First Bank Chicago

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TREASURY MANAGEMENT SERVICES AGREEMENT

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TREASURY MANAGEMENT SERVICES AGREEMENT
PROCEDURES, TERMS AND CONDITIONS

I. GENERAL PROVISIONS

First Bank Chicago (the "Bank") offers various Treasury Management Services (individually, each a "Service", collectively the "Services") to its commercial clients (each, a "Client"), as further described in this Treasury Management Services Agreement ("Agreement") or an addendum incorporated herein. The execution of this Agreement or use of any of the Services obligates the parties with regard to the terms and conditions related to use by Client of any Services offered by Bank. Following execution of this Agreement, enrollment in any individual Service is subject to Bank approval and requires the completion of the Treasury Management Services Request ("Request") which shall be incorporated as part of the terms of the applicable Service. Enrollment in a Service or Services is accomplished by obtaining, completing and signing the Request and delivering a duly authorized and executed copy of the Request to the Bank for review and approval. In addition to the Request, Bank may require certain other forms and documentation (each an "Implementation Form") in order to set up Client's access to and use of a Service. Client agrees to provide all required Implementation Forms prior to receiving or using any Service.

1. DEFINITIONS.

As used in this Agreement, the following terms shall have the meanings set forth below.

a) "Access Credential(s)" means the user name, access ID, personal identification numbers, identification codes, passwords, and other identifying and authentication inputs, Tokens or authentication device, equipment or software that Client uses to access the Services.

b) "Account" means any deposit account Client opens or maintains with the Bank.

c) "Affiliate" means with respect to a party, any entity which directly or indirectly, through one or more intermediaries, is controlled by, or is under common control with such party.

d) "Applicable Law" means all applicable federal and state laws, rules and regulations as in effect from time to time governing or relating to the Agreement or the Services, including, without limitation, the Bank Secrecy Act, the U.S.A. PATRIOT Act, the NACHA Rules, and the rules of any funds transfer system, the Travel Rule, and the rules of, and regulations administered by, the Office of Foreign Assets Control, the U.S. Treasury Department and the Financial Crimes Enforcement Network.

e) "Authorized Party" means any Authorized Signer, Administrator, or User.

f) "Bank Agreements" shall mean the terms and conditions of the Agreement, including any Requests or Implementation Forms, and all attachments, authorizations, schedules and exhibits, together with all amendments or modifications thereto, any terms of the Commercial Terms and Disclosures and related Account signature cards and authorizations, and the applicable Service terms.

g) "Business Day" means a calendar day other than a Saturday or a Sunday, or other day on which Bank is authorized or required to be closed.

h) "Check 21" means the Check Clearing for the 21st Century Act, as amended from time to time.

i) "Check Image" means an electronic image of an original check (including a Substitute Check) created by Client in connection with the Services.

j) "Commercial Online Banking" means any of the Bank's Websites, Online Banking Services, Online Banking System, Mobile App (as each term is defined below) or other online or electronic method for accessing any of the Services as offered by Bank from time to time.

k) "DMZ" means the Bank's designated file transfer protocol DMZ server which is a location where data files can be placed for pickup or delivery.

l) "Effective Date" means the date the Agreement and addendums are signed by the Bank.

m) "Entry" means an ACH Transfer Payment Order originated by Client and processed by Bank intended to either deposit funds into a Receiver's account or withdraw funds from a Receiver's account.

n) "Image Exchange Item" means a digitized image of a check cleared and settled directly with the Paying Bank without conversion to a Substitute Check.

o) "Imaged Item" means a digitized image of a check that is created by Client and transmitted to the Bank using the Service.

p) "Losses" means any and all claims, actions, demands, losses, damages, judgments, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees and court costs) and all costs of settlement of claims.

q) "On-us checks" means a check that is presented for payment at the same financial institution that carries the account on which the check is written.

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

s) "Payment Order" means any instruction from Client to Bank to initiate or originate any Transfer, including ACH Entries or Wire Transfers.

t) "Related Entity" means either (a) a Parent, (b) a Subsidiary, or (c) an Affiliate of Client.

u) "Restricted Transactions" means any transaction, transmittal, or Transfer involving any credit, funds, instrument, or proceeds prohibited by Regulation GG (Prohibition on Funding of Unlawful Internet Gambling).

v) "Security Procedures" means the use of Access Credentials, call-back protocols and other systems or procedures provided by Bank for authenticating Payment Orders, Transfers, transactions and use of the Services.

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

x) "Transfer" means any transfer of funds to or from Client's Account(s) by any means, including Wire Transfers, ACH Transfers, or other electronic funds transfers.

y) "Wire Transfer" shall mean a funds transfer by wire.

2. SERVICES AND ACCOUNTS.

(a) Services Generally. The Services are described in and governed by this Agreement and the applicable Service terms together with any Bank Agreements, each of which are incorporated by reference into the Agreement. To request a Service, Client will complete and deliver to Bank the Request,

Implementation Forms, and any other document required by Bank for implementation or use of the Services requested by Client. Upon approval of and acceptance by Bank, Client may begin to use the Services subject to the terms and conditions of the Agreement and any applicable Bank Agreements. Client's use of any Services constitutes its agreement to and acceptance of the Agreement, any additional terms and conditions of the Request, Implementation Forms, Security Procedures, and any other documentation for that Service. Client shall not be subject to the terms of any Service unless and until Client begins the use of such Service.

(b)   Accounts Generally. Client agrees to maintain a minimum of at least one (1) Account with Bank with funds sufficient to cover the Transfers initiated pursuant to the Services, and to cover fees required to pay for Services provided. Client agrees that only Accounts established exclusively for business purposes will be used for use of the Services and Transfers pursuant to the Agreement, and that in no event will Transfers hereunder be conducted using accounts of Client or its employees, officers, directors, members, or owners that were established primarily or used for personal, family or household purposes.

(c)   Account Limitations. Client's ability to initiate Transfers between Accounts may be limited by Applicable Law or by the terms of the applicable Commercial Terms and Disclosures. The Transfers from Accounts that are savings or money market deposit accounts are limited as required by Applicable Law in effect at the time a Transfer is initiated. Client agrees that Bank may, without notice or other obligation to Client, for security reasons or as otherwise expressly provided in this Agreement, the Commercial Terms and Disclosures, or any other Bank Agreements (a) refuse to make any Transfer, or (b) refuse to accept a deposit through the Remote Deposit Capture Service.

3.   NOTICES AND INSTRUCTIONS.

(a)   Generally. Unless otherwise stated in the Agreement, all notices required pursuant to the Agreement and the Services shall be in writing. Bank shall be entitled to rely on any written notice or other written, electronic or telephone communication believed by it in good faith to have been initiated by an authorized representative of Client to Bank and any such communication will be deemed to have been authorized by Client. The parties agree that Bank's records of telephonic or electronic instructions shall be conclusive evidence of the actual notice or instructions given by Client and recorded by Bank.

(b)   Instructions. Bank is entitled to rely and act upon instructions, including Payment Orders, it receives, including those through Commercial Online Banking under Client's Access Credentials, with respect to the Services. Client agrees that it is liable for all actions taken or Transfers made or authorized with the use of Access Credentials or Security Procedures assigned to Client or otherwise authorized by Client or that result in a benefit to Client. Bank may assume, and act upon that assumption, that any individual accessing the Services with Client's Access Credentials or Security Procedures is an Authorized Party. Bank has no responsibility for establishing the identity of any person who uses Client's Access Credentials or Security Procedures. Any requests or instructions Bank receives from anyone using Client's Access Credentials or Security Procedures shall constitute writings with Client's signature as provided under Applicable Law and shall have the same force and effect as a writing signed by Client.

(c)   Data Recording. Client consents to Bank's recording and monitoring of any telephone conversations and online transmissions or communications including, but not limited to, Payment Orders, requests or instructions. Bank, however, has no duty to record or monitor such telephone conversations or online transmissions and communications, and the election to record and/or monitor is within Bank's sole discretion.

(d)   Electronic Communication. Client agrees that it will not use unsecure email to deliver sensitive personal or private information that includes, but is not limited to, bank routing numbers, account numbers, Social Security numbers, business debit card numbers, home addresses, Access Credentials, ACH Entries. Unsecure email is any email that is not encrypted. Client will not use unsecure email to provide required notices to Bank pursuant to this Agreement or any of the Bank Agreements unless such agreement expressly provides for email notification. **CLIENT ACKNOWLEDGES AND AGREES THAT ANY**

REQUEST(S), PAYMENT ORDERS OR INSTRUCTION(S) SENT TO BANK THROUGH AN UNSECURED ELECTRONIC NETWORK ARE IN VIOLATION OF BANK POLICY AND PROCEDURES AND NACHA RULES. CLIENT UNDERSTANDS AND AGREES THAT BANK IS NOT LIABLE FOR ANY LOSS OR DAMAGE INCURRED BY CLIENT WHEN AN UNAUTHORIZED PERSON GAINS ACCESS TO ANY SUCH EMAIL. CLIENT AGREES TO INDEMNIFY AND HOLD BANK HARMLESS IF THE BANK ACTS WITH ORDINARY CARE AND IN GOOD FAITH BY RESPONDING TO ANY EMAIL PURPORTED TO BE SENT BY CLIENT. BANK'S IMPLEMENTATION OF ITS NORMAL PROCEDURES REGARDING RECEIPT AND MAINTENANCE OF CONFIDENTIAL INFORMATION CONSTITUTES ITS EXERCISE OF DUE CARE.

(e)   <u>Delivery of Notices, Disclosures, Amendments or Other Communications by Bank.</u> Client acknowledges and agrees that, to the extent permitted by Applicable Law, Bank may deliver all notices, disclosures, amendments or other communications required hereunder to Client by email to Client's email address as provided to Bank. Client agrees that each such communication will be deemed to be in writing, binding and enforceable to the same extent as if it were delivered to Client by regular mail, courier, or in person.

All notices to be delivered by Client to Bank pursuant to the Agreement can be made to the postal address (via nationally recognized overnight courier or hand delivery) or email address indicated below, as applicable pursuant to the terms of the Agreement and the requirements of the notice:

> First Bank Chicago
> Attn: Treasury Management Operations
> 633 Skokie Boulevard Suite 240
> Northbrook, IL 60062
> Email: tmanagement@firstbankchicago.com

If Client is required to provide the Bank notice related to any Applicable Law, court order, or other legal process, such notice shall be provided via certified mail, postage-prepaid to the postal address indicated above.

All notices to be delivered by Bank to Client pursuant to the Agreement may be made to the postal address, or email address on record with Bank. Client agrees to notify Bank of any changes to its contact information. If Client does not notify Bank, Client will hold Bank harmless from any consequences, including financial loss, resulting from Client's failure to notify Bank of the change in Client's contact information. Notices shall be effective when received on any Business Day; provided that if notices are delivered on any day that is not a Business Day, then such notice shall be effective on the Business Day following delivery.

4.   **SUBMISSION OF INFORMATION AND DOCUMENTS.**

(a)   <u>Delivery of Documents</u>. Client agrees to deliver, in a form and content satisfactory to the Bank, such additional executed, or as the case may be, certified, documents required by Bank from time to time to obtain and to continue to receive the specific Service(s) requested by Client, including Implementation Forms, Account signature cards, declarations, authorizations, resolutions, and financial statements.

(b)   <u>Provision of Information</u>. Prior to initiating a new Service, Client agrees to provide all information which Bank may request including specifications, information in a Request or Implementation Form, test results, check samples, transmissions and documents. In the event that Bank determines, in its sole discretion, that any specification, test result, sampling, transmission or document does not meet its requirements, Bank may advise Client that Client will not be eligible to obtain the Service(s) until requested information that is satisfactory to Bank is provided by Client.

(c)   <u>Audit.</u> In order for Bank to comply with its obligations under Applicable Law, upon Bank's request, Client agrees to: (i) provide the records Client maintains with respect to Client's use of Services as required by Applicable Law and this Agreement, (ii) provide internal and external audit reports relating to Client's use of the Services and Client's information technology infrastructure and operational processes and procedures, and (iii) permit Bank (including its regulators and auditors) reasonable access during normal business hours to audit Client's compliance with the terms of this Agreement and Applicable Law.

(d)   <u>Authorizations</u>.

(1)   By providing the Request and any other required Implementation Forms, Client authorizes the individual(s) named therein to be Authorized Signers and Administrators. Bank may rely on the Request or Implementation Forms to be a true and correct representation of Client's authorizations.

"Authorized Signers" have the authority: to sign the Agreement, any Request and Implementation Forms and any addenda thereof; to accept on behalf of Client the terms and conditions governing the use of Services, including acceptance of Security Procedures (as defined below); to enroll in Services; to appoint and remove Administrators (as defined below); to appoint and remove Users (as defined below); to provide the required information to set up and administer Services; to perform the functions of an Administrator or User; to authorize and remove the authorization of individual Users; and to perform transactions related to any Service hereunder.

"Administrators" have the authority: to enroll in Services; to sign addenda or any Request or Implementation Forms to the Agreement as they relate to Services; to perform the functions of a User; to authorize and remove the authorization of individual Users; and to perform transactions related to any Service hereunder; to provide instructions to set up and administer the Service or Services assigned to them on the Request or Implementation Forms, including the authority to add or remove Accounts or Service features; to grant access to specific Accounts and Service functions; to re-set passwords; to audit Service activities of Users; and to perform transactions related to any Service hereunder.

"Users" are any Client employee, agent, or third-party vendor that have the authority or have otherwise been granted access to perform any of the transactions required by Client under the Agreement and act on behalf of Client with respect to the Service or Services.

(2)   Prior to utilizing any specific Service, Client shall furnish Bank with the Implementation Forms, and any other documentation in form and content satisfactory to Bank, naming Client's Users.

(3)   CLIENT AGREES THAT IN THE EVENT CLIENT DESIRES TO NAME ADDITIONAL ADMINISTRATORS OR REMOVE THE AUTHORITY OF AN EXISTING ADMINISTRATOR, CLIENT MUST PROVIDE BANK WITH WRITTEN INSTRUCTIONS ADVISING BANK OF THE CHANGE IN AUTHORITY SIGNED BY A PERSON NAMED AS AN AUTHORIZED SIGNER ON THE MOST CURRENT AUTHORIZATION. CLIENT AGREES THAT BANK WILL RELY ON THE MOST CURRENT AUTHORIZATION AND THE MOST CURRENT SERVICE-RELATED USER AUTHORIZATIONS SUPPLIED BY CLIENT AND, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BANK SHALL HAVE NO LIABILITY FOR UNAUTHORIZED ACTIONS TAKEN OR TRANSACTIONS PERFORMED BY THOSE INDIVIDUALS NAMED AS AUTHORIZED PARTIES ON THE CURRENT AUTHORIZATION OR AS USERS ON SERVICE-RELATED AUTHORIZATIONS.

5.   SECURITY PROCEDURES FOR USE OF SERVICES.

(a)   Agreement to use Security Procedures. Client agrees that its use of the Services requires it to comply with and implement Security Procedures that must be used by Client in connection with the Service(s). In addition to Security Procedures provided for herein, Client will be provided separately, "Security Procedures Guide", as amended from time to time, which apply to the Services. By signing this agreement, Client agrees that use of the Services constitutes Client's acceptance of those as Security Procedures (including, but not limited to, those used for originating any Payment Orders in connection with the Services offered under this Agreement) as commercially reasonable for the type, size, volume and frequency of Client's use of the Services and as a means of authenticating a Payment Order or other instruction communicated to Bank by or on behalf of the Client. Client acknowledges that the Security Procedures are used to verify the authenticity of, and not to detect errors in, any Payment Order or other instruction sent by Client. Any Payment Order or other instruction communicated by or on behalf of Client shall be effective as the Payment Order or instruction of Client, and shall be enforceable against Client, whether or not authorized and regardless of the actual identity of the signer, sender or transmitter thereof, if such Payment Order or instruction is received in accordance with the applicable Security Procedures, and if Bank accepts such Payment Order or other instruction in good faith. In addition, if any Payment Order was actually communicated or authorized by Client or Client otherwise benefited from such Payment Order (or resulting Transfer), then Client will be obligated to pay Bank the amount of the related Transfer without regard to whether the Bank complied with the Security Procedures. Unless stated otherwise in the Implementation Forms of the Security Procedures Guide, Customer agrees that failure by Bank to use or comply with any Security Procedure shall not excuse Customer from its obligation to pay Bank the amount of any Payment Order made or authorized by the Customer or for which Customer is otherwise liable. Bank may, in its discretion, use additional procedures to verify the authenticity of any Payment Order, which shall not be deemed Security Procedures. Client agrees to implement any other reasonable authentication or Security Procedures established by Bank.

(b)   Compliance with Commercially Reasonable Security Procedures. If Client chooses to communicate any Payment Order (including any cancellation or amendment thereof) or other instruction to Bank in a manner that varies from the Security Procedures and requirements set forth herein or the Security Procedures Guide, and if Bank accepts such Payment Order or other instruction in good faith, then Client agrees to be bound by such Payment Order or other instruction, whether or not authorized, and Client will be deemed to have refused the Security Procedures that Bank offers and recommends as commercially reasonable, and Client will be obligated to pay Bank the amount of any such Payment Order or Transfer. However, Bank has no obligation to accept any Payment Order or other instruction that is not communicated in compliance with the Security Procedures. Bank shall not be responsible for refusal to act upon any Payment Order or other instruction received which does not comply with this Agreement, including the Security Procedures Guide, and including where Bank's reasonable efforts to verify the Payment Order or other instruction in accordance with the Security Procedures have failed or where such action is delayed until verification can be obtained.

(c)   Use of Fraud Protection Features. Bank offers a variety of Services and other features designed to assist Client in reducing or stopping the incidence of fraud and unauthorized activity in Accounts. Client acknowledges that it has reviewed the suite of fraud prevention Services offered by Bank, and to the extent Client chooses not to use one of these Services or features and the proper use of that Service or feature could reasonably have prevented Losses due to the incidence of fraud or unauthorized activity, Client shall hold Bank harmless for the amount of such Losses that could reasonably have been prevented and Client shall be precluded from asserting any claims against Bank for such incidence or fraud or unauthorized activity.

(d)   Transaction Monitoring. Bank may, in its sole discretion, implement internal monitoring systems to evaluate Client transactions and the risk of possible fraudulent activity. Such transaction monitoring is part of Bank's internal processing and is not a component of the Security Procedures, and Client agrees that the Security Procedures will be considered commercially reasonable regardless of whether they incorporate information from transaction monitoring. Client agrees that Bank may process Payment Orders and other instructions verified by the Security Procedures and Bank will be considered to

have acted in good faith and in compliance with the Security Procedures, regardless of the results of transaction monitoring, including the detection of possible fraudulent activity; provided that Bank does not have actual knowledge that the transaction is unauthorized and a reasonable opportunity to act on that knowledge. However, Bank reserves the right to reject Payment Orders and other instructions verified by the Security Procedures in the event Bank identifies a risk of possible fraudulent activity and Bank shall not be responsible for its refusal to act upon any Payment Order or other instructions based upon the results of transaction monitoring.

(e) <u>Access Through Third-Party Vendor</u>. In certain instances, Bank may allow Client to access the Commercial Online Banking, and other Services accessible to Client through Commercial Online Banking, by signing on through a Third-Party Vendor's (defined below) internet site without logging in using the Security Procedures (referred to as "Single Sign-On" or "SSO"). Any SSO will be subject to the Third-Party Vendor's terms of use. In the event Client accesses Commercial Online Banking using SSO, Client agrees that it has waived use of the Security Procedures to access Commercial Online Banking, and that Bank may accept and act upon Instructions received using Security Procedures assigned to Client following Client's use of SSO. All use of Commercial Online Banking, transactions, Payment Orders and other instructions submitted subsequent to SSO from a Third-Party Vendor's internet site will be deemed to have been authorized by Client. Bank is entitled to rely upon, and treat as authorized and binding on Client, each Instruction sent to Bank through Commercial Online Banking by a User using the User's credentials and applicable Security Procedures subsequent to SSO from a Third-Party Vendor's internet site.

6. **CLIENT'S SECURITY OBLIGATIONS; RESPONSIBILITY FOR LOSS.**

(a) <u>Client's Responsibility to Maintain Security Procedures.</u> Client is responsible for the establishment and maintenance of its internal procedures reasonably adapted to insure the confidentiality and security of Security Procedures. CLIENT UNDERSTANDS AND AGREES THAT CLIENT WILL BE RESPONSIBLE FOR MAINTAINING SECURITY AND CONTROL OVER ALL ACCESS CREDENTIALS AND OTHER SECURITY PROCEDURES OF CLIENT'S AUTHORIZED PARTIES AND SHALL USE SECURITY FOR SUCH ITEMS COMPARABLE TO THE SECURITY AND CONTROL CLIENT WOULD USE FOR CASH OR A MECHANICAL CHECK-SIGNING MACHINE, BUT IN NO EVENT LESS THAN REASONABLE SECURITY AND CONTROL GIVEN THE CIRCUMSTANCES. If Client or its employees or agents have reason to believe that any Security Procedure has or may have become known by unauthorized persons (whether or not employed by the Client), Client shall immediately notify Bank by telephone and confirm such oral notification in writing to Bank within twenty-four (24) hours of the oral notification. Bank will replace the Security Procedures in accordance with Bank's standard security requirements related to the applicable Service(s). Client will be solely liable for all transactions, including Payment Orders and other communications, initiated before Bank has received such notification and has had a reasonable opportunity to act on such notification. Bank reserves the right to change any or all of the Security Procedures offered and/or used at any time by giving oral or written notice to Client. Client agrees that its use of the related Services after Bank provides notice of such changes constitutes Client's acceptance of the new Security Procedures.

Client agrees to protect the confidentiality of its Account and Account number, and its personal identification information, such as its driver's license number and social security number. Client understands that personal identification information by itself, or together with information related to its Account, may allow unauthorized access to its Account. Client's Access Credentials are intended to provide security against unauthorized entry and access to its Accounts. Data transferred via Commercial Online Banking is encrypted in an effort to provide transmission security and Commercial Online Banking utilizes identification technology to verify that the sender and receiver of Commercial Online Banking transmissions can be appropriately identified by each other. Notwithstanding Bank's efforts to insure that Commercial Online Banking is secure, Client acknowledges that the Internet is inherently insecure and that all data transfers, including email, occur openly on the Internet and potentially can be monitored and read by others. Bank cannot and does not warrant that all data transfers utilizing Commercial Online Banking, or email transmitted to and from Bank, will not be monitored or read by others.

(b)   Client's Data Security Obligations. With regard to obtaining any Services under this Agreement, Client must comply with the computer hardware, software, and Security Procedures requirements as set forth in these General Provisions and/or as set forth in any Service specific provisions or any supplemental information and/or instructions provided by Bank. Client agrees to maintain network security that at a minimum includes: (i) current security suite with virus and malware protection that is set to update on a regular basis, but no less frequently than monthly, and (ii) network firewall provisioning and intrusion detection, either as part of the security suite or the operating system. Client agrees to maintain network security that conforms to generally recognized security industry standards and best practices.

Bank reserves the right as encryption technology develops to impose further reasonable requirements to maintain the appropriate level of security for the Services and transactions contemplated hereunder and Client agrees to abide by such requirements. Furthermore, Client understands and acknowledges that if Client does not follow commercially reasonable hardware, software, physical access and physical storage security procedures, the security of Client's transactions and/or other Client data (including sensitive and confidential information) may be compromised. Client understands, acknowledges and agrees that installation, maintenance and operation of Client's computer (hardware and software) and related security procedures, including, but not limited to, data security protection, firewalls and anti-virus software, is Client's sole responsibility, and that Client is solely responsible for securing, encrypting, protecting and otherwise safeguarding Client Data.

(c)   Serious Potential Threat to Client's Business; Notification to Bank. Client acknowledges and agrees that the threat of fraud resulting from theft of electronic data is a serious potential threat to Client's business and, accordingly, Client will take all reasonable steps to make certain that its computers and data security systems are protected from unauthorized access or use, and in an event of any unauthorized access or use, Client will immediately inform Bank of the security breach.

(d)   Responsibility for Loss. If, despite Client's efforts, Client suffers any damage or loss as a result of Client's failure to comply with its data security obligations, and regardless of whether such damage or loss results from the activities of Client's employees, agents, subcontractors or any unaffiliated third party, any such loss or damage shall be the sole responsibility of Client.

7.   HONORING TRANSACTIONS AND PAYMENT ORDERS.

(a)   Generally. Bank will honor Client's Payment Orders (including amendments, adjustments and cancellations) only when Client has complied with the Bank Agreements. Bank will be under no obligation to complete any transaction or Payment Order that: (i) exceeds Client's collected or available funds on deposit with Bank, even if Bank has done so in the past; (ii) is not in accordance with any condition requested by Client and agreed to by Bank; (iii) Bank has reason to believe may not be authorized by Client; (iv) involves funds subject to a hold, dispute or legal process preventing their withdrawal; (v) violates, in the opinion of Bank, any provision of any present or future risk control program of the Federal Reserve or any other Applicable Law; (vi) does not comply with any other requirement stated in the Agreement or any Bank policy, procedure or practice; and/or (vii) for the protection of Bank or Client, Bank has reasonable cause not to honor. Bank shall have no duty to discover, and shall not be liable for, errors or omissions by Client. If Bank complies with the Security Procedures in respect to a communication, Bank shall be entitled to act on that communication and shall not be obligated to verify the content of such communication, establish the identity of the person giving it, or await confirmation thereof, and the Bank shall not be liable for acting on, and Client shall be bound by, any communication sent in the name of Client, whether or not authorized. Bank shall not be liable for any loss arising, directly or indirectly, in whole or in part, from (i) the negligence or misconduct of Client or any of Client's agents; (ii) any ambiguity in the Payment Orders given to Bank; (iii) Client's failure to notify Bank of errors within sufficient time frames; (iv) the negligent act or omission of any third party, whether or not selected by Bank.

(b)   <u>Insufficient Account Balances for Service(s)</u>. When a Service requires Client's Account(s) to contain sufficient, good, collected, and available funds to cover Client's obligations for the required Service, Client agrees to maintain sufficient, good, collected, and available funds in those Accounts from which the funds are to be withdrawn or transferred. If there are insufficient funds in the designated Account to cover the required withdrawal(s), transfer(s), or related fees, except as specifically modified in an applicable Implementation Form, Bank may: (i) withhold the Service; (ii) in its sole discretion, elect to dishonor any item or transaction that creates a negative balance and has no duty to notify Client prior to dishonoring any overdraft, even if Bank has paid overdrafts on behalf of Client in the past; (iii) in its sole discretion, provide the Service, and Client agrees to pay Bank promptly or on demand the amount of overdraft and any fees or other costs including those set forth in the Commercial Terms and Disclosures; and/or (iv) require Client to pre-fund transactions prior to settlement date or effective date. Bank may, in its sole discretion, on occasion provide a Service against insufficient, good, collected and available funds in Account(s), but Bank is not obligated to do so, and any action by Bank of this nature will not constitute an obligation by Bank to provide the Service in the future.

8.   TERMS APPLICABLE TO TRANSFER SERVICES.

The following terms are applicable to each of the Services under this Agreement that permit Client to originate Transfers (including, but not limited to, Payment Orders).

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

(b)   <u>Inconsistent Name and Account Number.</u> If any Payment Order by Client describes the intended recipient of funds inconsistently by name and account number, Client agrees that payment by the receiving bank (which may be Bank) may be made on the basis of the account number alone even if that account is not owned by the person or entity named in the Payment Order. If any Payment Order identifies an intermediary bank or the payee's bank inconsistently by name and account number, Client agrees that Bank may rely solely on the account number as the proper identification of the intermediary bank or the payee's bank even if it identifies a bank different from the bank Client identified by name. To the extent permitted by Applicable Law, Client acknowledges and agrees that its obligation to pay Bank the amount of the Transfer pursuant to a Payment Order will not be excused in any circumstance for the erroneous Payment Order of Client and that Client will reimburse Bank for any Losses or expense Bank incurs as a result of Bank's reliance on the account number provided in Payment Order.

(c)   <u>Erroneous Instructions.</u> Client agrees that to the fullest extent permitted by Applicable Law, Bank will not be liable for any instruction, Payment Order, Transfer, amendment or cancellation thereof, or any loss arising therefrom, erroneously transmitted by Client or anyone authorized or purporting to be authorized by Client hereunder or containing an error in content as provided by Client or anyone authorized or purporting to be authorized by Client hereunder, if such instruction or Payment Order was accepted by Bank in good faith and originated using Access Credentials and Security Procedures assigned to Client, regardless of whether Bank followed the Security Procedures agreed upon herein or any application

9.   DUTY TO INSPECT.

(a)   Inspection of Information Provided to Client. Client will inspect all information provided by Bank in connection with the Services, including, but not limited to, Account statements. Client agrees to promptly notify Bank of any errors in such information or any discrepancies between Client's records and the information, statements, or confirmations of Transfers provided by Bank or otherwise made available to Client. In the event Client does not receive its scheduled periodic statement, Client will notify Bank AT ONCE by calling 847-432-7800. If Client discovers any error or discrepancy reflected on its Periodic Statement, Client agrees to notify Bank by calling 847-432-7800.

(b)   Reporting Errors. Client agrees to notify Bank immediately if Client discovers any error, omission, or discrepancy between Client's records and the information Bank provides to Client about Accounts or transactions (e.g., in a statement, confirmation, or electronic report produced through Commercial Online Banking or any authorized communication channel, any altered or unauthorized checks or any failed, erroneous, fraudulent or unauthorized transactions involving any Account (collectively, "Errors").

Client understands that the nature of certain transactions and Applicable Law relating to certain Services require that Client provide Timely Notice (defined below) of an Error in order to preserve or exercise rights against third parties that may have been the beneficiary of such Error. If Client fails to provide Timely Notice to Bank of any Error, then Client shall be precluded from asserting such Error against Bank. "Timely Notice" is defined as notice provided to Bank: (i) on the same Business Day with respect to any Payment Order, (ii) the next Business Day after the date of the transaction for other electronic funds transfers, (iii) within fourteen (14) days for any other instruction, transaction or Service (including Errors involving checks), or (iv) within ninety (90) days in the case of fees, following the date on which such information is sent by Bank or otherwise made available to Client. Client agrees that Bank will not be liable for any Losses, including loss of interest, which result from Client's failure to give Bank Timely Notice of an Error or which might have been prevented by Client giving Bank Timely Notice of an Error. Notwithstanding the foregoing, Bank reserves the right in its sole discretion to adjust transaction records for good cause after the expiration of the Timely Notice time periods. The Timely Notice requirement does not apply with respect to any attempt by Client or by Bank on Client's behalf to seek recovery or other recourse for an Error against other banks, clearing organizations, or other persons, none of which are parties to or beneficiaries of this Agreement.

Bank will not be responsible for determining the accuracy, timeliness or completeness of any information that Client, its agents, Vendors or others provide to Bank. Bank has no duty to interpret the content of any data transmitted to Bank, except to the limited extent expressly set forth in the Agreement. Bank assumes no responsibility for Client's reliance on any Account or Service information reported on an intraday or prior day basis that is subsequently updated, verified or corrected. Bank's sole responsibility for any reporting errors caused by Bank will be to reprocess the information for the period in question and to provide corrected reports at Bank's own expense. Client agrees to maintain adequate backup files for a reasonable period of time and provide to Bank upon request all information necessary to remake or reconstruct any deposit, Transfer, Payment Order, transmission, file, or other order affecting an Account.

10.   COOPERATION IN LOSS RECOVERY EFFORTS.

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

11.   FEES; SETTLEMENT OF OBLIGATIONS; FOREIGN CURRENCY EXCHANGE.

(a)   Generally. Client agrees to pay fees as set forth in the Bank's Schedule of Fees, as amended from time to time. Bank reserves the right to change the Schedule of Fees at any time. Applicable fees do not include, and Client will be solely responsible for payment of, any sales, use, excise, value added, utility tax, or tariffs relating to the Service(s) provided hereunder, and for all telephone charges, internet

access service charges, tolls, tariffs, and other costs for Commercial Online Banking Services initiated by Client or Client's Authorized Parties.

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

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

(c)   Foreign Currency Exchange Conversions. Bank assumes neither risk of loss nor any liability, which any person (including Client) may suffer by reason of foreign currency exchange conversions when executed pursuant to Client's instruction or Payment Order, including in fulfillment of one of the Services. Any gains resulting from foreign exchange conversion in connection with any Client transaction pursuant to any Service hereunder shall inure to Client.

12.   USE OF THIRD PARTIES.

(a)   Bank's Use of Third Parties. Client acknowledges and agrees that Bank may perform the Services through third-party contractors or service providers ("Service Provider"); provided, however, that no such performance through a Service Provider will relieve Bank of its obligations hereunder, including without limitation, its standard of performance, and Bank and any Service Provider shall only be responsible for the acts or failures to act by such Service Provider to the same extent Bank would incur responsibility therefore under the Agreement if Bank had so acted or failed to act itself. Client agrees not to bring a claim or any form of legal action against any of Bank's Service Providers as related to Client's use of Service under the terms of this Agreement and agrees to hold any such Service Provider harmless in connection with the Agreement and acknowledges that any such claims will be brought only against Bank.

(b)   Client's Use of Third Parties. Client shall notify Bank in writing, as specified in this Agreement, of the name of any third party it hires, employs, or to whom it delegates its duties or responsibilities under the Agreement (each, a "Vendor"), before that Vendor initiates any transaction or performs an obligation authorized or required under the Agreement. Client agrees that it shall be solely responsible for all acts of any such Vendor. Client shall provide information, including financial information, due diligence, agreements and authorizations which Bank may, in its sole discretion, require from time to time regarding any Vendor which Client hires, employs, or retains in any manner, to initiate transactions, including Payment Orders, or assume any of Client's duties under the Agreement. Client understands and agrees that because of the risks involved in certain of the Services that Client may utilize, Bank may refuse, in its sole discretion, to provide such Services to Client if the Vendor retained by Client does not meet Bank's qualification criteria. Bank's acceptance of any Vendor retained by Client based on Bank's qualification criteria is not a representation or warranty by Bank regarding the fitness of the Vendor's

capabilities or financial condition, nor is such acceptance by Bank an endorsement of any Vendor's ability to perform the third-party services for Client. Client agrees that it shall not allow any Vendor to use any Service hereunder or to process any third party's transactions or Payment Orders pursuant to the Services hereunder through Client or its Accounts without Bank's prior written consent.

13. CONFIDENTIALITY.

Client agrees that all information concerning Bank which comes into its possession in connection with any Service and/or the performance of the Agreement including, but not limited to, software licensed to Client by Bank, user guides and Security Procedures, will be maintained as confidential and shall not be used or divulged to any other party except as required by Applicable Law. Client agrees to limit the internal access, disclosure and distribution of such information to its employees, agents and representatives who have a need to know such information and will at all times have appropriate policies in effect to ensure the confidential status of such information. Client will be responsible for the acts and omissions of its employees, agents and representatives with respect to the confidential information. Client will promptly notify Bank if it knows or becomes aware of any compromise of security, including any unauthorized use or possession of Client's Security Procedures. Client shall be responsible for any claims, damages, or Losses resulting from Bank's actions taken in accordance with instructions to Bank from unauthorized persons when such instructions are accompanied by the applicable Security Procedures.

Client agrees that Bank may share any information concerning Client's Accounts and Account transactions with any of Bank's Affiliates, Subsidiaries, Parent, or service providers and, to the extent Bank determines necessary, with Client's Vendors, and state or federal regulators, bank examiners or auditors. Bank routinely informs credit bureaus and/or Chex Systems about when Accounts are closed due to clients not properly handling their account(s). Bank may also seek information about Client from others, such as a credit bureau, in connection with the opening or maintaining of Client's Account(s) or in connection with approving Client's access to the Services or System. Client agrees and hereby authorizes all of these transfers of information.

14. CLIENT RECORDS; OWNERSHIP OF DATA; RESPONSE TO DATA SECURITY BREACH INCIDENTS.

(a)   Client Records. The Agreement will not relieve Client of any obligation imposed by law, contract, or otherwise regarding the maintenance of records or from employing adequate audit, accounting and review practices. Client shall retain, and provide to Bank upon request, all information necessary to remake or reconstruct any deposit, transaction, instruction, Payment Order, Transfer, transmission file, or Entry for at least ten (10) Business Days, or longer as provided for herein or set forth in a separate Service provision, following receipt by Bank of the deposit, transmission file, Entry, or other instruction or order affecting any of Client's Account(s). Bank's records as to this Agreement and all related agreements and Service provisions will be presumed accurate and, in the absence of manifest error, will be binding and conclusive.

(b)   Response to Data Security Breach Incidents. As stated in Sections 5 and 6 above, Client has the sole responsibility for security and protection of Client-owned data. In the event of any security breach incident involving any potential or actual unauthorized access or acquisition of Client-owned data (*e.g.* computer hacking, virus attack, or theft or loss of any equipment containing Client-owned data), it is Client's sole responsibility to determine whether Client has the obligation, under Applicable Law, to notify potentially or actually affected individuals whose sensitive non-public personal information may have been compromised by the security breach incident. Client must conduct, at its sole cost and expense, any audit and forensic investigation of such security breach incident. Client bears the sole responsibility for any and all costs of complying with required data breach notifications to individuals, credit bureaus and/or governmental entities as required by Applicable Law, and any and all costs for credit report monitoring or fraud monitoring associated with such security breach incident.

15.   REPRESENTATIONS AND WARRANTIES BY CLIENT.

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

16.   RELATED ENTITIES.

(a)   Joinder. By executing this Agreement, Client, each Related Entity of Client listed on the Related Entity Schedule hereto (if any), and Bank agree that each such Related Entity shall have all of the rights and obligations of, and shall for all purposes be a party under this Agreement as, a "Client." Additional Related Entities can be added through an addendum to this Agreement in the form required by Bank and executed by Client and Bank.

(b)   Role of Client; Responsibility. Each Related Entity hereby authorizes Client, and Bank may rely on Client's authority, to act as agent for such Related Entity in connection with any and all matters relating to the Agreement, including, without limitation, administering the Services and originating transactions and Payment Orders, executing Implementation Forms and Requests, terminating the Agreement, agreeing to modifications and amendments to the Agreement, adding new Related Entities, and receiving notices under the Agreement (which will be effective against the Related Entity, even if such notices and communications are sent only to Client); any and all such actions by Client shall be binding on the Related Entities. Each Related Entity agrees that it is responsible for the payment of fees or maintenance of required balances for the Services that it receives from Bank, and for all obligations and liabilities it incurs.

(c)   Security Procedure Access and Use. Client and any Related Entity acknowledge and agree that the Access Credentials and Security Procedures provided by Bank to Client shall be used to access and use the Services. As such, Client and each Related Entity acknowledges and agrees that (a) Bank may rely on and act on any and all communications, instructions, and Payment Orders it receives through an Access Credential or Security Procedure assigned to the Client and Bank's reliance shall not constitute negligence or willful misconduct or bad faith, (b) each Client and Related Entity shall be bound by such use of the Services and any instructions or Payment Orders and liable for any transactions debiting the Account(s) of the Related Entity, and (c) Bank shall have no liability or responsibility for notifying any Related Entity with which Client shares its Access Credentials or Security Procedures. Each Related Entity and Client understands and agrees that use of the Services and any transactions affecting each Related Entity's Account(s) may be reflected on the records of Bank as having been initiated by Client.

(d)   Representations and Warranties. In the event that Client desires to obtain any Services under this Agreement for any of Client's Related Entities, as Client shall list such Related Entities in any addendum, exhibit or schedule used in connection with this Agreement, Client makes the following additional representations and warranties to Bank each time that Client lists a Related Entity that is authorized to obtain Services under this Agreement: (x) if Client is a Parent of any Related Entity listed,

that Client is authorized under applicable governing documents to exercise both the voting power and equity of the Related Entity, and that no third party holds any veto power or approval right over (A) Client's ability to appoint a majority of the directors, managers or other members of the Related Entity's governing body, (B) Client's ability to determine the Related Entity's strategy and direction, or (C) Client's ability to bind the Related Entity to this Agreement; (y) if Client is a Subsidiary of any Related Entity listed, that Client has been duly authorized by the Related Entity to enter into this Agreement, to bind the Related Entity to this Agreement and to take all necessary actions to obtain Services under this Agreement, and that no third party holds any veto power or approval right over Client's ability to fulfill Client's obligations under this Agreement; (z) if Client is an Affiliate of any Related Entity listed, that Client is duly authorized by its governing documents, or by actions of the Related Entity, to enter into this Agreement, to bind the Related Entity to this Agreement, and to take all necessary actions to obtain Services under this Agreement, and that no third party holds any veto power or approval right over Client's ability to fulfill Client's obligations under this Agreement.

(e)   Guarantee. Client unconditionally and irrevocably guarantees to Bank the full and prompt payment and performance by each Related Entity of all obligations any Related Entity may incur under this Agreement, including obligation for fees and charges, indemnification obligations, in any case that any payment to Bank by a Related Entity is set aside, rescinded or otherwise required to be returned in any bankruptcy or similar proceeding. Client agrees to pay any and all such amounts upon demand by Bank.

17.   COMPLIANCE WITH LAWS.

Bank and Client each agree to comply with provisions of all Applicable Law and shall be responsible for obtaining any and all authorizations from any applicable governmental authority that may be required for the party to perform hereunder. Without limiting the foregoing, Client agrees that it is prohibited from using the Services, or engaging in any business or activity, to (a) be or become a "money service business" as defined in the Bank Secrecy Act and its implementing regulations; (b) initiate or receive a Restricted Transaction; (c) knowingly accept Restricted Transactions; or (d) directly or indirectly engage or support illegal or fraudulent activity.

18.   LIMITATIONS OF LIABILITY.

To the extent permitted by law, and except as otherwise expressly provided herein, Client agrees that Bank will have no liability whatsoever for any damage, loss, expense, cost, or liability, including, without limitation, fines, penalties, reasonable attorneys' fees and court costs (collectively, a "Loss") arising out of Bank's performance of or non-performance under this Agreement, even if such Loss arises, in whole or in part, from Bank's negligence, except for any direct damages arising from Bank's gross negligence or willful misconduct. Bank's duties and responsibilities to Client are strictly limited to those described in the Agreement, except with respect to any provisions of the law which cannot be varied or waived by agreement. Notwithstanding the foregoing, Bank's liability to Client for failure to exercise ordinary care resulting in a delay in executing, improper execution of, or failure to execute a Payment Order shall be limited to an amount equal to interest losses attributable thereto. BANK WILL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION, LOSS OF REVENUE OR ANTICIPATED PROFITS) THAT CLIENT MAY INCUR OR SUFFER IN CONNECTION WITH THE SERVICES PROVIDED HEREUNDER (EVEN IF BANK HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES), INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, BANK AND ITS AFFILIATES AND SUPPLIERS MAKE NO WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, ABOUT ANY OF THE SERVICES, ANY EQUIPMENT OR ANY PROCESSING SOFTWARE DESCRIBED IN THIS AGREEMENT, AND HEREBY DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT. To the fullest extent permitted by Applicable Law, and without limiting the generality of

the foregoing, Bank shall not be liable at any time to Client or any other person or entity for Loss resulting from any failure or delay of the performance of Bank's responsibilities under the Agreement which is caused or occasioned by any act or thing beyond Bank's reasonable control, including, without limitation, legal restraint, interruption of transmission or communication facilities, equipment failure, electrical or computer failure, war, emergency conditions, acts of God, fire, storm, or other catastrophe, or inability to obtain or delay in obtaining wire services, Internet access, electronic transfers, or electronic file exchange, or refusal or delay by a service provider or another bank or financial institution. In addition, Bank shall be excused from any failure or delay in executing a transaction hereunder if such execution would result in the violation of any Applicable Law, rule, regulation or guideline. Client agrees that Bank shall not have any liability whatsoever for any Loss caused by or resulting from: (i) the act, error, or omission of Client or any other person, including, without limitation, any service provider retained by Client, any Internet service provider, any federal reserve bank or transmission or communications facility or any intermediary or receiving financial institution, and no such person shall be deemed the Bank's agent; (ii) any interception of any information relating to Client or its transactions as a result of (A) Client communicating information to Bank, excepting damages attributable to Bank's gross negligence or willful misconduct or (B) use of the Internet or other application; or (iii) any other matter, including without limitation, any act or omission by any other financial institution, funds transfer system, or any other third party, or for the inaccuracy or omission in a notice or communication received by Bank from Client or any other third party. Client understands and agrees that the fees charged for the performance of the Service(s) have been established in contemplation of these limitations on liability.

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

19. INDEMNIFICATION.

To the extent not prohibited by law, Client agrees to indemnify, defend, release and hold harmless Bank and its Affiliates, directors, officers, employees, and agents, individually and collectively, from and against any Loss which results, directly or indirectly, from Bank providing Services to Client hereunder, including, but not limited to, (i) any of Client's Vendors' use of or access to any information in connection with the Services; (ii) Client's violation of any of the Bank Agreements or breach of Client's representations or warranties under this Agreement, or (iii) the acts or omission of Client (including any Client Vendor) or claims that Bank is responsible for the acts of Client, even if such Loss arises, in whole or in part, from Bank's negligence. Provided, however, that Client shall not be obligated to indemnify Bank for Losses arising from Bank's gross negligence or willful misconduct, unless otherwise expressly provided in the Agreement or the Commercial Terms and Disclosures. Client agrees to indemnify and release Bank from any and all liability and agrees not to make any claim against Bank or bring any action against Bank, relating to its honoring or allowing any actions or transactions that were conducted under Client's Access Credentials or Security Procedures or acting upon messages or authorizations provided to Bank using Client's Access Credentials or Security Procedures.

20. TERMINATION, SUSPENSION, AND LIMITATION.

(a)   Termination of Agreement By Either Party Without Cause. Either party may terminate the Agreement, with or without cause, in its entirety or with respect to one or more specified Service(s), at any time upon thirty (30) days written notice to the other party of its intent to do so.

(b)   Termination of Agreement By Bank With Cause. Bank may, in its sole discretion, terminate or suspend the Agreement in its entirety, or with respect to one or more specified Service(s), effective immediately upon notification if: (i) Client fails to maintain adequate Account balances to cover all transactions, costs and expenses relating to one or more Service(s); (ii) there is a material change in Client's credit and/or risk analysis criteria as determined by Bank in its sole and absolute discretion; (iii) Bank at any time determines that Client or Client's Vendor does not meet Bank's risk or other qualification

requirements; (iv) Bank discovers any willful misconduct (including, but not limited to, writing or knowingly passing bad checks, or other fraudulent activity) on the part of Client or any other party with respect to Client's use of the Services; (v) Client has selected a particular Service, but Client has not used such Service for a period of time deemed to constitute an inactive Service by Bank (in Bank's sole discretion); (vi) Client is in default of any terms of the Agreement, Service provision, or any Bank Agreements; (vii) Client violates any Applicable Law in connection with the Services or any related agreement; or (viii) the continued provision of Services in accordance with the terms of this Agreement would, in Bank's good faith opinion, violate any Applicable Law or any requirements of any regulatory authority or subject Bank to an unacceptable risk of loss or material security. Upon the occurrence of any of these events, Bank's sole obligation shall be to provide notice of the suspension or termination of the Agreement or Service to Client as soon as is commercially reasonable.

(c)   Rights and Responsibilities upon Termination. In the event of termination of the Agreement or any Service hereunder, the rights and responsibilities of the parties shall continue through any applicable settlement period, including Client's responsibility to pay Bank for Service(s) rendered, and to maintain a reserve account with respect to transactions processed ("Reserve Account"), prior to the effective date of termination. If this Agreement, or any Service, is terminated by Bank, Bank may accelerate all amounts due and to become due under this Agreement, and Client shall promptly make full payment to Bank of all amounts due and amounts incurred under this Agreement. If Client utilizes the Remote Deposit Capture Services, termination of this Agreement for any reason shall automatically terminate the limited license to the Processing Software granted in the Remote Deposit Capture Services provision, and Bank has the right to demand immediate return of the Processing Software, the Equipment and all Documentation. In the event that Client fails to immediately return such items upon the written demand of Bank, Bank shall have the authority to enter the premises of Client to remove such items.

(d)   Security Interest in Accounts. Client grants Bank a security interest in all Accounts or other deposits (whether general or special) of Client's at Bank, and in all funds in such Accounts or other deposits, or any other obligations of Client to Bank to secure Client's obligations to Bank under this Agreement. This security interest will survive termination of this Agreement until all obligations to Bank are paid in full. Bank may hold any funds on deposit with Bank by Client after termination of this Agreement for up to thirty (30) days following the expiration of any return or chargeback rights regarding any transaction, Payment Order, or ACH Entry processed by Client using the Services or, if later, until any other claims to such funds have expired.

21.   GOVERNING LAW; VENUE; JURY TRIAL WAIVER; CLASS ACTION WAIVER.

This Agreement and any Losses, claims, controversy, or disputes relating to or arising out of this Agreement or the Services shall exclusively be governed by, and construed in accordance with, the laws of the State of Illinois, without regard to Illinois's conflict of law principles, and with applicable federal laws and regulations. Client irrevocably submits to the nonexclusive jurisdiction of state and federal courts located in Cook County, Illinois. EACH PARTY HERETO EXPRESSLY, IRREVOCABLY, KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE SERVICES. IF PERMITTED BY APPLICABLE LAW, CLIENT AND BANK ALSO WAIVE THE RIGHT TO LITIGATE IN COURT OR AN ARBITRATION PROCEEDING ANY DISPUTE, CONTROVERSY, OR CLAIM AS A CLASS ACTION, EITHER AS A MEMBER OF A CLASS OR AS A REPRESENTATIVE, OR TO ACT AS A PRIVATE ATTORNEY GENERAL.

If either Bank or Client brings an action to enforce the terms of this Agreement or to declare its rights hereunder, the prevailing party in any such action, on trial or appeal, shall be entitled to its reasonable attorneys' fees to be paid by the losing party as fixed by the court.

22.   MISCELLANEOUS.

(a)   Headings. The headings and captions used within this Agreement are for Client's convenience and reference purposes only and shall not govern the interpretation of the provisions.

(b)   Singular/Plural. Unless it would be inconsistent to do so, words and phrases used in this Agreement shall be construed so that the singular includes the plural, and the plural includes the singular.

(c)   Counterparts. The Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single instrument.

(d)   Inconsistencies. To the extent expressly provided for otherwise herein, should any inconsistency exist or arise between the terms of the Agreement, as relates to any Service or Services, and the terms of any other Bank Agreements, the terms of the Agreement shall control, but only to the extent of the inconsistency. Moreover, to the extent expressly provided for otherwise herein, should any inconsistency exist or arise between the General Provisions of the Agreement and the applicable Service specific provisions, the terms of the Service specific provisions shall control, but only to the extent of the inconsistency.

(e)   Amendment. Bank may amend the Agreement from time to time upon no less than ten (10) days prior written notice to Client. To the extent permitted by Applicable Law, Bank may amend any terms of the Agreement without prior notice or obligation to Client: (i) if a service provider changes any term without providing Bank sufficient prior notice to enable Bank to timely notify Client; (ii) for security reasons; (iii) to comply with Applicable Law; or (iv) as otherwise expressly provided in the Agreement. Use by Client of the Service(s) following the effective date of any amendment(s) shall constitute Client's acceptance of and agreement to the amendment(s). If Client does not agree to the changes as set forth in an amendment, Client may choose to terminate the Service(s) affected by the amendment prior to the effective date of the amendment by discontinuing further use of the Service and following the procedures set forth in Section 20 herein or terms of the applicable Service. Unless otherwise provided for herein, the Agreement may not be amended or modified unless agreed to in writing by Bank.

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

(g)   No Third-Party Beneficiaries. The Agreement is for the benefit of Client and Bank and is not intended to grant, and shall not be construed as granting, any rights to or to otherwise benefit any other person, except as expressly otherwise provided for in the Agreement.

(h)   Severability. If a court of competent jurisdiction holds any provision of this Agreement to be invalid, illegal or unenforceable, such provision shall be valid, legal and enforceable to the maximum extent permitted by such holding and the validity, legality, or enforceability of the other provisions of this Agreement will not be affected or impaired by such holding.

II. COMMERCIAL ONLINE BANKING

1.   THE SERVICE.

Commercial Online Banking enables Client to use the Services and perform various banking functions relating to its Accounts via the Internet and shall be deemed a "Service" under this Agreement. Access to Commercial Online Banking will be provided through Bank's online banking system ("Online Banking System") or through software (the "Mobile App" or "App") designed for Client's computer, smartphone, tablet, or similar device. Bank's "Website" refers to all firstbankchicago.com websites and all other web pages maintained by Bank and accessible through firstbankchicago.com. It also includes any

other website or web pages Client can access only after Client enters into this Agreement and the Commercial Online Banking Agreement, as applicable. It does not include any website that has its own separate agreement governing online access, or any other third-party website not hosted and/or maintained by Bank.

2. COMMERCIAL ONLINE BANKING SERVICES, TRANSFERS AND PAYMENTS.

Subject to the terms and conditions of this Agreement, Client may use the Commercial Online Banking Service(s) Bank offers to Client from time to time to access Client's Account(s) through the Online Banking System and, as may be allowed, through the Mobile App, perform authorized transactions (including Payment Orders) through the Online Banking System or through Client's mobile device, and use the Services contained in this Agreement and as may otherwise be made available through the Commercial Online Banking Services, as described on Bank's Website and as may change from time to time, at Bank's sole option. Available transactions include obtaining balance information, transaction history, and other information as well as making one-time or recurring transfers.

To access Client's Accounts and the Online Banking Services through the Online Banking System or Mobile App, Client must have Access Credentials, provide any additional information that Bank may require from time to time, in Bank's sole discretion, in connection with any additional authentication procedures that Bank may employ, and maintain the required hardware and software as specified on Bank's Website. Client must also comply with any other Security Procedures that Bank may establish from time to time. Subject to the terms of this Agreement, Client will generally be able to access its Accounts and Online Banking Services through the Online Banking System and Mobile App seven (7) days a week, twenty-four (24) hours a day. While Bank will use commercially reasonable efforts to make the Commercial Online Banking available as noted above, at certain times, the Online Banking Services, Online Banking System, Mobile App, and Website may not be available for a variety of reasons (e.g., due to system maintenance, periods of high volume, system outages, or circumstances beyond Bank control) and Client agrees that Bank will not be liable to Client if Commercial Online Banking is not available for use at any time. In some instances, balances and transaction history may only reflect activity conducted through the close of the previous Business Day.

Commercial Online Banking may contain links to the websites of third parties ("Linked Sites") or provide the opportunity to use or access third-party software or services that are not part of the Services ("Third-Party Software") offered by a third party other than a Vendor (a "Third-Party Vendor"). Bank does not endorse or assume any responsibility for any Linked Sites or Third-Party Software and makes no representations or warranties whatsoever with respect thereto. Customer is solely responsible for its use of any Linked Sites or Third-Party Software and agrees that it must look to the Third-Party Vendor, and not Bank, for any content, services and any problems or claims related to its use of the Linked Sites or Third-Party Software, including any security or data breach.

3. AUTHORIZATION AND IMPLEMENTATION FORMS.

To use Commercial Online Banking, Client must deliver to Bank a Request and any related Implementation Forms identifying the specific Account(s) to be accessed, and the Authorized Party(ies) to have access, under the Commercial Online Banking Service. The Request and Implementation Forms must be signed by an Authorized Signer of each eligible Account to be enrolled in Commercial Online Banking.

4. APPOINTMENT AND MANAGEMENT OF ADMINISTRATORS AND AUTHORIZED PARTIES.

(a) <u>Generally.</u> By designating any individual as an Authorized Party in the Online Banking System, Client agrees that each Administrator or User will be acting as Client's agent and will be bound by this Agreement and any Bank Agreements governing the use of the Service by client and Client's Account(s). All transactions that an Authorized Party (or other party using the Access Credentials or Security Procedures

assigned to an Authorized Party) performs on an Account(s) or through the Online Banking System, including those Client did not want or intend, are transactions authorized by Client. Such transactions include, but are not limited to, accessing electronic statements, Payment Orders, and transferring funds between Client's Account(s) and any of the Authorized Parties' Accounts which may be linked within the Authorized Parties' Online or Commercial Online Banking Services Access Credentials. Client is solely responsible for those transactions. Client also agrees that Bank is not responsible for any of Client's acts or omissions or any acts or omissions of Authorized Parties or any fiduciary acting on Client's behalf.

(b)   Appointment of Administrator. Client is required to designate, as an Administrator, a person who will be the primary contact for purposes of communicating with Bank regarding Commercial Online Banking. The Administrator must have the authority to determine individual(s) authorized, as Users, to access and use Commercial Online Banking on Client's behalf. The Administrator shall have separate Access Credentials, where required by Commercial Online Banking, for each Authorized Party, as well as the user privileges on each Authorized Party's authority to access information and conduct transactions, subject to any maximum limitation imposed by Bank. Client is responsible for familiarizing all Authorized Parties with the provisions of this Agreement. Client is solely responsible for the actions of its Administrator, the authority he or she gives to Authorized Parties to act on Client's behalf, and the actions of the Authorized Parties. Client may remove and replace its Administrator from time to time by submitting a change in writing to Bank. Any changes to the Authorized Parties' privileges shall be Client's or Clients Administrator's sole responsibility, and any such change shall be within Client's or Client's Administrator's sole control and shall not impose any additional duty or liability on Bank. Client understands and acknowledges that by appointing an Administrator, Client is conferring to such Administrator total control over the Accounts. By executing this Agreement, Client unequivocally assumes all risks involved in appointing an Administrator and Authorized Parties and agrees to indemnify and hold Bank harmless from any and all claim(s) and/or Losses resulting from the wrongful acts or omissions of an Administrator or any Authorized Party.

(c)   Authorized Parties. Client represents that each Authorized Party has general authority from Client to access information and give instructions and Payment Orders, including general authority over the movement of Client's funds and Accounts as evidenced by the banking resolution, partnership declaration and/or other agreements, certifications or instruments Client has provided to Bank; and that Bank has full authorization from Client to rely and act upon these instructions. By designating any individual as an Authorized Party, Client agrees that each Authorized Party will be acting as Client's agent and will be bound by this Agreement and any separate agreement governing Client's Account(s). All transactions that an Authorized Party or fiduciary performs on an Account(s) or through Commercial Online Banking, including those Client did not want or intend, are transactions authorized by Client. Client is solely responsible for those transactions, and Bank is not responsible for them. Client agrees that Bank is not responsible for any of Client's acts or omissions or any acts or omissions of any of Client's Authorized Parties. Client agrees that Client, and not Bank, is responsible for supervising all of Client's Authorized Parties and monitoring the actions they take on Client's behalf, whether or not Bank provides tools for managing their authority. Client is responsible for deleting and/or blocking any Access Credentials used by or assigned to an Authorized Party that is no longer employed by Client. If Client revokes or changes the authority of an Authorized Party using the Online Banking System, only transactions that Client did not want or intend and that the Authorized Party performs after Client changes their authorization, and Bank has a reasonable opportunity to act on that notice, will be considered unauthorized transactions. BANK WILL HAVE NO LIABILITY TO CLIENT FOR UNAUTHORIZED PAYMENTS OR TRANSFERS MADE USING THE ACCESS CREDENTIALS CLIENT HAS OBTAINED THAT OCCURS BEFORE CLIENT HAS NOTIFIED BANK OF POSSIBLE UNAUTHORIZED USE AND BANK HAS HAD A REASONABLE OPPORTUNITY TO ACT ON THAT NOTICE.

Client is responsible for ensuring that each Authorized Party maintains the confidentiality of its Access Credentials. Client agrees that each Authorized Party will access and use each Account, and the Online Banking System, in accordance with the authority given to the Authorized Party by the delegating owner (i.e., the Account owner, Authorized Signer or Administrator). Each time an Authorized Party accesses, views, or transacts on an Account or through the Online Banking System, Client represents and

warrants to Bank that the Authorized Party's action is authorized by the delegating owner. If Bank receives conflicting instructions or Payment Orders, or if Banks believes that an Account's security or Bank's security may be at risk as a result of an Authorized Party, Bank may, at its sole discretion, terminate or suspend the Authorized Party's access to the Online Banking System, the Commercial Online Banking Services, or an Account, or prevent the individual from being an Authorized Party, without prior notice to Client or any Account owner or delegating owner.

Client is solely responsible for removing or restricting the authority of any Authorized Party, including through use of Commercial Online Banking. The authority of an Authorized Party will terminate: (a) when Bank is notified by an Account owner through the appropriate channel (including through Commercial Online Banking) that the Authorized Party's authority is terminated and Bank has a reasonable opportunity to act on the notice; (b) when Bank is notified by an Account owner that the Account owner appointing the Authorized Party ceases to be an Account owner and Bank has a reasonable opportunity to act on the notice; (c) in the case of sole-proprietor business accounts, upon Bank receiving written notice of the death or incapacity of the delegating Account owner from a court of competent jurisdiction or from a source that Bank considers official and reliable and Bank has a reasonable opportunity to act on the notice; or (d) at Bank's sole discretion if an Account owner or any Authorized Party breaches any provision of this Agreement.

The Client agrees that Bank, in its sole discretion, may immediately suspend or terminate Commercial Online Banking access and/or assigned functionalities for security and other reasons for any of Client's Authorized Parties if: (i) Bank discovers any willful misconduct by any individual who accesses Commercial Online Banking or an Authorized Party demonstrates a repeated and habitual failure to follow, and/or disregard of, Bank's established Security Procedures; or (ii) an Authorized Party has not accessed or used their assigned functionality within the Commercial Online Banking Services for a period of time deemed to constitute an inactive Authorized Party by Bank.

5.   SECURITY PROCEDURES.

In connection with Commercial Online Banking, Client agrees to the terms in the General Provisions, the Security Procedure Guide, and any Implementation Forms with respect to the use of commercially reasonable Security Procedures. Such Security Procedures may include, but are not limited to, dual control authorization and Token authentication. Client also acknowledges and agrees that the terms in the General Provisions, including Sections 7 and 8 regarding honoring transactions and Transfer Service terms, shall apply to Client's use of Commercial Online Banking.

6.   THIRD-PARTY LINKS.

Commercial Online Banking may contain links to the websites of third parties ("Linked Sites") or provide the opportunity to use or access third-party software or services that are not part of the Services ("Third-Party Software") offered by a third party other than a Service Provider (a "Third-Party Provider"). Bank does not endorse or assume any responsibility for any Linked Sites or Third-Party Software and makes no representations or warranties whatsoever with respect thereto. Client is solely responsible for its use of any Linked Sites or Third-Party Software and agrees that it must look to the Third-Party Provider, and not Bank, for any content, services and any problems or claims related to its use of the Linked Sites or Third-Party Software, including any security or data breach.

III. DATA FILE RETRIEVAL AND DELIVERY SERVICE

1.   THE SERVICE.

Bank may provide a data file exchange facility for Client, which is intended to ensure a convenient, reliable and efficient means to obtain various informational data files and reports from Bank, or deliver instructional data files to Bank for processing and handling ("Data File Retrieval and Delivery Service").

This data file exchange facility makes it possible for Client, Client's agent, or a third party authorized by Client to obtain specific Account activity.

2. AUTHORIZATION AND ENROLLMENT.

To use the Data File Retrieval and Delivery Service, Client must deliver to Bank a Request and any related Implementation Forms identifying the specific Account(s) to be reported on and the Authorized Party(ies) to have access to such data reports. The Request and Implementation Forms must be signed by an Authorized Signer of each eligible Account to be enrolled in the Information Reporting Service.

3. SECURITY PROCEDURES.

In addition to the Security Procedures included in the General Provisions herein, Client agrees to implement and use the following Security Procedures for the Data File Retrieval and Delivery Service. Bank uses an accepted data communication convention, File Transfer Protocol ("FTP"), which prescribes the manner in which files are to be exchanged between computers using the Internet's transmission control protocol/Internet protocol ("TCP/IP") functionality. Bank allows Client to choose among certain options for communicating with the Bank's DMZ for retrieval and delivery of data files. Access to Bank's DMZ may require that Client, its agent or a third party authorized by Client, utilize Client's Security Procedures, and Bank may further require that public encryption keys be exchanged between Client (or its agent or third party authorized by Client), and Bank, depending upon the communication option selected. Also, certain communication options will require Client, its agent or third party authorized by Client to furnish Bank with the TCP/IP address from which an FTP communication session will originate. In addition to the general testing obligations set forth in Section 4(b) above, when Client selects a particular communication method, Bank and Client shall cooperate in testing data file exchange by such communication method, and if the testing process is completed satisfactory to Bank, then such communication method will be used. If, however, the testing process for a particular communication method is not completed satisfactory to Bank, then Client must choose a different communication method that must also meet with Bank's testing and approval as stated above. Once a particular communication method has been successfully tested satisfactory to Bank's requirements and approved by Bank, then Bank and Client will commence exchange of data files using such communication method.

IV. ACH ORIGINATION SERVICES

1. THE SERVICE.

Bank agrees to provide ACH Origination Services (the "ACH Services") to allow Client to be an Originator of ACH Entries pursuant to the terms of the General Provisions and this ACH Services Article. The operation of the ACH Network is governed by NACHA's operating rules and operating guidelines (the "NACHA Rules"). A copy of the NACHA Rules, and any amendments thereof, must be obtained at https://www.nacha.org. Client and Bank hereby agree to comply with all NACHA Rules as now existing or subsequently amended. Client hereby understands that Bank's compliance with the NACHA Rules includes, but is not limited to, immediately ceasing any ACH Services provided to Client if Bank must, in Bank's sole and absolute discretion, take such action against Client to comply with NACHA Rules and to avoid or mitigate any fines or penalties being assessed against Bank by NACHA for Client's ACH activities.

2. ACH SERVICES APPROVAL AND UNDERWRITING PROCESS.

(a)   Bank Approval and Monitoring of Client's ACH Risk. Client agrees and acknowledges that Bank shall provide ACH Services to Client subject to Bank's prior approval and completion of any Request or other Implementation Form(s). In addition, after any initial approval for ACH Services by Bank, Bank shall also, from time-to-time and in its sole discretion, undertake additional credit and risk analysis monitoring activities that are deemed necessary while Bank is providing ACH Services to Client. Client agrees to cooperate with Bank regarding any ongoing credit and risk analysis activities by Bank, including

providing financial or other documents in a timely manner upon Bank's request, and taking any risk mitigation or other ACH Entry origination procedures as required by Bank.

(b)   Material Change in Credit and Risk Analysis Criteria. In the event Client either fails to maintain the minimum risk analysis criteria as required by the Bank, or if, in the opinion of the Bank, Client undergoes a material change in its operations that Bank believes increases the risk of Client's ACH operations, then the Bank may, in its sole discretion, take any and all of the following actions: require Client to establish an ACH Reserve Account (as defined below); or terminate ACH Services to Client, generally upon prior written notice from Bank, or immediately if Bank deems immediate termination necessary, in Bank's sole discretion, to comply with NACHA Rules. Events that constitute a material change in Client's business operations include, but are not limited to: (i) levels of ACH returns that exceed generally acceptable return levels (as determined by Bank); (ii) a significant or sudden increase in Client's ACH return levels as compared to Client's historic ACH return levels; (iii) significant changes in the nature of Client's business, including its product and services lines or transaction environments; or (iv) the occurrence of any other event that Bank believes represents a material change in Client's financial performance or financial condition. Upon learning of any such material change, Bank will inform Client of the issue, and Bank may exercise its right to temporarily suspend Client's ACH Services in order to investigate the issue. After investigation, Bank may invoke its rights to require Client to establish an ACH Reserve Account, require Client to prefund its ACH Entries, or Bank may, in its sole discretion, exercise its right to terminate ACH Services to Client generally upon prior written notice from Bank, or immediately if Bank deems immediate termination necessary, in Bank's sole discretion, to comply with NACHA Rules.

(c)   ACH Reserve Account. If required by Bank, Client agrees that Bank shall establish a separate account, owned by Bank and funded with Client's funds in an amount required to protect Bank against the risks associated with Client's ACH operations (the "ACH Reserve Account"). The Bank will debit the Account on which the ACH transfer is initiated and Bank will transfer to the ACH Reserve Account such funds in the amount of any existing or anticipated Client-related ACH returns, including all fees, costs, fines and penalties assessed against either Client or Bank associated with such Client-related ACH returns. The ACH Reserve Account will not bear interest, and Client will not have any right or interest in the ACH Reserve Account funds; provided that upon satisfaction of all of Client's obligations under this Agreement, Bank will pay any funds remaining in the ACH Reserve Account no sooner than ninety (90) days after the effective date of termination of Client's ACH Services.

3.   **PREFUNDING OF ACH CREDIT ENTRIES.**

Bank requires prefunding of all ACH credit entries. Client is required to prefund any use of its ACH Services. If Client does not comply with the prefunding requirement, then Bank may immediately suspend and/or terminate Client's ACH Services, in Bank's sole discretion. Client may be required to submit the ACH credit Entry file two (2) Business Days in advance of the desired settlement date. If Client's Account has funds that are at least equal to the amount of the ACH credit Entry file, then the ACH credit Entry file will be processed on the desired settlement date. However, if Client does not have the necessary funds available in its Account, then the ACH credit Entry file will be rejected.

4.   **DELIVERY OF ENTRIES.**

Bank will only accept certain type(s) of ACH transactions as amended from time to time. Client agrees that each Entry submitted shall be deemed Client's Payment Order. Entries shall be deemed delivered to Bank when the applicable Security Procedures have been complied with and the Entry submission to Bank is completed in accordance with the Agreement.

(a)   Effective Date. Client shall specify the date on which it desires each batch of Entries to be Settled (the "Effective Entry Date"). The Effective Entry Dates specified for all Entries must be Business Days.

(b)   Cutoff Times. Client acknowledges that Bank maintains cutoff times for accepting and transmitting Entries. Such cutoffs are subject to change from time to time at the sole discretion of Bank. If Entries are delivered to Bank after the cutoff time on a Business Day, Bank may treat such Entries as having been received on the next Business Day.

(c)   Same-Day Entries. If Bank authorizes Client to originate Same-Day Entries, Client may designate certain Entries to be originated as Same-Day Entries. Same-Day Entries delivered to Bank shall be prepared and submitted in compliance with the instructions and other requirements set forth in the NACHA Rules and this Agreement. Client understands that any Entries above the maximum allowable amount (as defined by the Federal Reserve Bank) and payments to government agencies (such as Social Security or tax payments) are not eligible for same-day processing and such payments cannot be Same-Day Entries. Client further agrees it will not structure Entries for the purpose of evading these eligibility restrictions.

5.   COMPLIANCE WITH COMMERCIALLY REASONABLE SECURITY PROCEDURES.

In connection with the ACH Services, Client agrees to the terms in the General Provisions, the Security Procedure Guide, and any additional Implementation Forms with respect to the use of commercially reasonable Security Procedures. Such Security Procedures may include, but are not limited to, dual control authorization and Token authentication. Client also acknowledges and agrees that the terms in the General Provisions, including Sections 7 and 8 regarding honoring transactions and Transfer Service terms, shall apply to Client's use of the ACH Service.

6.   EXPOSURE LIMIT; FILE AND DAILY LIMIT.

(a)   Exposure Limit. The total dollar amount of all Entries delivered to Bank in any one file of Entries, plus all other Entries that remain unsettled in the ACH Network, shall not exceed Client's "Exposure Limit". The Exposure Limit is determined by Bank, in its sole and absolute discretion, as part of the ACH Services approval and underwriting process. Bank shall have the right to reduce Client's Exposure Limit at any time immediately upon notice to Client.

(b)   File and Daily Limits for Commercial Online Banking Clients. For Clients sending ACH Entries through Bank's Commercial Online Banking Services, Bank will establish file and/or daily limits ("Limits") within the Commercial Online Banking Services. When Bank sets such Limits, the changes are effective immediately. Authorized Parties can have limits, provided such Limits are equal to or less than the Exposure Limit of Client as designated by Bank. All ACH Entries sent to Bank are screened against these Limits

7.   PROCESSING AND SETTLEMENT BY THE BANK.

(a)   Processing. Except as otherwise provided in these ACH Services provisions, Bank shall (i) process Entries received from Client conforming to the requirements of the NACHA Rules; (ii) transmit such Entries as ODFI to the ACH Operator; and (iii) settle such Entries as provided in the NACHA Rules.

(b)   Transmitting Credit Entries. Bank will transmit credit Entries by the deadline of the ACH Operator, provided that, in each case, such Entries are delivered to Bank on a Business Day prior to the applicable cutoff time and Client has funds available.

(c)   Transmitting Debit Entries. Bank will transmit debit Entries designated for settlement to the ACH Operator for settlement by the deadline of the ACH Operator if delivered to Bank on a Business Day prior to the cutoff time.

(d)   On-Us Entries. All Entries received for debit/credit to an account maintained with Bank ("On-Us Entries") will be treated in accordance with this Article and as otherwise provided for in the Agreement.

(e)   IAT Entries. The NACHA Rules provide a Standard Entry Class code for an International ACH Transaction ("IAT"). An IAT is an ACH Entry in any currency (including U.S. Dollars) that is part of a Transfer originating from or transmitted to an office of a financial agency located outside the territorial jurisdiction of the United States. Bank may, but is not required, to allow Client to originate IATs using the ACH Services. Client agrees to implement and follow procedures to identify transactions that meet the definition of an IAT and code those transactions as IAT transactions. Client shall comply with programs administered by the Office of Foreign Assets Control ("OFAC") and the U.S. Department of the Treasury's Financial Crimes Enforcement Network ("FinCEN") including screening such Entries and other Payment Orders and instructions for OFAC compliance. Client acknowledges that the rules and procedures governing IAT transactions are complex and carry with them important implications for Client, including penalties, fines and sanctions, and Client agrees to comply with all laws, rules, regulations and applicable legal requirements of the receiving country and its payment systems ("Foreign Laws") including obtaining all necessary authorizations and consents required by the laws of such country and its payments systems.

For each IAT Entry that Client sends to Bank, Client represents and warrants that Client is in compliance with all Applicable Laws (including all OFAC and FinCEN obligations) required under the NACHA Rules and Applicable Law, and that the origination of the IAT Entry is in compliance with the foreign laws of the receiving country for the IAT Entry.

Client accepts all risk associated with the proper identification of the currency in which the receiver's account is denominated, and for funding the settlement of IAT Entries with the proper settlement amount of an IAT Entry whether payable to the receiver's account in a foreign currency or US Dollars. If the IAT Entry is paid in currency other than US Dollars, the foreign exchange rate is established by the Gateway Operator or other governing authority for the country of the receiver's account. Client agrees to be responsible for determining the proper amount to fund an IAT Entry, for any and all changes in exchange rates, and for any difference in exchange rates at which returns are processed. Client acknowledges that exchange rates can and do change frequently and that the exchange rate at which an Entry is processed may be different than the published exchange rate at the time Client initiates a transaction. The exchange rate for a returned entry may be different than the exchange rate for the corresponding Entry and Client bear s the risk of that change. Bank assumes no foreign exchange or credit risk in processing IAT Entries.

In addition to Client's indemnification obligations elsewhere in this Agreement, Client agrees to indemnify Bank for any fines or penalties assessed or incurred on Bank arising out of or relating to Client's violation of the NACHA Rules. Client is solely responsible for all errors in any Entry that Client sends to Bank and for any duplicate Entry. Client is obligated to pay Bank for an entry even if it is erroneous or a duplicate.

8.   REJECTION OF ENTRIES.

Bank may reject any Entry (or group of Entries) which does not comply with, and/or is not delivered in accordance with, the requirements of this Agreement, or which contains an Effective Entry Date more than five (5) Business Days after the Business Day such Entry(s) is received by Bank. Bank shall also have the right to reject any Entry (including On-Us Entries) for any reason for which an Entry may be returned under the NACHA Rules. Bank shall have the right to reject any Entry if Client has failed to comply with any of its Account balance obligations under this ACH Services Article, the General Provisions of this Agreement, or the Bank Agreements. Bank will notify Client of any such rejection by any method of notification authorized under the Agreement, no later than the Business Day such Entry would otherwise have been transmitted by Bank to the ACH Operator, as provided in Section 7 of this ACH Services Article. Bank shall have no liability to Client by reason of the rejection of any such Entry or the fact that such notice is not given at an earlier time than that provided for herein.

9.   CANCELLATION, AMENDMENT OR CORRECTION OF ENTRIES.

Client shall have no right to cancel or amend any Entry after its delivery to Bank. However, Bank will use reasonable efforts to act on a request for cancellation or amendment of an Entry received from the Client prior to Bank's transmission of the Entry to the ACH Operator or, in the case of an On-Us Entry, prior to Bank's debit/credit of the Entry to a Receiver's account, but Bank shall have no liability if such cancellation or amendment is not effected. If Client discovers that an Entry initiated by or on its behalf was in error, Client may notify Bank of such error, however, such notification must be provided to Bank within twenty-four (24) hours after discovery of the error and must be provided by such means of notification as authorized under the Agreement. Client shall send or deliver to the Receiver written notice of such correction and the reason therefore prior to requesting the correction. Client shall indemnify Bank from and against any Loss resulting directly or indirectly from compliance by Bank with any request for cancellation, amendment or correction of an Entry, whether or not the cancellation, amendment or correction is effected. All requests for cancellation, amendment or correction of Entries must be made by Client in compliance with the Security Procedures for such requests as set forth herein.

10.   RETURNED ENTRIES.

(a)   <u>Notification to Client and Resubmission</u>. Bank will notify Client or Client's designated agent of Bank's receipt of a returned Entry (or group of Entries) from the ACH Operator in accordance with the notice procedures authorized under the Agreement no later than one (1) Business Day after the day of such receipt, and will debit/credit Client's Account (as identified by number in the applicable ACH Service schedule) for the returned Entry(s) and provide confirmation thereof to Client.

(b)   <u>Resubmission.</u> Client shall assume the sole responsibility for remaking and resubmitting said Entry(s) in accordance with the requirements of the Agreement or otherwise handling the payments due the Receiver(s). Bank shall have no obligation to retransmit a returned Entry if Bank complied with the terms of this Agreement with respect to the original Entry. Bank may, in its sole discretion, resubmit the Entry where the return was due to an error in the processing of such Entry(s) by Bank and sufficient data is available to Bank to permit it to remake and resubmit such Entry(s).

(c)   <u>Limit on Resubmission</u>. An ACH entry returned for insufficient or uncollected funds may be reinitiated no more than two (2) times following the return of the original Entry. An Entry returned for insufficient or uncollected funds may be reinitiated as long as the item has been presented no more than one time in its physical form.

(d)   <u>Returns</u>. Where Bank or NACHA believes the return rate for Client's Entries that are returned as unauthorized exceeds the normal and acceptable return rate for Client, Bank shall notify Client of such excessive unauthorized return rate and Client, upon request from Bank, will provide the following information: (i) Client's, address, telephone number, contact person, principal owner(s) and taxpayer identification number; (ii) the name, address, telephone number, contact person, principal owner(s) and taxpayer identification number of any third-party service provider acting on behalf of Client, (iii) a general description of the nature of the business of Client; and (iv) an explanation of the reason(s) for the excessive return rate. Client will provide this information to Bank within five (5) Business Days after receipt of the request from Bank.

(e)   <u>Returned ACH Entry Warning Notices</u>. As part of Bank's ACH Services underwriting process as generally set forth in Section 2 above, Bank routinely monitors Client's historic ACH Entry return levels and dollar amounts. Under the NACHA Rules, if a Client's ACH Entry return levels exceed certain parameters, then Bank, as the ODFI, is instructed to take certain actions to mitigate a Client's unacceptable levels or dollar amounts of ACH Entry returns. Client understands and agrees that in order to protect itself from risks, and to inform its Clients of problems with returned ACH Entries, Bank will inform Client of Client's excessive ACH Entry return levels or dollar amounts, as determined by Bank in its sole discretion, and Client

agrees to take all steps requested by Bank immediately to decrease the levels and/or dollar amounts of Client's ACH returns. If Client fails to comply with the required actions as outlined by Bank, then such failure to comply shall be deemed to be a material violation of this Agreement, and Bank may, in its sole and absolute discretion, immediately terminate ACH Services to Client.

11.   PAYMENT/SETTLEMENT FOR ACH SERVICES.

Client agrees to pay for each Entry submitted to Bank and hereby authorizes Bank to debit Client's Account for ACH credit Entries processed for Client either on the settlement date or on the date the ACH credit Entry file is transmitted to Bank if the Entry is prefunded. Bank shall credit Client's Account for the amounts of debit Entries processed for Client hereunder on the settlement date for such Entries; it being expressly understood, however, that each credit to Client's Account because of a debit Entry is provisional until Bank receives final settlement for such Entry, and Bank may charge-back to Client's Account the amount of any debit Entry credited to Client's Account for which Bank does not, for any reason, receive final settlement. Client authorizes Bank to credit Client's Account for any amount received by Bank by reason of the return or cancellation of any credit Entry transmitted by Bank for which Bank has previously received payment (such credit to Client's Account to be made on the date Bank receives such amount), and to debit Client's Account for the amount of any returned debit Entry (such debit to Client's Account to be made upon receipt by Bank of the returned Entry), and to debit or credit (as applicable) Client's Account for any amendments made to Entries or for corrected Entries resubmitted. In the event that Client's Account on which any such Entry, amendment, or return was processed does not contain sufficient funds to pay for any such Entry, amendment, or return, Client agrees that Bank may debit any other Account; provided that if Client's funds with Bank are insufficient to pay for any such amounts, then Client agrees to pay Bank immediately upon notice from Bank.

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

12.   CLIENT REPRESENTATIONS; INDEMNITY.

Client represents to Bank and agrees that:

(a)   <u>Receiver Authorizations for Credit Entries</u>. Each person shown as the Receiver on a credit Entry received by Bank from the Client has, by an authorization agreement in accordance with the NACHA Rules, authorized the initiation of such Entry and the crediting of the Receiver's account in the amount and on the Effective Entry Date shown on such Entry, and has authorized the initiation, if necessary, of debit Entries and adjustments for any credit Entries made in error to the Receiver's account;

(b)   <u>Receiver Authorizations for Debit Entries</u>. Each debit Entry received by Bank from Client is for a sum due and owing to Client by the Receiver of such debit Entry, or is for a sum specified by such Receiver to be paid to Client, or is a correction of a previously submitted erroneous credit Entry, and such Receiver has duly authorized such Entry by an authorization agreement in accordance with the NACHA Rules. Without limiting the foregoing, re-initiation of any debit Entry previously returned for stop payment has been authorized by the Receiver;

(c)   <u>Retention of Authorizations.</u> Client shall retain each such authorization agreement for so long as the same remains in effect and for a period of two (2) years after the termination or revocation of such authorization agreement. Client shall retain data on file adequate to permit the remaking of Entries for one (1) year following the date of the ACH Entry transmittal by Bank as provided herein, and shall provide such data to Bank upon Bank's request;

(d)   <u>Effective Authorizations</u>. Each such authorization with respect to an Entry is operative at the time of transmittal or debiting/crediting by Bank as provided herein; and at the time each Entry is processed by Bank, Client has no knowledge of revocation by such Receiver of such authorization, and Client has no knowledge of any revocation by such RDFI of its agreement to accept such Entry, or any knowledge that such Receiver's authorization for such Entry has been terminated, in whole or in part, by operation of law or otherwise;

(e)   <u>NACHA Rules</u>. Client shall be bound by and comply with the NACHA Rules as in effect from time to time, including, without limitation, the provision thereof making payment of an Entry by the RDFI to the Receiver provisional until receipt by the RDFI of final settlement for such Entry; and Client specifically acknowledges that it has received notice of this NACHA Rule and of the fact that, if such settlement is not received, the RDFI shall be entitled to a refund from the Receiver of the amount credited and Client shall not be deemed to have paid the Receiver the amount of the Entry; and

(f)   <u>Legal Obligations</u>. In addition to the indemnification of Bank by Client as set forth elsewhere in this Agreement, in the event that Client, or a third-party agent acting on behalf of and with authority from Client, is the Originator of ACH Entries and fails to perform its obligations as an Originator under the NACHA Rules, Client hereby indemnifies Bank from any and all Losses that result directly or indirectly from the failure of Client or its third-party agent to perform its obligations under the NACHA Rules.

13.   NOTIFICATIONS OF CHANGE.

Bank will notify Client of all notifications of change received by Bank relating to Entries transmitted by Client by sending a copy of such notification of change to Client no later than two (2) Business Days after Bank's receipt thereof.

14.   PRE-NOTIFICATION.

Notwithstanding anything to the contrary in the NACHA Rules, Client may provide to Bank, three (3) Business Days prior to initiation of any new Entry, a pre-notification record which shall include Receiver's name, identification number, account number, RDFI's routing transit number, and zero-dollar amount. If Client's pre-notification record is rejected by an RDFI and Client is so notified, Client must correct the reason for rejection, resubmit another pre-notification record, and wait the prescribed three (3) Business Days before submitting any further Entries for the Receiver(s) in question.

V. LOCKBOX SERVICES

1.   THE SERVICE.

Bank agrees to provide Lockbox Services as set forth in this Article and the Implementation Forms, allowing for presentation and collection of remittance payments by having Client's payments mailed directly to a United States Postal Service location that is accessible and maintained by Bank on behalf of Client.

2.   REMITTANCE ADDRESS.

Client agrees to direct all envelopes containing items to be processed under the Agreement to be mailed to the address (the "Lockbox") provided by Bank.

3.   MAIL COLLECTION.

Bank will collect the contents of Client's Lockbox each Business Day. The retrieval and removal of items, drafts, or other orders for the payment of money (collectively, referred to herein as the "Items")

and money (U.S. currency and/or coin(s), hereinafter referred to as "Cash") from the Lockbox shall create a bailment, and the bailor-bailee relationship shall continue until such items are received at Bank and are accepted and credited to the Account designated by Client for the Lockbox Service ("Lockbox Account"), at which time the relationship of Client as a depositor of Bank for the aggregate amount of the Items and Cash shall commence. The bailor-bailee relationship shall also apply to any contents other than the Items and Cash removed from the Lockbox, until such contents are processed in accordance with these Lockbox Services specific provisions.

4. INSPECTION OF ITEM(S).

Bank will open each envelope picked up from the Lockbox and will remove the contents thereof. Each Item and any Cash contained in each envelope will be inspected and handled pursuant to Client's instructions in the Implementation Forms and as specifically provided below:

(a) Acceptable Payees. The payee or endorsee of the Item must be Client or one of the payees identified by Client in the Request or Implementation Forms ("Acceptable Payee") or a reasonable variation thereof. If the payee or endorsee of an Item is not an Acceptable Payee or reasonable variation thereof, the Item will NOT be deposited. Bank reserves the right, in its sole discretion, to determine what a reasonable variation of an Acceptable Payee is. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, CLIENT HEREBY AGREES TO REIMBURSE AND INDEMNIFY BANK FOR AND HOLD BANK HARMLESS AGAINST ANY LOSSES AT ANY TIME INCURRED IN DEFENDING AGAINST ANY SUCH CLAIM OR LOSS, ARISING OUT OF OR IN CONNECTION WITH BANK'S DEPOSITING AN ITEM PAYABLE TO OR ENDORSED IN FAVOR OF AN ACCEPTABLE PAYEE OR A REASONABLE VARIATION THEREOF, AS AFORESAID;

(b) Restrictions and Conditional Notations. Bank will use good faith efforts to attempt to identify and segregate any Items bearing restrictive or conditional notations such as, but not limited to, "Payment-in-Full", "Balance on Account" or "Final Settlement". All Items so identified will NOT be deposited; however, Bank shall have no liability to any person should it process and deposit an Item or Items bearing any such restrictive or conditional notation;

(c) Drafts. All signed sight drafts or payable through drafts of one thickness of paper with MICR numbers will be handled in the same manner as other Items. All other drafts will be returned to Client;

(d) Cash. Any Cash will be converted into a "Cash Substitution Document" for processing. The Cash Substitution Document and any papers accompanying the Cash received at the Lockbox will be processed per Bank's current procedures for verifying Cash received.

5. PROCESSING PROCEDURES.

Each Item found to be acceptable after inspection in accordance with Section 4 above, and all Cash Substitution Documents, will be processed pursuant to Bank's then current procedures as instructed by Client as set forth in the Implementation Forms and as follows:

(a) Endorsement. The following endorsement will be applied to each Item deposited: "Credited to the Account of the _____, Account No. _____, At First Bank Chicago, Highland Park, IL, 071922609."

(b) Deposits. In order to maximize funds availability, Bank will make one or more deposits of Items and Cash received each Business Day, depending on volume, and credit the Lockbox Account, unless otherwise requested in writing by Client;

(c) Imaging. The following information regarding each deposit will be made available to Client through Bank's Commercial Online Banking Service (i) deposit report; (ii) listing of all Items and documents

included in the deposit; (iii) images of Items; and (iv) images of any accompanying paper(s) included in an envelope removed from the Lockbox and relating to an Item or included in such deposit; and

(d)   Online Images. Copies of scanned Items and documents will be available through Bank's Commercial Online Banking Remittance Manager, by the end of each Business Day. "Remittance Manager" is an application within the Commercial Online Banking Service that allows Client to view transaction documents of the Lockbox Services.

6.   HANDLING OF ITEMS WHICH ARE NOT DEPOSITED AND OTHER DOCUMENTS.

The following items will be batched separately and forwarded to Client:

(a)   Unprocessed Items. Items which are NOT deposited or truncated pursuant to Section 4 above, with accompanying papers and envelopes; and,

(b)   Foreign Items. Foreign Items are Items drawn on a financial institution outside of the US Federal Reserve system or otherwise payable in foreign currency; Foreign Items will not be accepted by Bank for deposit and will be returned to Client;

(c)   Envelopes. Envelopes which contain Client correspondence only.

7.   MATERIALS DISPOSITION.

Each Deposit Batch, all Items that have not been deposited or truncated, and the other documents described in Section 5 above will be provided to Client daily as instructed by Client.

VI. POSITIVE PAY SERVICES

1.   THE SERVICE.

Subject to the General Provisions and the terms of this Article and the Request and Implementation Forms, Bank agrees to provide Positive Pay Services to Client for the purposes of increasing the chance of identifying fraudulent or unauthorized checks and/or account transfers drawn on Client Account(s), as identified to Bank. Bank offers both Positive Pay Services for checks and ACH Entries as described below.

2.   PROCEDURES FOR POSITIVE PAY FOR CHECKS.

(a)   Issued Check File. For Accounts identified in the Request and Implementation Forms, Client agrees to deliver or transmit the check number, date, payee and the exact dollar amount of each check drawn on an Account on the day such checks are issued (such data cumulatively, the "Issued Check File") to Bank in the format and medium as specified by Bank. Each Account shall require an Issued Check File for all checks issued. Client shall submit the Issued Check File to Bank no later than the cutoff time identified in the Implementation Forms, or as otherwise communicated by the Bank to Client, each Business Day that Client issues checks. With the exception of checks presented for immediate payment in person at Bank over the counter ("On-us checks"), Issued Check File data received by the cutoff time each Business Day will be used to verify any check or Electronic Check Presentment ("ECP") items posting to the applicable Account the next Business Day. Any Issued Check File data received by Bank during banking hours of a Business Day will be made available to Bank's tellers no sooner than thirty (30) minutes of Bank's receipt. On-us checks will be cashed only if verified against the Issued Check File made available to Bank tellers and, if cashed, will be posted to the applicable Account on the Business Day they are received. If the Issued Check File is unavailable and the Bank is unable to verify the check, the check will be rejected. For items presented through ECP, the serial number on the Issued Check File must match the serial number on the MICR line of Client's checks as shown on the ECP item. Client acknowledges that any stop payment issued on a check will supersede any data transmitted hereunder.

It is the responsibility of Client to update the Issued Check File. Bank is not liable to Client or any third party for the payment or rejection of Items consistent with the terms of the Agreement, or for the erroneous payment or rejection of an Item due to an encoding error or posting error. Should Client fail to routinely update the Issued Check File, Bank may terminate the Positive Pay Service immediately upon written notice to Client.

(b) <u>Dishonoring of On-us checks</u>. Bank shall compare each On-us check by serial number, amount, and payee against each Issued Check File received by Bank. On each Business Day, Bank will pay and charge each On-us check to the designated Account after validation. In the event the serial number, payee, or amount do not match a check in any Issued Check File, Bank will verify the discrepancy when negotiating the On-us check and:

(1) Return the check to the presenter of the Item and that person will be referred back to the maker of the check for assistance, or

(2) If the check appears to be altered or fraud is suspected, retain the check and contact the Administrator listed in the Request for assistance.

(c) <u>Payment of Presented Items and Reporting of Exception Items</u>. Bank shall compare each presented Item by date, check number, amount, and Payee (if applicable) against each Issued Check File received by Bank. On each Business Day, Bank:

(1) shall pay and charge to the designated Account each presented Item that matches the contents shown in any Issued Check File;

(2) shall provide to Client an electronic notification regarding any exception Item(s) presented for payment that do not exactly match ("Exception Items") to the Issued Check File items; and

(3) shall make the Exception Items available by the time listed in the Implementation Forms, or as otherwise communicated by Bank to Client, each Business Day.

(d) <u>Payment and Dishonor of Exception Items</u>. Client shall review the Exception Items and electronically communicate its decision to pay or return any or all Exception Items (each, a "Decision") for all exceptions by the cutoff time in the Implementation Forms, or as otherwise communicated by Bank to Client, each Business Day. If Client does not notify Bank of Client's Decision prior to the relevant cutoff time, Client will be locked out from making any further Decisions that Business Day. **If a Decision is not received on an Exception Item prior to the cutoff time deadline, Bank will return the Item(s), as that is the default position.** Decisions are to be communicated over Commercial Online Banking.

(e) <u>Communication.</u> Bank shall use only Issued Check Files that comply with Issued Check File requirements as set forth above and have not been revoked. Client shall use only the Exception Items via Commercial Online Banking in the preparation of Decisions. Bank shall not be obligated to comply with any Decision received in a format or medium, after a deadline, or at a place not permitted under this Agreement but may instead treat such Decision as though it had not been received. Bank is not responsible for detecting any Client error contained in any Issued Check File or Decision sent by Client to Bank.

3. PROCEDURES FOR POSITIVE PAY FOR ACH ENTRIES.

(a) <u>Instructions</u>. Client may provide Bank with allowable parameters in order to create an approved ACH list. Parameters will include: description, company ID, standard entry class code ("SEC"), debit or credit, and maximum allowable amount. Client may establish or modify its approved ACH list by

creating the parameters via Commercial Online Banking or as transactions are presented. Client may modify its approved ACH list at any time.

(b) Review of Items. Bank shall compare each ACH item against the ACH parameters set by the Client. On each Business Day, Bank may debit and credit to the designated Account each ACH item that is preauthorized within Client's established ACH parameters.

(c) Exception Items. Bank will notify Client with an electronic notification regarding any exception item(s) presented for payment that do not exactly match to the ACH items that are authorized within the ACH parameters ("Exception Items"). Bank shall make the Exception Items available by the time identified in the Implementation Forms, or as otherwise communicated by the Bank to Client each Business Day.

(d) Payment and Dishonor of Exception Items. Client shall review the Exception Items and electronically communicate its decision to pay or return any or all Exception Items (each, a "Decision") for all exceptions by the cutoff time identified in the Implementation Forms, or as otherwise communicated by the Bank to Client, each Business Day. If Client does not notify the Bank of Client's Decision prior to the cutoff time, Client will be locked out from making any further Decisions that Business Day. **If a Decision is not received on an Exception Item prior to the cutoff time deadline, Bank will return the Exception Item(s), as that is the default position**. Decisions are communicated to the Bank using the Positive Pay application via Commercial Online Banking.

(e) Communications. Bank shall use only ACH parameters set forth above and have not been revoked. Client shall use only the Exception Items via Commercial Online Banking in the preparation of Decisions. Bank shall not be obligated to comply with any Decision received in a format or medium, after a deadline, or at a place not permitted under this Agreement but may instead treat such Decision as though it had not been received. Bank is not responsible for detecting any Client error contained in any ACH parameter or Decision sent by Client to Bank.

(f) Written Instructions. No instructions shall be binding on Bank unless they are in writing, including using Commercial Online Banking when permitted by Bank, on such forms as Bank may require from time to time, and are received in such time as to provide Bank reasonable opportunity to act thereon. Bank shall be entitled to rely exclusively on the written instructions provided by Client, and Client understands that any error made by Client in furnishing the identification number will make block instructions ineffective.

(g) Authorization. By using the Positive Pay Service for ACH Entries, Client authorizes Bank to return ACH Entries or to pay ACH Entries in accordance with Client's authorization. Bank will have no liability for non-payment of an ACH Entry when the ACH Entry is included in the Exception Items and Client does not give Bank a timely Decision.

(h) Acknowledgments. Client acknowledges that the Positive Pay Service for ACH Entries does not preclude standard ACH processing procedures which may cause an ACH Entry to be dishonored even if Client instructs Bank otherwise. Client acknowledges the Positive Pay Service for ACH Entries is intended to be used to identify ACH Entries which it suspects in good faith are unauthorized. If Bank suspects or deems, in its sole discretion, that Client is using the Positive Pay Service for ACH Entries contrary to these intentions, Bank may require Client to provide evidence the ACH Entries Bank returns are in fact unauthorized.

(i) Transactions with Bank. The Positive Pay Service for ACH Entries does not apply to transactions between the Client and Bank. Bank may pay ACH Entries which Client has authorized Bank to originate against Client's account(s).

(j)   Not Covered. The Positive Pay Service for ACH Entries does not cover an ACH Entry if Bank has paid the item or is committed to honor or pay the item under Applicable Law governing checks. Bank may also pay any ACH Entry reversals which Bank is required to accept under Applicable Law.

4.   BANK LIABILITY FOR POSITIVE PAY.

In addition to the limits on Bank's liability as set forth in the General Provisions, in no event shall Bank be liable for any Loss relating to the Positive Pay Service for paying or processing an Item, Transfer, Entry instruction, Payment Order, or check that was not properly payable, wrongfully dishonoring an Item, Transfer, Entry, instruction, or Payment Order, or check, or Bank's or Client's actions with respect to payment or return of any Item, Transfer, Entry instruction, Payment Order, or check when acting in accordance with the terms of this Article. Client agrees that Bank exercises ordinary care whenever it rightfully pays or returns an Item, Transfer, Entry instruction, Payment Order, or check consistent with the terms of the Agreement or Client's instructions. Client expressly agrees that Client's failure to timely direct Bank to return any Items presented for payment in accordance with the terms hereof, will constitute acceptance by Client of such Items presented for payment and each such presented check will be properly charged against the Account on which it is drawn; Bank shall have no liability in connection with such Items presented for payment. In addition to Client's indemnification obligations in the Agreement, Client agrees to indemnify and hold harmless Bank against any and all Losses, including attorneys' fees, resulting directly or indirectly from claims or actions by third parties arising out of Client's use of the Positive Pay Service, including any claim by a third party arising out of Bank's dishonor of any Item or check as part of performing the Positive Pay Service as directed by Client, which Client agrees shall not be a "wrongful dishonor." This Section shall survive termination of the Agreement.

VII. BLOCK SERVICE FOR CHECKS AND ACH ENTRIES

1.   THE SERVICE.

These Block Service terms set forth the terms under which Client may direct Bank to reject all checks presented for payment on and/or to reject, as an RDFI, all ACH Entries to, Client's Accounts, as specified by Client in the Implementation Forms ("Block Service"). The Block Service shall be used only to protect a Client's Accounts from external fraud and not to block or return a transaction Client may have originated.

2.   IMPLEMENTATION.

Client will specify its selections for the Block Service during the implementation process, including designation of the Account(s) to be enrolled in the Block Service and election of the Block Service options described below and such other information required on the Implementation Forms. The Block Service will commence upon notification by Bank that all implementation steps are complete. Any change request or other additions or changes to the Implementation Forms for the Block Service must be submitted to Bank at least five (5) Business Days prior to Bank's receipt of any check or ACH Entry relating to Client's Account(s) which may be affected by Client's proposed additions or changes, and shall not be effective until Client receives confirmation from Bank that such changes have been implemented. Implementation of the Block Service shall govern and control over any instruction to the contrary, including any preauthorized and/or recurring transfer instructions, bill payment requests, and any other Service or instruction to Bank. Prior to implementing the Block Service on an Account, Client should review the Account and confirm that no such check or ACH Entry activity is required for or contemplated on the Account. After the implementation of the Block Service on an Account, Bank shall terminate and cancel all pre-authorized and/or recurring transfer requests for check or ACH Entries that Client set up through Bank. Client is responsible for terminating or otherwise amending pre-authorized and/or recurring transfer requests for checks or ACH Entries set up through third parties.

3.   BLOCK SERVICE OPTIONS.

With the Block Service, Client can choose to either block all checks ("Check Block"), block all ACH Entries ("ACH Block"), or block both all checks and all ACH Entries ("Block All") from posting to an Account.

(a) By choosing Check Block on the Implementation Forms, Client authorizes Bank to return, unpaid, all checks, including ACH Entries from the conversion of a paper check, RCK, ARC, POP and BOC Entries (each as defined in the NACHA Rules), presented for payment on Client's Account(s) as designated in the Implementation Forms. Check Block does not block electronic transactions other than ACH Entries from the conversion of checks. Check Block shall also apply to checks presented over the counter, or in-person, for payment. Client accepts full responsibility for that decision and any claims from the payee regarding a returned check.

(b) By choosing ACH Block, Client authorizes Bank to block all ACH Entries from posting to Client's Account. With this option, Bank will automatically reject all ACH Entries to Client's Account. Client understands that even ACH Entries that Customer has authorized or initiated will be rejected, and Client accepts full responsibility for that decision and any claims from the Originator regarding a returned ACH Entry.

(c) By choosing Block All on the Implementation Forms, Client authorizes Bank to block all checks and ACH Entries from posting to Client's Account. With this option, Bank will automatically reject all check and ACH Entries to Client's Account. Client understands that even checks and ACH Entries that Customer has authorized or initiated will be rejected, and Client accepts full responsibility for that decision and any claims from the payee or Originator regarding a returned check and/or ACH Entry.

Bank shall not provide separate or discrete notice to Client of any check or ACH Entry or check rejected or returned by Bank under the Block Service. Checks (other than those rejected or returned during over the counter or in-person presentment) and ACH Entries that are rejected or returned under the Block Service shall be listed in Client's periodic statement for the applicable Account.

4.   EXCEPTIONS.

The Block Service does not apply and shall not be used for the following types of ACH-related transactions: (A) debits or credits to Client's Account to offset any Entries originated by Client through Bank; (B) reversals of previously received Entries; (C) returns or reversals by the RDFI of Entries originated by Client through Bank; (D) reclamation Entries; (E) debits to Client's Account initiated by Bank to correct processing errors, effect back valuations, make other adjustments or for fees, charges or other amounts Client owes Bank; (F) debits to Client's Account that Bank posts pursuant to its internal procedures in order to comply with Applicable Law; and (G) an Entry that would be returned for any reason under the NACHA Rules.

5.   LIMITATION OF LIABILITY; INDEMNIFICATION.

In addition to the limits on Bank's liability as set forth in the Agreement, in no event shall Bank be liable for any Losses relating to paying a check or ACH Entry that was not properly payable, wrongful dishonor of a check or ACH Entry, or Bank's or Client's actions with respect to payment or return of any check or ACH Entry (under the UCC or otherwise) in accordance with the terms of this Section. Client agrees that Bank exercises ordinary care whenever it rightfully pays or returns a check or ACH Entry consistent with the terms of the Agreement or Client's instructions. In addition to Client's indemnification obligations in the Agreement, Client agrees to indemnify and hold harmless the Bank against any and all claims, demands, and Losses resulting directly or indirectly from claims or actions by third parties arising out Client's use of the Block Service, including any claim by a third party arising out of Bank's dishonor of a check or ACH Entry as part of performing the Block Service as directed by Client. This Section shall survive termination of the Agreement.

VIII.   REMOTE DEPOSIT CAPTURE

1.   THE SERVICE.

Bank agrees to provide the Remote Deposit Capture Service to Client, which allows Client to operate an image scanner device specified by Bank to scan paper checks to create an image cash letter file to send to Bank through the System. This Article, along with the General Provisions, establishes the terms and conditions Client's use of the Remote Deposit Capture Service and for access to the Remote Deposit Capture system ("System"). Bank shall treat any Imaged Items submitted by Client as if they were paper checks. Client acknowledges and agrees that its use of the Remote Deposit Capture Service is subject to the Security Procedures requirements and terms of the General Provisions, Security Procedures Guide, and any applicable Implementation Form.

2. POSTING OF DEPOSITS.

Funds deposited through the Remote Deposit Capture Service are available on the next Business Day after the funds are posted to Client's Account. Unless Bank notifies Client otherwise, Bank provides next day credit to the applicable Account for all Imaged Items transmitted by Client and received by Bank within the timelines established by Bank and are subject to Bank's funds availability schedule which may be amended without notice from time to time. The System will provide Client with automated deposit confirmation in the form of a unique deposit confirmation number upon successful transmission of a deposit through the Remote Deposit Capture Service.

3. REMOTE DEPOSIT CAPTURE GUARANTY.

Client may be required to execute Bank's "Remote Deposit Guaranty" contained in the applicable Implementations Forms ("Guaranty") immediately upon Bank's request in the event that Bank, in its sole discretion, requires Client to execute such Guaranty to either: (i) receive initial Bank approval for Bank's provision of Remote Deposit Capture Service to Client; or (ii) continue receiving Remote Deposit Capture Service from Bank if there is an occurrence of a material change in Client's credit and/or risk analysis criteria and Bank determines, in its sole and absolute discretion, that such Guaranty is necessary to satisfy Bank's credit and risk management criteria. If Bank requires Client to execute a Remote Deposit Guaranty and Client refuses, Bank may, in its sole and absolute discretion, refuse to enter into this Agreement and refuse to provide Remote Deposit Capture Service to Client, or discontinue providing Remote Deposit Capture Service and/or immediately terminate any existing Agreement with Client in accordance with the General Provisions of this Agreement.

4. BANK OPERATIONAL RESPONSIBILITIES.

Bank shall:

(a)   Accept for deposit to the applicable Account Imaged Items that are transmitted to Bank by Client. Imaged Items are deemed received upon confirmation by Bank of successful receipt of Imaged Items that are complete, usable, and adhere to the data specifications set forth in this Agreement. If the Imaged Items are not complete, are not useable, or do not adhere to data specifications, the Imaged Items may not be processed by Bank, in which event Client's deposit will be adjusted or rejected and notification will be provided to Client.

NOTE: Client's deposit of an Imaged Item through the System is subject to Bank's verification and final inspection process. Bank may at any time deposit an Imaged Item or charge back all or part of a deposit of multiple Imaged Items to Client without prior notice. Bank is under no obligation to inspect or verify an Imaged Item to determine accuracy, legibility or quality of the Imaged Item or MICR line information associated with the Imaged Item, or for any other purpose. However, Bank may correct or amend MICR line information associated with an Imaged Item to facilitate processing of the Imaged Item or a Substitute Check created from that Imaged Item.

Bank may hold and use funds in any Account of Client following termination of this Agreement and the Remote Deposit Capture Service for such time as Bank reasonably determines that any Imaged Item

processed by Bank prior to termination may be returned, charged back, or otherwise cause any Loss for which Bank may be responsible;

(b)   Bank will only accept, process, and complete transactions, Payment Orders, and other instructions communicated through the Remote Deposit Capture Service that comply with Client's daily limit or as applicable, any Authorized Parties' daily limit. Daily limits will be assigned based upon the guidelines as established by Bank in conjunction with Client's previous banking history and creditworthiness. Daily limits as to any Authorized Party may be set by any applicable Administrator. Daily Limits are defined as either total dollars in a deposit, or a single item total amount of scanned entries. This will be subject to ongoing monitoring and possible revisions based upon account handling. In addition to the daily limit and any other authority granted to Bank under this Agreement, Bank, in its sole discretion, may restrict Client's use of the Remote Deposit Capture Service to allow deposits through the System to only one (1) designated Account.

(c)   If a payor financial institution returns an item to Bank for any reason, Bank may charge Client's applicable Account for the returned item, whether or not the return is timely and proper, and may either:

(1)   Return the item to Client; or

(2)   Re-present it to the payor financial institution before returning it to Client.

Items may be returned as agreed by the parties. If a payor financial institution or other third party makes a claim against Bank or seeks a re-credit with respect to any check processed, Bank may provisionally freeze or hold aside a like amount in the applicable account pending investigation and resolution of the claim;

(d)   Immediately suspend the System or the processing of any check or corresponding Imaged Item if Bank has reason to believe that there has been a breach in the security of the System, fraud involving Client's Account(s) or check(s), or any uncertainty as to the authorization or accuracy of items, including the right to process items on a collection basis at any time; and

(e)   Refusing to process any non-conforming items, including without limitation any items that do not meet the definition of a "check".

Bank is excused from failing to act or delay to act if such failure or delay is caused by legal constraint, interruption of transmission, or communication facilities, equipment failure, war, emergency conditions or other circumstances beyond Bank's control. In the event of any of the foregoing failure or delays, Client is instructed to make a deposit directly with Bank including the original items for processing and presentment provided that they have not been previously imaged and processed in connection with the Service. In addition, Bank is excused from failing to transmit or delay in transmitting an item for presentment if such transmittal would result in Bank's having exceeded any limitation upon its intraday net funds position established pursuant to Federal Reserve guidelines or if Bank otherwise violates any provision of any risk control program of the Federal Reserve or any rule or regulation of any other U.S. governmental regulatory authority.

5.   CLIENT OPERATIONAL RESPONSIBILITIES.

Client's responsibilities include:

(a)   Using the System only for Client's internal business purposes.

(b)   Agreeing to implement appropriate internal controls in accordance with those specifically stated by Bank at all of Client's locations where the Remote Deposit Capture Service is used, including

providing any information regarding operational audits or additional information required or requested of Bank.

(c)   Installing and implementing any changes and upgrades to the System as required by Bank within ten (10) days to ensure compliance with regulatory changes or developments, or to protect the integrity and security of the System.

(d)   Using only equipment or mobile devices authorized and approved by Bank.

(e)   Inspecting and verifying the quality of images, thus ensuring that the Imaged Items of the front and back of original checks are legible for all posting and clearing purposes by Bank. Specifically, Client represents, warrants, and covenants that:

(1)   The Imaged Item is an accurate representation of all information on the front and back of the original check at the time the original check was converted to an Imaged Item, and the Imaged Item contains all proper endorsements from the original check that permits financial institutions to: (i) Acquire rights of a holder in due course in the collection process of Items; (ii) Handle, process, maintain and destroy original checks; and (iii) Ensure that no financial institution (depositary, collecting or payor), drawee, drawer or endorser receives presentment or return of, or otherwise is charged for an Item more than once in any form. Client will apply a restrictive endorsement on each Item as follows:

Business Name

First Bank Chicago
Remote Deposit Only

(2)   Each Imaged Item (or related electronic data file) contains a record of all MICR line information required for a substitute check and otherwise satisfies all of the requirements of the American National Standards Institute (ANSI) X9.37 standards for image quality required by the Check 21 and Regulation CC for the creation and/or transferring of a substitute check created from that Imaged Items;

(3)   The original check, a duplicate Imaged Item, or any copy of the original check or check image will not be deposited by Client with Bank (unless Bank instructs Client to do so) or under any circumstances with any other bank; and

(4)   The original check, a duplicate Imaged Item, or any copy of the original check or check image will not be presented, transferred or returned such that Bank or any other person (such as the drawer of the check) will be asked to make payment based on a check or check image that Bank or the other person already paid.

In addition, Client's Account(s) will be charged for any deposited check that is later returned to Bank owing to an actual or alleged breach of any such representation or warranty.

NOTE: A check image is considered received by Bank at a licensed location of Bank, and Bank is not responsible for any Losses arising directly or indirectly from damage or alteration to the check image prior to its receipt by Bank.

(f)   Complying with the Security Procedures and the additional procedures below and agreeing not to bypass, override or disable any security mechanisms in the Processing Software or Equipment:

(g)   Retaining each check for at least sixty (60) days and no longer than ninety (90) days after the check has been digitized and processed, and promptly providing any retained check (or, if the check is

no longer in existence, a sufficient copy of the front and back of the check) to Bank as requested to aid in the clearing and collection process or to resolve claims by third parties with respect to any check.

(h)   Using commercially reasonable method(s) to destroy original checks after the required retention period (at least sixty (60) days and no longer than ninety (90) days) has expired. Client agrees to destroy and dispose of the original checks with a high degree of care, including selecting and implementing appropriate destruction and disposal procedures. Client is required to implement such procedures to ensure that the original checks are not accessed by unauthorized persons during the destruction and disposal process and, once destroyed, the original checks are no longer readable or capable of being reconstructed (e.g., through the use of competent shredding equipment).

(i)   Cooperating with Bank in providing information in the event of lost, mistaken, incomplete or unusable Imaged Items, or in the event of claims of fraud, alteration, counterfeit or otherwise including access to such records.

(j)   Agreeing not to use the System to deposit or otherwise process:

(1)   Noncash items;

(2)   Items for which Client is not a holder in due course;

(3)   Third party checks;

(4)   Checks drawn on financial institutions outside of the United Sates (must be sent for collection);

(5)   Any checks which are drawn on an Account of Client's at Bank or any other financial institution, or a deposit account of any business entity of which Client is a principal, officer or authorized signer unless prior approval has been obtained from Bank in writing; or

(6)   Substitute checks, except those which have been returned to Client for any reason. Any previously truncated and reconverted substitute check must be physically deposited with Bank.

(k)   Ensuring that no information has been deleted or degraded from a substitute check returned by Bank in the event Client captures for processing an Imaged Item of a previously truncated and reconverted substitute check returned to Client by Bank. If Client captures for processing an Imaged Item of any other previously truncated and reconverted substitute check, Client is to ensure that the substitute check meets the requirements for legal equivalency under Regulation CC and the identifications of previous truncating and reconverting bank(s) (as such terms are defined in Regulation CC) are preserved.

(l)   Agreeing that if the System is unavailable for any reason, Client must deposit checks at one of Bank's branch offices or by mail or overnight delivery.

6.   SITE INSPECTION AND VISITATION.

Client is subject to an on-site inspection at any location of Client's business at any time and from time to time at the sole discretion of Bank to ensure compliance with the provisions of this Agreement. Bank shall not be liable or responsible to Client or any third party for any loss, bodily harm, property damage, claims of the introduction of a virus or other malicious code into Client's system, including any which allegedly delay, alter or corrupt the data of Client, whether related to the transmission of imaged items or other data to Bank, or whether caused by the Processing Software, Equipment, Remote Banking Service, Bank, Internet service providers, Internet browsers, or other parties providing communication or transmission services to or from Bank to Client in connection with Bank's entry on Client's premises for the

purposes of installation or maintenance of the Processing Software, Equipment, Remote Deposit Capture Service, or for the purpose of conducting an on-site inspection.

(a)   Dispute Resolution. Any Claim, dispute or controversy arising from or relating to Client's use of the Remote Deposit Capture Service, the terms and conditions set forth in this Agreement, or the validity, enforceability or scope of the dispute resolution provision set forth in this Agreement (the "Dispute"), will be resolved, upon the election of Bank or Client, by binding arbitration under this arbitration provision and the Commercial Arbitration Rules (the "Arbitration Rules") administered by the American Arbitration Association ("AAA"), and any amendment of them, in the form in effect at the time a Dispute is filed. A party who has asserted a Dispute in a lawsuit in court may elect arbitration with respect to any dispute(s) subsequently asserted in that lawsuit by any other party or parties. Any participatory arbitration hearing (other than telephonic hearings) will be held in Illinois, unless both parties agree otherwise. If Client would like to obtain a copy of the Arbitration Rules and filing forms, Client may contact the AAA by calling 1-800-778-7879. The Arbitration Rules and filing forms also can be obtained from the AAA website at http://www.adr.org. All disputes shall be filed at an AAA office. If the applicable Arbitration Rules are modified, superseded, or replaced, and equivalent set of rules of AAA will govern the arbitration. If for any reason AAA is unable or unwilling or ceases to serve as arbitration administrator, Bank will substitute an equivalent national arbitration organization utilizing a similar code or procedure. There shall be no authority for any Disputes to be arbitrated on a class action basis. Further, arbitration can only decide Bank or Client's Dispute and may not consolidate or join the claims of other persons who may have similar claims. The arbitrator will decide whether Client or Bank will ultimately be responsible for paying any fees in connection with the arbitration. Unless experts' and witness fees, regardless of which party prevails in the arbitration. Both parties fully understand and agree that they will not have a right to litigate any Dispute in any court if either party chooses to have the Dispute resolved by binding arbitration. Further, in agreeing to arbitrate all Disputes Client is waiving its right to a jury trial. This arbitration provision and the exercise of any of the rights Client and Bank have under it do not prohibit Client or Bank from exercising any lawful rights either party has to use other remedies available preserve, foreclose or obtain possession of real or personal property, exercise self-help remedies, including any setoff rights which Bank may have. This arbitration provision relates to a transaction involving interstate commerce and is governed by the Federal Arbitration Act ("FAA"). The arbitrator shall apply applicable substantive law consistent with the FAA and applicable statute of limitations and shall honor claims or privileges recognized at law. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. This arbitration provision will survive termination of Client's use of the Remote Deposit Capture Service. Either party may bring an action to compel arbitration of any Dispute and/or stay the litigation in any court having jurisdiction; such motion may be brought at any time in a lawsuit in court, until the entry of a final judgment. If any portion of this arbitration provision is deemed invalid or unenforceable, it should not invalidate the remaining portions of this arbitration provision.

7.   EQUIPMENT.

Upon the acceptance of the Remote Deposit Capture Service, Client will either use its own mobile device or it may be provided the necessary equipment from Bank to use the System (the "Equipment"). The cost of any Equipment provided by Bank may be charged up-front or separately and not included in the monthly fee associated with the Remote Deposit Capture Service. During the course of this Agreement, Bank will service, repair or replace any Equipment that is not functioning properly. Once the initial term of this Agreement concludes, Bank makes no warranties of merchantability or fitness for a particular purpose or any other warranty, express or implied, on or regarding the Equipment provided by Bank. The responsibility of replacing the Equipment would be entirely, without limitation, the responsibility of Client, unless an extension of this contract was engaged. Bank is not responsible for any errors or failures relating to any malfunction of the Equipment, or for any computer virus or related problems that may be associated with the use of the Equipment. Bank has the right, in its discretion and at any time, to make changes to the Remote Deposit Capture Service that may result in the incompatibility of certain Equipment. If Client purchased its Equipment, Bank shall have no duty or obligation to update or replace the Equipment purchased by Client in the event of such a change. In no event shall Bank be liable to Client for any

damages, including lost profits, lost saving, or other direct, indirect, incidental, special or consequential damages arising out of Bank's use, or inability to use or installation of, the Equipment, or for any claim by another party relating thereto.

8. HARDWARE AND SOFTWARE RESPONSIBILITIES.

Please refer to Bank's Website www.firstbankchicago.com for the necessary computer hardware and software specifications. Client agrees to maintain aforementioned Equipment in good operating condition so that the quality of the check images submitted is acceptable to Bank.

9. PROCESSING SOFTWARE.

(a)   Client shall receive a limited, non-exclusive, non-transferable license to use the software required for the Remote Deposit Capture Service ("Processing Software") solely for the term of the Remote Deposit Capture Service, and solely for the purposes set forth herein.

(b)   Client may only use the Processing Software on Equipment approved by Bank, or processing equipment specifically approved in writing by Bank and at the location designated by Client located in the United States and reasonably approved by Bank in writing.

(c)   Client understands that it shall only receive an object code version of the Processing Software, and not a source code version and Client further agrees that in no event shall it reverse engineer or decompile the object code of the Processing Software, or otherwise attempt to discover the source code.

(d)   Client shall have no right to transfer the Processing Software or to make it available, in any format, to any third party, nor shall Client have the right to copy, publish or make derivative works of the Processing Software except as expressly permitted by Bank in writing. In addition, Client is not permitted to make any copies of the Processing Software for any purpose, including backup or archival. In the event that the Processing Software becomes corrupted or is otherwise deleted, disabled or damaged, then only Bank personnel or its authorized agents may reload or restore the Processing Software to the Equipment. Client may not load the Processing Software onto any computer except the Equipment without the express written permission of Bank, which shall be given in Bank's sole discretion. Client may make only the number of copies of the documentation related to the Processing Software ("Documentation") as is necessary for each Authorized Party to have one copy.

(e)   Client shall not remove, alter or destroy any form of copyright notice, proprietary marking or confidential legend placed upon or contained within the Documentation, the Processing Software or any screen that the Processing Software causes to be displayed. All such notices, markings and legends must be included or reproduced on or in any copies made.

(f)   Bank warrants to Client that it either has ownership of Equipment and the Processing Software or has a right to grant the licenses herein. WITH RESPECT TO ANY EQUIPMENT OR PROCESSING SOFTWARE LICENSED TO BANK BY A THIRD PARTY, BANK MAKES NO WARRANTIES WHETHER EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF FITNESS FOR PARTICULAR PURPOSE, MERCHANTABILITY OR NONINFRINGEMENT. HOWEVER, TO THE EXTENT POSSIBLE REGARDING SUCH THIRD-PARTY EQUIPMENT OR PROCESSING SOFTWARE, BANK WILL PASS THROUGH ANY THIRD-PARTY WARRANTIES EXPRESSLY PROVIDED TO BANK. NEITHER BANK NOR THE THIRD-PARTY LICENSORS WARRANT THAT OPERATION OF THE EQUIPMENT OR PROCESSING SOFTWARE WILL BE ERROR FREE OR UNINTERRUPTED. Client recognizes that Bank has acquired most or all of the Processing Software under license from a third party and all Equipment was manufactured by a third-party without any specifications or customization by Bank. Client acknowledges that Bank is unable to warrant the performance of the Equipment and Processing Software, but Bank shall use commercially reasonable efforts to enforce warranties from any third-party licensor to the extent that Client's use of the Equipment and Processing Software is impeded because of defects. Client understands and acknowledges

that the Processing Software is not warranted to be error free, and Client shall promptly bring to Bank's attention any errors in the Processing Software it discovers. In the event that Client uses its own equipment and processing software approved by Bank, Bank has no duties regarding making or enforcing warranties regarding such equipment or software and Client must rely upon warranties from the third party who has either manufactured or licensed such processing equipment or software.

10.   LICENSE.

Subject to the terms and conditions of this Agreement and these Remote Deposit Capture Service specific provisions, Bank hereby grants Client a non-exclusive, non-transferable, limited license: (i) to access and/or use the Processing Software for Client's own business operations but only to the extent that such software resides on the Equipment or Bank approved equipment; (ii) to use the Remote Deposit Capture Guide in support of Client's authorized use of the Processing Software and (iii) to the extent Client agrees to abide by the Agreement and these provisions with respect to all Processing Software requirements, including the Remote Deposit Capture Daily Procedures Guide.

11.   PROVISIONS APPLICABLE TO CLIENT RELATED ENTITY USE.

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

12.   REPRESENTATIONS AND WARRANTIES.

It is the intention of the parties to this Agreement that the warranties deemed given by a depositor of a check to a bank under the UCC as applicable from time to time in the State of Illinois shall also apply to any image or electronic representation of an Original Check (as defined in the UCC) transferred by Client to Bank as if such image or electronic representation were a paper check within the meaning of the UCC or Check 21. All capitalized terms not defined herein shall have the meaning accorded them in the UCC. Accordingly, except to the extent that any warranties deemed given under the UCC are expressly superseded by CTA or Check 21, Client understands that Client shall be deemed to have given Bank all of the warranties that Client would have given under the UCC for the deposit of an Original Check by transferring to Bank any electronic file that contains or purports to contain an Imaged Item(s). The above warranties are deemed given to Bank and any person, company or bank to which Bank transfers, presents or returns any of the images included in such electronic file as a Sufficient Image Copy or that purports to be a Sufficient Image Copy created by Bank or any subsequent bank receiving a copy of such image. Client represents that it shall permit no entity to use the Equipment and Processing Software, whether licensed to Client directly, or licensed to one of its Related Entities, other than a Related Entity listed on Bank's appropriate Request or Implementation Form. For the purpose of avoiding doubt, and not as a limitation of the generality of the foregoing statement, Client acknowledges that the indemnification obligations of Client set forth in Section 13 below apply equally to the activities of each Related Entity of Client, so that Bank may call upon Client and its assets to satisfy such indemnification obligations, even if the conduct that gave rise to the indemnity obligation was conducted by a Related Entity of Client.

13.   CLIENT INDEMNITY.

IF CLIENT ELECTS TO USE BANK'S REMOTE DEPOSIT CAPTURE SERVICE THEN, IN ADDITION TO THE INDEMNIFICATION OF BANK BY CLIENT AS SET FORTH ELSEWHERE IN THIS AGREEMENT, CLIENT ASSUMES LIABILITY FOR, AND HEREBY AGREES TO INDEMNIFY, PROTECT AND HOLD HARMLESS BANK AND ITS AGENTS, OFFICERS, DIRECTORS, EMPLOYEES, SUCCESSORS AND ASSIGNS ("BANK INDEMNITEES"), FROM AND AGAINST ANY AND ALL LIABILITIES, OBLIGATIONS, LOSSES AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, OF ANY KIND OR NATURE ("DAMAGES") ARISING OUT OF THE USE OF, CONDITION (INCLUDING LATENT AND DEFECTS AND WHETHER OR NOT DISCOVERABLE BY CLIENT OR BANK), OPERATION, OWNERSHIP, SELECTION, DELIVERY, INSTALLATION OR LICENSING OF ANY ITEM OF PROCESSING EQUIPMENT. NOTWITHSTANDING THE FACT THAT TITLE TO THE PROCESSING EQUIPMENT LICENSED BY BANK TO CLIENT SHALL REMAIN WITH BANK AT ALL TIMES, AND THAT THE EQUIPMENT SHALL AT ALL TIMES BE AND REMAIN THE PERSONAL PROPERTY OF BANK, CLIENT HEREBY EXPRESSLY AGREES TO INDEMNIFY AND REIMBURSE BANK FOR THE COST OF ANY PROCESSING EQUIPMENT THAT IS DAMAGED, LOST OR STOLEN WHILE SUCH EQUIPMENT IS IN THE POSSESSION AND CONTROL OF CLIENT (INCLUDING ANY OF CLIENT'S EMPLOYEES, AGENTS OR SUBCONTRACTORS), EXCEPT THAT SUCH INDEMNIFICATION AND REIMBURSEMENT COSTS SHALL NOT EXTEND TO ANY DAMAGE, LOSS OR THEFT DUE TO THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF BANK. Bank shall, in its sole and absolute discretion, determine whether to seek indemnification and reimbursement from Client for any Equipment that is damaged, lost or stolen while in Client's possession and control.

14. LIMITATION ON BANK LIABILITY FOR REMOTE DEPOSIT CAPTURE SERVICES.

Bank shall not have any liability for any breach of any representation, warranty or covenant of this Agreement to the extent caused by: (i) the unavailability of the external connection services and other Internet network functions; (ii) any modifications, alterations of or additions to the Processing Software or Equipment performed by anyone other than Bank or Bank's designated service providers; (iii) the use of the Processing Software or the Equipment by Client in a manner not as set forth in this Agreement or any procedures or Documentation, in a manner for which it was not designed, or in combination with systems, products or components not supplied or approved in writing by Bank; of (iv) Client's use of software, equipment or other systems not supplied by Bank. CLIENT UNDERSTANDS AND EXPRESSLY ACKNOWLEDGES AND AGREES THAT, IN ADDITION TO THE LIMITATIONS ON LIABILITY SET FORTH ELSEWHERE IN THIS AGREEMENT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BANK SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUE OR ANTICIPATED PROFITS OR FOR ANY INDIRECT LOSS THAT THE CLIENT MAY INCUR OR SUFFER IN CONNECTION WITH BANK TERMINATING CLIENT'S REMOTE DEPOSIT CAPTURE SERVICES IN ACCORDANCE WITH THIS AGREEMENT.

15. CLIENT USE OF OTHER FILE FORMATS, EQUIPMENT AND SOFTWARE.

Client (and any of its Related Entities) will transmit files in ANS X9.37 file format on Bank approved Equipment using the Processing Software. Use of any other file format is prohibited. Use of any software other than the Processing Software is prohibited. Any check image transmitted through any means other than through the Processing Software is prohibited. IF CLIENT USES A FILE FORMAT OR ANY EQUIPMENT OR ANY SOFTWARE OTHER THAN THAT APPROVED OR PROVIDED BY BANK, CLIENT HEREBY EXPRESSLY DISCLAIMS ANY EXPLICIT OR IMPLIED WARRANTIES OR ANY OTHER EXPLICIT OR IMPLIED GUARANTIES REGARDING FILE SECURITY, INCLUDING SECURITY DURING TRANSMISSION.

16. TERMINATION.

Termination will not affect Client's liability or obligations under this Agreement for transactions that have been processed on Client's behalf. Client will remain responsible for all outstanding fees and charges incurred prior to the date of termination. Termination will apply only to the System and does not terminate

Client's other relationships with Bank. Within thirty (30) days after termination of this Agreement, Client will return the Equipment (unless purchased by Client) and all Documentation in Client's possession or under Client's control, and will, upon request, certify in writing that Client has returned said Equipment and Documentation. In addition, Client agrees to keep Client's Account(s) at Bank open until the later of (i) sixty (60) days after the date of termination, or (ii) final payment with respect to all processing fees and will keep in such Account an amount sufficient to cover any remaining outstanding items. If any such outstanding checks or returned items exceed the amount in the Account, Bank may charge such excess against any of Client's other Accounts at Bank, and Client will pay immediately upon demand to Bank any amount remaining unpaid. Client will also continue to retain checks and forward checks to Bank as requested.

17.   TERMINATION FEE.

If the Agreement is terminated by either party for cause, within twelve (12) months of inception, a termination fee equal to the price of the Equipment minus the number of monthly fees already assessed will be charged. If the Remote Deposit Capture Service is terminated no less than twelve (12) months after the date on the Agreement or by Bank without cause, then Client will not be obligated to pay such termination fee.

IX.   WIRE TRANSFER

1.   THE SERVICE; ORIGINATION OF PAYMENT ORDERS.

Subject to the terms of this Article and the General Provisions, Bank agrees to provide for origination of Wire Transfers, including through Commercial Online Banking. Bank will act upon Client's Payment Orders to debit one or more specified Accounts of Client and will transfer funds from such Account(s) for credit to Client and/or other persons or companies or specified accounts in accordance with the terms hereof. Bank may execute each Payment Order received by it in the name of Client as sender provided that the Payment Order: (i) contains sufficient information to execute a transfer; (ii) complies with any written instructions and restrictions of Client set forth in any Bank Agreements; (iii) is authorized by Client or is verified by Bank in compliance with a Client's Security Procedures, as provided herein; (iv) directs the payment of funds from an Account that is not subject to any garnishment, court order, setoff, third party claim or other event that Bank determines may restrict the ability of Client to withdraw funds; and (v) in compliance with Bank's rules and requirements relating to the format and communication of Payment Orders to Bank as established from time to time. If initiation via fax or telephone is required, additional Wire Transfer terms or other agreement or (as applicable) waiver must be executed and on file at Bank.

Client may transmit Payment Orders to Bank by a method approved by Bank (including any communication channel offered by Bank) in compliance with the Security Procedures. Bank may execute any Payment Order on the Business Day of its receipt even though it specifies a later execution date, unless Bank agrees to follow such instructions. Any Payment Order received by Bank after the cutoff time may be treated by Bank as being received on the next Business Day. Client assumes full responsibility for all Transfers made by Bank in accordance with these Wire Service terms and at the request of any Authorized Party, anyone who identifies themselves to be an Authorized Party, or Payment Orders that are executed in compliance with the Security Procedures assigned to Client or paid for the benefit of Client. Client agrees that all Payment Orders submitted to Bank shall be in compliance with Applicable Law. Each such Payment Order must contain the information required by Bank.

2.   WIRE REJECTION.

Bank shall have the right to reject any Payment Order for any reason in good faith, including Payment Orders for Transfers that would exceed the collected balance of Client's Account. If Bank rejects Payment Orders, Bank shall endeavor to notify Client by no later than the Business Day that such Payment

Orders would otherwise have been executed by Bank. Bank shall have no liability to Client due to the rejection of any such Payment Orders, or for any failure or delay to provide such notice. If any Payment Order is rejected by Bank or any funds transfer system as a result of incomplete information or a formatting or other similar error, it will be the responsibility of Client to re transmit correct Payment Order to Bank.

3.   PAYMENT ORDER AMENDMENT OR CANCELLATION.

Client has no right to cancel or amend a Payment Order after it has been received by Bank. However, to the extent permitted by Applicable Law, Client may request the cancellation of a Payment Order, provided the cancellation instruction is received by Bank at a time and in a manner affording Bank a reasonable opportunity to act prior to Bank's acceptance of the Payment Order; provided, that Bank shall have no liability for if such cancellation is not affected. In order to cancel or amend a Payment Order, an Authorized Party must transmit notice of the requested cancellation or amendment in compliance with the Security Procedures, and the Authorized Party must provide sufficient information to identify the Payment Order to be amended or canceled. In general, after a Payment Order has been executed, the Payment Order will not be able to be canceled or amended unless the beneficiary bank consents to such request. Bank will not be liable to Client for any loss resulting from the failure of the beneficiary bank to agree to a recall or amendment of Client's Payment Order.

If a Security Procedure was used with respect to the Payment Order, a communication is not effective to cancel or amend the Payment Order unless the Security Procedure is also used with respect to the cancellation or amendment, or Bank agrees to the cancellation or amendment. The effect of cancellation of a Payment Order is to treat the Payment Order as never having been issued by Client. The effect of an amendment of a Payment Order is to treat the Payment Order as originally having been issued in the amended form.

4.   FEDWIRE AND APPLICABLE RULES.

A Payment Order or cancellation thereof may be furthered by any bank by use of the wire transfer system of the Federal Reserve Banks ("Fedwire"). The rights and obligations of Bank and Client with respect to any Payment Order, any part of which is carried out through the use of Fedwire, will be governed by any Applicable Laws, the regulations of the Board of Governors of the Federal Reserve System, and the operating circulars of the Federal Reserve Banks. A Payment Order or cancellation of a Payment Order, carried out through a wire transfer system will be governed by all applicable wire transfer system rules, whether or not Bank is a member of the system. Therefore, Client acknowledges that Bank's right to reverse, adjust, stop payment, or delay posting of an executed Payment Order is subject to the laws, regulations, circulars, and rules described herein.

5.   COMPLIANCE WITH COMMERCIALLY REASONABLE SECURITY PROCEDURES.

In connection with the Wire Transfer Service, Client agrees to the terms in the General Provisions with respect to the use of commercially reasonable Security Procedures. Such Security Procedures may include, but are not limited to, dual control authorization and Token authentication. Client also acknowledges and agrees that the terms in the General Provisions, including Sections 7 and 8 regarding honoring transactions and Transfer Service terms, shall apply to Client's use of the Wire Transfer Service. Client acknowledges and agrees that its use of the Wire Transfer Service is subject to the terms of the Security Procedures Guide, as well as any Implementation Form or other document governing Security Procedures.

6.   TRANSFER REQUESTS.

Requests for Transfers may be initiated online by an Authorized Party of Client by providing to Bank the following information (i) Access Credentials; (ii) multifactor authentication; (iii) the amount to be

transferred; (iv) the bank to which funds are to be transferred, identified by name, address and transit routing number; and (v) the name and address of the receiving party and account number to which funds are to be transferred. For payments within the United States, the beneficiary bank must be a member of the Federal Reserve System or a correspondent bank of such a member.

7.   REVOCATION OF TRANSFERS.

Client has no right to reverse, adjust, or revoke a Wire Transfer request after Bank has executed the Wire Transfer. If Client requests the reversal, adjustment or revocation of a Wire Transfer request, Bank may (but shall not be obligated to) attempt to recover the funds from the transferee using whatever steps Bank may deem appropriate. CLIENT EXPRESSLY AGREES TO INDEMNIFY BANK AGAINST ANY COSTS, EXPENSES, DAMAGES AND LIABILITIES, INCLUDING ATTORNEY'S FEES, WHICH BANK MAY INCUR IN ATTEMPTING TO EFFECT SUCH RECOVERY OF FUNDS. BANK MAKES NO REPRESENTATION OR WARRANTY AS TO ITS ABILITY TO REVOKE OR CANCEL A WIRE TRANSFER ONCE MADE.

8.   SETTLEMENT.

Bank is not obligated to honor, execute, or accept any Payment Order. If Bank determines that processing or honoring any Payment Order would cause the designated Account to be overdrawn, Bank may, but has no obligation to, execute the Payment Order and create an overdraft in such Account. If Bank elects to accept Payment Orders issued by Client, Client agrees to pay for and settle for all Transfers made based on Payment Orders issued by Client, otherwise made effective against Client. Client shall maintain sufficient collected funds in the Account to settle for the Transfer at the time that the Wire Transfer is issued. Bank shall have the right to charge other Accounts maintained by Client with Bank if Bank accepts the Wire Transfer and the designated Account does not have sufficient collected balances to settle the Wire Transfer. Bank may process Payment Orders in any order convenient to Bank and Bank may charge items, including settlement for Wire Transfer in any order or sequence selected by Bank.

9.   INTERNATIONAL WIRES.

Payment Orders for the transfer of U.S. Dollars may be paid in U.S. Dollars and transferred to a beneficiary located in the United States. If transferred to a beneficiary located in a foreign country, the beneficiary's bank may elect to pay the beneficiary in foreign currency, at that bank's buying rate of exchange for wire transfers. Refunds of U.S. Dollar order shall be in the U.S. Dollar amounts. Refunds of foreign currency orders shall be in the amount of U.S. Dollars that can be bought for the foreign currency amount at Bank's then current rate of exchange. In no event shall Bank be liable for any Losses resulting from fluctuation in foreign exchange rates or in impairment or destruction of foreign currency or from any delays in processing transactions, unless otherwise required by law.

10.   TRANSFERS IN FOREIGN CURRENCY.

Any request for the wire transfer of funds in a currency other than U.S. Dollars may require Client to first validly purchase such foreign currency from Bank, or Bank shall purchase such amount from Bank's correspondent bank. Unless otherwise agreed between Bank and Client, the value of any such Wire Transfer shall be reported to Client in the U.S. Dollar equivalent of the amount of foreign currency transferred. Any loss of exchange arising from a subsequent cancellation of such Wire Transfer request or because of a rejection of delivery for any reason shall be charged to Client's Account. Client agrees that if Bank utilizes the services of other banks for the purpose of giving effect to any request or order for the Wire Transfer of funds in foreign currency, then Bank does so for the account of and at the risk of Client.

11.   INTERMEDIARY BANKS.

Client shall specify routing instructions for Wire Transfers in any Payment Order communicated to Bank. If no such specification is made, Client hereby instructs Bank to send Wire Transfers through such correspondent(s) as deemed appropriate by Bank in its sole discretion after consulting standard bank references as to correspondent relationships. In executing any Wire Transfers, Bank shall use whatever funds transfer system, communications system, and intermediary bank is designated by the Client, except where Bank in good faith concludes that use of such funds transfer system, communication system, or intermediary is not feasible or would involve undue delay, in which case Bank shall use such of the funds transfer systems and communications systems in which Bank participates, and such intermediaries, agents or sub agents as Bank determines to be appropriate in connection with any such Wire Transfers. To the fullest extent permitted by law, (i) any such funds transfer system, communications system, or intermediary, agent or sub agent shall not be a processor, and shall be deemed to be the agent of Client, and Bank shall not be liable for any errors, negligence, suspension or default of any of them or for any failure to identify the beneficiary or any mispayment by any of them, and (ii) Bank shall not be liable for any errors, mutilations, delay, misdelivery or failure of delivery in the transmission of any Wire Transfers in connection with such transaction or for any suspension of any means of transmission or for any imposition of any censorship, exchange control or other restriction, all such risk being borne by Client.