and User will use Mobile Deposit only for Client's own business use; (M) Client or User will only deposit remotely created Checks via methods approved by Bank, which shall not, without Bank's express written consent, include Mobile Deposit; and (N) Client will notify Bank if any person previously authorized to conduct transactions through Mobile Deposit is no longer authorized.

(h) Reporting Unauthorized Transactions

If Client believes someone has used or may attempt to use the Service without Client's permission, or that any other unauthorized use or security breach has occurred, Client must immediately, but no later than within twenty-four (24) hours, contact Bank at the phone number set forth in Section II.22(c) (Notice). In addition, Client agrees to mail a written report of such belief to Client's account officer at the Financial Center where the Account is maintained. Telephoning is the best way to minimize Losses for any error or unauthorized transaction.

(i) Third-Party Content

Bank may offer Third-Party Content that is available through the Service. Bank does not own any interest in, edit, review, or endorse any Third-Party Content. Client agrees that any Third-Party Content Client uses is provided to Client "as is."

(j) Wire Services via Mobile Banking

To use Mobile Banking to release wires, Client must agree to Bank's Funds Transfer Agreement. All wires will be subject to Bank's Funds Transfer Agreement which Client agrees to when electing to use Mobile Banking to release wires. In the event of any conflict between the Funds Transfer Agreement and this Section III.16 (Mobile Banking), the Funds Transfer Agreement will prevail but only to the extent necessary to resolve such conflict. Release of wires via Mobile Banking requires Client to understand and comply with the Funds Transfer Agreement, and Client agrees to do so with respect to all wires. To release a wire via Mobile Banking, Client is required to use Access Credentials.

17. Internet Banking

(a) Service Description

Internet Banking permits Client to perform certain banking functions on Accounts through the use of a browser on an internet-enabled device. Client may use Internet Banking to:

- (i) Obtain Available Balance and account activity information for Client Accounts;
- (ii) Review Account transaction information for the last eighteen (18) months;

- (iii) Transfer funds between Accounts, including Linked Accounts, if applicable;
- (iv) View the front and back images of cleared Checks drawn on or deposited to Accounts for the last eighteen (18) months (or longer if enrolled in Image Search);
- (v) Use Positive Pay Services to mark whether presented Checks should be paid or returned;
- (vi) Perform self-service Account maintenance such as changing Password;
- (vii) Request stop payments on Checks;
- (viii) Use the Wire Services to initiate USD wires, with appropriate access and permission;
- (ix) Use the ACH Services to initiate ACH Transactions, with appropriate access and permission;
- (x) Access Statements for the past eighteen (18) months through the eStatement Services;
- (xi) Download Account transaction information to third-party accounting software such as Quicken, QuickBooks, or Microsoft Money (note, (1) if Client uses personal financial management software or any other indirect service to access, track, download, or pay bills, the features listed above may not be available or the software may not work in conjunction with Internet Banking, and to access all of the Internet Banking features and services, Client should sign-in directly through the Website; and (2) Bank does not guarantee and is not responsible for the accuracy, completeness, validity, timeliness, reliability, integrity, quality, legality, usefulness, or safety of any third-party accounting software or any intellectual property rights therein); and
- (xii) Access the credit facility platform offered by Bank.

Internet Banking is generally accessible twenty-four (24) hours a day, seven (7) days a week, except when Internet Banking may be unavailable for system maintenance or upgrade. The Service is provided by Bank on an “as is,” “as available” basis.

(b) Initiating Internet Banking

To use Internet Banking, Client must have: (i) internet access and a browser that meets Bank’s software and hardware requirements (as specified at <https://www.flagstar.com/commercial/commercial-and-private-banking/online-and-mobile-banking.html>); (ii) Access Credentials; and (iii) an Account. Client will be unable to use Internet Banking if Client does not utilize the correct Access Credentials. There is a limit on the number

of failed login attempts and access to Internet Banking will be suspended if Client exceeds these limits.

(c) Persons Designated to Use Internet Banking

When enrolling for Internet Banking, Client shall designate a Primary Administrator. The Primary Administrator has full authority to permission and control Administrator and User access rights to Internet Banking. The Primary Administrator can permission one or more Secondary Administrator(s) or User(s) without regard to any signature requirements requested by Client or required by Client's governing documents. If Client has not designated a Primary Administrator, Bank will set up one or more Users upon the written direction of an Authorized Signer of Client. To set up each User, Client must provide a valid first and last name, phone number, email address, and any other information required by Bank. An individual may only be associated with one User ID.

Each Administrator, including Secondary Administrators, can set up one or more Secondary Administrators. Secondary Administrators have the same authority as a Primary Administrator to permission and control Administrator and User access rights to Internet Banking. In addition to access rights to Internet Banking, each Administrator can also permission other Administrators and Users with Enhanced Services.

CLIENT UNDERSTANDS AND ACKNOWLEDGES THAT ANY PERMISSION GRANTED BY ANY ADMINISTRATOR IS GRANTED WITH THE EXPRESS AUTHORITY OF CLIENT. CLIENT HEREBY DIRECTS BANK TO ACT, IN ACCORDANCE WITH THIS AGREEMENT, AS INSTRUCTED BY ANY USER THAT IS PERMISSIONED BY ANY ADMINISTRATOR, INCLUDING SECONDARY ADMINISTRATORS, ACTING ON BEHALF OF CLIENT. EXCEPT AS PROHIBITED BY APPLICABLE LAW, CLIENT SHALL PROMPTLY PROVIDE BANK WITH ANY INFORMATION OR DOCUMENTATION REGARDING ANY ADMINISTRATOR OR USER THAT IS REASONABLY REQUESTED BY BANK.

Each Administrator and User will have separate Access Credentials. If an Administrator has permissioned access to the Enhanced Services to an Administrator or a User, such Administrator or User will be issued an Access Credential for their sole use with the Enhanced Services. Client acknowledges that each Administrator and User will, at a minimum, be able to view Account balances, transactions, Check Images, online Statements, and online notices for any Account, including any Linked Account, for which access has been granted. Client further acknowledges that an Administrator may permission a User to use Internet Banking to initiate transfers and payments from Client Accounts, including any Linked Accounts.

It is the responsibility of Client to immediately notify Bank of any changes in the authority of an Administrator or User. An Administrator can remove or change the authority of a Secondary Administrator and/or User by accessing Internet Banking, selecting the applicable link to manage access to Client's Accounts on the User administration page, and following the directions to delete or change the authority of the Secondary Administrator or User. If Client wishes to terminate access for a Primary Administrator, Client must contact Flagstar Bank, N.A. Client Services by calling the number identified in Section II.22 (Notice) or contact Bank's Private Client Group

handling the Account. Once Bank receives such notice and has had a reasonable opportunity to act on such request, Bank will no longer honor the transactions and instructions of the Administrator or User whose authority has been terminated.

(d) Responsibility of Administrators and Users

Each Administrator and User given access to an Account agrees that he or she will access and use the Account only in accordance with the authority given to him or her by Client. Each time an Administrator or User accesses, views, or conducts a transaction on an Account, he or she represents and warrants to Bank that such action is authorized by Client. If Bank receives conflicting instructions, or believes that an Account's security or Bank's security may be at risk as a result of an action or failure to act of an Administrator or User, then Bank may at its sole discretion prohibit any person from being appointed as an Administrator or User or terminate that person as an Administrator or User, without prior notice to that person or Client.

The authority of an Administrator or User will terminate when: (i) Bank is notified by Client with respect to a Primary Administrator and Bank has had a reasonable opportunity to act, (ii) when Client or an Administrator has terminated such authority within the Internet Banking User administration page, or (iii) at Bank's sole discretion if Bank determines that Client, an Administrator or User has violated or failed to comply with any provision of this Agreement.

(e) Using the Password

Internet Banking cannot be used by Client, or an Administrator or User on behalf of Client, until Client is assigned a Company ID, and the Administrator or User receives Access Credentials, including a User ID and temporary Password, from Bank. Client, and any Administrator or User, can change their Password at any time while authorized.

Client agrees to: (i) keep any and all Passwords secure and strictly confidential, and not provide such Passwords to anyone else; (ii) instruct each Administrator and User that he or she must keep their Password secure and confidential and not disclose it to anyone else; (iii) immediately, but no later than within twenty-four (24) hours, notify Bank, and instruct any Administrator or User to notify Bank, if an Administrator or User believes a Password has been lost or stolen or has become known to an unauthorized person by either contacting Client's Private Client Group or contacting Bank as identified in Section II.22 (Notice). BANK WILL HAVE NO LIABILITY TO CLIENT FOR ANY UNAUTHORIZED PAYMENT OR TRANSFER MADE OR INFORMATION OBTAINED THROUGH THE USE OF AN ADMINISTRATOR'S OR A USER'S PASSWORD THAT OCCURS BEFORE CLIENT, THE ADMINISTRATOR, OR USER HAS NOTIFIED BANK OF IT BEING LOST OR STOLEN OR ITS POSSIBLE UNAUTHORIZED USE AND BANK HAS HAD A REASONABLE OPPORTUNITY TO ACT ON THAT NOTICE, AND CLIENT WILL BE RESPONSIBLE FOR ANY MONEY TRANSFERRED FROM AND/OR ANY INFORMATION OBTAINED ABOUT AN ACCOUNT THROUGH SUCH USE.

Bank may suspend or cancel a Password even without receiving such notice from Client, an Administrator, or a User if Bank suspects the Password has been lost or stolen or is being used in an unauthorized or fraudulent manner.

(f) Using the Secure Token

If Client has been granted permission to use the Enhanced Services, Bank will issue Client and, to the extent applicable, each of Client's Administrators and Users, a Secure Token. The Secure Token will be required for Internet Banking sign-on and may also be required for execution of Fund Transfers or ACH Transactions. Client and each Administrator and User agree to: (i) keep the Secure Token secure and strictly confidential and not to provide access to anyone else; and (ii) immediately, but no later than within twenty-four (24) hours, notify Bank if the Secure Token is lost, misplaced, or access to the Secure Token is otherwise compromised. BANK WILL HAVE NO LIABILITY TO CLIENT FOR ANY UNAUTHORIZED PAYMENT OR TRANSFER MADE OR INFORMATION OBTAINED THROUGH THE USE OF AN ADMINISTRATOR'S OR A USER'S SECURE TOKEN THAT OCCURS BEFORE CLIENT, THE ADMINISTRATOR, OR USER HAS NOTIFIED BANK OF IT BEING LOST OR STOLEN OR ITS POSSIBLE UNAUTHORIZED USE AND BANK HAS HAD A REASONABLE OPPORTUNITY TO ACT ON THAT NOTICE, AND CLIENT WILL BE RESPONSIBLE FOR ANY MONEY TRANSFERRED FROM AND/OR ANY INFORMATION OBTAINED ABOUT AN ACCOUNT THROUGH SUCH USE.

(g) Acknowledgement of Commercially Reasonable Security Procedures

By using Internet Banking to access the Enhanced Services, Client agrees that the Security Procedure described in this Agreement and in Bank's Funds Transfer Agreement with respect to wires and Section III.2 (ACH Service) with respect to ACH Transactions are commercially reasonable for the size, type, and frequency of the wires or ACH Transactions that Client expects to initiate. Client agrees to be bound by instructions, whether authorized or unauthorized, which Bank processes in compliance with these Security Procedures, unless Client has given Bank prior notice of possible unauthorized use as described herein and Bank has had a reasonable opportunity to act on such notice.

Client is responsible for ensuring that each Administrator and User maintains the confidentiality of his or her Access Credentials. Failure to do so may result in unauthorized access to, or initiation of transactions on, Linked Account(s). BANK WILL HAVE NO LIABILITY TO CLIENT FOR ANY UNAUTHORIZED ACCESS TO, OR TRANSFERS INITIATED ON, LINKED ACCOUNTS THROUGH THE USE OF AN ADMINISTRATOR'S OR A USER'S ACCESS CREDENTIALS THAT OCCURS BEFORE CLIENT, THE ADMINISTRATOR, OR USER HAS NOTIFIED BANK OF IT BEING LOST OR STOLEN OR ITS POSSIBLE UNAUTHORIZED USE AND BANK HAS HAD A REASONABLE OPPORTUNITY TO ACT ON THAT NOTICE. CLIENT WILL BE RESPONSIBLE FOR ANY MONEY TRANSFERRED FROM AND/OR ANY INFORMATION OBTAINED ABOUT A LINKED ACCOUNT THROUGH SUCH USE.

(h) Limitations on Use of Internet Banking

There is no limit on how often Internet Banking can be used. Any transfer or payment initiated from an Account through the use of Internet Banking is subject to the limitations and restrictions imposed on that Account in the Service Documentation.

(i) Linked Accounts

If a Client has designated or approved one or more Linked Account(s), any Client, and each Administrator and User of a Client, that has designated a Linked Account may have access to and be permitted to view or receive information about, and initiate transactions on, any Linked Account for any purpose. To change Client's Linked Account access levels, please contact Client Services as identified in Section II.22 (Notice). Bank must have a reasonable opportunity to act on any change to a Client's Linked Account [or Linked Account access levels]. Client is responsible for ensuring that Client, and each Administrator and User of a Client, maintains the confidentiality of his or her Access Credentials. Failure to do so may result in unauthorized access to, or initiation of transactions on, Linked Account(s).

BY DESIGNATING OR APPROVING ANY LINKED ACCOUNT, CLIENT AUTHORIZES, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, BANK TO ACT ON ANY INSTRUCTION, REQUEST, OR OTHER MESSAGE INITIATED BY EACH ADMINISTRATOR AND USER OF ANY OTHER CLIENT THAT HAS DESIGNATED A LINKED ACCOUNT. BANK WILL HAVE NO LIABILITY TO CLIENT FOR ANY UNAUTHORIZED ACCESS TO, OR TRANSFERS INITIATED ON, LINKED ACCOUNTS THROUGH THE USE OF ANY CLIENT'S, ADMINISTRATOR'S, OR A USER'S ACCESS CREDENTIALS. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, BANK DISCLAIMS, AND CLIENT, AND ANY ADMINISTRATOR, OR USER OF A LINKED ACCOUNT, EXPRESSLY ACKNOWLEDGES, THAT BANK HAS NO DUTY TO DETERMINE WHETHER ANY INSTRUCTION OR OTHER ACTION TAKEN ON A LINKED ACCOUNT WAS IN FACT SPECIFICALLY AUTHORIZED BY CLIENT.

CLIENT EXPRESSLY ACKNOWLEDGES THAT ANY OTHER CLIENT, AND EACH ADMINISTRATOR AND USER OF A CLIENT THAT HAS DESIGNATED A LINKED ACCOUNT MAY BE ABLE TO VIEW AND RECEIVE INFORMATION, INCLUDING PERSONALLY IDENTIFIABLE INFORMATION AND OTHER SENSITIVE PERSONAL INFORMATION, ABOUT CLIENT.

CLIENT, THE ADMINISTRATOR, OR USER OF A LINKED ACCOUNT MUST NOTIFY BANK OF THE LOSS, THEFT, OR POSSIBLE UNAUTHORIZED USE OF ANY ACCESS CREDENTIALS OF SUCH LINKED ACCOUNT AS SOON AS POSSIBLE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ANY CLIENT THAT HAS DESIGNATED A LINKED ACCOUNT WILL BE RESPONSIBLE FOR ANY MONEY TRANSFERRED FROM AND/OR ANY INFORMATION OBTAINED ABOUT A LINKED ACCOUNT THROUGH SUCH USE. CLIENT JOINTLY AND SEVERALLY INDEMNIFIES THE BANK TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW IN CONNECTION WITH ANY LOSSES INCURRED BY THE BANK IN CONNECTION WITH ANY LINKED ACCOUNT.

(j) Right to Receive Documentation of Transfers and Payments

For each single and future dated Internet Banking transfer and payment requested, Client will be provided a reference number as confirmation. Client will receive a Statement for each Account either electronically or in the mail, as agreed with Bank. The Statement will reflect all of Client's transactions, including Internet Banking transfers and payments relating to that Account.

(k) Errors or Questions About Transactions Initiated Through Internet Banking

In case of errors or questions about Internet Banking transactions, Client should immediately contact Bank as indicated in Section II.22 (Notice) if Client believes any Statement or Account information is wrong or if Client needs more information about an Internet Banking transaction or payment listed on the Statement. Bank must hear from Client in writing no later than fourteen (14) days after Bank sent the FIRST Statement on which the problem or error appeared even if Client telephoned Bank about the error or question. Please provide the Account title, Account number, the dollar amount of the suspected error, and a detailed description of the suspected error or transaction. Bank will investigate Client's question or complaint and inform Client of the results of the investigation once it has been completed.

(l) Bank's Liability for Internet Banking

Bank shall be excused from failing to act or any delay in acting in the following instances:

- (i) If Client does not have a sufficient Available Balance in the Account or available credit in Client's Credit Line to make a transfer or payment.
- (ii) If Client's device or the Secure Token malfunctions.
- (iii) If the browser or the processing center of Bank or Bank Agent that is used for Internet Banking transfers or payments is not working properly and Client knew or was advised by Bank or Bank Agent about this when Client made the Internet Banking transaction.
- (iv) If Client's, Administrator's, or User's Access Credentials have been reported lost or stolen or Bank has reason to believe that the Internet Banking transfer or payment transaction is unauthorized.
- (v) If the transaction would result in Bank's having exceeded any limitation upon its intra-day net funds position established pursuant to present or future Federal Reserve guidelines, would violate any applicable provision of any risk control program or applicable policies, procedures, or practices, would violate any Applicable Law, federal, or state court or administrative order or process or Bank is otherwise legally constrained from doing so.
- (vi) If Bank has reasonable cause not to honor for Bank's or Client's protection.
- (vii) If Client's, Administrator's, or User's Internet Banking privileges have been suspended.
- (viii) If the funds in the Account are subject to legal process or other encumbrance restricting the transfer or payment.
- (ix) If the payee has a mailing address outside the United States.

- (x) To any third party or for any act of omission of Client, an Administrator, and User (including the amount, accuracy, or timeliness or due authorization) or of any third party.
 - (xi) Any other reason stated in this Agreement or any Credit Line agreement between Client and Bank.
- (m) Liability for Unauthorized Internet Banking Transfers and Advisability of Prompt Reporting

If Client believes an Administrator's or User's Access Credentials have been lost or stolen or Client believes that someone has transferred money from the Account using Internet Banking without Client's permission, then change the Password immediately and, if Client is unable to do so, or if the Access Credentials have been lost, Client must call Bank immediately, but no later than within twenty-four (24) hours, at the number identified in Section II.22(c) (Notice). Client can also write Bank at the address identified in Section II.22(a)(ii) (Notice).

Client is responsible for all Internet Banking transactions that occur through use of Access Credentials of Client, an Administrator, or a User, even if the Access Credential was lost or stolen. Client could lose all of the money in the Account and the maximum available credit on Client's Credit Line from such transactions. Changing the Password or calling Bank to block the use of the Password is the only way to keep possible Losses down.

If the Statement shows Internet Banking transfers or payments that Client did not make, including those made through use of the Password or other means, Client must call Bank at the number identified in Section II.22 (Notice).

(n) Use of Website outside the United States

The Website is located in the United States and may be owned, hosted, or controlled by Bank or an Affiliated Entity. Bank makes no representation or warranty that the Website or Internet Banking are available or appropriate for use in countries other than the United States. Client is responsible for complying with all Applicable Laws (including foreign and domestic laws and regulations requiring consent from a Governmental Authority) applicable to where Client uses Internet Banking or view the Website.

(o) Website Links

The Website may contain links to other third-party websites. When linking to those third-party websites, Client is subject to the terms posted by those third-party websites, including any privacy policy. Bank is not responsible for, nor does Bank control, the content, products, or services provided by linked websites. Bank does not endorse or guarantee the products, information, services, or recommendations provided by linked websites and are not liable for any failure of products or services advertised on those websites. In addition, each third-party website may provide less security than Bank does and may have a privacy policy different than Bank's Website. Client should review such

third-party website's security and privacy policy to understand Client's rights. Client's access, use, and reliance upon such content, products, or services are at Client's own risk.

(p) Services Accessible via Internet Banking

(i) Stop Payments

Client may use Internet Banking to place stop payment orders on any paper Checks written on an Account that have not cleared. Such stop payments are subject to the terms of the Account Agreement and fees set forth in the Fee Schedule applicable to the Account. Before placing a stop payment, Client must verify that the Check(s) has (have) not cleared the Account.

(ii) Bill Payment Services

Client may use Internet Banking to direct Bank to make payments from an Account to payees chosen by Client in accordance with this Agreement. To use the Bill Payment Services, Client must have access to Internet Banking, an Account, at least one payee listed on Client's payee list, and an active email account that Client regularly uses. When Client signs onto the Bill Payment Services, Client may establish a list of payees. Client may add a new fixed payment for any payee, but only if that payee is on Client's authorized list of payees. If the payee is not set up at its bank to receive electronic payments, then the Bill Payment Service will generate a paper Check on Client's behalf for that payment and mail that paper Check to the payee. The paper Check will carry Client's Account number and will clear directly through the Account. A unique Check number for each paper Check will appear on Client's Statement for easy recognition. Bank reserves the right to refuse the designation of a payee for any reason. Bank is not responsible if the Bill Payment cannot be made due to incomplete, incorrect, or outdated information provided by Client regarding a payee or if Client attempts to pay a payee that is not on Client's payee list.

(A) Bill Payment Process

Bank will process Bill Payments on the Business Day designated by Client, provided that the Bill Payment request is received prior to the Cut-off Time. Bill Payment requests received on a Business Day after the Cut-off Time, or on a day that is not a Business Day, will be processed on the next Business Day. Client must select a Bill Payment Date that is at least five (5) Business Days before the actual bill due date required by the payee to allow time for the Bill Payment to reach and be processed by the payee. If the Bill Payment Date falls on a day that is not a Business Day, Client must select the preceding Business Day as the Payment Date. Due to circumstances beyond Bank's control, some payees take longer to post payments than others. Bank suggests sending the first payment to a particular payee eight (8) Business Days in advance of its due date. After that payee has posted the payment, Client will have a better understanding of how much time to allow for future Bill Payments to that payee. FOR RECURRING BILL PAYMENT REQUESTS, IF CLIENT SELECTS THE 29TH, 30TH OR 31ST AS THE BILL PAYMENT DATE AND THAT DATE DOES NOT EXIST IN A GIVEN

MONTH (E.G., FEBRUARY) THEN THE PAYMENT WILL BE MADE ON THE FIRST BUSINESS DAY OF THE FOLLOWING MONTH (E.G., MARCH 1ST). Bank will reimburse Client for any late payment-related charges by a payee up to \$50.00 should a Bill Payment post after its due date, as long as the Bill Payment Date was scheduled in accordance with this Agreement. When Client schedules a Bill Payment, Client authorizes Bank to debit the Account and remit funds on Client's behalf.

(B) Bill Payment Liability

Bank will incur no liability and its reimbursement obligation with respect to payee late charges shall be void if Bank is unable to complete any payments initiated because (1) in scheduling the Bill Payment, Client has not provided the correct Account information, or the correct payee name, address, phone number, or account information, or (2) Bank's Bill Payment processing center is not working properly and Client knows or has been advised by Bank about the malfunction before executing the transaction. Client agrees to have available and collected funds on deposit in the Account in amounts sufficient to pay for all Bill Payments requested, as well as any Checks and other payment obligations Client has with respect to the Account. Bank reserves the right, without liability, to reject or reverse a Bill Payment if Client fails to comply with this requirement or any other terms of this Agreement. If Client does not have sufficient funds in the Account to pay a Bill Payment and Bank has not exercised its right to reverse or reject the Bill Payment, Client agrees to pay Bank the amount of such Bill Payment on demand. Client further agrees that Bank, at its option, may charge any of Client accounts with Bank to cover the amount of such Bill Payment. Bank reserves the right with respect to each Bill Payment to select the method in which to remit funds on Client's behalf to pay that Bill Payment to the payee. Any Bill Payment can be changed or canceled, provided Client accesses the Bill Payment Service via Internet Banking prior to the Cut-off Time on the Business Day prior to the Business Day of the Bill Payment Date.

(C) Returned Payments

In using the Bill Payment Services, Client understands that the payee's bank or bank to which such Bill Payment was sent and/or the United States Postal Service may return the Bill Payment for various reasons, including: (1) the payee's account number is not valid; (2) the payee's bank is unable to locate payee's account; or (3) the payee advised that Client's account with payee is paid in full. Bank will use its best efforts to research and correct the returned Bill Payment, or void the returned Bill Payment and credit Client's Account for the amount of that returned Bill Payment. Client also authorizes Bank to credit the Account for the amount of any returned Bill Payments that are voided.

(D) Cancellation of Bill Payment

Client may cancel or stop a single Bill Payment at any time before the Bill Payment Date for that Bill Payment through the use of Internet Banking. If the Bill Payment is a recurring payment set up on the Bill Payment Services, then Client can cancel Bill Payment (1) through the use of Internet Banking provided that the request is received before the Bill Payment Date (as described above) of the next recurring Bill Payment, or (2) contacting Bank as identified in Section II.22 (Notice). Phone and written cancellation requests must be received at least three (3) Business Days prior to the Bill Payment Date. In addition, when making an oral request for cancellation of a recurring Bill Payment, Bank requires that Client put the request in writing and provide it to Bank at the address identified in Section II.22 (Notice) within fourteen (14) days after Client made the request for cancellation. Once a recurring Bill Payment is cancelled, Client must reschedule it if Client wants that Bill Payment to continue in the future.

(iii) ACH Services

If Client wishes to use ACH Services via Internet Banking, Client must be enrolled in ACH Services and shall use ACH Services in accordance with Section III.2 (ACH Services).

(iv) Wire Services

To use Internet Banking to initiate wires from an Account, Client must agree to Bank's Funds Transfer Agreement. All wires will be subject to Bank's Funds Transfer Agreement which Client agrees to when electing to use Internet Banking to initiate wires. In the event of any conflict between the Funds Transfer Agreement and this Section III.17 (Internet Banking), the Funds Transfer Agreement will prevail but only to the extent necessary to resolve such conflict. Initiation of wires via Internet Banking requires Client to understand and comply with the Funds Transfer Agreement, and Client agrees to do so with respect to all wires. To release a wire via Internet Banking, Client is required to use Access Credentials.

(A) Processing Schedule for Wires Initiated via Internet Banking

Wires initiated via Internet Banking are processed in real-time throughout the Business Day, subject to the Cut-off Time, and Bank's rights to reject or return/suspend a wire due to insufficient, inaccurate, or inappropriate wiring instructions, as such rights are described in the Funds Transfer Agreement. Client acknowledges Bank's right under the Funds Transfer Agreement to reverse, adjust, stop payment, or delay any transfer order subject to the rules, regulations, laws, and operating circulars of any transfer system. Although Bank may submit wires via Internet Banking twenty-four (24) hours a day, seven (7) days a week, subject to Internet Banking availability, wires will be processed only on Business Days, subject to system availability and in accordance with the Cut-off Times.

(B) Daily Limits and Thresholds

In addition to any daily limits or thresholds set forth in the Funds Transfer Agreement, wires initiated through Internet Banking are subject to the per transaction limit selected by Client and indicated on the Service Application. Client may also impose other limits on Users on the Service Application. A wire initiated through Internet Banking requires one User to input wire information and a separate User to approve the wire. Client may designate Users with input or approval rights on the Service Application. Bank may establish and change at any time in Bank's sole discretion the per transaction limits on wires initiated by Client or User through Internet Banking, and input or approval rights for any User, and Bank will have no liability to Client or any other person if Bank rejects or suspends the processing of any wire made through Internet Banking that would exceed such limits or such rights.

(v) Account Reconciliation and Positive Pay Services

To use Account Reconciliation and Positive Pay Services via Internet Banking, Client must be enrolled in the Account Reconciliation and Positive Pay Services. In the event of any conflict between Section III.1 (Account Reconciliation and Positive Pay Service) and this Section III.17 (Internet Banking), the terms in Section III.1 (Account Reconciliation and Positive Pay Service) will prevail, but only to the extent necessary to resolve such conflict.

PART IV: GLOSSARY

Capitalized terms not defined in this Agreement have the meaning provided in the Rules.

Acceptance: Any signed writing indicating Client's acceptance of or agreement to be bound by the terms of this Agreement, which may be a separate document or may be included within a Service Application.

Access Controls: SWIFT procedures and requirements for controlling access to SWIFT messaging services.

Access Credentials: The credentials required to access a Service, including the User ID, Password, token, encryption software, or any other method of identification or authentication, as applicable.

Account: The account that Client has at Bank that is eligible and authorized by Bank for use with the applicable Service and any replacement account, if the Account is closed and replaced with another.

Account Agreement: The Business Bank Account Agreements and Disclosures Booklet for the Account, as amended from time to time, or such other agreement that governs the Account.

Account Analysis: The reconciliation of Client's Account balances, after accounting for any Service Fees or credits to Client's Account.

ACH: The Automated Clearing House.

ACH Block: Has the meaning set forth in Section III.2(p)(i).

ACH Credit Details: Information regarding Credit Entries to Client's Account.

ACH Selective Item Processing: Has the meaning set forth in Section III.2(o)(i).

ACH Transaction: An ACH Credit Entry or ACH Debit Entry.

Administrative Fee: Has the meaning set forth in Section III.10(q)(i).

Administrator: The individual(s) that controls, or is given signing authority by Client and designated by Client during enrollment to control, User access rights and Access Credentials.

Affiliated Entity: Each of Bank, its affiliates, and Bank Agents, and their respective officers, directors, employees, affiliates, agents, representatives, licensors, suppliers, or service providers.

Agreement: Has the meaning set forth in Part I (Introduction).

ANSI: The American National Standards Institute.

Applicable Law: All applicable laws from a Governmental Authority, both domestic and foreign, as may be amended and in effect from time to time, including common or customary laws, statutes, constitutions, policies, decrees, judgments, treaties, regulations, directives, by-laws, rulings, orders, guidance, or operating circulars governing a Service or any activities or transactions pursuant to this Agreement.

Authenticated Message: A message authenticated by SWIFT.

Authentication Procedures: SWIFT procedures for authentication. Such authentication may include confirming the sender and recipient of the message have exchanged bilateral keys, entered into a relationship management application, or taken other steps to secure the transmission of SWIFT messages between them as SWIFT may require from time to time.

Authorization Criteria: Criteria specified by Client in the Service Application for accepting or rejecting Entries against Client's Account.

Authorized Representative: A person designated on a Service Application as being authorized to give instructions to Bank with respect the Service, including to initiate Payment Orders in the name of Client.

Authorized Signer: An individual authorized by Client to sign on behalf of Client and whose name and specimen signature appear on the applicable Service Application.

Available Balance: With respect to (i) a deposit Account, the amount made available for withdrawal under Bank's Funds Availability Schedule; (ii) a Monogram Money Market Funds Program Account, the amount made available for withdrawal under Bank's Funds Availability

Schedule; and (iii) the Monogram Managed Account, the combined balance of the value of any cash deposit that has not yet been used to purchase money market shares, core market fund shares, and the amount available under any margin account; and with respect to each of (i)-(iii) Bank reasonably determines is not subject to a hold, dispute, or legal process preventing withdrawal. Bank may deem as unavailable those funds represented by a Check that has not been collected in accordance with commercially reasonable collection practices for such Checks.

Bank: Has the meaning set forth in Part I (Introduction).

Bank Agent: Any vendors, agents, subcontractors, service providers, subsidiaries, affiliates, and/or any third party used by Bank in connection with the Service.

Bank Check: A negotiable instrument drawn on and issued by Bank and purchased by Client to make a payment to a third party.

Bar Foundation: The applicable foundation or other entity that receives interest payments on an IOLA Account, IOLTA Account, or IOTA Account.

Bill Payment: A payment made from an Account through the use of the Bill Payment Services.

Bill Payment Date: The date Client selects to make a Bill Payment.

Bill Payment Services: The use of Internet Banking to pay a bill or make any other payment to a payee from an Account.

Block Authorization: Criteria specified by Client in the Service Application for rejecting Entries against Client's Account.

Business Day: Any day other than a Saturday, Sunday, or a day on which banking institutions in the State of New York are authorized or obligated by law or executive order to close.

Call-Back: A call-back to an Authorized Representative to authenticate or verify a transaction.

Check: Has the meaning ascribed in Subparts C and D of Regulation CC promulgated by the Federal Reserve Board, as amended from time to time, including, without limitation, checks, Substitute Checks, Remotely Created Checks, Money Orders, drafts, and other instruments or Item payable in U.S. Dollars.

Check Image Transmissions: Electronic transmissions of Check images and Check data, including the MICR information, captured by Client via Client's own methods or devices to Bank or Bank Agent.

Client: Has the meaning set forth in Part I (Introduction).

Client Agent: A person or entity designated by Client to act on behalf of and as the agent of the Client with respect to a Service.

Client Data: Data received by Bank from Client in relation to a Service, including any information concerning an Account.

Company ID: A system generated number used to identify Client's Internet Banking profile.

Concentration Account: An Account that Client selected on the Service Application to be the Account at Bank to and from which the transfers will be initiated in connection with the Sweep (Investment, Target Balance, and Zero Balance) Service.

Confidential Information: All information, including Software, computer programs and code, software programs or documentation, hardware design, data file content and organization, techniques, inventions, methods, specification, rules, procedures, protocols, forms, instructions, trade secrets, copyrights, and any other proprietary rights of Bank or any Bank Agent used in connection with or in any way relating to a Service.

Credit Line: A credit line established by Bank for use by Client.

Customer: A customer of Client.

Customer Agreement: A written agreement between a Client and Customer in connection with Client acting as a Third-Party Sender.

Cut-off Time: The processing cut-off time specified in the Service Documentation.

Damages: Direct, indirect, incidental, special, consequential, exemplary, or punitive damages of any kind, whether economic or non-economic, loss of profits, loss of business or other financial loss, lost savings, or lost benefits even if Bank has been advised of the possibility of or could have foreseen such damages.

Data File: Electronic data file providing information about transactions on Client's Account, provided in accordance with Bank procedures or as otherwise agreed to by Bank.

Default Decision: The default decision designated by client during service setup, to be applied to transaction Exceptions for which the Bank received no response from the Client by the applicable service Cut-off Time.

Deficiency: The status of a Service Allowance with a negative net balance, resulting from the application of Client's Service Allowance credits towards Service Fees.

Dollar Limit: A limit set by Bank representing a maximum dollar amount that applies in connection with a Service, as may be adjusted by Bank.

Downloads: Reports, documentation, or other materials available for downloading from the Portal.

Electronic Image: Has the meaning ascribed in Check Clearing for the 21st Century Act, as amended from time to time.

Electronic Item: A digital representation of an Item or electronic information related to an Item.

Enhanced Services: The permission given to an Administrator or User to input and/or release ACH Transactions and/or wires.

Equipment: Any equipment, including the Scanner and the Web Application, used by Client to access the Remote Deposit Capture Service.

Escrow Account: An Account that is any of the following: (1) the Master Account and related Sub-Accounts established by an Escrow Agent to hold funds of one or more Escrowees; (2) an IOLA Account, (3) an IOLTA Account, (4) IOTA Account, (5) a Standalone Escrow Account, or (6) a Monogram Escrow Account.

Escrow Agent: Each individual, sole proprietor, corporation, partnership, limited liability company, or other entity opening an Escrow Account.

Escrowee: Each person or entity for whom or which Client is holding funds deposited into an Escrow Account.

eStatement: An electronic Statement made available through the eStatement Service.

Exception: A Check presented for payment that does not match a Check provided to Bank by Client on an issue file.

Exception Item: Transaction(s) requiring further client review and decision.

Exchange Agreement: A Section 1031 Exchange agreement between an Escrow Agent who is a Qualified Intermediary and an Escrowee.

Exchange Funds: The proceeds from one or more Section 1031 Exchanges.

Exchangor: An Escrowee involved in a Section 1031 Exchange.

Exchangor Interest Rate: The interest rate payable to the Exchangor as set forth in the Service Application and subject to change in Bank's sole discretion from time to time.

FDIC: The Federal Deposit Insurance Corporation.

Federal Reserve Board: The Board of Governors of the Federal Reserve System.

Fee Account: An Account that Client holds at Bank that Client has instructed Client's Administrative Fee to be deposited into.

Fee Schedule: A document setting forth the charges and fees Bank charges Client in connection with a Service or the Account.

File Transmission Method: The method selected by the Client on the Service Application to be used to electronically transfer Files between the Client's computer system and Bank's computer system, which methods may include using SFTP or Internet Banking.

File Transmittal: A written request to Bank or Processor via email transmission to the email address provided by Bank or Processor or via electronic transmission; such email or electronic transmission to include the information specified by Bank or Processor.

Financial Center: An office of Bank where Client may open Accounts and conduct business with Bank.

FinCEN: The Financial Crimes Enforcement Network.

Fund: The fund selected on the Service Application, shares of which are purchased by Bank at the direction of and on behalf of Client in connection with the Investment Sweep Service.

Fund Account: The non-FDIC insured Monogram Money Market Funds Program Account selected on the Service Application and holding Client's shares of the Fund.

Funds Availability Schedule: The Funds Availability Schedule provided by Bank, as amended from time to time, which may be included within the Account Agreement.

Funds Transfer: A wire or other electronic transfer of funds that is subject to Bank's Funds Transfer Agreement.

Funds Transfer Agreement: The Funds Transfer Agreement between Bank and Client, as amended from time to time, which may be included within the Account Agreement.

FX Transaction: A transaction requiring a foreign currency exchange or a transaction that is a "remittance transfer" as that term is defined in Regulation E.

General Terms: The provisions set forth in Part I, Part II, and Part IV of this Agreement.

Governmental Authority: The government of the United States of America, any other nation, or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank, or other entity exercising executive, legislative, judicial, taxing, regulatory, or administrative powers or functions of or pertaining to government.

IAT: International ACH transaction.

Image: An Electronic Item or Paper Image.

Image Search: The use of Internet Banking to view images of Checks, deposit tickets, and other items that have been deposited to an Account.

Initiation Method: The method Bank offers in the Service Application or other Service Documentation for accessing or using the Service.

Internet Banking: A Service provided by Bank, which permits Client (or an Administrator, Secondary Administrator, or User) to perform various functions on Accounts linked to the Service through the use of an internet-enabled browser.

IOLA Account: An Account designated as an Interest on Lawyer Account that is maintained by an Escrow Agent who is either an attorney licensed to practice law in, or a law firm doing business in, a state in which Applicable Law establishes an Interest on Lawyer Account program.

IOLTA Account: An Account designated as an Interest on Lawyer Trust Account that is maintained by an Escrow Agent who is either an attorney licensed to practice law in, or a law firm doing business in, a state in which Applicable Law establishes an Interest on Lawyer Trust Account program.

IOTA Account: An Account designated as an Interest on Trust Account that is maintained by an Escrow Agent doing business in a state in which Applicable Law establishes an Interest on Trust Account program.

IRS: The Internal Revenue Service.

Item: An instrument or a promise or order to pay money handled by a bank for collection or payment. The term does not include a Payment Order governed by UCC Article 4A or a credit or debit card slip.

Items of Payment: Negotiable instruments for the payment of money (including Checks, drafts, and money orders).

Landlord Escrow: A Client that is an owner, landlord or managing agent of residential or commercial real property that opens or maintains a Rent Security Account.

Linked Accounts: Accounts owned or maintained by Client that Bank has permitted, upon Client's request or, if applicable, upon Client's request and the approval of the other Client, to be linked together for Internet Banking.

Lockbox: A lockbox maintained by Bank on Client's behalf at the Post Office. A Box designated by the Bank to which Customers may send Payments and accompanying invoices for processing. Bank may change the designated P.O. Box from time to time upon written notice to Client.

Lockbox Web Portal: A portal or website offered by Bank to Client that enables Client to view images of Items of Payment received at the Lockbox and deposited into the Account and utilize other Lockbox Services as set forth in the Service Documentation.

Losses: All losses, damages, claims, suits, actions, causes of action, judgments, awards, assessments, liabilities, fines, penalties, fees, charges, costs and expenses and other payments however suffered or characterized, all interest thereon, and all legal fees, including court costs, costs and expenses of investigating any claim, lawsuit or arbitration and any appeal therefrom, and reasonable attorneys', accountants', investment bankers', expert witness', or any other specialists' fees incurred in connection therewith.

Master Account: The Escrow Account, maintained at Bank by the Escrow Agent, and that is used by the Escrow Agent to manage the funds of one or more Sub-Accounts.

Master Sub-Account: The portion of the funds in the Master Account of a Monogram Escrow Account that is unallocated or awaiting disbursement.

MICR: Magnetic ink Character Recognition.

Mobile App: A downloadable application offered by Bank for use on a Mobile Device.

Mobile Banking Alert: Any alerts or notifications related to the Mobile Banking Service that are sent via email, text message, push notification, or other means, including notifications concerning direct deposits, personal information changes, or bill due dates.

Mobile Deposit: Mobile Deposit provides Clients the ability to access and make single check deposits into an Account, as long as the Client and Accounts are enrolled in Mobile Banking through the Mobile App.

Mobile Device: A wireless device including a cell phone, smartphone, personal digital assistant, or tablet computer.

Monitoring Tools: A mechanism to evaluate Client's payments, including mechanisms that evaluate the risk of possible fraudulent activity.

Monogram Escrow Account: The Escrow Account offered by Bank that allows the Escrow Agent to manage the Master Sub-Account and Sub-Accounts through Monogram Escrow Express.

Monogram Escrow Express: Bank's internet-based cash management platform used by Escrow Agents to manage their Master Sub-Accounts and Sub-Accounts.

Monogram Managed Account: Non-FDIC insured investment account at Flagstar Advisors, Inc. that can be designated for access by use of a debit card or ATM card.

Monogram Money Market Funds Program Account: Non-FDIC insured investment account that Client has established at Bank to hold shares of those money market mutual funds that Client has purchased under Bank's Monogram Money Market Funds Program, which can be designated for access by use of a debit card or ATM card.

Nacha: the National Automated Clearinghouse Association.

Non-Value Messages: Messages that Bank may process at Client's request, including through SWIFT or another messaging service, that are not Payment Orders or other value transfers.

ODFI: Originating Depository Financial Institution.

OFAC: The Office of Foreign Assets Control.

On-Us Entry: Has the meaning set forth in Section III.2(d).

Paid Check Information: Information provided to Client by Bank regarding Checks paid on Client's Account.

Paper Image: A paper copy created with image technology, derived from an original paper Item, a Substitute Check, or an Electronic Item, or created from an Image of any of these.

Partial Transfer User: A User that is authorized to perform transfers from a Sub-Account to a Master Account without closing the Sub-Account.

Password: A password or personal identification number that is provided by Bank or selected by a User to access a Service.

Payment Order: Funds Transfer instructions received from a sender to a receiving bank to pay, or cause another bank to pay, a specific amount of money to a designated beneficiary and subject to Bank's Funds Transfer Agreement. As a sender, this means Funds Transfer instructions received from Client by Bank to pay, or cause another bank to pay, a specific amount of money from Client's Account to a designated beneficiary. As a beneficiary, this means Funds Transfer instructions received by Bank from a sender to pay a specific amount of money to Client's Account.

Photos in Lieu: A photographic facsimile of an original Item used to request a Credit Entry and provide an indemnified photocopy or notice in lieu of return in response to a Debit Entry for a lost, destroyed, or non-conforming Item.

Portal: The portal or website made available by Bank in connection with the FX Web Portal Service.

Primary Administrator: The individual designated by Client during enrollment to control Administrator and User access rights to Internet Banking.

Processor: A third party processor designated by Bank in connection with the ACH Service.

Provisional Credit: A temporary credit made to Client's Account that is subject to final settlement of a transaction and subject to the terms of the Account Agreement.

Qualified Escrow Account: An Escrow Account used in connection with Bank acting as a Qualified Escrow Agent.

Qualified Escrow Agent: A person acting as Escrow Agent in connection with a Section 1031 Exchange.

Qualified Intermediary: Has the meaning ascribed in 26 C.F.R. § 1.1031(k)-1(g)(4), as may be amended from time to time.

Qualified Intermediary Interest Rate: The interest rate payable to the Qualified Intermediary as set forth in the Service Application and subject to change in Bank's sole discretion from time to time.

RDFI: A Receiving Depository Financial Institution.

Reconciliation Information: Information provided to Client in connection with the Service, which may include Exceptions, Paid Check Information, and Reconciliation Reports.

Reconciliation Report: A report provided to Client by Bank in accordance with the Account Reconciliation Service.

Rent Security Account: The Master Account and Sub-Accounts opened or maintained at Bank by Client to hold rent security funds of Tenants.

Revenue Account: An Account that Client holds at Bank that Client has instructed to be used to deposit the portion of the interest accrued for the benefit of Client in connection with the Monogram 1031 Escrow Service.

Rules: The Nacha rules, as may be amended, which may be purchased at www.nacha.org.

Scanner: The scanning device used by Client, as permitted by Bank, to transmit Images to Bank or Bank Agent via the Remote Deposit Capture Service, to include any related hardware required to operate the Scanner, as well as any Software or code embedded in the device.

Secondary Administrator: An individual designated by Client, or a Primary Administrator on behalf of Client, to control Administrator and User access rights to Internet Banking.

Section 1031 Exchange: A transaction involving the tax deferred exchanges of certain property pursuant to 26 C.F.R. § 1.1031.

Secure Token: A hardware or software token provided by Bank that generates a unique, one-time passcode, that changes periodically, to be used along with the User ID and Password for accessing or using a Service.

Security Procedures: The security procedure described in the applicable Service Documentation.

Service: The applicable Cash Management service, as described in the Service Terms and the associated Service Documentation.

Service Allowance: A credit balance derived from a calculation using an earnings credit rate established by Bank in its sole discretion, which may be changed by Bank at any time in its sole discretion.

Service Application: Has the meaning set forth in Part I (Introduction).

Service Documentation: Has the meaning set forth in Part I (Introduction).

Service Fees: The fees, charges and expenses owed by Client to Bank for services rendered, as determined by Bank from time to time in its sole discretion.

Service Terms: The provisions set forth in Part III (Service Terms).

SFTP: Secure File Transfer Protocol.

Software: The programs and data files provided by Bank for use on a computer or other electronic device in connection with one or more Services.

Standalone Escrow Account: An Account maintained by the Escrow Agent holding funds of one Escrowee and that does not have Sub-Accounts.

Standing Transfer Order: A standing order received by Bank from Client to initiate Payment Orders payable from Client's Account at regular intervals as specified in the standing order.

Statement: The record of Account balance and activity that is provided to Client at the end of each Statement Cycle Period for an Account.

Statement Cycle Period: The monthly period set at Bank's discretion to begin or end on the same calendar day, Business Day, or day of a particular week each month, except that the initial and final Statement Cycle Periods may begin or end on a different day. Bank may decide to change the beginning or ending day of a Statement Cycle Period for all Accounts or for a group of Accounts. Any Statement Cycle Periods resulting from such a change in such beginning or ending day and the initial and final Statement Cycle Periods may be longer or shorter than a monthly period.

Sub-Account: An Account at Bank in which funds held in escrow for an Escrowee have been deposited, transferred, or allocated by the Escrow Agent. The Sub-Account may or may not earn interest.

Submission: Materials submitted or made available by users of the Portal through or in connection with the Portal, including on profile pages or on the Portal's interactive services, such as message boards and other forums, and chatting, commenting, and other messaging functionality.

Substitute Check: Has the meaning ascribed in Regulation CC promulgated by the Federal Reserve Board, as amended from time to time.

Surplus: The status of a Service Allowance with extra credits that have not been applied towards Service Fees.

SWIFT: The Society for Worldwide Interbank Financial Telecommunication and its system.

SWIFT Participant: Any financial institution or non-financial institution permitted by the SWIFT Rules to send or receive SWIFT messages.

SWIFT Rules: The rules, documents, and other publications providing specific terms, conditions, and other details relating to the provision and use of SWIFT messaging services applicable to Client, as may be amended from time to time, and which are available at www.swift.com. Depending upon Client's agreement with SWIFT, the SWIFT Rules may include SWIFT arrangements, terms and conditions, policies, service descriptions, and online information.

SWIFT Security Procedures: SWIFT's Access Controls and Authentication Procedures, as may be applied to a Payment Order.

Target Account: An Account Client selected on the Service Application to be the Account at Bank for which the Target Balance will apply in connection with the Service.

Target Balance: Client's desired target balance in the Target Account as listed on the Service Application or otherwise instructed to the Bank.

Tenant: Each tenant whose rent security is on deposit in a Rent Security Account.

Third-Party Administrator: A third party that Client has designated in the Service Application as an Authorized Representative that may control User Access Rights and Access Credentials.

Third-Party Content: Any information, products, services, materials, commentary, or tools supplied by a company not affiliated with Bank, including third-party messaging, data and trading services, Submissions, and Downloads.

TIN: Taxpayer Identification Number.

Total Interest Rate: The sum of the Exchangor Interest Rate and Qualified Intermediary Interest Rate.

Transaction: (1) Any Funds Transfer or Payment Order (including any communication cancelling or amending a Payment Order) or (2) any instruction, data, or other information that Bank receives in Client's name with respect to a Funds Transfer.

UCC: The Uniform Commercial Code, as in effect in the State of New York.

USD: United States Dollars.

User: Any authorized employee or representative of Client designated by Client or the Administrator to access a Service.

User ID: A unique identifier given to each User that identifies the User on a Service.

Virus: Any virus, worm, Trojan horse, time bomb, spyware or other computer code, file, or program that is potentially harmful or invasive, or intended to damage or hijack the operation of, or to monitor the use of, any hardware, software, or equipment.

Web Application: The web-based application used by Client to access a Service.

Website: Bank's website at <https://www.flagstar.com/commercial/commercial-and-private-banking.html>.

Wire File: An electronic data file containing one or more Payment Orders.

Wire Services: The use of Internet Banking to initiate a wire from an Account.