



In this Agreement, “we,” “us,” “our,” and “Bank” refer to SMBC MANUBANK. The words “you” and “your” refer to the person or entity identified on our records as the accountholder of the Account using one or more Services. Any other defined terms in this Agreement will be capitalized and defined below.

## **THE SERVICES, AMENDMENTS**

You have engaged the Bank to perform the Services. The Terms and Conditions will apply to the Services and the Accounts which access the Services. This Agreement contains general provisions that apply to the Services. The general provisions are in all cases subject to more specific provisions in the Acceptance Forms, Set-Up Forms, User Guides or other referenced documents. Unless otherwise provided, to the extent any provision of this Agreement conflicts with other Terms and Conditions, the provisions of this Agreement will control. If we offer you special terms and conditions for a Service that differ from the terms and conditions set forth in this Agreement, we will give those terms and conditions to you in a written form that clearly specifies that those terms and conditions apply in place of contrary or conflicting terms and conditions contained in this Agreement or in our standard forms and other documents. In some cases, we may ask you to sign a certification or other form confirming certain information and agreeing to additional terms and conditions that will apply to a Service.

In our effort to provide you with a choice of quality Services, we are constantly reevaluating, updating and upgrading our Services, including adding new or removing Services, resulting in periodic updates to the Terms and Conditions. You therefore understand and agree that the Terms and Conditions will evolve and change over time (including modifications, additions and deletions), and that we may amend, add, or delete any term and condition detailed in this Agreement and in the Terms and Conditions at any time. You may view our current Terms and Conditions at any time by going to our website at [smbcmanubank.com/disclosures](https://smbcmanubank.com/disclosures) – Cash Management Terms and Conditions. To the extent and in the manner and timeframes required by law, the Bank will notify you in advance of any changes that affect your rights and obligations. By accepting or using any Services, you agree to all the Terms and Conditions, as in effect at the time you use the Services. Any changes in our Terms and Conditions will apply only to transactions effected after the date the changed Terms and Conditions are posted to our website. You acknowledge your acceptance of those changes by using the affected Service(s) after the time of posting of those changes.

## **GLOSSARY OF DEFINITIONS**

**“Acceptance Form”** means an Acceptance Form for Cash Management Services, signed by one or more of Authorized Representatives and delivered to Bank.

**“Account”** means your or your Affiliate’s deposit account maintained at Bank.

**“ACH Rules”** means the rules, regulations, operating procedures and guidelines of the National Automated Clearing House Association and the Western Payments Alliance, if applicable, as amended from time to time.

**“Affiliate”** means a person that you control, controls you, or is under common control with you.

**“Agreement”** means these Terms and Conditions for Cash Management Services, as amended from time to time, and includes all Schedules, Acceptance Forms or Set-Up Forms.

**“Authorized Representative”** means an officer, partner, manager, member or other person authorized by you to enter into this Agreement and give Bank instructions with respect thereto, including without limitation designating Users and Security Administrators, determining the Services available to you, and executing Set-Up Forms and Acceptance Forms. There may be more than one Authorized Representative.

**“Base Services”** mean, individually or collectively, the Services described under the “BASE CASH MANAGEMENT SERVICES” heading below.

**“Business Day”** means any day, other than a Saturday or a Sunday, on which we are open for business. As a financial institution, we may be closed for business on certain days when most other businesses remain open.

**“Codes”** means any User names or codes, access codes (including hard or soft token-generated random access codes), identification codes or passwords, test keys, physical or software tokens and similar authentication devices assigned by us to you, or to any User.

**“Damages”** means any claim, suit, expense, loss, liability or cost of any nature, including but not limited to allocated costs of staff counsel, other reasonable attorney’s fees, expert witness fees and any fees and expenses incurred in enforcing the rights of the party suffering such Damages.

**“Depository”** means any financial institution, other than Bank, at which you or an Affiliate maintain a deposit account.

**“Optional Services”** mean, individually or collectively, the Services described under the “OPTIONAL SERVICES” heading below.

**“Password”** means a Code that may be changed by a Security Administrator.

**“Schedule”** and **“Schedules”** mean those documents (if any) attached hereto that contain further agreements of the parties with respect to certain specific Services.

**“Security Administrator”** means your employee or other person designated by you on a Set-Up Form or Acceptance Form or otherwise designated by you who is authorized to modify information on a Set-Up Form or give Bank instructions regarding Accounts and Users. Each Authorized Representative is also a Security Administrator. There may be more than one Security Administrator.

**“Service”** and **“Services”** mean, individually or collectively, (i) the Base Services, and (ii) any Optional Services selected on an Acceptance Form.

**“Set-Up Form”** means one or more forms or instruction executed or electronically transmitted by an Authorized Representative and accepted by us that designate how the Services will be implemented, including without limitation (and as applicable) the Accounts as to which you request that we perform Services, and such other information concerning the Services as we may determine. “Set-Up Form” includes any amendment or update to an existing Set-Up Form.

**“Terms and Conditions”** means this Agreement, the Acceptance Form(s), any Set-Up Form, the applicable parts of the “Rules and Regulations for Depositors and Information about your Deposit Accounts” booklet (as amended from time to time), any current Schedule of Fees and Charges, the User Guides, and any Schedule, confirmations or other documents and disclosures that pertain to the provision of one or more of the Services.

**“User”** means your employee or other person designated by a Security Administrator who is authorized by you to have access to one or more Services. There may be more than one User.

**“User Guide”** means documentation, as amended from time to time, furnished to you by us or our service providers containing instructions regarding the use of the Services and describing the Services in detail.

## GENERAL TERMS AND CONDITIONS

### 1. PROVISION AND UTILIZATION OF SERVICES

(a) We will provide access to the Services when we have received from you a complete, executed Acceptance Form, Set-Up Form (if any) and any other documents required for such Services, and you have satisfactorily completed our initial training, if any, in the use of the Services.

(b) We may add or delete any Service, or add, delete or change the features or functions of any Service, at any time in our sole discretion. If we deem it reasonably practicable to do so and if the change adversely and materially affects your usage of the Service, we will endeavor to notify you of the change in advance. Otherwise we will notify you of the change as soon as reasonably practicable after it is implemented, which notice may be given electronically. We may cause any Service, or all Services, to be temporarily unavailable, either with or without prior notice, for site maintenance, security or other reasons, and you acknowledge that factors beyond our reasonable control, such as telecommunications failure, equipment failure or other event described in Section 8(c) below, may also cause the Services to be unavailable. If a Service is unavailable, you may telephone Bank's Customer service unit to determine if the Service can be provided in some other manner on a temporary basis.

(c) You will provide, at your own expense, all computer hardware and software (including Web browser) required for the purpose of using the Services.

(d) You may add, delete or change Services by delivering to us from time to time additional or amended Acceptance Forms executed by any Authorized Representative and any other documents required by us for such Services. You may add, delete or change Accounts as to which you request the Services by delivering or transmitting electronically to us from time to time additional or amended Set-Up Forms executed by an Authorized Representative. We are conclusively entitled to rely on instructions and requests transmitted electronically using the Code or Password of a Security Administrator. Any changes made by you will become effective only at the time reasonably determined by us. We may refuse or reject any change by promptly notifying you thereof.

(e) If you request in writing that we provide Services with respect to an Account or Accounts held by an Affiliate or Affiliates, you will provide us (or cause the Affiliate to provide us) with each such Affiliate's written authorization, if so requested and in form and substance satisfactory to us, for us to make the Services available to the Affiliate and accessible to you.

### 2. USERS AND SECURITY

(a) You will have sole responsibility for selecting Users and Security Administrators, determining the Services and functions accessible to them and furnishing this information to us on Set-Up Forms. Prior to the first use of a Service, if requested by us, you will provide us with a Set-Up Form authorized by an Authorized Representative containing the names and telephone numbers of all Security Administrators and/or the names of all Users. You may delete Security Administrators or add new Security Administrators from time to time by providing us with an updated Set-Up Form authorized by an Authorized Representative. You may delete Users or add new Users from time to time by providing submitting an updated Set-Up Form authorized by a Security Administrator. We are authorized to rely on your Set-Up Forms and/or the actions of persons authenticated as Security Administrators in providing the Services, notwithstanding any contrary instructions on any signature card for the Account or elsewhere regarding authorized representatives or minimum number of signatures required for the withdrawal of funds from an Account or for any other transaction with Bank. We are conclusively entitled to rely on instructions and requests transmitted electronically using the Codes or Password of a Security Administrator.

(b) Depending upon the Services selected by you and the method designated by you to access the Services, we may provide you with one or more Codes and one or more Passwords, which will be assigned to individual Users and Security Administrators. You may change your Passwords at your convenience and discretion for enhanced security. You agree that the combination of Codes and Passwords constitutes a reasonable security procedure, and you will take such steps as may be necessary to assure that the Codes and Passwords remain confidential and are not disclosed to third parties. You will notify us immediately and change your Passwords whenever an employee with access to your Codes or Passwords is terminated or leaves your employ. You further agree that we may rely on, and act in accordance with, any inquiry, message or instruction received by us in which the Codes and Passwords are utilized, which will constitute conclusive evidence that such inquiry, message or instruction is correct and has been duly authorized by you. Since the Services may be accessed from remote locations, such inquiry, message or instruction will be deemed to be authorized by you

regardless of where that transmission originates. However, we may, in our sole and arbitrary discretion, refrain from responding to, relying on, or acting in accordance with, any such inquiry, message or instruction if we believe that such inquiry, message or instruction may not actually have been authorized by you or that there may have occurred a security breach with respect thereto.

(c) All Codes and Passwords are highly confidential, and you will safeguard the Codes and Passwords at all times and establish and maintain procedures to assure their confidentiality. You will not disclose, and will institute procedures to prevent Users and Security Administrators from disclosing, the Codes or Passwords to any person (including but not limited to any other User or employee), firm, corporation or governmental entity, except that your procedures may allow a Security Administrator to maintain User Codes (other than tokens or similar authentication devices) and Passwords. You will promptly (i) reset or delete all Codes and Passwords for each User who is reassigned or leaves your employ, and (ii) delete from the applicable Set-Up Form each User or Security Administrator who is reassigned or leaves your employ. If you permit a Security Administrator to maintain User Codes and Passwords, you will promptly instruct us to reset or delete all such Codes and Passwords if such Security Administrator is reassigned or leaves your employ. You will notify us promptly by telephone, confirmed in writing, if any Code or Password is compromised.

(d) You are solely responsible for providing and maintaining the physical, electronic, procedural, administrative, and technical security of your data and systems. You acknowledge that we do not control the internet or other information systems operated by third parties and you will not hold us, our agents or our vendors liable for any failures, acts, or omissions of any third party information system operator, including but not limited to, unauthorized access to, alteration, theft, or destruction of information and data. You agree that we are not responsible if your computer system, your internal controls or other operating software that causes interaction between us operates poorly or slowly. You will periodically review and audit your security practices and otherwise comply with our rules pertaining to internet security as provided to you from time to time. You agree that your email system will not block emails from our domain or other domains that we inform you is associated with us, and that you are fully responsible if your email system blocks emails from such domain(s). You must periodically scan all files and systems for viruses and malware.

(e) We are not responsible for any computer viruses (including, without limitation, programs commonly referred to as "malware," "keystroke loggers," and/or "spyware"), ransomware, problems or malfunctions resulting from any computer viruses, or any related problems that may be associated with the use of an electronic or online system. Any material downloaded or otherwise obtained through the use of any electronic Service is obtained at your own discretion and risk, and we are not responsible for any damage to your computer or operating systems or for loss of data that results from the download of any such material, whether due to any computer virus or otherwise. You are solely responsible for maintaining and applying anti-virus software, security patches, firewalls, and other security measures with respect to your operating systems, and for protecting, securing, and backing up any data and information stored in or on your operating systems. We are not responsible for any errors or failures resulting from defects in or malfunctions of any software installed on your operating systems. We are not responsible for ransomware attacks or other attempts by third parties to hold your systems or your data hostage in exchange for compensation.

(f) You acknowledge and agree that it is your responsibility to protect yourself and to be vigilant against email fraud and other internet frauds and schemes (including, without limitation, fraud commonly referred to as "phishing"). You agree to educate your Users, Security Administrators, agents, and employees as to the risks of such fraud and to train such persons to avoid such risks. You acknowledge that we will never contact you by email in order to ask for or to verify account numbers, Codes, or any sensitive or confidential information. In the event you receive an email or other electronic communication that you believe, or have reason to believe, is fraudulent, you agree that neither you nor your Security Administrators, Users, agents, or employees shall respond to the email, provide any information to the email sender, click on any links in the email, or otherwise comply with any instructions in the email. You should forward any suspected fraudulent or suspicious email to us. You acknowledge and agree that you are aware of and are familiar with the concept of a "man-in-the-middle" or "man-in-the-browser" attacks and that you will be vigilant in detecting such attacks on your computer, access devices, and systems. Contact us immediately if you suspect that you may be the victim of such an attack. Contact us immediately if you experience any delays or receive any unusual messages, such as "system unavailable" or "try again later" when attempting to use the Services. You agree that we are not responsible for any losses, injuries, or harm incurred by you as a result of any electronic, email, or internet fraud, attack or ransomware.

(g) You acknowledge and agree that as an integral part of these security procedures, you will review transactions on your Accounts daily and notify us immediately if you suspect an unauthorized transaction. You

acknowledge and agree, to the extent allowed by law, that you will be liable for any unauthorized transactions that could have been prevented were it not for your failure to review transactions daily on your Accounts.

### 3. COMBINED FUNDS OR USER ACCESS

(a) If more than one party (including without limitation you and your Affiliate(s)) uses, accesses, joins or participates in one or more Services, the contractual obligations shall be the independent obligations of each party, the obligations hereunder being joint and several. Each of such party agrees that there is no expectation of privacy between the entities or persons that have joined and/or participated in the Services. Each such party hereby represents and warrants to us that any and all transfers and commingling of funds required or permitted by any Service, and all other aspects of the performance hereof by the parties, have been duly authorized by law and by all necessary parties, including, without limitation, the account holder of each Account, and that each party has obtained and shall maintain in its regular business records and make available to us upon reasonable demand adequate documentary evidence of such authorization from the account holder of each Account, executed by the duly authorized officer(s) of each such account holder in accordance with such account holder's organizational documents and board resolutions or other written consents. Each representation and warranty contained herein shall be continuing and shall be deemed to be repeated upon each use of the Services and our effecting each transfer and commingling of funds.

(b) We shall have no obligation to (i) prevent any party's funds from being commingled with the funds of any other party; (ii) ensure that funds are used for a particular purpose or for the benefit of a particular party; (iii) monitor transactions performed by other parties to ensure that they are for the benefit of any party or otherwise comply with any agreements between the parties; (iv) take any additional security measures as a result of any party's commingling of funds or access to an Account. In addition, we may: (x) act upon the instructions of any person identified as an Authorized Representative, Security Administrator, User or signer by another commingled party; (y) provide the parties with one or more identical Codes to access Services; and (z) act upon any online instruction that is in accordance with our security procedure or that is accompanied by the Codes, Password(s) or other means of authentication approved for an Account, whether or not in fact authorized.

### 4. PROPRIETARY RIGHTS AND CONFIDENTIALITY

(a) You acknowledge that the User Guides constitute our trade secrets and proprietary data (or that of our service providers), that the User Guides are or may be copyrighted and protected by applicable copyright law and international copyright treaties, and that nothing in this Agreement is to be construed to convey any title, ownership or copyright rights to you in or to the User Guides. You have only a license to use the User Guides during the term of this Agreement with respect to the Service as to which each User Guide pertains. You will not modify, decompile or reverse engineer any Service.

(b) You will not furnish, sell, disclose, distribute or otherwise make available the User Guide or any Code or Password for accessing or utilizing the Services to any person, firm, corporation or governmental entity, except to Security Administrators and Users (as to their own Codes and Passwords) and as otherwise required by law.

(c) If we receive a request for information regarding your Accounts or Services affecting your Accounts from a third party with a legal right to request such information (including without limitation law enforcement officials with apparent legal authority to request or require such information or private parties with apparent authority to require disclosure of such information under legal process), you agree to reimburse us for any costs associated with responding to such requests, including without limitation the internal or third party costs of searches, reproduction and the cost of any legal advice obtained from us in connection therewith. If we notify you of such request, all Users will also be deemed notified as well any other party that uses, accesses, joins or participates in one or more Services, and any Affiliates (collectively, "Related Parties"). In responding to such a request for records of one party, we have no obligation to object, notify, redact, hide or edit the records of Related Parties.

### 5. CUSTOMER BUSINESS CONTROLS

This Agreement, and the performance by Bank of the Services hereunder, will not relieve you from any obligation imposed by law or contract regarding the maintenance of records or other matters, or any obligation to employ adequate and reasonable audit, accounting and review practices appropriate to your business. You agree that no individual will be allowed to access or perform any Service without proper supervision and adequate safeguards.

## 6. FEES AND CHARGES

(a) You will pay our fees for setting up the Services upon execution of this Agreement. In the event that you add an additional Service hereafter, you will pay any set-up fees then in effect for such Service concurrently with the delivery of the new Set-Up Form, and we will not be obligated to make the additional Service available until such fees are paid.

(b) You will pay our fees and charges for the Services on a monthly or other periodic (determined by us) basis until you or us terminate such Services in accordance with the Terms and Conditions. All fees and charges are subject to change upon 30 calendar days' prior written notice to you. You acknowledge that our fees and charges for the Services are confidential and proprietary to Bank, and you agree not to disclose such fees and charges to any third party, other than your officers, directors, employees and agents.

(c) You will pay or reimburse us for any sales and use taxes, where applicable, and any other governmental charges payable by Bank (including property taxes) levied, imposed or assessed on any Service or any equipment, documentation, printed materials, training or maintenance relating to this Agreement or any Service, and any other such taxes or charges arising out of or in any way relating to this Agreement, excluding, however, taxes based upon Bank's net income.

## 7. CUSTOMER'S REPRESENTATIONS AND WARRANTIES

(a) You represent and warrant that:

- i. The Terms and Conditions, including without limitation this Agreement, constitute your duly authorized, legal, valid, binding and enforceable obligation;
- ii. The performance of your obligations under the Terms and Conditions, including without limitation this Agreement, will not (A) constitute or result in a breach of your certificate or articles of incorporation, by-laws, partnership agreement or other organizational document, as applicable, or the provisions of any material contract to which you are a party or by which you are bound, or (B) result in the violation of any law, regulation, judgment, decree or governmental order applicable to you;
- iii. All approvals and authorizations, including but not limited to necessary authorizations relating to any Accounts (whether yours or your Affiliates'), required to permit the execution, delivery, performance and consummation by you of the Terms and Conditions (including without limitation this Agreement) and the transactions contemplated thereunder have been obtained;
- iv. The Accounts are maintained primarily for commercial, and not personal, family, or household, purposes; and,
- v. The use of the Services in connection with the Accounts is not inconsistent with any restriction on the use of those Accounts.

(b) You will be deemed to repeat each representation and warranty in subsection (a) as of each day on which you use a Service and upon the delivery of any new or amended Acceptance Form or Set-Up Form.

## 8. LIMITATION ON LIABILITY AND DISCLAIMER OF WARRANTIES

(a) We will not be liable for Damages arising out of or relating to our performance under this Agreement, other than Damages that result directly from our acts or omissions constituting gross negligence or willful misconduct, subject to the limits in the following sentence. Our liability is limited to direct money Damages actually incurred by you in an amount not exceeding the compensation actually paid by you for the applicable Service during the month in which such acts or omissions occurred.

(b) In no event will we be liable for any special, indirect, exemplary or consequential Damages, including but not limited to lost profits.

(c) We will be excused from failing to act or delay in acting, and no such failure or delay will constitute a breach of this Agreement or otherwise give rise to any liability to us, if (i) such failure or delay is caused by circumstances beyond our reasonable control, including but not limited to legal constraint; emergency conditions; action or inaction of governmental, civil or military authority; fire; strike, lockout or other labor dispute; war; riot;

theft; flood, earthquake or other natural disaster; breakdown of public or private or common carrier communications or transmission facilities; equipment failure; or your act, negligence or default or (ii) such failure or delay results from our reasonable belief that the action would have violated any guideline, rule or regulation of any governmental authority.

(d) Any claim, action or proceeding to enforce the Terms and Conditions or to recover for any Services related loss must be commenced within one year from the date that the event giving rise to the claim, action or proceeding first occurs.

(e) BANK MAKES NO WARRANTIES WITH RESPECT TO ANY SERVICES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND DISCLAIMS ALL SUCH WARRANTIES TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

## 9. INDEMNIFICATION

(a) You will indemnify us and our officers, directors, shareholders, agents, representatives or affiliates (and successors, representatives or assigns thereof) against, and hold us and them harmless from, any and all Damages in any way arising out of or relating to disputes or legal actions by third parties concerning your use or our provision of the Services. This paragraph does not apply to any Damage attributable to our gross negligence or willful misconduct.

(b) You further agree to indemnify us and our officers, directors, shareholders, agents, representatives or affiliates (and successors, representatives or assigns thereof) against, and hold us and them harmless from, any and all Damages in any way arising out of any and all actions we take in accordance with your instructions, even if we vary from our standard procedures in honoring such instructions.

## 10. AUDIT

No more often than annually, upon no less than fifteen (15) days prior notice from us, you agree to make yourself available for audit by us for compliance with applicable laws, rules and regulations, and with the Terms and Conditions.

## 11. CREDIT/BACKGROUND INFORMATION

In accordance with federal law, we must make a reasonable determination and verification of the profile (including without limitation ownership) information of our clients. Until verification is completed, we may not be able to service and maintain your Accounts. You acknowledge and consent to us obtaining background and/or credit reports necessary to comply with any federal or state statutes or regulations.

## 12. ADVERTISING

Neither you nor we may use the other's name or refer to the other directly or indirectly in any advertisement, solicitation, marketing materials, news release or other release to any publication without receiving the other party's specific prior written approval for each such use. This section does not limit either party's right to make any disclosure required by law.

## 13. EQUIPMENT AND SOFTWARE

You must provide, install and maintain, at your expense, all required equipment, hardware and software required or used, directly or indirectly, to access and use the Services (collectively, the "Equipment"). You are solely responsible for the security and confidentiality of your Equipment. Any Equipment requirements are described in the User Guides or other referenced documents, and we may not be able to provide you with support if you do not utilize such Equipment. Unless otherwise agreed in writing between you and us, we are not responsible for the installation or setup of any Equipment. We do not guarantee access to any Services from all computers, internet access points, modems, routers or communication software packages.

#### 14. NOTICES, ELECTRONIC COMMUNICATIONS

Any notice or other communication to be given to you under this Agreement will be deemed made when delivered orally, electronically, in person, or by mail at the address you designate for your bank statements unless you specify in writing another address for notices.

Except as otherwise provided to you, all notices to the Bank regarding any Services shall be sent to Bank at:

Cash Management Department  
Headquarters Office  
515 S. Figueroa Street, 4th Floor  
Los Angeles, CA 90071

You agree that any and all disclosures and communications regarding the Services or the Terms and Conditions may be made electronically, including via email, or by posting to our Website in accordance with applicable law. Any electronic disclosure or communication we make will be considered made when transmitted by us and any disclosure or communication we make by posting to our Website will be considered made when posted by us.

#### 15. TERMINATION

(a) Unless specified otherwise in the terms applicable to any particular Service below, either you or us may terminate this Agreement, or any Service(s) thereunder, upon 10 calendar days' prior written notice to the other.

(b) Notwithstanding subsection (a), we may terminate this Agreement or any Service at any time by written notice to you if (i) you breach any of the terms of this Agreement, any other agreement with Bank or any agreement involving the borrowing of money or the extension of credit; (ii) you liquidate, dissolve, merge with or into or consolidate with another entity or sell, lease or dispose of a substantial portion of your business or assets; (iii) you terminate your business, fail generally or admit in writing your inability to pay your debts as they become due; (iv) any bankruptcy, reorganization, arrangement, insolvency, dissolution or similar proceeding is instituted with respect to you; (v) you make any assignment for the benefit of creditors or enter into any composition with creditors or takes any corporate action in furtherance of any of the foregoing; or (vi) any material adverse change occurs in your financial condition, results of operations or ability to perform your obligations under this Agreement. You will promptly give us written notice of the occurrence of any of the foregoing events.

(c) If this Agreement is terminated for any reason, you will (i) immediately cease using the Codes, User Guides and all other materials relating to the Services, and, (ii) at our option, either return to us or destroy all User Guides and other materials (including but not limited to Codes) relating to such Services. From and after the effective date of such termination (or the termination of any Service), neither you nor we shall have any further rights or obligations to the other under this Agreement; provided, however, that any obligations or liabilities (whether contingent or otherwise) of either party to the other party which have accrued with respects to acts or events that occurred prior to the effective date of the termination shall continue to be enforceable against the party so bound until such obligations or liabilities have been fully paid or satisfied. Without limiting the generality of the foregoing, the following shall survive termination of the applicable Service and of this Agreement: (i) Sections 4, 6, 8, 9, 12, 14, 16(a), 16(b), 16(d), 16(e), 16(f), 16(h), and 16(k), and (ii) any provision of this Agreement or of the Terms and Conditions which by its own terms survives termination thereof.

#### 16. OTHER

(a) This Agreement supersedes all prior understandings, writings, proposals, representations and communications, oral or written, of either party relating to any of the Services. However, to the extent that prior to the effectiveness of this Agreement you have executed and delivered to Bank prior agreements or set-up forms for services identical or substantially similar to the Services described in this Agreement, then the Bank may rely on such prior agreements or set-up forms as if they were new Acceptance Forms or Set-Up Forms under this Agreement, and, unless noted otherwise in this Agreement, the terms of this Agreement shall apply to such Services.

(b) In the event that any provision of this Agreement or the application of any such provision to any person or set of circumstances is determined to be invalid, unlawful, void or unenforceable to any extent, the Master Agreement for Electronic Cash Management Services (09-2023)

remainder of this Agreement, and the application of such provision to persons or circumstances other than those as to which it is determined to be invalid, unlawful, void or unenforceable, will not be impaired or otherwise affected and will continue to be valid and enforceable to the fullest extent permitted by law.

(c) You agree to comply at all times with all applicable laws and regulations applicable to yourself and your use of the Services, and with all other rules applicable to the Services including without limitation, the ACH Rules. Except as otherwise expressly provided in this Agreement, in the event of any conflict between this Agreement and applicable ACH Rules, the ACH Rules will govern.

(d) No delay or failure by you or us to exercise any right or remedy under this Agreement will impair or operate as a waiver thereof. No waiver by you or us of a specific breach or default under this Agreement will be deemed a waiver of any other breach or default. Any waiver by us of a breach or default under this Agreement must be in writing.

(e) We are not liable for any Damages which arise in whole or in part from: (i) your actions or omissions, or those of third parties which are not within our immediate and reasonable control, (ii) your negligence, willful misconduct, bad faith or breach of any agreement with us, (iii) any error, failure, loss of information, disruption or delay in transmission or delivery of data, records or items due to a breakdown in any computer, utility or communications facility, (iv) any error or omission, willful or negligent by any third party, that which results in any equipment malfunction or any loss, cost, expense or damage to you in connection with any software, system, technical computer service, (v) circumstances beyond our reasonable control, including delays by third parties, unusually severe weather conditions, accidents, strikes, labor disputes, wars, riots, acts of government, civil unrest, fire, explosion, flood, water damage, acts of terrorism or acts of God, or (vi) the application of any government or funds-transfer system rule, guideline, policy or regulation. Our performance of our obligations shall be extended to include the period of time that we (or our third party processor) were delayed or prevented from performing our obligations under the Terms and Conditions by reason of any of the above causes.

(f) You agree that all communications or data transmissions between you (including your Users, Security Administrators, Authorized Representatives and other employees or agents) and us may be monitored and/or electronically recorded and retained by us. You agree that we may produce such communications or data transmissions as evidence in any proceedings brought in connection with the Terms and Conditions or any Service.

(g) You may not assign any of your rights or delegate any of your obligations under this Agreement without our prior written consent. We may utilize the services of an agent or contractor to perform our obligations under this Agreement, provided we remain responsible therefor.

(h) This Agreement is binding upon and inures to the benefit of the parties and their respective successors, permitted assigns, administrators, liquidators, receivers, trustees, assignees, custodians, conservators and other similar officials. This Agreement is not for the benefit of any other person, and no other person has any right under this Agreement against you or us.

(i) Nothing contained in this Agreement is intended to create any agency, fiduciary, joint venture or partnership relationship between you and us.

(j) The headings in this Agreement are for convenience of reference only, are not to be deemed to be a part of this Agreement and must not be referred to in connection with the interpretation of this Agreement.

(k) This Agreement is to be interpreted in accordance with California law without reference to California principles of conflicts of law, except that the Fedwire Regulation, as defined in Section 21(a)vi, will govern with respect to any funds transfer, any part of which is carried out through the use of Fedwire. Any action regarding any dispute between the parties with respect to this Agreement, any Service, any transaction performed pursuant to this Agreement or the performance or alleged non-performance by either party of its duties and obligations under this Agreement, whether at law or in equity and whether based upon an alleged tort, breach of contract, statutory or regulatory violation or other theory, will be brought only in state or federal court in Los Angeles County, California. The parties consent to the jurisdiction of such court for any such action, and agree not to assert that such venue is improper or inconvenient, nor bring any such action in any other court.

## BASE CASH MANAGEMENT SERVICES

### 17. ACCOUNT INQUIRY

You can obtain balance and other Account or loan (depending on loan type) information through the Services. Since certain information and transactions are not processed by Bank until after the close of our Business Day, some transactions may not be reflected in the system until the next Business Day. Posted items may be reversed due to insufficient funds, stop payment orders, legal process, and other reasons. Certain balances also may not be subject to immediate withdrawal. Bank assumes no responsibility for any loss arising from incomplete information or for any temporary interruption in Bank's information system. If you are unable to access Bank's system for any reason, you may contact your branch or our customer contact center for Account information.

### 18. ACCOUNT TRANSFERS

(a) You can transfer funds between Accounts. There may be frequency and other limitations on your transfers. We may establish limitations on the dollar amounts of transfers between your Accounts. You must have sufficient available funds to make the transfer. Transfers requested after our cutoff hour may be processed by us up to the next Business Day.

(b) You understand and accept that transfers between Accounts are only allowed for Accounts with the same ownership. Transfers between Accounts with unlike ownership (including your Affiliates) may be blocked or not be allowed, but if we permit them, then you understand that they will be subject to Section 3 of this Agreement.

### 19. ELECTRONIC CHECK INQUIRY AND STOP PAYMENT

(a) You may electronically request information as to whether or not a particular check has been paid within the preceding 45 days. This Service may not be available during certain hours. We may not identify a check as having been paid if either the check number or the amount specified by you in the inquiry is inaccurate, or if the check was paid more than 45 days before the inquiry. We may lengthen or shorten the 45 day period from time to time without notice.

(b) You may electronically place a stop payment order (an "electronic stop payment order") with respect to a particular check or, if we so permit, with respect to a range of checks. You may also electronically cancel an electronic stop payment order. This Service may not be available during certain hours. You must identify the check to which an electronic stop payment order applies exactly as to account, check number, amount, date and payee. However, we may, in our discretion and without any duty to inquire further, return any check bearing either the check number specified by you or in the amount specified by you in the electronic stop payment order, whether or not the remaining information matches information supplied by you. You agree that an electronic stop payment order will be deemed to be in writing, and not oral, and will expire six months after the date we receive it unless it is renewed earlier in writing or electronically by you. We are not required to give you notice of an expiring electronic stop payment order. You will not place an electronic stop payment order with respect to non-check payments or debits.

(c) You acknowledge that a check may be paid notwithstanding an electronic stop payment order if the check is not completely and accurately described in such order or for any other reason set forth in the Terms and Conditions concerning non-electronic stop payment orders.

(d) To determine whether or not an electronic stop payment order has been rejected or accepted by us, you must verify its status, and we will have no other obligation to notify you that such order was rejected or accepted. We may reject an electronic stop payment order placed by you with respect to a check posted to the Account within the preceding 45 days, including a check posted to the Account but returned unpaid for non-sufficient funds or other reasons, or a check received by us and posted on a previous Business Day. In some limited circumstances, it may still be possible to stop payment of the check, so if an electronic stop payment order is rejected, you should contact us in person or by telephone to determine if we are able to do so, subject to the Terms and Conditions concerning non-electronic stop payment orders. Due to system limitations, we may accept an electronic stop payment order with respect to a check that was paid more than 45 days earlier, but we will have no obligation to determine or notify you that such check was previously paid. We may lengthen or shorten the 45 day period from time to time without notice to you.

(e) You will indemnify us against, and hold us harmless from, any and all Damages in any way arising out of or relating to disputes or legal actions by third parties concerning any electronic stop payment order placed by you or the return of any check pursuant to such an order. You assign to us your rights against the payee or any other holder of any such check, and agree to cooperate with us in any legal action or other recovery effort we may take against such persons. This section does not apply to any Damage attributable to our gross negligence or willful misconduct. You acknowledge that a holder of a check may be entitled to enforce payment against you notwithstanding an electronic stop payment order. Your obligations under this section will survive termination of this Agreement.

(f) If we inadvertently pay a check for which an electronic stop payment order is effective, any service charges that result, including the stop payment fee, will be reversed and we will reimburse you for any Damages up to the amount of the check, provided you prove that you are not liable to the payee to whom the check was drawn. We may also seek recovery of the amount from the party who received the proceeds of the check, and you will assist us in doing so to the extent reasonably requested by us. Your obligations under this section will survive termination of this Agreement.

## 20. PRIMARY ACCOUNT DESIGNATION

We may require you to designate, or we may designate on your behalf, an Account as your "Primary Account" for the Services. You authorizes us to debit the Primary Account (or any other Account) for any fees or other amounts due Bank in connection with the Services. If the Primary Account is closed for any reason, your Services may be stopped along with any unprocessed Services transfers. To reinstate the Services, you may be required to designate a new Primary Account.

## OPTIONAL SERVICES

In the event of a conflict between the specific terms for the Optional Services described below and other terms of this Agreement, the specific terms for the Optional Services shall prevail.

## 21. FUNDS TRANSFERS

If the Services selected by you include the Funds Transfer Service, as defined below, then the following provisions will be applicable.

### (a) Supplemental Definitions.

- i. "Approver" means a User authorized by an Authorized Representative to approve Funds Transfer Requests, other than requests for a Book Transfer, using the portion of the Primary Security Procedure within your control or to confirm Funds Transfer Requests.
- ii. "Bank Statement" means (i) each periodic account statement issued to you by Bank for the applicable Account, (ii) any written advice to you from Bank or (iii) any electronic advice or report produced through one of Bank's information reporting services to which you subscribe.
- iii. "Book Transfer" is a transfer of funds between your Accounts.
- iv. "Cut-off Deadline" means the applicable time specified in the User Guide by which Bank must receive a Funds Transfer Request in order to act upon it the same Business Day, which time may be different for domestic transfers, international transfers and transfers denominated in a foreign currency.
- v. "Fedwire" means the funds transfer system owned and operated by the Federal Reserve Banks that is used primarily for the transmission and settlement of payment orders governed by the Fedwire Regulation, but does not include the system for making automated clearing house transfers.
- vi. "Fedwire Regulation" means Subpart B of Regulation J of the Board of Governors of the Federal Reserve System, as amended from time to time.
- vii. "Funds Transfer Request" means a request to Bank made in the name, or having the unique identifier, of you as sender by use of the Funds Transfer Service requesting that funds belonging to you, or under your control, be transferred to a specific account or beneficiary and includes any

such request which has been amended. A Funds Transfer Request may be a request for a Book Transfer, a transfer to your account at another financial institution or a transfer to a third party's account at Bank or another financial institution. However, "Funds Transfer Request" does not include "Entry Data" delivered to Bank by you pursuant to the ACH Service described in Section 28.

- viii. "Funds Transfer Service" means (i) the use of a computer terminal to send Funds Transfer Requests to Bank, and to send and receive related messages, and (ii) the procedure for sending Funds Transfer Requests and certain other messages set forth in subsection 21(c)i, in each case as further described in the User Guide. However, "Funds Transfer Service" does not include any ACH Service (Section 28) or Bill Pay Service (Section 32).
- ix. "Operator" means a User authorized by an Authorized Representative to originate a Funds Transfer Request using the portion of the Primary Security Procedure within your control.
- x. "Primary Security Procedure" means the procedure for verifying the authenticity and authorization of Funds Transfer Requests, established in the User Guide, using Codes, Passwords and token generated random security codes, including the use of a test key for certain Funds Transfer Requests.
- xi. "Security Procedure" means each of the Primary Security Procedure and the secondary Security Procedure set forth in subsection 21(c)i.
- xii. "Value Date" means the date on which funds are to be transferred. The Value Date will be the date specified in the Funds Transfer Request, provided that date is no earlier than (i) the day the Funds Transfer Request is received, if it is received on a Business Day prior to Bank's applicable Cut-off Deadline, or (ii) the next Business Day otherwise. If no valid Value Date is specified in the Funds Transfer Request, the Value Date will be the day the Funds Transfer Request is received, provided it is received on a Business Day prior to Bank's applicable Cut-off Deadline, or the next Business Day otherwise.

(b) Customer Responsibilities.

- i. From time to time, you may use the Funds Transfer Service to initiate Funds Transfer Requests and, where applicable, to initiate and receive related messages. You will use the Funds Transfer Service in accordance with this Agreement and any applicable User Guide.
- ii. On the Value Date, you will pay the amount of each funds transfer if the debit account identified in the Funds Transfer Request is your Account at Bank, or cause your Affiliate to pay the amount of each funds transfer if the debit account identified in the Funds Transfer Request is an Account of such Affiliate at Bank. Bank may charge such Account for the amount of such funds transfer without prior notice or demand. You will not initiate any Funds Transfer Request which would exceed the available balance in the debit Account on the Value Date. Bank's records will be controlling as to the applicable Account balance.
- iii. You will pay any fee charged by any intermediary bank for transmittal of, and any fee charged by a beneficiary's bank for acting upon, a Funds Transfer Request, unless you instruct that such charges are to be paid by the beneficiary.
- iv. You understand that information concerning Funds Transfer Requests acted upon by Bank will be reflected in one or more Bank Statement. You will examine each Bank Statement and give Bank prompt written notice (including a statement of relevant facts) of any discrepancy between your records and the information shown in the relevant Bank Statement within 14 calendar days after your receipt of the first Bank Statement indicating the discrepancy. If the date of your receipt cannot be determined, you will be deemed to have received any information that is mailed by first class mail five (5) business days after the information is mailed unless you are located outside the United States, in which case receipt will be deemed ten (10) business days after mailing. If you do not receive paper Bank Statements, you will be deemed to have received the Bank Statement on the date that Bank electronically sends them to you or makes them available to you online. If you fail to give Bank such written notice, Bank will not be liable for any loss of interest or otherwise be required to compensate you, or credit or make any adjustment to your Account. You will give Bank prompt

notice by telephone, confirmed in writing, if you discover, from any source other than a Bank Statement, the possibility of error or lack of authority in the transmission of a Funds Transfers Request.

(c) Security Procedure.

- i. In initiating any Funds Transfer Request, you will comply with your portion of the Security Procedure. Each Funds Transfer Request must be initiated in accordance with a Set-Up Form executed by an Authorized Representative, which, among other information, designates the Operator or Operators authorized to originate the Funds Transfer Request and the Approver or Approvers authorized to approve it. If you cannot follow the Primary Security Procedure because the computer or telecommunications system is inoperable, you will comply with the following secondary Security Procedure. You will initiate Funds Transfer Requests by (i) preparing written Funds Transfer Request templates and (ii) transmitting such templates to Bank by facsimile transmission, and Bank will telephone an Approver for purposes of approving such Funds Transfer Requests. If you are unable to initiate a Funds Transfer Request using written templates as set forth in the preceding sentence, Operators may initiate Funds Transfer Requests by telephone, and Bank will telephone an Approver for purposes of approving such requests. You agree Bank may act upon any Funds Transfer Request which has been verified through the use of the applicable Security Procedure.
- ii. You and Bank agree that the purpose of the Security Procedure is only to verify that a Funds Transfer Request is authentic and authorized by you, and not to detect errors in Funds Transfer Requests.
- iii. You will have sole responsibility for selecting Operators and Approvers, determining the Funds Transfer Requests that Operators may originate and defining the approval authority of Approvers.
- iv. The Security Procedure is highly confidential, and you will safeguard it at all times, establish and maintain procedures to assure its confidentiality and request Bank to change your fixed number for the test key whenever an individual with knowledge of the Security Procedure is reassigned or leaves your employ. You will notify Bank promptly by telephone, confirmed in writing, if the Security Procedure is compromised.
- v. You will contact Bank by telephone if you do not receive a control number for each Funds Transfer Request transmitted to Bank through the Funds Transfer Service using the portion of the Primary Security Procedure within your control immediately after transmitting such request(s).

(d) Bank Responsibilities.

- i. Subject to the terms and conditions of this Agreement, Bank will act upon a Funds Transfer Request after receipt by making applicable accounting entries or by transmitting payment instructions to the applicable bank or other third party on the Value Date. Bank will acknowledge receipt of each Funds Transfer Request and each other message initiated by electronic data transmission by you to Bank by sending you a control number or an acknowledgment message by electronic data transmission.
- ii. Bank may reject any Funds Transfer Request which, either in whole or in part, exceeds the collected and available funds on deposit with Bank in the applicable Account on the Value Date or other date upon which Bank acts upon the Funds Transfer Request. Funds are not available if, in the reasonable determination of Bank, they are subject to any hold, dispute or legal process preventing their withdrawal. Bank may in its discretion create an overdraft to complete a funds transfer, and you agree to repay Bank, or cause Bank to be repaid, the amount of the overdraft immediately, whether or not demand is made. Bank is not obligated, however, to create any overdraft or to give any notice that an overdraft will not be created, regardless of how many overdrafts may have been created previously. Bank may reject a Funds Transfer Request which does not conform in form and substance with the requirements of this Agreement or any applicable User Guide. Bank may reject a Funds Transfer Request the authenticity of which Bank has attempted and been unable to verify through the Security Procedure. Bank may reject a Funds Transfer Request if initiating such funds transfer would cause Bank, in Bank's sole discretion, to exceed any volume, aggregate dollar, network, time or similar limits upon wire transfers which are applicable to Bank.
- iii. In rejecting any Funds Transfer Request, Bank will notify you of such rejection by telephone, facsimile transmission, e-mail, electronically through the Bank's online platform, or by mail if Bank has been

unable to contact you by another method by its close of business on the day on which it first attempts to give such notice. Each notice of rejection is effective when given.

- iv. In acting on any Funds Transfer Request, Bank may utilize any means of transmission, funds transfer system or intermediary bank reasonably selected by Bank, even if Bank's selection differs from instructions in the request.
- v. Except as otherwise expressly provided in this Agreement, Bank is not required to act upon any notice or instruction received from you or any other person or to provide any notice or advice to you or any other person with respect to the Funds Transfer Service.

(e) Foreign Currency Transactions.

- i. You agree that if a transfer to a foreign country is requested in U.S. Dollars, payment may, at the paying bank's option, be made in the currency of the country to which the transfer is made at the paying bank's buying rate of exchange for U.S. Dollars transfers.
- ii. If a transfer is requested in a foreign currency, You agree that Bank will purchase the foreign currency at the rate determined by Bank that is in effect at the time such transfer is requested, or at such other rate determined by Bank and agreed to by you or the Operator initiating the Funds Transfer Request. You will be responsible for downloading or otherwise determining the rate in effect at the time a transfer.
- iii. If for any reason a transfer in a foreign currency is unable to be processed (including, without limitation, due to the Funds Transfer Request not including sufficient information or lacking sufficient approvals by the wire cut-off time), is cancelled by you, or is otherwise returned or recredited to Bank, you will accept the refund in U.S. Dollars, based on Bank's current buying rate on the date and time of the refund, less any charges and expenses of Bank.

(f) Cancellation Or Amendment By Customer. You will have no right to cancel or amend a Funds Transfer Request after its receipt by Bank. If Bank receives a request to cancel or amend a Funds Transfer Request, Bank will make a reasonable effort to attempt to cancel or amend the Funds Transfer Request if Bank has not yet acted upon it, provided that the authenticity of the request has been verified by Bank to its satisfaction through the use of the Security Procedure. Bank will have no liability if any attempted cancellation or amendment of a Funds Transfer Request is not effected. You will indemnify Bank against, and hold it harmless from, any and all Damages in any way arising out of or relating to Bank's acting or attempting to act upon a request to cancel or amend a Funds Transfer Request. Your obligations under this section will survive termination of this Agreement or of the Funds Transfer Service.

(g) Reliance On Account and Routing Numbers. You acknowledge and agree that (a) a beneficiary's bank (including Bank when it is acting as the beneficiary's bank) may rely solely on the beneficiary's account number in a Funds Transfer Request or such number in a payment order intended to carry out a Funds Transfer Request, even if the number identifies a person different from the person identified by name in the Funds Transfer Request or payment order; (b) Bank and any intermediary bank may rely solely on the routing number that identifies an intermediary bank or beneficiary bank in a Funds Transfer Request or in a payment order intended to carry out a Funds Transfer Request, even if such routing number identifies a bank different from the intermediary bank or beneficiary bank identified by name in the Funds Transfer Request or payment order; and (c) neither Bank nor any intermediary or beneficiary's bank (including Bank when it is acting as the beneficiary's bank) has any duty to detect any inconsistency in identification.

(h) Additional Limitation On Liability; Compensation. The following limitations on Bank's liability apply to the Funds Transfer Service, in addition to those specified elsewhere in this Agreement :

- i. With respect to Funds Transfer Requests subject to (A) Division 11 of the California Commercial Code, as amended from time to time ("Division 11") or (B) the Fedwire Regulation (as a consequence of a part of the related funds transfer having been carried out through the use of Fedwire), Bank will not be liable for any Damages arising out of or relating to its performance of Funds Transfer Services, other than Damages required to be paid under Division 11 or the Fedwire Regulation, as applicable; provided, however, that Bank will not be liable for any such Damages to the extent otherwise provided in this Section 21 or elsewhere in this Agreement.

- ii. With respect to Funds Transfer Requests other than those described in subsection 21(h)i above and for Bank's other obligations under this Section 21, Bank will not be liable for any Damages arising out of or relating to its performance of Funds Transfer Services, other than Damages which result directly from its acts or omissions constituting negligence, subject to the limits in the next succeeding sentence. Bank's liability is limited to direct money Damages actually incurred by you in an amount not exceeding the greater of (A) your cost for using the Funds Transfer Services during the month in which the acts or omissions occurred, or (B) the amount, if any, of funds transferred from an Account that exceeded the amount specified in the applicable Funds Transfer Request or went into an account not specified in the applicable Funds Transfer Request. If such an excess or incorrect transfer occurs, Bank also will calculate and pay or credit you compensation equivalent to interest on the excess amount or amount incorrectly transferred, as applicable, as provided in subsection 21(h)v below.
- iii. Notwithstanding subsections 21(h)i and 21(h)ii above, if a Funds Transfer Request is subject to the Electronic Funds Transfer Act, Bank's liability will be subject to the provisions of that Act and Federal Reserve Board Regulation E.
- iv. Bank will not be responsible for the acts or omissions of any funds transfer system, any Federal Reserve Bank, any intermediary or beneficiary's bank, or any recipient of a payment or a payment order intended to carry out a Funds Transfer Request, and no such party will be deemed Bank's agent.
- v. If Bank is obligated to pay compensation equivalent to interest, Bank will pay such compensation or credit your Account, as Bank determines, upon written demand. Compensation equivalent to interest for the relevant period will be calculated by Bank as follows, unless otherwise expressly agreed in writing by you and Bank: (A) if the applicable Account is an analyzed Account, Bank will calculate the amount using its earnings credit rate(s) for the relevant period according to its published account analysis procedures; (B) if the applicable Account is a non-analyzed, interest bearing Account, Bank will calculate the amount using the interest rate(s) for the Account for the relevant period; and (C) if the applicable Account is a non-analyzed, non-interest bearing account, Bank will calculate the amount using the average of the Federal Fund rates published by the Federal Reserve Bank of New York for the relevant period, adjusted by a percentage equal to the reserve requirement for the applicable Account.
- vi. Notwithstanding any other provision of this Agreement or otherwise, if Bank would be obligated to pay compensation equivalent to interest when you had a withdrawable credit balance in the applicable Account and such Account was an analyzed account, Bank will not be obligated to pay any compensation other than in accordance with Bank's published account analysis procedures.

(i) Customer's Further Representations And Warranties. In addition to the representations and warranties made elsewhere in this Agreement, you represent and warrant that (i) the debiting of any Account as a result of a Funds Transfer Request is not inconsistent with any restriction on the use of that Account; and (ii) you have determined that the Security Procedure is a satisfactory method of verifying the authenticity of Funds Transfer Requests in view of your requirements. You will be deemed to repeat each representation and warranty as of each day on which you use the Funds Transfer Service.

(j) Record Of Telephone Instructions. Bank may record, electronically or otherwise, telephonic or other oral instructions for Funds Transfer Requests, and any call-backs by Bank verifying the authenticity of such requests. Bank may also record any other communication with you that relates to the Funds Transfer Service or any funds transfer. Bank may retain its records for as long as Bank determines it as appropriate to do so. The decision to record any telephone conversation shall be solely within Bank's discretion, and Bank shall have no liability for failing to do so.

(k) Fedwire Notice. In connection with your use of the Funds Transfer Service, Bank notifies you that Bank, in acting upon a Funds Transfer Request, may use Fedwire, and any subsequent bank, in acting in a funds transfer intended to carry out a Funds Transfer Request, may use Fedwire. Your and Bank's rights and obligations in a funds transfer intended to carry out a Funds Transfer Request, any part of which is carried out through the use of Fedwire, are governed by the Fedwire Regulation.

## 22. IMAGE CD

If the Services selected by you include the Image CD Service, as defined below, then the following provisions will be applicable.

(a) Image CD Service. Bank will provide CD-ROMs to you containing images of items presented against, or posted to, one or more of your Accounts, together with Mobile Media Delivery viewing software (the "Viewing Software") to view and print such images (the "Image CD Service"). You will designate the Account, provide such other information and complete such Set-Up Forms as Bank may request. With Bank's consent, you may from time to time designate new Accounts or otherwise change information relating to the Image CD Service by providing a new or amended Set-up Form.

(b) CD-ROMs and Item Images. CD-ROMs will be mailed to you at the address on the Set-Up Form at the end of a period of time designated by Bank (the "Image Cycle"). The Image Cycle may not be the same as the regular statement cycle for the Account. CD-ROMs will contain images of the front and back of all checks, deposit slips and other items presented against, or posted to, the Account during the Image Cycle ("Items"), including checks that were presented but were returned by Bank for any reason, but CD-ROMs will not include images of checks deposited to the Account. CD-ROMs will contain images of an Item each time it is presented to Bank, and consequently may include more than one set of images of the same Item. If images of an Item presented against, or posted to, the Account during the Image Cycle are omitted from the CD-ROM, Bank will provide you at no charge either a new CD-ROM containing the omitted images or a copy of the front and back of the omitted Item. Images may not contain all fine or light details or markings that appear on the original Item.

(c) Viewing Software. Bank is making the Viewing Software and any documentation relating thereto available under a sublicense from Bank's service provider. You are granted a non-exclusive perpetual sublicense to use the Viewing Software to retrieve, view and print Item images, subject to the terms of this Agreement. This subsection (c) will survive termination of the Image CD Service.

- i. You acknowledge that: the Viewing Software is and will remain the exclusive property of the original licensor thereof or its successor in interest ("Licensor"); the Viewing Software, or components thereof, are or may be protected by applicable copyright law and international copyright treaties; the Viewing Software and related materials contain valuable trade secrets of Licensor and are strictly confidential; and nothing in this Agreement conveys to you any title, ownership, copyright or other proprietary right in or to the Viewing Software. You will take all reasonable precautions to maintain the confidentiality of the Viewing Software and Licensor's proprietary rights therein. Without limiting the generality of the foregoing:
  - (i) You will not make or allow anyone else to make copies, in whole or in part, of the Viewing Software or any component thereof.
  - (ii) You will not reverse engineer, decompile or disassemble the Viewing Software, or modify or merge any portion thereof, without Licensor's prior written consent.
  - (iii) You will not, and you will instruct your employees and agents not to, make any disclosures concerning the Viewing Software to any third party without the prior written consent of Bank or Licensor, except to employees who operate the Viewing Software or as otherwise required by law.
- ii. You acknowledge that any breach of subsection i above will substantially affect the effective and successful conduct of the businesses of Bank and the licensor of the Viewing Software, that any such breach will cause immediate irreparable injury to Bank and Licensor, and that remedies at law for such breach will be inadequate. You therefore agree that either Bank or Licensor will be entitled to preliminary or other injunctive relief in any action brought as a result of any such breach.
- iii. You will utilize the Viewing Software solely on computers meeting minimum hardware and operating system requirements specified by Bank or Licensor. You acknowledge that the Viewing Software is password-protected, and you will be responsible for determining and instituting security measures to prevent unauthorized access to the Viewing Software. The password assigned to you is highly confidential, and you will safeguard it at all times and establish and maintain procedures to assure its confidentiality. You will not disclose your password to any third party.

- iv. Bank may, in its discretion, determine the nature and hours of software support services it will make available to you with respect to the Viewing Software, if any. BANK MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE VIEWING SOFTWARE OR THE SUPPORT THEREOF, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Bank will not be liable for any loss or claim arising directly or indirectly from any person's use of the Viewing Software or from any software support services, except for bodily injury or physical damage to equipment resulting from Bank's negligence. This subsection iv also limits the liability of any agent, employee or affiliate of Bank.

(d) Canceled Checks. During the time Bank provides the Image CD Service to you, Bank may, in its sole discretion, retain your paid checks drawn on the Account, or images thereof, for the time required by law, and any paid checks so retained will not be included with your statement. You may request copies of paid checks retained by Bank, subject, except as set forth in Section (b) above, to Bank's standard fees for such copies in excess of two checks per statement.

### 23. ELECTRONIC DATA INTERCHANGE

If the Services selected by you include the EDI Service, as defined below, then the following provisions will be applicable.

(a) EDI Service. From time to time, Bank may receive automated clearing house (ACH) entries for Account(s) containing payment- or transaction-related data in an electronic data interchange format ("EDI Data"). Subject to the completion of all required set-up, implementation testing and training, and further subject to the EDI Data being in a format acceptable to Bank, Bank will make such EDI Data available to you in the form of reports, data files or both, through an Internet Web site, by encrypted Internet e-mail or as otherwise agreed by Bank and specified on the Set-Up Form (the "EDI Service"). If Bank makes such EDI Data available to you through an Internet Web site, then, if specified on the Set-Up Form, Bank will notify you by e-mail or through other electronic means of the availability of such EDI Data and a link to the Web site where it is available.

(b) Disclaimer of Warranty. Bank makes no warranty with respect to the EDI Service, including any warranty that Bank will be able to accept and process EDI Data in any format other than those formats that are acceptable to Bank or its vendor, that any EDI Data will be accurate or complete, that any data file containing EDI Data will be compatible with your systems or software, or that the EDI Service will meet any of your specific requirements.

### 24. ZBA TARGET BALANCE

If the Services selected by you include the ZBA Service, as defined below, then the following provisions will be applicable.

(a) Maintenance of ZBA/Target Balance. You and/or one or more of your Affiliates have opened or will open Accounts consisting of a "Concentration Account" and one or more "Subsidiary Accounts." Each Business Day, Bank will transfer funds between the Concentration Account and the Subsidiary Accounts, such that the balance in each Subsidiary Account, after all other credits to, and debits against, such Subsidiary Account, is equal to the ZBA/Target Balance shown on the Set-Up Form or, if no such ZBA/Target Balance is shown, zero. Except as otherwise specified herein, the Concentration Account and the Subsidiary Accounts will be subject to the Terms and Conditions as in effect from time to time.

(b) Collection. You acknowledge that balances representing items deposited to the Concentration Account or any Subsidiary Account that have not been collected in accordance with Bank's policies will not be available for withdrawal or payment, whether or not such balances are transferred between the Concentration Account and one or more Subsidiary Accounts. In the event the collected balance in the Concentration Account is insufficient to make all of the transfers otherwise required, Bank may allocate the collected balance among the Subsidiary Accounts in its sole discretion. Nothing in this Agreement will prevent Bank from placing a restraint against any balance as required by legal process or as otherwise deemed necessary by Bank in its sole discretion.

(c) Overdrafts. Notwithstanding any provision to the contrary elsewhere in the Terms and Conditions, , you and your Affiliate(s) may write checks against a Subsidiary Account in excess of the collected balance in such Subsidiary Account, provided that the aggregate amount of all checks and other authorized debits by you and your Affiliate(s) against the Concentration Account and all Subsidiary Accounts shall not exceed the aggregate collected

balances in the Concentration Account and all Subsidiary Accounts. In the event that the aggregate amount of all such checks and other authorized debits exceed such aggregate collected balances, an overdraft condition will exist and Bank may, in its sole discretion, return or refuse to pay any such check or debit, impose any fee or take any other action authorized under the Terms and Conditions with respect to such overdraft condition. If Bank elects to pay any such check or debit written or authorized by an Affiliate, you and your Affiliate who wrote such check or authorized such debit jointly and severally agree to pay the amount of the overdraft to Bank on demand.

## 25. POSITIVE PAY

If the Services selected by you include a Positive Pay Service, as defined below, then the following provisions will be applicable.

(a) Supplemental Definitions. Unless otherwise defined in this Section 25 or elsewhere in this Agreement, words or phrases will have the meanings set forth in UCC Divisions 3 (Negotiable Instruments) and 4 (Bank Deposits and Collections).

- i. "Available Funds" means funds on deposit in an Account and available for withdrawal pursuant to Regulation CC and Bank's applicable funds availability schedule and policies.
- ii. "Check Issue List" means an electronic listing of checks drawn by you on an Account which is submitted by you to Bank under Section 25(c).
- iii. "Default Option" means an option designated by you on the Set-Up Form for paying or returning Suspect Checks, in the absence of a timely Pay Request or Return Request. The Default Option may be either the "Return Default Option" or the "Pay Default Option."
- iv. "Pay Request" means your electronic instruction ordering Bank to pay a Suspect Check, submitted to Bank as set forth herein.
- v. "Positive Pay Service" means the Service provided by Bank to you as set forth in this Section 25.
- vi. "Presented Check" means a check drawn on an Account and presented to Bank for payment through the check collection system, including without limitation "on-us" checks deposited to another account maintained at Bank. Checks presented to Bank for payment by the payee in person, or by any means other than the check collection system, are not Presented Checks for purposes of this definition.
- vii. "Return Request" means your electronic instruction ordering Bank to return a Suspect Check, submitted to Bank as set forth herein.
- viii. "Reverse Positive Pay Service" means the Service provided by Bank to you as set forth in this Section 25, if you selected the Reverse Positive Pay Service on the Set-Up Form.
- ix. "Suspect Check" means: (A) if you selected a Positive Pay Service on the Set-Up Form, a Presented Check that (i) does not match a check included in a Check Issue List, (ii) is the subject of a "stop payment" placed by you through the Positive Pay Service as set forth below, or (iii) falls within other parameters defined by you or the Bank; or, (B) if you selected the Reverse Positive Pay Service on the Set-Up Form, any Presented Check.
- x. "Suspect Check List" means an electronic listing of Suspect Checks which is made available by Bank to you under Sections 25(c)iii or 25(d) below.
- xi. "UCC" means the California Commercial Code, as in effect from time to time.

(b) Positive Pay Service.

- i. Bank will provide, and you may use, the Positive Pay Service subject to the terms and conditions of this Agreement. Bank will be responsible only for performing the Positive Pay Service designated by you in a Set-Up Form signed by an Authorized Representative. Depending upon the Positive Pay Service selected by you, Bank may provide such User Guides to you as Bank deems necessary or appropriate. Bank will provide full access to the Positive Pay Service when Bank has received a complete, executed Set-Up Form and any other documents required for such

Service, and you have satisfactorily completed Bank's initial training, if any, in the use of the Positive Pay Service.

(c) Traditional Positive Pay Service. If you selected a traditional (standalone) Positive Pay Service on the Set-Up Form, this section will apply.

- i. You will submit a Check Issue List to Bank each Business Day, if you have drawn checks on any Account since the last Check Issue List was submitted. The Check Issue List must accurately state the check number and the exact amount of each check drawn on each Account since the last Check Issue List was submitted. If you selected the Payee Positive Pay Service, the Check Issue List must also accurately state the payee shown on each such check. You must submit the Check Issue List to Bank in the format and manner, and by the deadline, specified by Bank. Bank will not be obligated to comply with any Check Issue List submitted in a format or manner other than as specified by Bank, but may instead treat such Check Issue List as though it had not been received. Bank may treat any Check Issue List submitted after the applicable deadline as though submitted on the following Business Day. Bank is not responsible for detecting any error contained in any Check Issue List submitted by you.
- ii. You may modify or revoke a Check Issue List electronically in the format and manner, and by the deadline, specified by Bank. Bank will not be obligated to comply with any modification or revocation of a Check Issue List submitted in a format or manner other than as specified by Bank, or submitted after the applicable deadline, but may instead treat such modification or revocation as though it had not been received.
- iii. On each Business Day, Bank will compare each Presented Check against each Check Issue List received by Bank by check number, amount and, if you selected the Payee Positive Pay Service, by payee. Bank may pay and charge to the Account each Presented Check that matches a check shown on any Check Issue List by check number, amount and, if you selected the Payee Positive Pay Service, by payee. On each Business Day, Bank will make available a Suspect Check List that indicates whether Bank has received any Suspect Checks and, if so, (i) lists the check number, amount and payee of such Suspect Check(s), and (ii) makes available an image of the face of such Suspect Check(s). Bank will make the Suspect Check List available in the format and manner, and by the time, specified by Bank. Bank will use only Check Issue Lists that comply with Section 25(c) above in the preparation of Suspect Check Lists under this Agreement.

(d) Reverse Positive Pay Service. If you selected a Reverse Positive Pay Service on the Set-Up Form, this section will apply. On each Business Day, Bank will make available a Suspect Check List that indicates whether Bank has received any Suspect Checks and, if so (i) lists the check number, amount and payee of such Suspect Check(s), and (ii) makes available an image of the face of such Suspect Check(s). Bank will make the Suspect Check List available in the format and manner, and by the time, specified by Bank.

(e) Suspect Check Processing.

- i. Bank will pay or return Suspect Checks in accordance with the Default Option selected by you for each Account, as follows:
  - (i) If you select the Return Default Option to apply to an Account, Bank will return to the depository bank any Suspect Check drawn on that Account, unless you instruct Bank in a timely Pay Request to pay such check. Each Pay Request must be submitted to Bank electronically in the format and manner, and by the deadline, specified by Bank. Subject to the last sentence of Section 25(g)iii below, Bank will finally pay and charge to the Account any Suspect Check that you direct Bank to pay as provided above.
  - (ii) If you select the Pay Default Option to apply to an Account, Bank may finally pay and charge to the Account any Suspect Check provided that you have not instructed Bank in a timely Return Request to return such check. Each Return Request must be submitted to Bank electronically in the format and manner, and

by the deadline, specified by Bank. Bank will return to the depository bank any Suspect Check that you instruct Bank to return as provided above.

- ii. You will use only Suspect Check Lists that are made available by Bank as set forth in Sections 25(c) or 25(d), as applicable. Bank will not be obligated to comply with any Pay Request or Return Request submitted in a format or manner other than as specified by Bank, or submitted after the applicable deadline, but may instead treat such Pay Request or Return Request as though it had not been received. Bank is not responsible for detecting any of your error(s) contained in any Pay Request or Return Request.
- iii. You may modify or revoke a Pay Request or Return Request electronically in the format and manner, and by the deadline, specified by Bank. Bank will not be obligated to comply with any modification or revocation of a Pay Request or Return Request submitted in a format or manner other than as specified by Bank, or submitted after the applicable deadline, but may instead treat such modification or revocation as though it had not been received.

(f) Stop Payment.

- i. You may use the Positive Pay Service to place a “stop payment” with respect to a check drawn on an Account. A “stop payment” placed through the Positive Pay Service will result in the check being treated as a Suspect Check in accordance with the provisions of this Agreement. A “stop payment” placed through the Positive Pay Service is not the same as a stop payment order given to Bank by other means and does not guarantee that the check will not be paid.
- ii. Nothing in this Agreement limits your right to place a stop payment order by means other than the Positive Pay Service with respect to a check drawn on an Account, or to revoke any such stop payment order, all subject to Bank’s standard fees, policies and procedures. A Presented Check that is subject to a stop payment order not placed through the Positive Pay Service may not be included on a Suspect Check List. Notwithstanding any other provision of this Agreement, Bank may return any check that is subject to an outstanding stop payment order not placed through the Positive Pay Service.

(g) Remedies.

- i. To the extent applicable, the liability provisions of UCC Divisions 3 and 4 will govern this Section 25, except as modified below.
- ii. If Bank pays a Suspect Check listed in a timely Suspect Check List, it will constitute wrongful honor if either: (i) you selected the Return Default Option and did not issue a Pay Request with respect to the Suspect Check, or (ii) you had selected the Pay Default Option but issued a timely Return Request with respect to the Suspect Check. In the event that there is wrongful honor, and subject to the following, Bank will be liable to you for the lesser of the amount of the wrongfully honored Suspect Check or your actual damages resulting from Bank’s payment of the Suspect Check:
  - (i) Bank expressly waives any right it may have to assert that you are liable for the amount of the wrongfully honored Suspect Check on the grounds that the Suspect Check was properly payable under UCC Section 4401;
  - (ii) Bank retains the right to assert your failure to exercise reasonable care under UCC Sections 3406(a) and 4406(c). Bank’s wrongful honor will however constitute Bank’s failure to have exercised ordinary care under the loss allocation provisions of UCC Sections 3406(b) and 4406(e); and
  - (iii) Bank retains the right to assert the defense that you have sustained no actual damages because Bank’s honor of the Suspect Check discharged for value your indebtedness.
- iii. Except as provided below, if Bank returns a Suspect Check, it will constitute wrongful dishonor if either: (i) you had selected the Return Default Option, but issued a timely Pay Request with respect to the Suspect Check, or (b) you selected the Pay Default Option and did not issue a timely Return Request with respect to the Suspect Check. Bank’s liability for wrongful dishonor of a Suspect

Check will be limited to the damages for wrongful dishonor recoverable under UCC Divisions 3 and 4. Notwithstanding the foregoing sentence, however, Bank will have no liability for wrongful dishonor if Bank, acting in good faith, returns a Suspect Check: (i) that is subject to an outstanding stop payment order or that it reasonably believed was not properly payable; (ii) if there are insufficient Available Funds on deposit in the Account or the Account is closed; (iii) if required to do so by the service of legal process on Bank or the instructions of regulatory or government authorities or courts; or (iv) if required or permitted to do so by law or according to the Terms and Conditions then applicable to the Account.

iv. Except as provided in Section 25(g)v:

- (i) If Bank honors a Suspect Check in accordance with the Pay Default Option selected by you or in accordance with a Pay Request issued by you, such honor will be rightful, and you waive any right it may have to assert that the Suspect Check was not properly payable under UCC Section 4401.
- (ii) If Bank dishonors a Suspect Check in accordance with the Return Default Option selected by you or in accordance with a Return Request issued by you, the dishonor will be rightful, and you waive any right it may have to assert that the dishonor was wrongful under UCC Section 4402.
- (iii) You agree that Bank exercises ordinary care whenever it pays or returns any check, including without limitation a Suspect Check, consistent with the provisions of this Agreement, and you ratify every such payment or return. You acknowledge that Bank will not perform any verification procedures with respect to checks issued on any Account, other than as set forth herein.

v. Bank will be liable for any losses, other than consequential damages, that are proximately caused by its honor of a check that was not properly payable or its dishonor of a check that was properly payable, if the honor or dishonor occurred because Bank, in accordance with this Agreement: (i) should have listed the check on a Suspect Check List but failed to do so; or (ii) listed the check on a Suspect Check List, but referenced the wrong check number, amount or payee and failed to make available to you an image of the face of such Suspect Check, unless Bank provided you with timely information that disclosed the error.

vi. To the extent that you suffer a loss under this Agreement with respect to the Positive Pay Service, Bank assigns to you any claim that Bank would have against a depository or collecting bank to receiver the loss, including any claim of breach of warranty under UCC Sections 4207, 4208 and 4209.

(h) Termination of Agreement. Notwithstanding any termination of the Positive Pay Service or this Agreement, this Agreement will remain in full force and effect as to all Presented Checks that were presented to Bank prior to the date of termination. Upon termination, if requested by you, Bank will provide you (or your representative) with the current version of the Check Issue Lists database.

## 26. CREDIT SWEEP

If the Services selected by you include the Credit Sweep Service, as defined below, then the following provisions will be applicable.

(a) Supplemental Definitions

- i. "Borrowing Availability" means, at any time, the lesser of: (i) the Credit Line amount less the outstanding principal balance on the Credit Line; and (ii) the Maximum Borrowing Amount. If the Loan Agreement does not provide for a Borrowing Base, the "Maximum Borrowing Amount" shall mean the Credit Line amount. If the Loan Agreement does provide for a Borrowing Base, the "Maximum Borrowing Amount" shall mean the Borrowing Base, as most recently calculated by Bank. Bank shall not be obligated to calculate the Borrowing Base more frequently than on a monthly basis, but may elect to do so more frequently in the exercise of its sole discretion.

- ii. "Collected Balance" means, at the end of any Business Day, the ledger balance for the Account subject to the Credit Sweep Service minus Float.
- iii. "Credit Line" means the revolving line of credit evidenced under the Loan Agreement.
- iv. "Credit Line Balance" means, at any time, the outstanding balance of principal and interest due on the Credit Line.
- v. "Credit Sweep Service" means the service by which Bank will (i) automatically pay down the balance on the Credit Line when there are excess collected funds in the Account, and (ii) automatically draw on the Credit Line to replenish the Account when the Collected Balance falls below a certain threshold amount, as further described in this Section 26.
- vi. "Deposit Account Excess" means, at any time when the Collected Balance is greater than the Target Collected Balance, the difference between the Collected Balance (rounded downward to the nearest thousand dollars) and Target Collected Balance.
- vii. "Deposit Account Shortfall" means, at any time when the Collected Balance is less than the Target Collected Balance, the difference between the Target Collected Balance and the Collected Balance (rounded downward to the nearest thousand dollars).
- viii. "Float" is that portion of the funds in the Account that Bank in its discretion determines have not been collected.
- ix. "Loan Agreement" means the loan agreement identified in the Schedule or Set-Up Form for the Credit Sweep Service, pursuant to which Bank has made certain credit facilities available to you, including the Credit Line.
- x. "Target Collected Balance" means a Collected Balance in the amount that is identified in the Schedule or Set-Up Form for the Credit Sweep Service.

(b) Customer Authorizations. Whenever the Account subject to the Credit Sweep Service contains more than the Target Collected Balance at the end of any Business Day, you hereby authorize and direct Bank to debit the Account, in an amount (the "Debit Amount") equal to the lesser of (i) the amount of the Deposit Account Excess and (ii) the outstanding balance on the Credit Line, and apply the Debit Amount to reduce the outstanding balance on the Credit Line. Whenever the Account contains less than the Target Collected Balance at the end of any Business Day, you hereby authorize and direct Bank to process an advance on the Credit Line, in an amount equal to the lesser of (i) the Deposit Account Shortfall and (ii) the Borrowing Availability, and deposit those funds into the Account.

(c) Bank's Failure to Act. You understand that this Section 26 authorizes Bank to undertake certain actions, and that Bank will make every effort to undertake such actions on any applicable Business Day in accordance with the terms and conditions herein, but that Bank's failure to do so shall not result in any liability to Bank and shall not relieve you of any of your obligations under the Loan Agreement or any other agreement between you and Bank.

(d) Reliance on Authorization. Bank may rely on the authorization contained in Section 26(b) above until written revocation of such authorization is received by Bank from a Security Administrator.

(e) Termination. Bank's obligations under this Section 26 shall automatically terminate if the Account is closed, the Credit Line is canceled or terminated for any reason, Bank declares a default under the Loan Agreement, or the Loan Agreement has expired or is terminated.

(f) FDIC Disclosure. For purposes of FDIC insurance:

- i. The Credit Line is not a "deposit," as defined in 12 U.S.C. 1813(l) (a "Deposit"). Funds advanced from the Credit Line become a deposit when the advance is actually processed by the Bank, even if the advance is recorded on Bank's books as of the previous banking day.
- ii. Any Debit Amount debited from the Account and applied to reduce the outstanding balance on the Credit Line ceases to be a Deposit when the payment is actually processed by Bank, even if the payment is recorded on Bank's books as of the previous banking day. Although the payment is not a Deposit, it reduces the amount you owe Bank on the Credit Line.

## 27. LOCKBOX

If the Services selected by you include the Lockbox Service, as defined below, then the following provisions will be applicable.

(a) Lockbox Service. The Bank will provide lockbox mail collection services with respect to your Account(s) (the "Lockbox Service") in accordance with the terms of this Section 27.

(b) Specifications. The Bank will complete and mail or deliver to you a set or sets of specifications ("Specifications") applicable to this Section 27. Unless you shall advise Bank as to any inaccuracies contained in the Specifications within 10 days, such Specifications shall become part of this Agreement.

(c) Mail. You will advise your customers to send checks, drafts or other orders for the payment of money to be processed under this Section 27 ("Items") to the lockbox address set forth in the Specifications. Bank will pick up mail containing Items at the U.S. Postal Service from time to time in accordance with Bank's regular lockbox collection schedules. Your relationship with us as a depositor shall commence only when Items are credited to your Account. Prior to such time, Bank shall be considered a bailee as to Items in its possession.

(d) Inspection of Items. Bank will open the envelopes received from the U.S. Postal Service and will remove the contents thereof. Items contained in the envelopes will be inspected and handled as follows:

- i. Payees. An Item not bearing an acceptable payee designation, as set forth in the Specifications, or a reasonable variation thereof, will not be deposited in the Account. If a necessary endorsement of a payee other than yours is missing, the Item will not be deposited into the Account.
- ii. Dates. An Item will be deposited into the Account whether it is stale dated, post dated or undated.
- iii. Amounts. If the written and numeric amounts of an Item differ, the written amount shall control over the numeric amount unless the written amount is ambiguous. If the amount of an Item cannot be determined from application of the preceding sentence, or if the amount is missing altogether, the Item will not be deposited into the Account.
- iv. Drawer's Signatures. Bank will deposit an Item on which the drawer's signature is missing into the Account.
- v. Alterations. An Item which appears to Bank to have been materially altered will not be deposited into the Account.
- vi. Restrictive Language. Bank will have no responsibility to look for or detect "paid in full," "void after 90 days" or similar language appearing on or with Items. Items will be deposited notwithstanding any such language, and Bank will have no liability as a result of processing the Items.
- vii. International Payments. An Item denominated in foreign currency and drawn on a foreign bank will not be deposited into the Account but will be submitted for collection only. An appropriate advice will be forwarded to you. Bank shall not be responsible for fluctuation in exchange rates.

(e) Processing Procedures. Items found acceptable for deposit under Paragraph (d) above will be encoded, photocopied, endorsed and deposited into the Account each Business Day. The endorsement will read substantially as follows: "SMBC MANUBANK Lockbox Service Deposit to the credit of the within named payee," and this endorsement will function as the endorsement of the payee of the Item.

(f) Original Items and Documents. If designated in the Specifications, Bank will send the following to you in accordance with the Specifications:

- i. Photocopies of deposited Items and the original accompanying papers;
- ii. One deposit ticket copy for each deposit;
- iii. Except as set forth in Paragraph (d) vii above, original Items unacceptable for deposit under Paragraph (d), accompanying papers and other miscellaneous written communications received through the lockbox.

Any original document not returned to you will be destroyed 3 days after Bank receives it.

(g) Images. If designated in the Specifications, Bank will make images of the documents listed in Paragraph (f) above ("Images") available to you through the Internet or by delivering to you a CD ROM or other agreed upon physical medium, or both. Use of the Internet to view Images is subject to the separate terms and conditions for that service (including hours of availability). If you elect to receive Images on a CD ROM or other physical medium, Bank will deliver it to you daily, weekly or monthly as you request. Bank will retain Image files for a limited period of time, which may change from time to time. Beyond that time, the best way to ensure availability of Images or copies of Items and other documents is to download them from the Internet and/or take delivery of the Images on CD ROM or other agreed physical medium. If the Image of a particular document (other than an Item) is not legible, Bank will be unable to produce another Image or copy if Bank has returned the original document to you or destroyed it. Bank will not be liable if an Image is not legible.

(h) Returned Items. You acknowledge that Items accepted by Bank for deposit may be returned unpaid. Without limiting the generality of the foregoing statement, you acknowledge that Items described in Paragraph (d) above which are deposited may be returned for the reasons noted in that paragraph. You further acknowledge that Bank's acceptance of Items for deposit into the Account does not constitute any kind of warranty or representation that the Items will be paid upon presentment to the drawee thereof. Bank shall charge such returned Items against the Account. Bank may at its option seek reimbursement directly from you, in which case you shall pay Bank the amount of the uncollected Item. Prior to charging the Account or seeking reimbursement from you, Bank may, at its option, redeposit Items returned because of insufficient or uncollected funds. Bank may also, at its option, either charge your Account, seek payment directly from you or include as a part of its fee for providing the Lockbox Service, Bank's fee for returned Items and/or any float cost incurred by it as a result of such returned Item. Bank will provide you with debit advice for all charges made to your Account covered by this Paragraph (h).

(i) Fees. In addition to paying the Bank's fees in connection with the Lockbox Service, you agree to pay Bank any and all out-of-pocket expenses incurred by Bank in connection with Bank's provision of the Lockbox Service (such as exchange charges and postage due charges).

(j) Adjustments. Bank shall have the right to credit or debit the Account to correct processing mistakes which are capable of correction. Copies of credit or debit advice will be sent to you as set forth in the Specifications. If you do not object to entries appearing on your Account statement within 30 days of the transaction date, Bank's accounting thereon shall become final and binding. This paragraph shall survive termination of the Lockbox Service.

(k) Limitation of Liability. Bank shall have no duty to perform services not enumerated in this Section 27, and Bank's responsibility hereunder shall be limited to the exercise of ordinary care. This shall mean the same degree of care used by Bank in processing negotiable instruments and data and compiling reports for its own internal use. Failure to exercise ordinary care shall not be inferable by reason of loss of an Item, without in addition thereto a showing of negligence on the part of Bank. Establishment of and substantial compliance by Bank with the procedures set forth herein shall be deemed to constitute the exercise of ordinary care. You agree that neither intentional deviations by Bank made in response to a request by you, nor occasional unintentional deviations by Bank, from the procedures set forth herein shall be deemed a failure to exercise ordinary care. Bank shall not be liable to you for failure to perform under this Agreement if such failure is due to the occurrence of any event beyond the control of Bank, provided that Bank exercises reasonable diligence under the circumstances. Bank does not guarantee receipt or collection of Items within any specific time frame. You recognize that in the ordinary course of business, post-dated Items, Items payable to an unacceptable payee, or Items of ambiguous amounts may inadvertently be processed contrary to the provisions of this Agreement, although Bank will use its best efforts to process Items received through the lockbox in accordance with the provisions of Paragraph (d) above. Bank reserves the right to forward to you an Item received through the lockbox to you for inspection and instructions before such Item is processed for deposit in the Account if, in the judgment of Bank, there is a question as to such Item. Bank shall not have any liability as a result of (i) inadvertently processing any Items contrary to the provisions of this Agreement or other error in judgment, made in good faith, (ii) failure to perform, or to perform within the agreed time schedule, or properly or accurately perform any service whatsoever in connection with Item processing, including but not limited to data capture, data transmission, deposit transmission and other delivery of financial information, (iii) failure to provide any service in connection with this Agreement due to the communication line failure, equipment malfunction, power failure, strikes or lockouts, fire or other casualty, epidemic, riot, war, or civil commotion, windstorm, earthquake, flood or other act of God, delay in transportation, government regulations or interference or any event or cause beyond the reasonable control of Bank, or (iv) the loss, destruction, mutilation,

damage or theft of any documents or Items resulting from any cause whatsoever, except the willful misconduct or fraudulent act of Bank or its employees. This paragraph shall survive termination of the Lockbox Service.

(l) Termination. This Service may be terminated without cause by either party at any time by giving 30 days prior written notice to the other party. Any mail received by Bank after the termination date shall be sent to you for a period of 4 months. You shall pay Bank its charges for forwarding any mail. After such 4-month period, Bank may return such mail to sender.

## 28. AUTOMATED CLEARING HOUSE

If the Services selected by you include the ACH Service(s), as defined below, then the following provisions will be applicable.

(a) ACH Services. Subject to the completion of all required set-up and implementation testing, Bank will provide you the electronic payment services (collectively the "ACH Services" and individually an "ACH Service") selected by you under the Set-Up Form, beginning on the commencement date specified on the Set-Up Form. Bank may discontinue any ACH Service upon 30 days' prior written notice to you. If all ACH Services are discontinued, the terms of this Section 28 will terminate automatically. Bank may add, delete or change the features or functions of any ACH Service at any time in Bank's sole discretion.

(b) ACH Rules. The terms of this Agreement are subject to the ACH Rules. Unless otherwise defined, capitalized terms used in this Section 28 have the meanings provided in the ACH Rules. The term "Entry" is defined as provided in the ACH Rules and also includes an entry for credit or debit to an account maintained with Bank ("On-Us Entries") and a Prenotification.

(c) Delivery of Entry Data by Customer. You may, from time to time, transmit to Bank, or cause to be transmitted to Bank, orders for the origination of Entries ("Entry Data"), including both Entries to be distributed through the Automated Clearing House ("ACH") network and On-Us Entries. If you cause Entry Data to be transmitted to Bank by an agent or contractor on your behalf, such Entry Data will be deemed to have been transmitted to Bank, and such Entries will be deemed to have been originated, by you for all purposes. Under the ACH Rules, you will be the Originator and Bank will be an Originating Depository Financial Institution ("ODFI") with respect to all Entries for which Entry Data was transmitted by you to Bank. By transmitting Entry Data to Bank, you represent and warrant that you successfully completed any required implementation testing prior to commencement of the applicable ACH Service. The Entry Data must comply, in form, content, and mode of transmittal to Bank, with the ACH Rules and written Bank requirements provided to you from time to time, and you agree that Bank is not responsible for verifying or validating the Entry Data in any way, except as set forth in the Security Procedure selected by you in the Set-Up Form. Bank may, in its sole and absolute discretion, select the operator of the ACH network through which Entries are processed (the "ACH Operator").

(d) Accounts. You will designate one or more Accounts on the Set-Up Form, to which Bank may debit or credit Entries originated by you and related adjustments and charges under this Section 28. You may add, delete or change Accounts subject to ACH Services by delivering to Bank from time to time additional or amended Set-Up Forms executed by a Security Administrator.

(e) Compliance with ACH Rules and Law. You will comply with and be subject to the ACH Rules with respect to all Entries, including but not limited to On-Us Entries except as otherwise expressly provided in this Section 28. You acknowledge that the ACH network may not be used in violation of, and that Entries originated by you must comply with, applicable federal and state law, including but not limited to laws administered by the Office of Foreign Asset Controls (OFAC) of the Department of the Treasury, and you agree that you will be responsible for ensuring such compliance. If you originate a preauthorized debit Entry to a consumer's account, you will comply with the applicable requirements in the ACH Rules, the Electronic Fund Transfer Act, and Regulation E of the Board of Governors of the Federal Reserve System.

(f) Security Procedures.

- i. You have selected, or will select, a security procedure indicated in the Set-Up Form (the "Security Procedure") in connection with the transmittal of Entry Data to Bank, and you will deliver such Entry Data in compliance with the Security Procedure. You agree that the purpose of the Security Procedure is only to verify that the Entry Data transmitted to Bank in your name is authentic and authorized by you, and not to detect errors in the Entry Data. You agree that the Security Procedure selected by you is commercially reasonable in view of the size, type and frequency of Entries

originated by you, and Bank may act upon any Entry Data that Bank verifies through the use of the applicable Security Procedure. You will be bound by the resulting Entries, whether or not such Entry Data was actually authorized by you.

- ii. If an ACH Service is terminated for any reason, you will immediately cease using and, at the option of the Bank, either return to Bank or destroy any physical embodiments of, any Codes with respect to the terminated ACH Service. The obligations in this subsection (f) will survive termination of this Section 28.

(g) Users. Bank is authorized to rely on the Set-Up Form(s) in providing the ACH Services, notwithstanding any contrary instructions on any signature card for the Account or elsewhere regarding your representatives or the minimum number of signatures required for the withdrawal of funds from an Account or for any other transaction with Bank. Subject to the Security Procedure, when processing Entry Data, Bank is conclusively entitled to rely on Entry Data information and any confirming instructions from any person who identifies himself or herself as, or who Bank otherwise believes to be, a User.

(h) Processing, Sending and Settlement by Bank.

- i. Bank will (1) process Entry Data received from you, (2) send the resulting Entries to an ACH Operator for transmittal to the Receiving Depository Financial Institution ("RDFI") through the ACH network or, with respect to On-Ups Entries, make applicable accounting entries on its books as set forth below, and (3) settle for such Entries in accordance with the ACH Rules, as applicable.
- ii. Bank will send Entries, other than On-Ups Entries, to the ACH Operator by the applicable deadline prior to the Effective Entry Date shown in the related Entry Data, provided (1) such Entry Data are received by the Bank on a Business Day within the applicable processing window for the distribution cycle agreed to by you and Bank, (2) such Entry Data can be processed, and (3) the ACH Operator is open for business. Entry Data received by Bank after the applicable file input deadline on a Business Day may be treated by Bank as received on the next Business Day. Entry Data are not deemed received by Bank until a complete, properly-formatted file containing the Entry Data has been received at the location designated in writing by Bank.
- iii. If the conditions of subsection ii above are not satisfied, Bank will use reasonable efforts to transmit the Entries to the ACH Operator by the ACH Operator's next applicable deadline, on a day on which the ACH Operator is open for business, in accordance with any exception processing arrangements agreed to between you and Bank.
- iv. Except as provided in Section 28(i), in the case of any On-Ups Entry, Bank will credit or debit, as appropriate, the Receiver's account in the amount of such Entry on the Effective Entry Date contained in the related Entry Data, provided such Entry Data are received by Bank on a Business Day within the applicable processing window for the distribution cycle agreed to by you and Bank. If this condition is not met, Bank will use reasonable efforts to credit or debit, as appropriate, the Receiver's account in the amount of such Entry no later than the next Business Day following the Business Day of receipt. The Bank cannot guarantee the day of settlement of any Entries, including On-Ups Entries or Same Day Entries.
- v. If an Entry is received by Bank with an Effective Entry Date of the current day's date, it will be considered a "Same Day Entry." The Entry will be distributed as a Same Day Entry if it is received prior to the applicable cutoff time for Same Day Entries and complies with the ACH Rules established for Same Day Entries. If the Entry does not comply with the ACH rules for Same Day Entries, or is sent and distributed after the established cutoff time, the Entry will automatically be processed as a next day Entry.

(i) Rejection of Entry Data or Entries. Bank may reject any Entry Data that do not comply with the requirements of Section 28(c) or that cannot be processed, or for any other reason for which an Entry may be rejected under the ACH Rules. Bank may also reject any Entry Data if Bank has attempted but is unable to verify its authenticity in accordance with the applicable Security Procedure or if you are in default with respect to any obligation under this Agreement, including but not limited to Section 28(k). Bank will give notice of rejection to you or to the agent or contractor that submitted the rejected Entry Data on your behalf by telephone, electronically, by facsimile, or in writing, as Bank deems appropriate under the circumstances. Written notice may be sent by ordinary mail. Notice of rejection will be effective when given. Bank will give the notice of rejection within two Business Days

of (1) the Business Day such Entry would otherwise have been sent by Bank to the ACH Operator or (2) in the case of an On-Us Entry, the Business Day the Entry would otherwise have been credited or debited to the Receiver's account. Bank will have no liability for the rejection of any Entry Data or Entry pursuant to this Agreement, and Bank will have no obligation to pay interest to or otherwise compensate you, credit your Account or make any adjustment to your account analysis statement (if any) with respect to any interest or interest equivalent for the period before you receive the notice of rejection.

(j) Cancellation or Amendment of Entry Data. You may not cancel or amend any Entry for which Entry Data has been received by Bank. You may deliver to Bank Entry Data for reversing Entries ("Reversals") pursuant to the ACH Rules, subject to Section 28(c). However, Bank has no liability if such Reversals are not effected. You agree to indemnify and hold Bank harmless from and against any and all claim, expense, loss, liability or cost whatsoever (including but not limited to allocated costs of staff counsel, other reasonable attorney's fees and any fees and expenses incurred in enforcing this provision) arising out of or relating to Bank's acting or attempting to act upon any Reversal Entry Data.

(k) Payment of Entries.

- i. Except as otherwise provided herein, you will pay Bank an amount equal to the sum of all credit Entries originated by you and all Reversals with respect to previously originated debit Entries prior to Bank's (1) sending any such Entry to the ACH Operator, or (2) in the case of an On-Us Entry, crediting the Receiver's account with respect to any such Entry. This is called Prefunding.
- ii. Subject to the provisions of this Agreement, including but not limited to Section 11, Bank may, in its sole discretion, without requiring Prefunding, (1) send any credit Entry originated by you or any Reversal with respect to a previously originated debit Entry to the ACH Operator, or (2) in the case of an On-Us Entry, credit the Receiver's account with respect to any such Entry. If Bank does so, you must pay Bank an amount equal to the sum of all such Entries on or before the Settlement Date with respect to such Entries. This is called Settlement Date Funding. Bank is not obligated to continue to permit Settlement Date Funding, or to give you prior notice that Bank will no longer permit Settlement Date Funding, regardless of whether it may have done so previously.
- iii. With respect to credit Entries originated by you, you acknowledge that under the ACH Rules, payment of the credit Entry by the RDFI to the Receiver will be provisional until the RDFI receives final settlement for such Entry. You understand that, if final settlement is not received for any reason, the RDFI will be entitled to a refund of the amount credited from the Receiver, and you will not be deemed to have paid the Receiver the amount of the credit Entry.
- iv. You will pay Bank the amount of (1) any rejected or returned debit Entries, which Bank had previously credited to your Account, and (2) any adjustment Entry accepted by Bank. Returned debit Entries will appear on the periodic statement for your Account, and Bank will not be obligated to give you a separate notice of debit Entries that are rejected or returned unpaid, or of any Reversals or other adjustment Entries with respect to any debit Entries. If you wish to request Bank to dishonor any returned Entry, such request must be given in writing, together with any relevant information required under the ACH Rules, within ten Business Days after Bank has notified you of Bank's receipt of the returned Entry. Bank will not be obligated to dishonor any returned Entry, whether or not you request Bank to do so, and Bank will not dishonor any returned Entry unless Bank deems such dishonor to be permitted by the ACH Rules.
- v. You acknowledge that any payment by Bank to you for any debit Entry, returned credit Entry or credit Reversal is provisional until Bank receives final settlement for such Entry. If final settlement is not received for any such Entry or Reversal, you must refund to Bank the amount credited to you for such Entry or Reversal. Bank may place a "hold" on (refuse to permit the use of) any amount credited to your Account for a debit Entry or credit Reversal if it believes there may not be sufficient funds in the Account to cover chargeback or return of such Entry or Reversal.
- vi. You will pay Bank all amounts under this Section 28(k) in immediately available funds in U.S. dollars, whether or not demand is made. Bank may charge your Account for any such amount without prior notice or demand, and you will pay Bank's fees and charges in the event such charge creates an overdraft. You hereby grant to Bank a security interest in your deposit accounts with Bank and all other property of yours held by Bank to secure your obligations under this Section 28(k).

(l) Settlement Limit. Bank may establish a maximum aggregate dollar amount ("Settlement Limit") for the sum of (a) all outstanding debit Entries originated by you, plus (b) all outstanding credit Entries originated by you for which Bank permits Settlement Date Funding. A debit Entry will be deemed to be "outstanding" from the time Entry Data for such Entry are transmitted to Bank until Bank receives final settlement of such Entry. A credit Entry will be deemed to be "outstanding" from the time Entry Data for such Entry are transmitted to Bank until you pay Bank the amount of such Entry. Your initial Settlement Limit will be set forth on the Set-Up Form, and Bank may change the Settlement Limit from time to time upon written notice to you. Bank may reject any Entry Data that would cause you to exceed your Settlement Limit. If this happens, Bank will contact a User and follow the process outlined in Section 28(i) above. You acknowledge that the Settlement Limit is not (1) a Security Procedure to verify the authenticity or authorization of Entry Data delivered in your name, (2) intended to detect errors in any Entry Data, or (3) a commitment to extend credit to you.

(m) Fees and Charges. All fees and charges are subject to change upon 30 calendar days' prior written notice from Bank, except that any increase in fees to offset any increase in rates charged to Bank by public or private or common carrier communications facilities and third-party suppliers (collectively "Vendors") for services affecting the ACH Services will be effective on the same day as any Vendor's rate increase. Bank will, however, use reasonable efforts to give you 30 calendar days' prior written notice of fee increases due to Vendors' rate increases. Amounts due to Bank will be determined and paid according to Bank's account analysis procedures, unless you arrange another payment procedure acceptable to Bank.

(n) Erroneous or Unauthorized Entries. Settled Entries originated by you will be reflected on periodic statements issued by Bank for the applicable Account. You will examine each such statement and give Bank prompt written notice (including a statement of relevant facts) of any unauthorized or erroneous Entry or other discrepancy between your records and the information shown on the relevant statement within 14 calendar days after your receipt of the first relevant statement indicating the discrepancy. If you fail to give Bank such written notice, Bank will not be liable for or otherwise be required to compensate you (through account analysis or otherwise), with respect to any loss of interest or any interest equivalent involving the unauthorized or erroneous Entry or discrepancy. If you fail to notify Bank of any erroneous Entry or other discrepancy within 60 calendar days of receipt of the first relevant statement, you will be precluded from asserting that Bank is not entitled to retain any payment received from you relating to the Entry or discrepancy, provided, however, that this preclusion will not apply to any Entry which was not authorized by you and which is not effective as your order under Division 11 of the California Uniform Commercial Code. You will notify Bank promptly in writing you learn of or discover from any source other than a Bank statement any information concerning an unauthorized or erroneous Entry.

(o) Your Representations and Warranties.

- i. Without limiting the generality of your other representations and warranties in this Agreement, you represent and warrant you obtained the appropriate authorization from each person, other than yourself, owning or holding an Account to be debited, as shown in Entry Data delivered by you to Bank, your instructions to Bank conform to the authorization, and such authorization will be operative at the time of Bank's sending of the related Entry to an ACH Operator or Bank's crediting or debiting, as appropriate, of the related On-Ups Entry to the Receiver's account.
- ii. By transmitting Entry Data to Bank, you will make the representations and warranties of an Originator under the ACH Rules with respect to the resulting Entries sent by Bank to an ACH Operator and On-Ups Entries processed by Bank, and Bank will have no responsibility with respect to matters so represented and warranted by you. The foregoing sentence will not apply to any representation or warranty contained in the ACH Rules relating to (1) the power of Bank under applicable law or (2) the conformity of Entries to the file specifications contained in the ACH Rules.
- iii. You will be deemed to repeat each representation and warranty made in this Agreement as of each day on which you deliver Entry Data to Bank or otherwise uses an ACH Service.

(p) Limitation on Liability and Compensation.

- i. For Entries other than those described in subsection (ii) below, and for Bank's other obligations under this Section 28, and without limiting the generality of Section 8, Bank will not be liable for any Damages arising out of or relating to its performance under this Section 28, other than Damages that result from Bank's gross negligence or willful misconduct. Bank's liability will be limited to direct money Damages actually incurred by you in an amount not exceeding the greater of (1) fees for the ACH Service during the month in which the acts or omissions occurred, or (2) compensation

equivalent to interest, for the period of delay, on the amount of any debit Entry which Bank delayed crediting to your Account, calculated in accordance with subsection (iv) below, or (3) the amount, if any, debited by Bank to your Account for (A) any credit Entry sent by Bank to an account not specified in the Entry Data or (B) any overpayment for which Bank is liable that you are unable to recover. If such an overpayment or incorrect transfer occurs, Bank will also calculate and pay or credit you compensation equivalent to interest on the overpayment or the amount incorrectly transferred, as applicable, as provided in subsection (iv) below. You will use reasonable efforts to assist Bank in recovering the amount of any overpayment.

- ii. For Entries subject to Division 11 of the California Uniform Commercial Code, Bank will not be liable for any Damages arising out of or relating to its performance under this Section 28 other than those Damages required to be paid under Division 11; provided, however, that Bank will not be liable for any such Damages to the extent otherwise provided in this Section 28 unless Division 11 provides that such liability may not be varied by agreement.
- iii. Bank will not be responsible for your acts or omissions or those of your officers, employees, agents or contractors (including without limitation the amount, accuracy, timeliness of delivery or due authorization of any Entry Data) or the acts or omissions of any third person, including without limitation any ACH Operator, any other financial institution or any Vendor, and no such person will be deemed to be Bank's agent. Bank makes no representation or warranty regarding any Vendor's service.
- iv. In the event Bank is obligated to pay compensation equivalent to interest, Bank will pay or credit your Account, as Bank determines, upon written demand by you, such compensation calculated as follows for the relevant period:
  - (i) If the applicable Account is an analyzed account, Bank will calculate the amount using the earning credit rate(s) for the Account for the relevant period according to Bank's published account analysis procedures.
  - (ii) If the applicable Account is a non-analyzed interest bearing account, Bank will calculate the amount using the interest rate(s) for the Account for the relevant period.
  - (iii) If the applicable Account is a non-analyzed, non-interest bearing account, Bank will calculate the amount using the average of the Federal Fund rates published by the Federal Reserve Bank of New York for the relevant period, adjusted by a percentage equal to the reserve requirement for the applicable Account.
- v. Notwithstanding any other provision of this Agreement or otherwise, if Bank would be obligated to pay compensation equivalent to interest when you had a withdrawable credit balance in the applicable Account and such Account was an analyzed account, Bank will not be obligated to pay any compensation other than in accordance with Bank's published account analysis procedures.
- vi. The limitations set forth in this Section 28(p) shall not limit the generality of Sections 8 and 16(e), provided however, that in the event of an express conflict between this Section 28(p) and the other limitations on liability contained in this Agreement, the terms of this Section 28 shall prevail. This Section (p) shall survive termination of this Agreement.

(q) Protection from Third Parties. Without limiting the generality of Section 9 of this Agreement, you will indemnify and hold Bank harmless from and against any and all actions, demands and Damages arising out of or relating to:

- i. Any Entry Data or Entry transmitted or authorized by you, or any Entry Data the authenticity of which was verified pursuant to the applicable Security Procedure;
- ii. Any claim that Bank is responsible for any of your acts or omissions or those of or any person described in Section 28(p)iii above;
- iii. Any breach of any of your representations and warranties in this Agreement; and

- iv. Any other dispute, action or demand by a third party concerning your use of the ACH Service or Bank's acts or omissions in providing the ACH Service, except this clause does not apply to the gross negligence or intentional misconduct of Bank.

Your obligations under this Section (q) will survive the termination of this Agreement.

(r) Reliance on Account and Routing Numbers. You acknowledge and agree that (a) an RDFI (including Bank when it is processing an On-Us Entry) may rely solely on the Receiver's account number in the Entry, even if the number identifies a Receiver different from the Receiver identified by name in the Entry, (b) Bank and any intermediary bank may rely solely on the routing number that identifies an RDFI in an Entry, even if such routing number identifies a bank different from the RDFI identified by name in the Entry, and (c) neither Bank nor any RDFI has a duty to detect any inconsistency in identification.

(s) Termination. Termination of the ACH Service or of this Agreement will not affect (1) the rights and obligations of the parties with respect to any Entries initiated prior to termination, (2) your payment obligations with respect to ACH Services performed by Bank prior to termination, or (3) any other obligations that survive termination of this Agreement.

(t) Notices and Instructions. Except as otherwise expressly provided herein, Bank will not be required to act upon any notice or instruction received from you or any other person, or to provide any notice or advice to you or any other person with respect to any matter under this Section 28.

## 29. ACH BLOCKING, ACH FILTERING, ACH POSTIVE PAY

If the Services selected by you include the ACH Blocking or ACH Positive Pay Service(s), as defined below, then the following provisions will be applicable. For the purposes of this Section 29, the term "Entry" is defined as provided in the ACH Rules.

### (a) ACH Blocking.

- i. You may choose to automatically block and return all incoming ACH debit Entries before posting to the Account ("ACH Blocking"). You are not required to establish Customer Rules for ACH Blocking.
- ii. Alternatively, the ACH Blocking Service also allows you to review and confirm Automated Clearinghouse (ACH) debit Entries prior to posting to Accounts ("ACH Filtering"). The following terms and conditions shall apply to ACH Filtering:
  - (i) You will establish and remain responsible for maintaining, through the Bank's system, your rules ("Customer Rules") which govern permissible Entries by originating Company ID, Standard Entry Class, Dollar Range, or as otherwise specified further in the User Guides.
  - (ii) You will review exceptions you receive from the Bank through email or through the Bank's system, and determine if the exceptions will be treated as authorized or unauthorized Entries. If an exception item is a valid debit transaction, you may

establish a Customer Rule after authorizing to pay the entry so that future entries will be paid automatically.

- (iii) You will make exception decisions online through the Bank's system on each Business Day by the deadline specified in the User Guides.
- (iv) You acknowledge that ACH Filtering does not cover ACH debit Entries which Bank has already paid or finalized or which Bank is already committed to pay or honor under applicable laws, regulations, the ACH Rules or the Customer Rules.
- (v) The Bank shall compare incoming ACH debit Entries against your Customer Rules and accept those Entries which are authorized under your Customer Rules as established by you in the Bank's system.
- (vi) The Bank shall submit to you as exceptions ("ACH Exceptions") any ACH Entries which do not meet your Customer Rules (unless you have chosen ACH Blocking, in which case all ACH Entries will be returned).
- (vii) Bank shall make reasonable efforts to make exceptions available to you on each Business Day by the deadline specified in the User Guides.
- (viii) ACH Exceptions will not reflect in your Account records if they are returned.
- (ix) The Bank shall default to a "return" decision for any ACH Exception for which you have not submitted a decision on the same Business Day by the deadline specified in the User Guides.

(b) ACH Positive Pay. This Service ("ACH Positive Pay") permits you to honor or reject non-preauthorized Entries each Business Day through the Bank's system. Entries that you choose to pay will flow through the normal ACH processing system and post to your Account(s). Entries that you choose to reject will not post to your Account(s) and will be returned to the Entry originator. Any Entry for which you do not make a decision to pay or reject by 1:00 p.m. Pacific Time (or such other time specified in the User Guides) will be rejected automatically. Your Security Administrator(s) has the authority to grant additional Users access to the ACH Positive Pay system.

(c) Service Usage. Enrollment in ACH Blocking is required to use ACH Filtering and ACH Positive Pay.

(d) Permitted Entries. Entries blocked pursuant to ACH Blocking, ACH Filtering, or ACH Positive Pay are limited to those received by the Bank from external sources not directly related to the Bank. The Bank may opt not to restrict entries that are: internal entries originated for payment of fees owed to the Bank, charges for services provided by the Bank's vendors in connection with any Service provided to you, payments or transfers originated by the Bank or by one of the Bank's vendors in connection with Services provided to you. You acknowledge that unless tax payments are specifically authorized through the Service prior to receipt by the Bank, the Service will cause those payments to be rejected. Entries received prior to the setup of the Services described in this Section 29 may be posted to your Account(s) in accordance with the ACH Rules.

(e) Limitation on Liability. In addition to any other limitation on liability in this Agreement, you agree that if Bank pays or rejects for payment Entries or items in accordance with this Section 29, you release Bank and holds it harmless from any claim that the entries or items were or were not properly payable, or for wrongful dishonor (as applicable).

(f) ACH Risk. You acknowledge that your failure to use the Services described in this Section 29 could substantially increase the likelihood of undetected fraudulent activity on your Account(s) and that it would be reasonable for the Bank to require you to use ACH Filtering, ACH Blocking or ACH Positive Pay upon request. You agree that if you fail to implement ACH Filtering, ACH Blocking or ACH Positive Pay following the Bank's request that you do so, you will be precluded from asserting any claim against the Bank for paying an unauthorized, altered, counterfeit or other fraudulent item or Entry that ACH Filtering, ACH Blocking or ACH Positive Pay was designed

to detect or deter, and the Bank will not be required to re-credit your Account(s) or otherwise be liable to you for paying such Entry or item.

### 30. REMOTE DEPOSIT CAPTURE

If the Services selected by you include the Remote Deposit Capture Service, as defined below, then the following provisions will be applicable.

#### (a) Supplemental Definitions

- i. "Check" means an Original check, as defined in Regulation CC, except that Check does not include a substitute check or a remotely created check.
- ii. "Deposit Batch" means one or more items that are totaled, scanned and transmitted to Bank by you, using the Remote Deposit Capture Service, as a single deposit to an Account.
- iii. "Image Item" means an electronic representation (image) of an item that is created by you and transmitted to Bank using the Remote Deposit Capture Service.
- iv. "Item Information" means the following information with respect to an item: Check or item number, amount, payor account number and paying bank routing number.
- v. "Original," with respect to a Check or other item, means the first paper Check or item issued with respect to a particular payment.
- vi. "Regulation CC" means Title 12, Part 229 of the Code of Federal Regulations, as amended from time to time.
- vii. "Scanner" means check scanning equipment acceptable to Bank that is installed by you at your location and utilized for the Remote Deposit Capture Service.
- viii. "Remote Deposit Capture Service" means this service, by which you may process Checks for deposit to an Account electronically as described in this Section 30.

Unless otherwise defined herein, words or phrases used in this Section 30 will have the meanings set forth in Regulation CC or, if not defined therein, in Divisions 3 (Negotiable Instruments) and 4 (Bank Deposits and Collections) of the California Commercial Code, as amended from time to time.

#### (b) Provision and Utilization of Remote Deposit Capture Service.

- i. You may deposit Checks and other items to any deposit Account at the Bank in person or in any other manner permitted by agreement between you and Bank, and you will be responsible for maintaining procedures and facilities to enable you to do so if the Remote Deposit Capture Service is unavailable to you.
- ii. You acknowledge that the Remote Deposit Capture Service will require you to utilize a Scanner, which must be acceptable to Bank, in conjunction with a computer having access to the internet. Bank will provide you with a list of Scanner models acceptable for use with the Remote Deposit Capture Service and will process your Scanner order with a vendor selected by Bank in its discretion. You will be solely responsible for selecting an appropriate Scanner model and installing the Scanner, at your own expense, in a suitable and secure location, including without limitation installing all drivers and other software and obtaining all supplies required to use the Scanner. Prior to installing any Scanner or moving any Scanner to a new location, you will notify Bank in writing of the location at which the Scanner is installed, which location will be satisfactory to Bank in its discretion. You will not install any Scanner outside the United States. Unless agreed to otherwise in writing between you and Bank, you will use the Scanner solely for the purpose of making deposits to your Account through the Remote Deposit Capture Service. You will maintain the Scanner in good and clean operating condition, and you acknowledge that failure to do so may impair the image quality of Image Items or your ability to use the Remote Deposit Capture Service. In addition, you will provide, at your own expense, a high-speed Internet connection and all other computer hardware, software, including but not limited to a Web browser, and other equipment and supplies required to use the Remote Deposit Capture Service, all of which must satisfy any minimum requirements set forth in the User Guide and must otherwise be acceptable to Bank.

- iii. In addition to information contained in the User Guide, Bank may provide such helpline assistance and technical support for the Service, the Scanner and associated software, on such days and during such hours, as Bank may determine in its discretion. All warranties for the Scanner and the drivers and other software required to use the Scanner will be provided by the Scanner manufacturer, and Bank will not be responsible therefor. Bank may assist you in returning a Scanner requiring repair or service to the vendor or manufacturer, but Bank will not thereby assume any responsibility for such repair or service. Bank may, in its discretion, arrange for delivery of a "loaner" Scanner to you while your Scanner is being repaired or serviced, and you will return such "loaner" Scanner at the time and in the manner instructed by Bank in good, undamaged condition, ordinary wear and tear excepted. If you fail to return a "loaner" Scanner within 5 Business Days after being instructed to do so, you will purchase it at the then-applicable full retail price.
- iv. Except as set forth herein, all Accounts and deposits thereto will be subject to the Terms and Conditions. You may add, delete or change Accounts by delivering additional or amended Set-Up Forms. Bank is conclusively entitled to rely on instructions and requests transmitted electronically using the Code(s) of a Security Administrator. Any changes made by you will become effective only at the time reasonably determined by Bank. Bank may refuse or reject any change made by you by promptly notifying you thereof.
- v. If you request Bank to allow you to use the Remote Deposit Capture Service to make deposits to an Account or Accounts held by an Affiliate, you will provide Bank with each such Affiliate's written authorization, in form and substance satisfactory to Bank. If, prior to the effectiveness of this Agreement, your Affiliate provided us with such authorization, whether in the form of a "Rider" or similar agreement ("RDC Account Rider"), then such RDC Account Rider shall remain in effect and all references therein to an "RDC Agreement" or similar agreement regarding Remote Deposit Capture Services shall be deemed to be references to this Agreement and all references to specific sections of such prior RDC Agreement (or similar agreement) shall be deemed references to the corresponding section of this Agreement.

(c) Third Party Processors. Without the Bank's consent, you may not authorize a third party (a "Processor") to process eligible Checks payable to you for deposit through the Remote Deposit Capture Service on your behalf, but if the Bank allows it or if you authorize it with or without the Bank's consent, then the provisions of this paragraph shall apply. You will identify the Processor to the Bank, and will provide Bank with such additional information as Bank may reasonably require concerning the Processor and the functions that will be performed by the Processor. Unless otherwise specified herein, you may determine the functions that will be performed by the Processor on your behalf and the functions that you will perform yourself. However, you will remain responsible to Bank for the performance of your duties, whether by you or the Processor, and for your obligations and liabilities, all as set forth herein. You will cause the Processor to comply with your obligations herein as applicable, including without limitation all requirements, limitations and restrictions with respect to the Remote Deposit Capture Service, but you will remain solely liable for payment of Bank's fees and charges and any other monetary obligations hereunder. In the event of a breach of any provision of this Agreement resulting from an act or omission of the Processor, Bank will not be required to look to the Processor, but may exercise its rights and remedies with respect to you for such breach. You will provide the Processor with a copy of this Agreement, User Guides and any other document as necessary to inform the Processor about the Agreement and the Remote Deposit Capture Service. You will be solely responsible for the selection and compensation of the Processor and the performance of any agreement between you and the Processor. You will not authorize an employee of the Processor to act as a Security Administrator or Authorized Representative, unless such person is also your corporate officer, partner, manager, member or employee. Bank may rely upon any act, statement or instruction of, and respond to any request by, any employee of the Processor designated as a User, as though it were an act, statement or instruction of, or request by, your employee designated as a User. Bank will not be obligated to inform you of any act or omission of, or event involving, the Processor or any employee thereof.

(d) Remote Deposit Service.

- i. You may process eligible Checks for deposit through the Remote Deposit Capture Service as set forth herein. You will use the Scanner to print an endorsement specified in the User Guide or otherwise acceptable to Bank on the Original items in a Deposit Batch, and to scan them to capture Item Information and create corresponding Image Items, which will be transmitted to Bank electronically via the applicable website. Once the Deposit Batch is accepted by Bank for deposit, Bank will credit the Account designated by you for the total amount of the Deposit Batch, subject

to availability, and will send the items in the Deposit Batch for payment or collection or, with respect to on-us items, post them to the respective payor accounts. Items processed for deposit through the Remote Deposit Capture Service will be deemed to have been received by Bank for deposit at the time the Deposit Batch containing the corresponding Image Items is received and accepted as set forth in Section 30(d)iv below and at the location in California where Bank or its processor posts the credit to the Account. Deposited funds will be available for withdrawal by you as set forth in the Term and Conditions and as required by law. Except as otherwise set forth in this Agreement, Bank will process deposits made through the Remote Deposit Capture Service in accordance with its ordinary banking practices, and the rights and obligations of Bank and you with respect to the Accounts and items deposited through the Remote Deposit Capture Service, including without limitation any such items that are returned to Bank for any reason, will be determined according to the Terms and Conditions and applicable law.

- ii. The following items are not eligible for deposit through the Service: (i) items that are not Checks, including, without limitation, substitute checks or other image replacement documents, remotely created checks, drafts drawn in a currency other than U.S. dollars or drawn on a paying bank outside the United States, and noncash items; (ii) Checks as to which the original payee is not you (third party checks); (iii) Checks that are not properly payable as submitted in the Deposit Batch; (iv) Checks that exceed any per-item dollar limit or other restriction established by Bank; and (v) Checks as to which deposit is otherwise prohibited by the Terms and Conditions or which are rejected for deposit through the Remote Deposit Capture Service by Bank in its discretion. In addition, Bank may establish and change, in its discretion and from time to time, limits on the number or the aggregate or per Check dollar amount of Checks you may deposit through the Service, either in a single Deposit Batch or measured over such time as Bank may determine, or other limits or restrictions with respect to items processed for deposit through the Remote Deposit Capture Service. You will not process, or attempt to process, items for deposit through the Remote Deposit Capture Service that are ineligible or violate any limits or restrictions, and Bank may, in its discretion, either reject or process for deposit any such items or the entire Deposit Batch containing any such items. Bank's processing of any item that is not eligible for deposit through the Remote Deposit Capture Service or that violates any limit or restriction established by Bank is not a waiver with respect to that item or that Deposit Batch and does not obligate Bank to process other similar ineligible items or deposits. Bank may inform you of any limits or restrictions in the User Guide, its website or by other written or electronic communication. Item eligibility requirements and other limits and restrictions are exclusively for Bank's benefit and do not constitute a security procedure for your benefit.
- iii. You will review Image Items and Item Information captured by the Remote Deposit Capture Service and correct any inaccurate or incomplete Item Information, but you will not alter Item Information that is accurate and complete, or input Item Information that is inaccurate or incomplete. Bank will not accept a Deposit Batch for deposit through the Remote Deposit Capture Service unless all Item Information in the Deposit Batch is complete and the Deposit Batch totals are balanced to the Item Information for items in the Deposit Batch. In addition, before accepting a Deposit Batch for deposit, Bank will preliminarily verify whether the image quality of the Image Items is acceptable to Bank in its Discretion, provided that Bank will have no responsibility for the image quality of any Image Item. You will rescan any item as to which the image quality is not acceptable. If you are unable to create an Image Item with acceptable image quality, you will remove the item from the Deposit Batch and deposit the item by other means. You will not alter items before scanning or cause the Scanner to not capture a complete and accurate Image Item from any item. Before accepting a Deposit Batch for deposit, Bank may, but will not be required to, perform such further validation routines as Bank may deem necessary in its discretion concerning (i) the accuracy and completeness of the Item Information and any other information concerning the items in the Deposit Batch or concerning the Deposit Batch, (ii) the eligibility of the items in the Deposit Batch for deposit through the Remote Deposit Capture Service, and (iii) your compliance with this Agreement, including without limitation any limit or restriction established by Bank as set forth herein.
- iv. A Deposit Batch will be deemed to have been received and accepted by Bank for deposit when all of the following have occurred: (i) Bank has preliminarily verified that the image quality of the Image Items is acceptable to Bank in its discretion, all Item Information is complete and the Deposit Batch totals are balanced to the Item Information for items in the Deposit Batch, as set forth in Section 30(d)iii; (ii) Bank has successfully performed all further validation routines pursuant to Section 30(d)iv with respect to the Deposit Batch, and (iii) the Deposit Batch has been approved

by a User having approval authority, as designated by you, and such approval is reflected on the website and in any acknowledgment message sent by Bank. You will verify that each Deposit Batch approved by you is reflected on the website as having been approved, and you will immediately contact Bank to inquire about any Deposit Batch that you believe has been approved but is not so reflected on the website. Bank may establish a cut-off time of day by which a Deposit Batch must be received and accepted by Bank for deposit on that Business Day, and any Deposit Batch received and accepted by Bank for deposit after the cut-off time will be deemed to have been deposited on the following Business Day. The cut-off time may be set forth in the User Guide, on the website or both, provided that a cut-off time specified on the website will prevail over any different cut-off time specified in the User Guide.

- v. Notwithstanding the foregoing, all items in a Deposit Batch that Bank accepts for deposit through the Remote Deposit Capture Service are subject to later review, verification and final payment; credit given for such deposit is provisional; and Bank may adjust the amount of the deposit, place an administrative hold against funds in an Account or deduct funds from an Account (i) if Bank determines that the image quality of an Image Item is not acceptable, (ii) if Bank determines that an item was not eligible for deposit through the Remote Deposit Capture Service, violated any limit or restriction established by Bank or violated any other provision of this Agreement, (iii) if Bank determines that any Item Information or any other information concerning the item is incorrect or incomplete, or (iv) for any other reason set forth in the Terms and Conditions. Bank's review, verification and validation procedures, both prior to its acceptance of a Deposit Batch for deposit and thereafter, are performed exclusively for Bank's benefit, may not be performed for all items and cannot be relied upon by you as an assurance that (a) the Deposit Batch contains no errors, (b) Bank accepts responsibility for image quality, Item Information or any other information concerning the Image Items in the Deposit Batch or concerning the Deposit Batch, or (c) Bank will detect items that are not eligible for deposit through the Remote Deposit Capture Service or are not properly payable for any reason. Notwithstanding any other provision of this Agreement, Bank reserves the right to refuse any Deposit Batch or item deposited through the Remote Deposit Capture Service in Bank's discretion.
- vi. Bank may determine the routing and manner of presentment for items deposited through the Remote Deposit Capture Service in Bank's discretion, and, without limiting the foregoing, Bank may transmit Image Items electronically for payment or collection, or create substitute checks from such Image Items and send such substitute checks for payment or collection. You will be bound by any operating circular, clearinghouse agreement, image exchange agreement or other agreement between Bank and any collecting bank, paying bank, clearinghouse, processor or other party to or through which Bank sends items deposited through the Remote Deposit Capture Service for payment or collection. You acknowledge that any items deposited through the Remote Deposit Capture Service that are returned to Bank for any reason will be charged back to the Account to which they were deposited and may be returned in the form of a substitute check, an image or electronic representation of the item, or Item Information with respect to the item, and you agree to accept any such return.
- vii. You will not cause any item to be presented for payment more than once by any means. You will not process an item for deposit through the Remote Deposit Capture Service that was previously deposited by you by any means, including, without limitation, through the Remote Deposit Capture Service, and you will not transfer, negotiate or deposit by any means an item that has already been processed for deposit through the Remote Deposit Capture Service. Notwithstanding the foregoing: (i) if an item is rejected by Bank for deposit through the Remote Deposit Capture Service, but such item is properly payable to you and deposit of such item is not otherwise prohibited by the Terms and Conditions, you may deposit the Original item in compliance with the Terms and Conditions, applicable law and Bank's ordinary banking practices, provided you must not process such item for re-deposit through the Remote Deposit Capture Service, and (ii) if an item processed by you for deposit through the Remote Deposit Capture Service is returned unpaid by the paying bank, you may instruct Bank to re-send such item for payment or collection in compliance with the Terms and Conditions, applicable law and Bank's ordinary banking practices, provided you must not process such item for re-deposit through the Remote Deposit Capture Service.

(e) Handling of Original Items and Other Customer Business Controls.

- i. Once a Deposit Batch has been received and accepted by Bank for deposit, you will promptly stamp or otherwise place on the front of each of the Original items in the Deposit Batch a notation that the item has been deposited, as specified in the User Guide, and you will store such Original items in a safe and secure environment and in compliance with the requirements of the User Guide until they are destroyed. You will retain Original items that have been processed for deposit through the Remote Deposit Capture Service for the period of time specified in the User Guide, and upon the expiration of such retention period, you will promptly shred or otherwise destroy them in a commercially reasonable manner. Notwithstanding any such retention period, you may retain electronic or printed copies of Original items or the corresponding Image Items in a safe and secure environment for archive and research purposes for such period as you may determine. You acknowledge that items contain confidential information that can be used to perpetrate identity theft and other forms of fraud.
  - ii. You will promptly provide Bank upon request with any Original item retained by you, to assist in clearing and collection, to respond to claims or defenses asserted by the maker, any collecting bank, any paying bank or any other third party, or as otherwise deemed necessary by Bank in its discretion. If the Original item has been destroyed or otherwise cannot be located, you will promptly provide Bank with a sufficient copy of the front and back of the item or the corresponding Image Item.
  - iii. Bank will have the right, but will have no obligation, to visit your premises to audit your compliance with its obligations under this Agreement, including without limitation, your handling of Original items under Section 30(e)i. Any such audit will be performed during your normal business hours, upon reasonable advance notice to you and in a manner reasonably calculated to minimize the disruption to your business.
  - iv. This Agreement, and the provision by Bank of the Remote Deposit Capture Service hereunder, will not relieve you from any obligation imposed by law or contract regarding the maintenance of records or other matters, or any obligation to employ adequate and reasonable audit, accounting and review practices appropriate to your business. You agree that no individual will be allowed to access or perform the Remote Deposit Capture Service without proper training and adequate supervision and safeguards, and you will not allow access to the Remote Deposit Capture Service by any party other than your Security Administrators and Users. You will use the Remote Deposit Capture Service in compliance with all agreements to which you are a party and all applicable federal and state laws, rules and regulations, including without limitation the Bank Secrecy Act, the USA PATRIOT Act and regulations of the United States Treasury Department, as amended from time to time.
- (f) Information and Reserves.
- i. You will supply Bank with such financial or other information as Bank may request from time to time, in such form as Bank may specify.
  - ii. From time to time, upon written or oral notice to you, Bank may require you to establish and maintain a minimum reserve amount in collected funds, and Bank may apply any amount due to you to satisfy any deficiency in your required reserve. Any required reserve must be maintained in an Account, in another Account, or otherwise as determined by Bank in its discretion.
- (g) Supplemental Warranties, Limitation of Liability and Indemnification.
- i. Without limiting the generality of the representations and warranties set forth in Section 7 above, you hereby make the following representations and warranties, and will be deemed to make such representations and warranties each time an item is processed for deposit through the Remote Deposit Capture Service:
    - (i) The item is eligible for deposit through the Remote Deposit Capture Service, and your deposit of the item does not violate any limit or restriction applicable to deposits through the Remote Deposit Capture Service.
    - (ii) The Item Information for such item accurately and completely reflects the information on the Original item, and the Image Item accurately and completely

represents the entire front and back of the Original item and all information thereon at the time such item was scanned.

- (iii) No party will receive a transfer, presentment, or return of, or otherwise be charged for, the Original item or a paper or electronic representation of the item, such that the party will be asked to make payment based on an item it already has paid.
  - (iv) The Account to which the item is deposited is maintained primarily for commercial, and not for personal, family, or household, purposes.
  - (v) You are not a "money services business," as defined in Title 31, Section 103.11 of the Code of Federal Regulations or any successor regulation of the United States Treasury Department under the Bank Secrecy Act.
- ii. IN ADDITION TO THE LIMITATIONS SET FORTH IN SECTION 8 ABOVE, BANK MAKES NO WARRANTIES WITH RESPECT TO ANY SCANNER OR ASSOCIATED SOFTWARE, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND DISCLAIMS ALL SUCH WARRANTIES TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. Bank will not be liable for any loss or claim arising directly or indirectly from any person's use of any Scanner, except for bodily injury or physical damage to equipment directly resulting from Bank's negligence.
- iii. In addition to the limitations set forth in Section 8 above, Bank's liability for errors or omissions with respect to any Image Item, substitute check, Item Information or other data sent to a paying bank under this Section 30 will be limited to correcting such errors and omissions and re-processing or re-printing, and re-sending, the corrected Image Item, substitute check, Item Information or other data. Without limiting the foregoing, Bank will not be liable to you for any Damages caused by:
- (i) Any transmission not received by Bank or as to which Item Information or Image Items are dropped or corrupted in transmission.
  - (ii) The accuracy or completeness of any Item Information captured by the Remote Deposit Capture Service or any Item Information or other information input or altered by you, whether or not such Item information or other information is subject to verification or validation by Bank, or any alteration to Item Information or Image Items that occurs after a Deposit Batch is transmitted to Bank.
  - (iii) The image quality of an Image Item, including without limitation any error, failure or delay in handling an Image Item that Bank (or any party to which Bank sends, transfers, or presents the Image Item) cannot process because of a defect in the Image Item.
  - (iv) The destruction of, or failure to destroy, any Original item processed for deposit through the Remote Deposit Capture Service, even if performed by you in accordance with guidelines or instructions provided by Bank, or misuse of an Original item, any electronic image or printed copy of an Original item or any information derived from an item that has been processed for deposit through the Service.
  - (v) Any error or discrepancy with respect to a deposit made through the Remote Deposit Capture Service that appears on a periodic statement that is deemed to be correct pursuant to Bank's Deposit Rules.
  - (vi) The unavailability of the Remote Deposit Capture Service for any reason.
  - (vii) Any act or omission of Bank that is in accordance with this Agreement or any instruction given by you or any person acting on your behalf in the use of the Remote Deposit Capture Service, or any action taken by Bank in the reasonable belief that it was required by any guideline, rule or regulation of any governmental

authority, or Bank's failure to take an action in the reasonable belief that it would have violated any guideline, rule or regulation of any governmental authority.

- (viii) Your wrongful acts or omissions or those of any person acting on your behalf in the use of the Service, including without limitation your breach of any provision of this Section 30, or your violation of any law, regulation or other agreement to which you are a party.
- iv. In addition to the provisions set forth in Section 9, you will defend and indemnify Bank, its employees, agents and contractors with respect to any claim or suit made against any such party, and for the amount of any Damages that any such party incurs, if such claim, suit or Damages result from any act, omission or event for which Bank is excused from liability to you under this Agreement. In addition, you will defend and indemnify Bank, its employees, agents and contractors with respect to any claim or suit made against any such party, and for the amount of any Damages that any such party incurs (except that you will not be required to indemnify a party to the extent such Damages were caused by such party's gross negligence or willful misconduct), with respect to an item processed for deposit through the Remote Deposit Capture Service:
  - (i) For any warranty or indemnity that any such party makes under any applicable law, regulation (including without limitation Regulation CC, the California Commercial Code and the Uniform Commercial Code in effect in any state), Federal Reserve Bank Operating Circular, or agreement in connection with the item. For purposes of this subparagraph, "item" includes the Original item, the corresponding Image Item, and any substitute check or electronic representation of the item or the corresponding Image Item that is subsequently created by Bank, any Federal Reserve Bank, any collecting bank or any paying bank.
  - (ii) If such claim, suit or Damages are, or are claimed to be, due to the receipt of an Image Item, or due to the receipt of a substitute check or electronic representation of the item or the corresponding Image Item, instead of the Original item.
  - (iii) If such claim, suit or Damages are due to the failure or refusal of any paying bank to pay the item for any reason. Such indemnity includes, for example, any claim, suit or Damages due to a paying bank's refusal to pay an item because the item is alleged to have been counterfeit or altered, or because any signature on the item is alleged to have been forged, unauthorized or ineffective for any reason. For purposes of this subparagraph, "item" includes the Original item, the corresponding Image Item, and any substitute check or electronic representation of the item or the corresponding Image Item that is subsequently created by Bank, any Federal Reserve Bank, any collecting bank, any paying bank or any other third party.
- v. If you utilize a Processor, you will defend and indemnify Bank, its employees, agents and contractors with respect to any claim or suit made against any such party, and for the amount of any Damages that any such party incurs, as a direct or indirect result of any act or omission of, or event involving, the Processor, to the same extent as though such act or omission were your act or omission, or such event involved you.
- vi. You grant a security interest to Bank in all of your deposit accounts at Bank and all funds deposited therein, all reserves maintained by or for you, and all items and funds in the process of collection for your account, as well as the proceeds of each of the foregoing, to secure your obligations under this Agreement, which security interest is in addition to, and separate from, any security interest elsewhere granted by you to Bank.

(h) Survival. Notwithstanding any termination, this Section 30 will remain in full force and effect as to all items that were processed for deposit through the Remote Deposit Capture Service. Without limiting the generality of the foregoing, Sections 30(e), 30(f) and 30(g) survive termination of this Section 30.

### 31. CREDIT LINE ACCESS

If the Services selected by you include the Credit Line Access Service, as defined below, then the following provisions will be applicable.

(a) Credit Line Access. We may permit you to use our electronic system to transfer funds between your Account(s) and your linked loan or credit account with us (the "Credit Line Access Service"). The Credit Line Access Service may not be available for all types Accounts, loans or credits. Loan advances deposited to your or your Affiliate's Account(s) using the Credit Line Access Service shall be conclusively deemed to have been duly authorized by you and for your benefit.

(b) Processing Times. Funds transferred from an Account as payment to a loan or credit account before the Bank's cutoff time will be credited with the date the payment is submitted, subject to the Bank's funds availability policy. Transfer payments submitted after such time will be credited with the next Business Day's date. Updates to account balances, funds availability and transaction posting may not be immediately reflected on your Account, loan or credit account.

(c) Fund Availability. Transfers under the Credit Line Access Service are subject to the Bank's funds availability policy, and to the terms and conditions of your loan, credit or similar agreement with us. The availability of transferred funds may impact when fees apply to your Accounts, and whether an Account is subject to overdraft.

## 32. BILL PAY

If the Services selected by you include the Bill Pay Service, as defined below, then the following provisions will be applicable.

You may use our online system to make payments to third parties (the "Bill Pay Service"), subject to the online terms and conditions that will be presented to you upon enrollment into the Bill Pay Service.

## 33. INFORMATION REPORTING

If the Services selected by you include any Information Reporting Service, then the following provisions will be applicable.

(a) Bank will make available to you information drawn from certain statements and notices provided by Bank with respect to your and your Affiliates' Accounts. This service is for your convenience only, and does not replace hard copy (paper) statements and notices, which will continue to be sent or made available to you, subject to the Terms and Conditions. Information will be available to you through this service beginning on the Business Day after Bank produces the statement or notice from which the information is drawn. You acknowledge that the information available through this service: (i) will not be an exact photocopy of the statements and notices from which such information is drawn, (ii) may be reformatted for electronic presentation, and (iii) will not include certain pre-printed information and disclosures that appear on such statements and notices.

(b) If the Services selected by you include Previous Day Reporting, Bank will make available to you information concerning your Accounts as of the end of the previous Business Day. You acknowledge that loan balances do not include outstanding letters of credit issued for the Account. If the Previous Day Reporting Service includes balances from one or more Accounts maintained at a Depository, you will authorize and instruct, and will cause each Affiliate to authorize and instruct, each such Depository to (i) take all actions necessary or advisable under the laws of the jurisdiction where such Depository is located to permit such Depository to provide Account information to Bank and permit Bank to make such information available to you, and (ii) report all necessary Account information to Bank in a format and utilizing electronic transmission facilities acceptable to Bank. Bank is not responsible for the accuracy or completeness of any information provided by a Depository.

(c) If the Services selected by you include Intra-Day Reporting, Bank will make available to you information concerning certain transactions within a reasonable time after such transactions are memo posted. The Intra-Day Reporting Service may include the following, as specified by you in a Set-Up Form: debits and credits to Account reflecting wire transfers sent or received, items presented against Accounts, debits and credits to Account reflecting ACH transaction originated or received, and other types of transactions as determined from time to time by Bank. You acknowledge that the Intra-Day Reporting Service is limited to specific types of transactions and may not provide information concerning all debits and credits to your Account during the day. Bank will also make available to you information concerning incoming wire transactions within a reasonable time after such transactions are received. The Incoming Wire Module includes complete detail wire information received to your Account, as specified by you in a Set-Up Form. Bank is not responsible for the accuracy or completeness of any information provided by sending Financial Institution.

### 34. INTEGRATED PAYABLES

If the Services selected by you include the Integrated Payables Service, as defined below, then the following provisions will be applicable.

(a) Integrated Payables Service. This Service permits you to instruct us to process your payments to your trading partners by check via Direct File Transmission, file upload or such other means as we may approve from time to time (the "Integrated Payables Service").

(b) Definitions. For the purposes of this Section 34, the following definitions shall apply:

- i. "Check" means a check printed and mailed by us on your behalf.
- ii. "Check Register" means a register, setting forth with respect to all Integrated Payables Checks issued on the date of such register, the date of issue, check number, Bank-assigned identification number, payee, and amount.
- iii. "Confirmation" means the verification by us, by means of the procedure specified in the Section below entitled "File Processing", that each File is your authorized instruction.
- iv. "Disbursement Account" means the Account on which Integrated Payables Checks will be drawn.
- v. "File" means the EDI 820 or Bank flat file formats used as the vehicle to send Integrated Payables payment instructions and remittance information to us and includes information on Manual Checks with instructions for stop payments, issue only and voids.
- vi. "Issue File" means the file containing the check number, dollar amount, payee and account number of Integrated Payables Checks used to update our records or the records of another bank holding the Disbursement Account to assist in detecting exception items as Integrated Payables Checks are presented for payment.
- vii. "Manual Check" means a check written and issued by you on your own behalf.
- viii. "Integrated Payables Checks" means Checks and Manual Checks.
- ix. "Reject Register" means a register, setting forth with respect to each item in a File which we are unable to process, details of such item and the reason that we are unable to process such item.

(c) General Specifications. Prior to using the Integrated Payables Service, you will specify to us the following:

- i. The intended disbursement banks and Disbursement Account numbers.
- ii. Your name, address, and logo, if required, to appear on the Checks.
- iii. The maximum amount, if any, of any single Integrated Payables payment.
- iv. The method to be employed for mailing Checks (e.g., overnight mail, U.S. mail, or group mail).
- v. The identification of each Authorized Representative or User, and evidence of the authority of such person(s) to agree to these terms and conditions and act for and on behalf of you hereunder. The facsimile signature of one or two such persons, as designated by you, will appear as the signatory or joint signatories on each Integrated Payables Check.
- vi. The format of the File which will be used by you to communicate your instructions to us to issue Integrated Payables payments and whether Files will be encrypted or authenticated. You agree to comply with our specifications for such communications.
- vii. The proposed transmission schedule of Files. Any change to the foregoing shall be communicated in writing to us by an Authorized Representative or User, at least five (5) Business Days prior to the intended effective date of the change.

(d) File Transmission. To initiate use of the Integrated Payables Services from time to time, you will transmit to us a File containing the following data:

- i. With respect to each Integrated Payables Check listed in such File: (i) the payee's name and address; (ii) the amount of the check in dollars and cents; (iii) the date of intended mailing; and (iv) the check number, if assigned by you.
- ii. Your name and the Integrated Payables Services account identification number assigned to you by us.
- iii. The total number of payees and the total amount instructed to be paid to such payees in such File.

(e) File Processing. Each File received with valid Confirmation by us prior to the applicable cutoff time, in effect from time to time, on any Business Day will be processed by us on such Business Day. (Any File received by us after the applicable cutoff time will be processed by us the following Business Day.) We will:

- i. Obtain Confirmation from an Authorized Representative or User of the authenticity of the File using the security procedure you have selected for the Integrated Payables Service.
- ii. Initiate each Integrated Payables payment in accordance with the instructions contained in the File and in the case of Checks, mail Checks to the applicable payees within 24 hours of the dates specified in such File up to the date which is 365 calendar days from the date we receive such File. Any remittance data contained in such File will be sent with the Integrated Payables payment to which it relates.
- iii. Provide an Issue File for use by each applicable disbursement bank as mutually agreed.
- iv. Provide a Check Register to you.
- v. If applicable, provide a Reject Register to you.

(f) Account Funding. You agree that our payment of Checks presented on your Account will be subject to all terms and conditions which are applicable to such Account. This includes, without limitation, provisions related to available funds and our right to return a Check unpaid, such as in the event there are insufficient available fund in the Account to pay the Check. If you do not have sufficient available funds in the Disbursement Account, we may also refuse to process your File and some or all of your Integrated Payables payments may not be paid; provided, however, that even if we do process such File, we reserve the right to return the Check(s) upon its presentation to us in accordance with the terms and conditions applicable to your Account.

(g) Cancellations. You may cancel any instruction to process an Integrated Payables Check, provided that such instruction to cancel is delivered to us by an Authorized Person or User either in writing, by telephone at the number we designate from time to time, or via the online platform for the Integrated Payables Service, not less than two (2) Business Days prior to the date we were instructed to initiate such Integrated Payables Check. If the cancellation instruction is not timely received by us, we shall have no obligation to cancel the Integrated Payables Check. You can only attempt to cancel Integrated Payables Checks and you cannot amend or modify any Integrated Payables Check instruction. We shall have no obligation to amend or cancel an Integrated Payables payment except as may be provided in the terms and conditions applicable to the Services.

(h) File Errors. YOU ACKNOWLEDGE THAT WE, AND OUR SERVICE PROVIDER(S), WILL NOT BE RESPONSIBLE FOR DETECTING ANY ERROR IN ANY FILE SUCH AS, BUT NOT LIMITED TO, DUPLICATE PAYMENTS. IN THE EVENT THAT ANY FILE CONTAINS AN ERROR, WHETHER IN THE AMOUNT OF AN INTEGRATED PAYABLES PAYMENT, PAYEE, DISBURSING BANK, DATE OF PAYMENT OR OTHERWISE, YOU SHALL BE SOLELY RESPONSIBLE FOR TAKING ANY ACTION TO CORRECT SUCH ERROR.

(i) Additional Terms and Conditions.

- i. We may delegate the responsibility for carrying out our duties and responsibilities hereunder, in which case references to "we," "us" or "Bank" under this Section 34 shall also refer to the service provider to which we have delegated such responsibilities ("Service Provider").
- ii. You agree not to violate the proprietary and other rights of Service Provider and its suppliers in the Integrated Payables Services and any User Guides or other documentation that may be provided by Service Provider from time-to-time;

- iii. You hereby disclaim Service Provider(s), its (their) affiliates, and their respective directors, officers, employees, agents, suppliers and contractors, from liability in connection with the Integrated Payables Services or this Agreement;
- iv. You will not identify a Service Provider as a “reconverting bank” or “truncating bank” on any substitute check document that you deposit at any other financial institution or transfer to any other person;

### 35. OTHER SERVICES

We offer a line of other cash management services that are accessible to you.