



## Trustco Bank Business Online Banking Terms and Conditions

These Business Online Banking Terms and Conditions (“**Terms and Conditions**”) shall apply to the business entity (“**Customer**”; “**You**”; “**Your**”) that is a party to an associated Trustco Bank Business Online Banking Services Agreement (“**Business OLB Agreement**”) with Trustco Bank (“**Bank**”; “**We**”; “**Us**”; “**Our**”). If Customer executes a Business OLB Agreement, the Bank agrees to provide to Customer certain Business Online Banking Services (as defined below) offered by Bank in accordance with the terms of the Business OLB Agreement and these Terms and Conditions (collectively, the “**Agreement**”).

### **Business Online Banking Services.**

The details of the Business Online Banking Services and Cash Management Services available to Customers are explained in the following section of the Agreement:

#### **Part I – Terms and Conditions applicable to all Services.**

##### **Part II – Business Online Banking Services.**

The following Services are available to all Bank Customers who enroll to use Business Online Banking (“**Standard Features**”):

- Obtain balances in your Accounts.
- Review the account histories of transactions in your Accounts.
- View images of paid checks.
- Make transfers between linked Accounts.
- Submit Stop Payment requests for checks (fees will apply).
- Export account history using your financial management software (“**FMS**”).
- Enroll in Account alerts.
- Communicate with the Bank via the Online Banking secure message center.

In addition to the above, you may request the following Services, which are subject to the Bank’s review and approval as to limits on the amounts and frequency of transactions (“**Advanced Features**”):

##### **Part III – ACH Origination Services.**

A Customer may send entries for transfers (credit and debit) via the Automated Clearinghouse from its Accounts of the types Customer applies to issue and of such types and in such amounts, frequency and/or other limits as the Bank may approve.

##### **Part IV – Wire Transfers.**

Customer may transfer funds to domestic and/or international payees from its Accounts in such amounts, frequency and/or other limits as the Bank may approve.

##### **Part V – Mobile Banking Services.**

Customer may be able to use the Services described herein through use of a smartphone or other mobile device that meets our Technical Specifications for mobile access, including as they may be changed from time to time.

The Services outlined above are limited to the extent set forth in your Account Agreements, as explained in this Agreement, and to the extent the Bank informs you of any specific limits applicable to your Accounts in response to your application to utilize a Service. Bank may limit, suspend or terminate your access to any of the Services at any time in its sole discretion.

Additional Services may be included in an update to this Master Agreement or in other separate agreements. We will notify you of the existence of any new Services available through Online Banking. Information about new Services may be obtained from our website. By using any new Service when it becomes available, you agree to be bound by the terms and conditions contained in this Master Agreement or separate agreements covering such Service.

### **PART I: ALL SERVICES**

This Part applies to all Business Online Banking Services.

## **TERMS AND CONDITIONS**

**1. Definitions.** Capitalized terms used in this Agreement or any associated document, unless otherwise defined herein or therein, shall have the meanings set forth below:

*“Access Devices”* means collectively any and all security, identification and authentication mechanisms, including, without limitation, security codes or PINs, electronic identities or signatures, encryption keys and/or individual passwords, as may be associated with or necessary for Customer’s access to and use of any Business Online Banking Service(s) from time to time.

*“Account(s)”* means any Deposit Account(s) and/or Credit Account(s), as further defined herein, used in connection with any Business Online Banking Service(s).

*“Account Agreement(s)”* means the terms and conditions of any Deposit Account Agreement(s), Credit Account Agreement(s), Fee Schedule, and any other agreements, disclosures and other documents issued by Bank and governing Customer’s deposit or credit relationship with Bank, as the same may be amended from time to time.

*“Account Disclosure Notice”* means the terms and conditions, Fee Schedule, and any other documents, disclosures or agreements that Customer executes or otherwise agrees to that establish Customer’s rights and responsibilities under and otherwise provide the terms and conditions of Customer’s Deposit Accounts with Bank, each as amended from time to time.

*“Administrator(s)”* or *“Account Administrator(s)”* means Customer’s employee(s) or other person(s) that Customer (or any Administrator designated by Customer) designates on the Set-Up Form (defined below) associated with use of Online Banking as being Customer’s Authorized Representative or as authorized to act on Customer’s behalf with respect to the administration of Online Banking, including binding Customer to the terms and conditions of any disclosures or agreements that are presented or agreed to by an Administrator .

*“Affiliate(s)”* means, with respect to any party, any company controlled by, under the control of or under common control with such party.

“*Authorized Representative*” means a person designated by Customer (including Customer when Customer is a sole proprietorship) as an individual authorized to act on behalf of Customer and/or authorized to access and use the Services, as evidenced by certified copies of resolutions from Customer’s board of directors or other governing body, if any, or other certificate or evidence of authority satisfactory to Bank.

“*Authorized User*” means any person that Customer’s Administrator designates as being authorized to access or use Online Banking on Customer’s behalf. An Administrator qualifies as an Authorized User hereunder.

“*Business Day*” means any day except Saturday, Sunday and Federal banking holidays. In the absence of specific reference to Business Days, any reference to “days” in this Agreement shall mean calendar days.

“*Business Online Banking Services*”, “*Online Banking*” or “*Services*”) means, collectively, the various electronic business banking and/or associated cash management services provided by Bank (and/or Bank’s third-party service providers) to Customer from time to time pursuant to this Agreement, set-up form(s) and any schedules, service guides or manuals made available to Customer by Bank that are accessible through internet-based electronic banking information delivery and transaction initiation system, as may be offered by Bank to its business (i.e., non-consumer) customers from time to time.

“*Credit Account(s)*” means any line of credit, term loan or commercial or investment mortgage that Customer maintains with Bank that was established primarily for business or non-consumer purposes.

“*Credit Account Agreement(s)*” means the promissory notes, credit agreements, mortgages and any other documents, disclosures or agreements that Customer executes or otherwise agrees to that establish Customer’s rights and responsibilities under and otherwise provide the terms and conditions of Customer’s Credit Accounts with Bank, each as may be amended from time to time.

“*Customer*”, as used herein, includes an Authorized User of Customer, as the context so requires.

“*Deposit Account(s)*” means any checking, money market or savings Account, certificate of deposit or other deposit account that Customer may have with Bank that was established primarily for business or non-consumer purposes.

“*Fee Schedule*” means, at any given time, Bank’s then current schedule of customer fees and charges applicable to the Deposit Account(s) opened by Customer and maintained with Bank, as well as those applicable to the Business Online Banking Services.

“*Primary Account*” means the Account designated by Customer to which any direct Service Fees (as defined below) due Bank may be charged in accordance with this Agreement. Unless otherwise agreed upon in writing by Bank, the address for Customer associated with the Primary Account shall be the address to which all notices and other communications concerning the Services may be sent by Bank.

All definitions set forth herein shall be deemed applicable whether the defined terms used herein are capitalized or not and presented in the singular or plural forms. Further, wherever used herein, any pronoun or pronouns shall be deemed to include both the singular and plural and to cover all genders.

## **2. Services.**

2.1 Bank shall provide to Customer, subject to this Agreement, the Business Online Banking Services that Customer may request and Bank approves from time to time.

2.2 Customer, through its Authorized Representative, may use the Business Online Banking Services solely in accordance with the terms and conditions of this Agreement.

2.3 With the exception of scheduled off-peak downtime periods, Bank shall make all reasonable efforts to make the Business Online Banking Services available to Customer each Business Day.

2.4 Access to Online Banking will be denied if invalid Access Devices are used or if the user exceeds the number of invalid attempts allowed by Bank.

2.5 Customer is authorized to use the Business Online Banking Services only for the purposes and in the manner contemplated by this Agreement.

2.6 Customer agrees to cooperate with Bank, as Bank may reasonably request, in conjunction with the performance of the Business Online Banking Services.

2.7 Customer agrees to comply with the Agreement, including as it may be amended from time to time by Bank.

2.8 A number of Bank's Business Online Banking Services are subject to processing cut-off times on a Business Day. Customer can obtain information on Bank's current cut-off time(s) for Business Online Banking Service(s) by reviewing the relevant section of this Agreement or by calling Bank's Deposit Operations Manager as set forth in **Section 26** of this Agreement. Instructions received after a cut-off time or on a day other than a Business Day may be deemed received as of the next Business Day.

2.9 Bank may make changes to this Agreement at any time by providing notice to Customer in accordance with the terms of this Agreement or as may be required by applicable law. Notwithstanding anything to the contrary in this Agreement, if Bank believes immediate action is required for the security of Bank or Customer funds, Bank may immediately initiate changes to any security and related procedures and provide prompt subsequent notice of the change to Customer.

### **3. Covenants, Representations and Warranties.**

3.1 Customer represents and warrants that the individual executing this Agreement on behalf of Customer has been authorized by all necessary Customer action to sign this Agreement, to issue such instructions as may be necessary to carry out the purposes and intent of this Agreement and to enable Customer to receive each selected Business Online Banking Services. Each Authorized Representative whom Customer permits to access and use the Business Online Banking Services is duly authorized by all necessary action on the part of Customer to (i) access the Account(s) and use the Business Online Banking Services, (ii) access any information related to any Account(s) to which the Authorized Representative has access, and (iii) engage in any transaction relating to any Account(s) to which the Authorized Representative has access.

3.2 Bank may unconditionally rely on the validity and accuracy of any communication or transaction made or purported to be made by an Authorized Representative in accordance with the terms of this Agreement.

3.3 Customer shall take all reasonable measures and exercise all reasonable precautions to prevent the unauthorized disclosure or use of all Access Devices associated with or necessary for Customer's use of the Business Online Banking Services.

3.4 Customer is not a “consumer” as such term is defined in the regulations promulgated pursuant to the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq., nor a legal representative of a “consumer.”

3.5 Customer shall use the Business Online Banking Services only for its own lawful business or other Bank-approved purposes. Customer shall not use the Business Online Banking Services for or on behalf of any third party, except as may otherwise be approved by Bank in its sole and exclusive discretion. Customer shall take all reasonable measures and exercise reasonable precautions to ensure that Customer’s officers, employees and Authorized Representative(s) do not use the Business Online Banking Services for personal, family or household purposes, or any other purpose not contemplated by this Agreement or otherwise approved by Bank.

3.6 Customer agrees to use the Account(s) only for lawful purposes, and will not use the Account(s) for any unlawful or illegal purposes including, but not limited to, unlawful Internet gambling transactions of any sort (online gambling) as defined in the Unlawful Gambling Act of 2006 and Regulation GG, and any betting transaction including the unlawful purchase of lottery tickets, casino chips, or off-track betting and wagering. Bank reserves the right to block all such transactions. However, in the event that such a transaction is approved and processed, Customer will still be liable for any associated fee or charge.

3.7 Customer and Bank shall comply with: (i) the Account Agreements, and (ii) all applicable laws, regulations, rules and orders, including without limitation, all applicable National Automated Clearing House Association (“NACHA”) operating rules and guidelines, the Uniform Commercial Code (“UCC”), the U.S. Department of the Treasury’s Office of Foreign Asset Control (“OFAC”) requirements, and all applicable laws, regulations and orders administered by the U.S. Department of the Treasury’s Financial Crimes Enforcement Network (“FinCEN”) (collectively, the “Compliance Laws”).

#### **4. Account Disclosure Notice; Service Fees.**

4.1 Bank and Customer agree that any Account established by Customer in connection with the Business Online Banking Services offered by Bank shall be governed by the Account Disclosure Notice. If there is any conflict between the terms and provisions of this Agreement and the Account Disclosure Notice, the terms and provisions of this Agreement shall govern, but only to the extent reasonably necessary to resolve such conflict.

4.2 Customer agrees to compensate Bank for all Business Online Banking Services that Bank provides pursuant to this Agreement in accordance with Fee Schedule(s) between Bank and Customer in effect from time to time that may apply to the Business Online Banking Services (the “Service Fees”). By and upon entering into this Agreement, Customer acknowledges receipt of the Account Disclosure Notice and acceptance of the Service Fees and agrees to be bound by their terms, as those terms may be amended from time to time.

4.3 Customer authorizes Bank to charge the Primary Account for all applicable Service Fees for Business Online Banking Services to the extent that such Service Fees are not offset by other allowances for Customer’s Account(s). If the balance of Available Funds (as defined herein) in the Primary Account is not sufficient to cover such fees, Bank may charge such fees to any other Deposit Account maintained by Customer with Bank. Customer also agrees to pay all sales, use or other taxes (other than taxes based upon Bank’s net income or that are otherwise the legal responsibility of Bank) that may be applicable to the Business Online Banking Services provided by Bank hereunder.

4.4 Bank may amend the Service Fees, in the aggregate or individually, at any time. Bank will give notice to Customer of such changes in accordance with applicable law.

**5. Customer Identification Program.** Customer agrees to provide to Bank, before Bank begins providing any Business Online Banking Services to Customer, any and all information required to comply with applicable law and Bank's policies and procedures relating to customer identification, including with respect to Customer's Authorized Representatives. Such information may include, without limitation, official certificates of Customer existence, copies of Customer formation agreements and business resolutions or equivalent documents in a form acceptable to Bank, authorizing Customer to enter into this Agreement, to receive Business Online Banking Services from Bank pursuant hereto and to designate certain individuals as Customer's Authorized Representatives.

In addition, Customer agrees to provide to Bank information demonstrating the formation and good standing of the legal entity under which you are conducting business, including but not limited to, a certification of the beneficial owners and a controlling party of Customer. Such certification shall be executed by an Authorized Representative of Customer, as required by applicable law and regulation, in form and substance acceptable to Bank ("Certification of Beneficial Owners"). You agree to provide updated versions of the Certification of Beneficial Owners promptly following each change in the beneficial ownership or the controlling party of Customer. Further, from time to time Bank may be required to verify the continued accuracy of the information provided in the Certification of Beneficial Owners

**6. Software.**

6.1 Bank *may* supply Customer with certain software owned by or licensed to Bank to be used by Customer in connection with one or more of the Business Online Banking Services. Customer agrees that Customer will receive a license to use such software only and all such software is and shall remain the sole property of Bank and/or the vendor of such software. Customer agrees to comply with all of the terms and conditions of all license and other agreements which are provided to Customer by Bank and/or the software vendor which govern Customer's use of software associated with the Business Online Banking Services. Unless otherwise agreed in writing between Bank and Customer, Customer shall be responsible for the payment of all costs of installation of any software provided to Customer in connection with the Business Online Banking Services, as well as for selection, installation, maintenance and repair of all hardware required on Customer's premises for the successful operation of the software.

6.2 Customer shall indemnify, defend and hold harmless Bank and its successors and assigns from and against any loss, damage or other claim or liability attributable to Customer's unauthorized distribution or disclosure of any software provided with the Business Online Banking Services or any other breach by Customer of any software license. The provisions of this paragraph 6 shall survive termination of this Agreement.

6.3 Any breach or threatened breach of this Section will cause immediate irreparable injury to Bank, and Customer agrees that injunctive relief, including preliminary injunctive relief and specific performance, should be awarded as appropriate to remedy such breach without limiting Bank's right to other remedies available in the case of such a breach. Bank may apply to a court for preliminary injunctive relief, permanent injunctive relief and specific performance, but such application shall not abrogate Bank's right to proceed with an action in a court of competent jurisdiction in order to resolve the underlying dispute.

**7. Computer Requirements.** For certain Business Online Banking Services, Customer will need to provide, at Customer's own expense, a computer, software and necessary telephone lines, Internet or other connections and equipment as needed to access the Business Online Banking Services and as described during the enrollment process (collectively, the "Computer"). Customer is responsible for the installation, maintenance and operation of the Computer. Customer's Internet or other web browser software must support a minimum 128-bit SSL encryption or other security measures as Bank may specify from time to time. Bank is not responsible for any errors or failures caused by any malfunction of the Computer, and Bank is not responsible for any computer virus or related problems that may be associated with the use of

the Services, the Computer or other Internet access, including but not limited to any virus, trojan horse, worm, keystroke logger, rootkit, spyware, dishonest adware, crimeware and other malicious and unwanted software or related problems that may be associated with access to or use of the Services or the Computer. Bank recommends that Customer routinely scan the Computer using reliable virus protection products, and to remove any viruses found using such products. Customer is responsible for all Internet service provider, telephone and other similar charges incurred in connecting to the Services. From time to time, Bank may require that Customer upgrades or installs software to the Computer to ensure the proper operation of the Services. Customer agrees to promptly load any such upgrades or additional installations upon Bank's notice to Customer.

## **8. Bank Third Parties.**

8.1 Customer acknowledges that certain third parties, agents or independent service providers (hereinafter "Third Parties") may, from time to time, provide services ("Third Party Services") to Bank in connection with Bank's provision of the Business Online Banking Services to Customer and that, accordingly, Bank's ability to provide the Business Online Banking Services hereunder may be contingent upon the continuing availability of certain services from such Third Parties. Third Party Services may involve the processing and/or transmission of Customer's data, instructions (oral or written) and funds. Customer agrees that Bank may disclose Customer's financial information to such Third Parties (i) where it is necessary to provide the Services requested; (ii) in order to comply with laws, government agency rules or orders, court orders, subpoenas or other legal process or in order to give information to any government agency or official having legal authority to request such information; or (iii) when Customer gives its written permission.

8.2 Bank will be responsible for the acts and omissions of its Third Parties in the same manner as if Bank had performed that portion of the Business Online Banking Services itself, and no claim may be brought by Customer against any such Third Parties. Notwithstanding the foregoing, any claims against Bank (with respect to the acts or omissions of its Third Parties) or its Third Parties shall be subject to the limitations of liability set forth herein to the same extent as if Bank had performed that portion of the Business Online Banking Services itself. Bank will not be deemed to be the agent of or responsible for the acts or omissions of any person (other than its Third Parties), however, and no such person shall be deemed Bank's agent.

## **9. Confidential Information.**

9.1 "Confidential Information" means any information obtained by or disclosed or made available to either party hereto (whether in writing, verbally or by observation of objects or processes) from or by the other party, that is accompanied by a clear indication that the disclosing party considers the information to be confidential or proprietary, or is of a type that the recipient should reasonably consider it the confidential or proprietary information of the disclosing party or its licensors.

9.2 Each party acknowledges that it may obtain or have access to the Confidential Information of the other party, and agrees to: (i) maintain the confidentiality, integrity and security of such Confidential Information; (ii) use such Confidential Information only for the purposes set forth in this Agreement, including without limitation for the performance of its obligations and exercise of its rights hereunder; (iii) disclose such Confidential Information only to its employees, agents, auditors, accountants, attorneys and regulators, and only as necessary to perform its obligations and exercise its rights hereunder, or as otherwise permitted by law; and (iv) maintain physical, technical, procedural and administrative controls and safeguards reasonably designed (taking into account the nature and circumstances of such party's business, and in all cases, no less than a reasonable person standard) to ensure the security, integrity and confidentiality of Confidential Information, and

to protect against any anticipated threats or hazards to the security or integrity of, or unauthorized access to, the Confidential Information.

9.3 Confidential Information does not include information that: (i) is or becomes generally available to the public other than as a result of a disclosure by the recipient; (ii) was in the recipient's possession before the time of disclosure; (iii) becomes available to the recipient on a non-confidential basis from another source, provided that the recipient has no actual knowledge that the source of such information was bound by and in breach of a confidentiality obligation with respect to such information; or (iv) is independently developed by the recipient without reference to or use of the disclosing party's other Confidential Information.

## **10. Customer Information; Security Procedures.**

10.1 In providing the Business Online Banking Services, Bank shall be entitled to rely upon the accuracy of all information and authorizations received from Customer or an Authorized Representative and the authenticity of any signatures purporting to be of Customer or an Authorized Representative. Customer agrees to promptly notify Bank of any changes to any information or authorization provided to Bank in connection with the Business Online Banking Services and further agrees to promptly execute any new or additional documentation Bank reasonably deems necessary from time to time in order to continue to provide the Business Online Banking Services to Customer.

10.2 Customer agrees that it shall be solely responsible for ensuring compliance with the security procedures established by Bank in connection with the Business Online Banking Services, including but not limited to those set forth herein, and as they may be amended from time to time. You further agree that the Bank shall have no liability for any losses sustained by Customer as a result of a breach of security procedures if

Bank has complied with the security procedures.

10.3 Bank shall be entitled to rely on any written list of Authorized Representatives provided to Bank by Customer until revoked or modified by Customer in writing. Customer agrees that Bank may refuse to comply with requests from any individual until Bank receives documentation reasonably satisfactory to it confirming the individual's authority. Bank shall be entitled to rely on any notice or other writing believed by it in good faith to be genuine and correct and to have been signed by the individual purporting to have signed such notice or other writing. Bank may also accept oral instructions from persons identifying themselves as an Authorized Representative, and Bank's only obligation to verify the identity of such person as an Authorized Representative shall be to call back such person at a telephone number(s) previously provided to Bank by Customer. Bank may, but shall have no obligation to, call back an Authorized Representative other than the Authorized Representative from whom Bank purportedly received an instruction. Bank may, but shall have no obligation to, request additional confirmation, written or oral, of an instruction received via telephone at any time or for any reason whatsoever prior to executing the instruction. Bank may also in its discretion require the use of security codes for Authorized Representatives and/or for receiving instructions or items from Customer. Customer understands and agrees, and Customer shall advise each Authorized Representative that, Bank may, at Bank's option, record telephone conversations regarding instructions received from an Authorized Representative.

10.4 Any security procedures maintained by Bank are not intended to detect errors in the content of an instruction, request or transaction received from Customer or Customer's Authorized Representative, agent or vendor. No security procedure for the detection of any such Customer error has been agreed upon between Bank and Customer. Any errors in an instruction, request or transaction from Customer, Customer's Authorized Representative, agent or vendor shall be Customer's sole responsibility. Customer agrees that all security procedures described in this Agreement are commercially reasonable and that Bank may charge Customer's Account for any instruction, request or transaction that Bank executed in good faith and in



conformity with the security procedures, whether or not the instruction, request or transaction is in fact authorized.

10.5 Customer is strictly responsible for establishing and maintaining procedures to safeguard against unauthorized instructions, requests, transactions or transmissions. Customer covenants that no employee or other individual under Customer's control will be allowed to initiate instructions, requests, transactions or transfers in the absence of proper authority, supervision and safeguards, and agrees to take reasonable steps to maintain the confidentiality of the security procedures and any Access Devices and related instructions provided by Bank in connection with any security procedure utilized by Bank and/or Customer. If Customer believes or suspects that any such Access Device, security procedure, information or instructions have been disclosed to or accessed by unauthorized persons, Customer agrees to notify Bank immediately followed by written confirmation. The occurrence of unauthorized access will not affect any transfers made in good faith by Bank prior to receipt of such notification and within a reasonable time period thereafter.

10.6 Customer also agrees to adopt and implement its own commercially reasonable policies, procedures and systems to provide security to information being transmitted and to receive, store, transmit and destroy data or information in a secure manner to prevent loss, theft or unauthorized access to data or information ("Data Breaches"). Customer also agrees that it will promptly investigate any suspected Data Breaches and monitor its systems regularly for unauthorized intrusions. Customer will provide timely and accurate notification to Bank of any Data Breaches when known or reasonably suspected by Customer and will take all reasonable measures, which may include, without limitation, retaining competent forensic experts, to determine the scope of and data or transactions affected by any Data Breaches and promptly provide all such information to Bank.

10.7 BANK'S SECURITY PROCEDURES ARE STRICTLY CONFIDENTIAL AND SHOULD BE DISCLOSED ONLY TO THOSE INDIVIDUALS WHO ARE REQUIRED TO KNOW THEM. IF A SECURITY PROCEDURE INVOLVES THE USE OF ACCESS DEVICES, CUSTOMER SHALL BE RESPONSIBLE TO SAFEGUARD THESE ACCESS DEVICES AND MAKE THEM AVAILABLE ONLY TO DESIGNATED INDIVIDUALS. CUSTOMER HAS THE SOLE RESPONSIBILITY TO INSTRUCT THOSE INDIVIDUALS THAT THEY MUST NOT DISCLOSE OR OTHERWISE MAKE AVAILABLE TO UNAUTHORIZED PERSONS THE SECURITY PROCEDURE OR ACCESS DEVICES TO ANYONE. CUSTOMER HAS THE SOLE RESPONSIBILITY TO ESTABLISH AND MAINTAIN PROCEDURES TO ENSURE THE CONFIDENTIALITY OF ANY PROTECTED ACCESS TO THE SECURITY PROCEDURE.

**11. Duty to Inspect.** Customer is responsible for monitoring its use of all Business Online Banking Services provided by Bank, including each individual transaction processed by Bank, and notifying Bank of any errors or other problems no later than fifteen (15) Calendar Days (or such longer period as may be required by applicable law) after Bank has made available to Customer any report, statement or other material containing or reflecting the error, including an Account analysis statement or Internet Account access. Except to the extent required by law, failure to notify Bank of an error or problem within such time will relieve Bank of any and all liability for interest upon correction of the error or problem (and for any loss from any subsequent transaction involving the same error or problem). In the event Customer fails to report such error or problem within thirty (30) Calendar Days (or such longer period as may be required by applicable law) after Bank made available such report, statement or Internet Account access, the transaction shall be deemed to have been properly authorized and executed, and Bank shall have no liability with respect to any such error or problem.

**12. Overdrafts; Set-off.** Bank may, but shall not be obligated to, complete any transaction in connection with providing the Services if there are insufficient available funds in Customer's Account(s)

to complete the transaction. In the event any actions by Customer result in an overdraft in any of Customer's Accounts, including but not limited to Customer's failure to maintain sufficient balances in any of Customer's Accounts, Customer shall be responsible for repaying the overdraft immediately and without notice or demand. Bank has the right, in addition to all other rights and remedies available to it, to set-off the unpaid balance of any amount owed it in connection with the Services against any debt owing to Customer by Bank, including, without limitation, any obligation under a repurchase agreement or any funds held at any time by Bank, whether collected or in the process of collection, or in any other Account maintained by Customer at or evidenced by any certificate of deposit issued by Bank. If any of Customer's Accounts become overdrawn, under-funded or for any reason contain a negative balance, then Bank shall have the right of set-off against all of Customer's Accounts and other property or deposit Accounts maintained at Bank, and Bank shall have the right to enforce its interests in collateral held by it to secure debts of Customer to Bank arising from notes or other indebtedness now or hereafter owing or existing under this Agreement, whether or not matured or liquidated.

### **13. Transaction Limits.**

13.1 Bank shall establish transaction limits for each Business Online Banking Service at the time of enrollment and approval. In the event that providing the Business Online Banking Services to Customer results in unacceptable credit exposure or other risk to Bank or will cause Bank to violate any law, regulation, rule or order to which it is subject, Bank may, in Bank's sole and exclusive discretion, without prior notice, limit Customer's transaction volume or dollar amount and refuse to execute transactions that exceed any such limit, or Bank may suspend terminate any or all of the Business Online Banking Services then being provided to Customer.

13.2 Customer shall, upon request by Bank from time to time, provide Bank with such financial information and statements and such other documentation as Bank reasonably determines to be necessary or appropriate showing Customer's financial condition, assets, liabilities, stockholder's equity, current income and surplus, and such other information regarding the financial condition of Customer as Bank may reasonably request to enable Bank to evaluate its exposure or risk. Any limits established by Bank hereunder shall be made in Bank's sole discretion and shall be communicated promptly to Customer.

### **14. Term and Termination.**

14.1 This Agreement shall be effective when (i) signed by an Authorized Representative of Customer and accepted by Bank, and (ii) Customer delivers to Bank all documents and information, including any applications, banking resolutions, setup form(s) and electronic data reasonably required by Bank prior to commencing to provide the Business Online Banking Services. Bank will determine the adequacy of such documentation and information in its sole discretion and may refuse to provide the Business Online Banking Services to Customer until adequate documentation and information are provided.

14.2 This Agreement shall continue in effect until terminated by either party with ten (10) calendar days' prior written notice to the other, provided that Customer may terminate this Agreement immediately upon its receipt of notice from Bank of a change in or amendment of the provisions of this Agreement or the Business Online Banking Services to Customer, in accordance with **Section 20** of this Agreement. Either party may terminate a specific Business Online Banking Service in accordance with the provisions of this Section without terminating this Agreement. Upon termination of this Agreement or any Business Online Banking Service, Customer shall, at its expense, return to Bank, in the same condition as when delivered to Customer, normal wear and tear excepted, all property belonging to Bank and all proprietary material delivered to Customer in connection with the terminated Business Online Banking Service(s).

14.3 If a Service is terminated in accordance with this Agreement, Customer must contact Bank's Deposit Operations Manager as set forth in **Section 26** of this Agreement for instructions regarding the cancellation of all future-dated payments and transfers. Bank may continue to make payments and transfers and to perform other Business Online Banking Services that Customer has previously authorized or may subsequently authorize; however, Bank is not under any obligation to do so. Bank will not be liable if it chooses to make any payment or transfer or to perform any other Business Online Banking Services that Customer has previously authorized or subsequently authorizes after a Business Online Banking Service had terminated.

14.4 Notwithstanding the foregoing, Bank may, without prior notice, terminate this Agreement and/or terminate or suspend any Business Online Banking Service(s) provided to Customer pursuant hereto (i) if Customer or Bank closes any Account established in connection with the Business Online Banking Services; (ii) if Bank determines that Customer has failed to maintain a financial condition deemed satisfactory to Bank to minimize any credit or other risks to Bank in providing Services to Customer, including but not limited to the commencement of a voluntary or involuntary proceeding under the United States Bankruptcy Code or other statute or regulation relating to bankruptcy or relief of debtors; (iii) in the event of a material breach, default in the performance or observance of any term, or material breach of any representation, covenant or warranty by Customer; (iv) in the event of default by Customer in the payment of any sum owed by Customer to Bank hereunder or under any note or other agreement; (v) if there has been a seizure, attachment or garnishment of Customer's Account(s), assets or properties; (vi) if Bank believes immediate action is required for the security of Bank or Customer funds; (vii) in the event of termination of a third party contract by Customer or Bank which is necessary for the performance of one or more Business Online Banking Services; or (viii) if Bank reasonably believes that the continued provision of Business Online Banking Services in accordance with the terms of this Agreement would violate federal, state or local laws or regulations or would subject Bank to unacceptable risk of loss. In the event of any termination hereunder, all Service Fees due Bank under this Agreement as of the time of termination shall become immediately due and payable. Notwithstanding any termination, this Agreement shall remain in full force and effect with respect to all transactions initiated prior to such termination.

## **15. Limitation of Liability; Disclaimer of Warranties.**

15.1 Except to the extent otherwise required by law, the liability of Bank in connection with the Business Online Banking Services will be limited to actual damages sustained by Customer and only to the extent such damages are a direct result of Bank's gross negligence, willful misconduct or bad faith. In no event shall Bank be liable for any consequential, special or indirect loss or damage that Customer may suffer or incur in connection with the Business Online Banking Services, including, without limitation, attorneys' fees, lost earnings or profits, loss or damage from subsequent wrongful dishonor resulting from Bank's acts, or for any indemnification claim, whether contractual, equitable or other, regardless of whether the likelihood of such claim, loss or damage was known by Bank and regardless of the basis, theory or nature of the action on which a claim is asserted. Except to the extent otherwise provided by law, Bank's aggregate liability to Customer for all losses, damages, and expenses incurred in connection with any single claim shall not exceed an amount equal to the monthly billing to Customer for Business Online Banking Services over the six (6) month-period immediately preceding the date on which the damage or injury giving rise to such claim is alleged to have occurred. Notwithstanding any of the foregoing, for transactions that are subject to Article 4A of the UCC, Bank shall be liable for such damages as may be required or provided under Article 4A or the Fedwire Regulations, as applicable, except as otherwise agreed in this Agreement. This Agreement is only between Bank and Customer, and Bank shall have no liability hereunder to any third party.

15.2 Notwithstanding the foregoing, but subject to Customer's compliance with the requirements of **Section 11**, if Customer incurs a loss pursuant to a transaction that Customer has properly

processed through the Business Online Banking Services, due to Bank's gross negligence or willful misconduct in the handling of such transaction, Bank will be responsible for returning any improperly transferred funds, with interest at the rate paid by Bank at such time on statement savings accounts, from the date of such error to, but not including, the date such funds are returned to the Account from which the funds were withdrawn and for directing to the proper recipient any payments or transfers that were previously misdirected or not completed. **RE-CREDITING OF CUSTOMER'S ACCOUNT AND RE-DIRECTING OF PAYMENTS AND TRANSFERS, AND INTEREST ONLY AS PROVIDED IN THE IMMEDIATELY PRECEDING SENTENCE, SHALL CONSTITUTE BANK'S ENTIRE LIABILITY FOR INCOMPLETE OR INCORRECT PAYMENTS OR TRANSFERS, AND CUSTOMER AGREES THAT IT SHALL NOT BE ENTITLED TO ANY OTHER RECOVERY OR RELIEF.** At Bank's option, payment of such interest may be made by crediting an Account of Customer with Bank.

15.3 Except to the extent required by law, or as otherwise expressly provided in this Agreement, Bank shall not be liable for any loss, damage or injury caused by any act or omission of any third party; for any charges imposed by any third party; or for any loss, damage or injury caused by any failure of the hardware or software utilized by a third party to provide Business Online Banking Services to Customer.

15.4 Bank shall not be liable or responsible for damages incurred as a result of data supplied by Customer that is inaccurate, incomplete, not current or lost in transmission. It is understood that Bank assumes no liability or responsibility for the inaccuracy, incompleteness or incorrectness of data as a result of such data having been supplied to Customer through data transmission.

15.5 Bank is not liable for failing to act sooner than required by this Agreement or applicable law. Bank also has no liability for failing to take action if Bank had discretion not to act.

15.6 Bank shall not be responsible for Customer's acts or omissions (including, without limitation, the amount, accuracy, timeliness of transmittal or due authorization of any entry, funds transfer order or other instruction received from Customer) or the acts or omissions of any other person, including, without limitation, any Automated Clearing House processor, any Federal Reserve Bank, any financial institution or bank, any transmission or communication facility, any receiver or receiving depository financial institution, including, without limitation, the return of an entry or rejection of a funds transfer order by such receiver or receiving depository financial institutions, and no such person shall be deemed Bank's agent. Bank shall be excused from failing to transmit or delay in transmitting an entry or funds transfer order if such transmittal would result in Bank's having exceeded any limitation upon its intra-day net funds position established pursuant to Federal Reserve guidelines or otherwise violating any provision of any risk control program of the Federal Reserve or any rule or regulation of any other U.S. governmental regulatory authority. In no event shall Bank be liable for any damages resulting from Bank's action or inaction which is consistent with regulations issued by the Board of Governors of the Federal Reserve System, operating circulars issued by a Federal Reserve Bank or general banking customs and usage. To the extent required by applicable laws, Bank will compensate Customer for loss of interest on funds as a direct result of Bank's failure to comply with such laws in executing electronic transfers of funds, if such failure was within Bank's control.

15.7 EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, CUSTOMER EXPRESSLY AGREES THAT USE OF THE BUSINESS ONLINE BANKING SERVICES IS AT CUSTOMER'S SOLE RISK, AND THE BUSINESS ONLINE BANKING SERVICES ARE PROVIDED "AS IS." BANK AND ITS SERVICE PROVIDERS AND AGENTS DO NOT MAKE AND EXPRESSLY DISCLAIM ANY WARRANTIES, EITHER EXPRESSED OR IMPLIED, WITH RESPECT TO THE BUSINESS ONLINE BANKING SERVICES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OR THAT THE BUSINESS

ONLINE BANKING SERVICES WILL BE UNINTERRUPTED OR ERROR FREE, WITHOUT BREACHES OF SECURITY OR WITHOUT DELAYS. IN THOSE STATES THAT DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY, THE LIABILITY OF BANK AND ITS SERVICE PROVIDERS AND AGENTS IS LIMITED TO THE FULLEST POSSIBLE EXTENT PERMITTED BY LAW.

15.8 Bank and Customer acknowledge and agree that the limitations of liability in this **Section 15** are a bargained-for allocation of risk and liability, and the parties agree to respect such allocation of risk and liability. Customer acknowledges and agrees that Bank would not enter into this Agreement without the limitations of liability set forth in this Section.

15.9 The provisions of this **Section 15** shall survive termination of this Agreement.

## **16. Indemnification.**

16.1 Except as otherwise expressly prohibited or limited by applicable law, Customer shall indemnify and hold Bank harmless from any and all liabilities, losses, damages, costs and expenses of any kind (including, without limitation, the reasonable fees and disbursements of counsel in connection with any investigative, administrative or judicial proceedings, whether or not Bank shall be designated a party thereto) which may be incurred by Bank due to any third party claim against Bank relating to or arising out of:

(i) any claim of any person that (a) Bank is responsible for any act or omission of Customer or (b) a Customer payment order contravenes or compromises the rights, title or interest of any third party or contravenes any law, rule, regulation, ordinance, court order or other mandate or prohibition with the force or effect of law;

(ii) any failure by Customer to observe and perform properly all of its obligations hereunder or any wrongful act of Customer or any of its Affiliates;

(iii) any breach by Customer of any of its warranties, representations, covenants or agreements;

(iv) any action taken by Bank in reasonable reliance upon information provided to Bank by Customer or any Affiliate or subsidiary of Customer; and

(v) any legal action that Bank responds to or initiates, including any interpleader action Bank commences, involving Customer or Customer's Account(s), including without limitation, any state or federal legal process, writ of attachment, execution, garnishment, tax levy or subpoena.

16.2 The provisions of this **Section 16** shall survive termination of this Agreement.

**17. Force Majeure.** Neither party shall bear responsibility for non-performance of this Agreement to the extent that such non-performance is caused by an event beyond that party's control, including, but not necessarily limited to, fire, casualty, breakdown in equipment or failure of telecommunications or data processing services, lockout, strike, unavoidable accident, act of God, riot, war or the enactment, issuance or operation of any adverse governmental law, ruling, regulation, order, decree or an emergency that prevents Bank or Customer from operating normally.

**18. Documentation.** The parties acknowledge and agree that all documents evidencing, relating to or arising from the parties' relationship may be scanned or otherwise imaged and electronically stored and the

originals (including manually signed originals) destroyed. The parties agree to treat such imaged documents as original documents and further agree that such reproductions and copies may be used and introduced as evidence at any legal proceedings including, without limitation, trials and arbitrations relating to or arising under this Agreement.

**19. Entire Agreement.** Bank and Customer acknowledge and agree that this Agreement and any amendments hereto and all other documents incorporated by reference therein, constitute the complete and exclusive statement of the agreement between them with respect to the Business Online Banking Services and supersede any prior oral or written understandings, representations and agreements between the parties relating to the Business Online Banking Services.

**20. Amendments.** Bank may, at any time, amend this Agreement or the Business Online Banking Services in its sole discretion and from time to time. Except as expressly provided otherwise in this Agreement, any such changes generally will be effective in accordance with the notice to Customer as described below. Customer will be deemed to accept any such changes if Customer accesses or uses any of the Business Online Banking Services after the date on which the change becomes effective. Customer will remain obligated under this Agreement, including without limitation, being obligated to pay all amounts owing thereunder, even if Bank amends this Agreement. Notwithstanding anything to the contrary in this Agreement, if Bank believes immediate action is required for the security of Bank or Customer funds, Bank may immediately initiate changes to any security procedures and provide prompt subsequent notice thereof to Customer.

**21. Severability.** If any provision of this Agreement shall be determined by a court of competent jurisdiction to be unenforceable as written, that provision shall be interpreted so as to achieve, to the extent permitted by applicable law, the purposes intended by the original provision, and the remaining provisions of this Agreement shall continue intact. In the event that any statute, regulation or government policy to which Bank is subject and that governs or affects the transactions contemplated by this Agreement would invalidate or modify any portion of this Agreement, then this Agreement or any part thereof shall be deemed amended to the extent necessary to comply with such statute, regulation or policy, and Bank shall incur no liability to Customer as a result of Bank's compliance with such statute, regulation or policy.

**22. Assignment and Delegation.** Bank may assign any of its rights or delegate any of its responsibilities in whole or in part without notice to or consent from Customer. Customer may not assign, delegate or otherwise transfer its rights or responsibilities under this Agreement without Bank's prior written consent, which consent Bank may grant or withhold in its sole discretion.

**23. Successors.** This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns.

**24. Non-Waiver.** No deviation from any of the terms and conditions set forth or incorporated in this Agreement shall constitute a waiver of any right or duty of either party, and the failure of either party to exercise any of its rights hereunder on any occasion shall not be deemed to be a waiver of such rights on any future occasion.

**25. Governing Law; Venue.** Any claim, controversy or dispute arising under or related to this Agreement shall be governed by and interpreted in accordance with federal law and, to the extent not preempted or inconsistent therewith, by the laws of the State of New York. The parties hereto further agree that any legal suit, action, or proceeding against them arising out of or relating to this Agreement shall be brought exclusively in the state and federal courts located in or having jurisdiction over Schenectady County, New York; and hereby accept the jurisdiction of such courts for the purpose of any such action or

proceeding and agree that venue for any such action or proceeding and each of the parties hereby irrevocably consents to the service of process in any action or proceeding.

**26. Notices, Instructions, Contacts.**

26.1 Except as otherwise expressly provided in this Agreement, all Customer communications and inquiries, including without limitation all notices that are required or permitted to be given by Customer (including all documents incorporated herein by reference) shall be made to Bank as follows:

*Postal Mail* — Customer can write Bank at:

**Trustco Bank  
Attn: Deposit Operations Manager  
P.O. Box 1082  
Schenectady, NY 12301-1082**

*Overnight Deliveries:*

**Trustco Bank  
Attn: Customer Service  
P.O. Box 1082  
Schenectady, NY 12301-1082**

*Telephone* — Customer may contact Bank by telephone Monday – Friday 9:00 a.m. – 6:00 p.m. Eastern Time (ET) at (518) 377-3311.

**Bank recommends that Customer not contact Bank by e-mail with respect to Business Online Banking Services. Regular email is not secure. Do not send confidential or sensitive information, such as a social security number, account number, personal identification number or password within the body of any email or any attachments thereto.**

All written notices and communications shall be sent by first class mail, postage prepaid and addressed to Bank at the address provided above. All such notices shall be effective upon receipt.

26.2 Customer authorizes Bank to, and Customer agrees that Bank may, send any notice or communication that Bank is required or permitted to give to Customer under this Agreement, including but not limited to notice of any change to the Business Online Banking Services or this Agreement, to Customer's business mailing address or Customer's business email address as it appears on Bank's records or electronically by posting the notice on Bank's website, on or with an Account statement or via facsimile and that any such notice or communication will be effective and deemed delivered when provided to Customer in such a manner. Customer agrees to notify Bank promptly about any change in Customer's business mailing or Customer's business email address and acknowledges and agrees that no such change will be effective until Bank has had a reasonable opportunity to act upon such notice. Customer agrees that Bank may consider any such notice or communication as being given to all Account owners when such notice or communication is given to any one Account owner.

**27. Jury Trial Waiver.** BANK AND CUSTOMER EACH AGREE THAT NEITHER BANK NOR CUSTOMER SHALL (I) SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM, OR ANY OTHER ACTION BASED UPON, OR ARISING OUT OF, THIS AGREEMENT OR ANY ACCOUNT OR THE DEALINGS OF OR THE RELATIONSHIP BETWEEN

BANK AND CUSTOMER, OR (II) SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANOTHER IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THE PROVISIONS OF THIS SECTION SHALL BE SUBJECT TO NO EXCEPTIONS. NEITHER BANK NOR CUSTOMER HAS AGREED WITH OR REPRESENTED TO THE OTHER THAT THE PROVISIONS OF THIS SECTION WILL NOT BE FULLY ENFORCED IN ALL INSTANCES. BANK AND CUSTOMER EACH ACKNOWLEDGE THAT THIS WAIVER HAS BEEN KNOWINGLY AND VOLUNTARILY MADE. The provisions of this **Section 27** shall survive termination of this Agreement.

**28. Beneficiaries.** This Agreement is for the benefit only of the undersigned parties hereto and is not intended to and shall not be construed as granting any rights to or otherwise benefiting any other person.

**29. Recording of Communications.** Customer and Bank agree that all telephone conversations or data transmissions between them or their agents made in connection with this Agreement may be recorded and retained by either party by use of any reasonable means.

**30. Facsimile Signature.** The parties acknowledge and agree that this Agreement may be executed and delivered by facsimile or by other electronic means and that such a signature shall be treated as and have the same force and effect as an original signature. Notwithstanding the foregoing, Bank may, in its sole and exclusive discretion, also require Customer to deliver this Agreement with an original signature for its records.

**31. Relationship.** Customer and Bank are not, and Customer and Bank's licensors are not, partners, joint venturers or agents of each other as a result of this Agreement.

**32. Additional Customer Representations and Warranties.** For purposes of this Section, "Governmental Unit" means (A) any town, city, school district or school administrative unit of any nature, water district, sewer district, sanitary district, housing authority, hospital district, municipal electric district, county or other political subdivision, government agency, bureau, department or other instrumentality, or quasi-governmental corporation or entity defined by applicable law, and (B) any state government or any agency, department, bureau, office or other instrumentality thereof.

(a) If Customer is a Governmental Unit of the type included in (A) above, Customer and the individual signing below represent, warrant and agree:

(i) that this Agreement has been duly executed by the Treasurer, Finance Director, or other financial officer authorized by law to make disbursements of governmental funds and enter into banking agreements;

(ii) that this Agreement has been duly authorized by a vote of the governing body of Customer that was duly called and noticed, at which the necessary majority voted to authorize this Agreement, as evidenced by the certification of the Secretary of the governing body and provided with this Agreement;

(iii) that only persons authorized to disburse municipal funds from any Account will be enrolled as Authorized Users having access to wire transfer, ACH or Account transfer functions;

(iv) that if this Agreement remains in effect for more than one budget year, upon request of Bank, Customer will ratify and provide evidence of the renewal of this Agreement in subsequent years; and

(v) that this Agreement is the valid and binding obligation of Customer, enforceable against Customer in accordance with its terms.



(b) If Customer is a Governmental Unit of the type included in (B) above, Customer and the individual signing below represent, warrant and agree:

(i) that this Agreement has been duly executed by a financial officer authorized by law to make disbursements of governmental funds and enter into banking agreements on behalf of Customer;

(ii) that this Agreement has been duly authorized by a senior officer of Customer;

(iii) that Customer has complied with all state laws and regulations, including any regulations or policies adopted by Customer with respect to electronic commerce in entering into and performing this Agreement and any related ACH or wire transfer agreement;

(iv) that only persons authorized to disburse Customer funds from any Account will be enrolled as Authorized Users having access to wire transfer, ACH or Account transfer functions; and

(v) that this Agreement is the valid and binding obligation of Customer, enforceable against Customer in accordance with its terms.

(c) For a Customer of the type included in either (A) or (B) above, Customer and the individual signing below further represent, warrant and agree:

(i) that upon Bank's request, Customer shall provide evidence of those persons authorized to disburse Customer funds as described in (a)(iii) and (b)(iv) above;

(ii) that upon Bank's request, Customer will certify its compliance with (a) or (b), as applicable, on an annual basis; and

(iii) that Customer will provide notice to Bank if any person authorized to disburse Customer funds as described in (a)(iii) and (b)(iv) is no longer so authorized or his/her position of such authority is terminated for any reason.

**33. Use of Services with Designated Related Entities.** This Section governs Customer's use of the Business Online Banking Services in conjunction with certain of Customer's Designated Related Entities (as defined below), as applicable and as may be approved by Bank from time to time.

33.1 This Section relates to: (i) Bank's provision of the Business Online Banking Services described in and associated with this Agreement to any of Customer's Designated Related Entities in relation to each such party's own Accounts with Bank; (ii) viewing the Accounts of Customer's Designated Related Entities ("View Access"); (iii) transfers of funds between and among Customer's Accounts and the Accounts of any Designated Related Entities ("Internal Transfers"); and (iv) transfers of funds from the Account(s) of Customer and/or any Designated Related Entities to third parties by bill payment, ACH or wire transfer, where applicable, as and when approved by Bank in its sole and exclusive discretion ("External Transfers"). The permitted scope of View Access, Internal Transfers and External Transfers is described in this Section.

33.2 Consistent with this Section, Customer and all Designated Related Entities agree, jointly and severally, to be bound by and liable for the terms and conditions set forth in this Agreement and agree that each obligation of Customer shall be performed by and be the responsibility of all of them. Without limiting the foregoing, Customer and each Designated Related Entity shall be jointly and severally liable for (a) the use of any of the Business Online Banking Services as described herein, (b) any fees due with respect to the Business Online Banking Services, (c) any overdraft resulting from use of the Business Online

Banking Services, and (d) any post-dated instructions or transfers, including Internal Transfers and External Transfers, which may be initiated by any Authorized User.

33.3 For purposes of this Section, “**Designated Related Entity**” means a business entity that: (a) is controlled by or under common control with Customer; and (b) whose authorized signer(s) has agreed to permit the linking of its accounts with the Accounts of Customer to authorize and engage in View Access, Internal Transfers and External Transfers, as more fully described herein.

, to authorize and engage in the View Access, Internal Transfers and External Transfers described in this Section

The term ‘control’ as used herein means any entity which Customer owns, directly, or indirectly, in excess of fifty (50%) percent of the equity interests or voting rights or which is under direct or indirect common control with Customer whether now existing or subsequently created or acquired during the term of this Agreement. If Customer seeks to enroll a business account of a Designated Related Entity, then (i) the individual acting as the Authorized Signer for Customer must demonstrate that he/she is also an Authorized Signer for each such Designated Related Entity; and (ii) if Bank confirms that he/she is an Authorized Signer of the Designated Related Entity, such individual must execute a **Trustco Bank Business Online Banking Services Agreement** to confirm the agreement of Customer and each Designated Related Entity to the terms of this Agreement. Trustco will only permit Customer to link Accounts with those of a Designated Related Entity where it is satisfied, in its sole discretion, that the Designated Related Entities have duly authorized Trustco to implement such account linking.

Customer designates to Bank in writing or otherwise in accordance with the requirements of the Business Online Banking Services and such other application, schedule, set-up or other form or document as Bank may require from time to time (hereinafter a “Designated Related Entity Access Form”).

Subject to Bank’s approval, each Designated Related Entity hereby authorizes and requests Bank to provide the Business Online Banking Services to each Designated Related Entity as may be requested by Customer from time to time, acting as agent for each Designated Related Entity. Such acts of Customer may be requested by Customer’s Administrator and any Authorized User. Customer is authorized to designate which Accounts of Designated Related Entities with Bank (which may include all such Accounts) shall be accessed using the Business Online Banking Services and which of the Business Online Banking Services shall be used in conjunction with each Designated Related Entity. Bank is hereby authorized and directed by each Designated Related Entity to accept instructions from Customer, as agent for Designated Related Entity, with respect to any and all Business Online Banking Services provided to Designated Related Entity from time to time under this Agreement.

#### 33.4 Rights under this Section.

33.4.1 Without limiting the foregoing, Customer shall have the ability hereunder, upon direction of Customer’s Administrator and/or Authorized User(s) and without inquiry by or notice from Bank, to access and utilize the Business Online Banking Services described in this Agreement in conjunction with the Account(s) of Customer and/or any Designated Related Entities. Subject to Bank’s prior approval, in its sole and exclusive direction, such use may include: (i) View Access to the Account(s) of any Designated Related Entity; (ii) initiating or otherwise engaging in Internal Transfers involving the Account(s) of any Designated Related Entity; and (iii) initiating or otherwise engaging in External Transfers involving the Account(s) of any Designated Related Entity.

33.4.2 Without limiting the foregoing, each Designated Related Entity shall have the ability hereunder, upon direction of Customer’s Administrator and/or Authorized User(s) and without inquiry by or notice from Bank, to utilize the Business Online Banking Services described in this Agreement in conjunction with the Account(s) of Customer or any Designated Related Entities. Subject to Bank’s prior

approval, in its sole and exclusive direction, such use may include: (i) View Access to Customer's Account(s) or of any other Designated Related Entity; (ii) initiating or otherwise engaging in Internal Transfers involving Customer's Account(s) or of any other Designated Related Entity; and (iii) initiating or otherwise engaging in External Transfers involving Customer's Account(s) or of any Designated Related Entity.

33.4.3 Without limiting the foregoing, individual or daily transfers between Accounts may be made in any amount not exceeding the available balance in the Account from which the transfers are made. Bank reserves the right to limit the frequency and dollar amount of transfers from the Accounts for security reasons. In addition, the ability of Customer and each Designated Related Entity to transfer funds between certain Accounts may be limited by law and as set forth in each Account Disclosure Notice between Bank and Customer or Bank and the applicable Designated Related Entity.

### 33.5 Acknowledgments.

33.5.1 Customer and each Designated Related Entity acknowledge and agree that, pursuant to the terms hereunder, Customer and each Designated Related Entity, acting through any Authorized User (whether or not in fact authorized in a particular case, including whether or not a signer on a Designated Related Entity's Account(s)) and as applicable, will be permitted View Access to the Account(s) of Customer or any Designated Related Entity, to initiate Internal Transfers and to engage in External Transfers. Customer and each Designated Related Entity also acknowledge and agree that, pursuant to the terms hereof and subject to Bank's prior approval, in Bank's sole and exclusive discretion, Customer and each Designated Related Entity may also be permitted to utilize additional Business Online Banking Services involving the Account(s) of Customer or any Designated Related Entity. Customer and each Designated Related Entity hereby expressly acknowledge and agree to comply with, abide and be governed by the terms described in this Agreement regarding their respective use of the Business Online Banking Services. Without limiting the foregoing, Customer and each Designated Related Entity agree that an Internal Transfer or External Transfer initiated by an Authorized User employed by *any* of them (or by any person utilizing the security procedures applicable to such Authorized User) shall be deemed an act of an Authorized User of Customer or the Designated Related Entity whose funds are affected by such transfer, and all of the terms and conditions of this Agreement shall apply to such transfer as if it had been ordered by such Customer or Designated Related Entity.

33.5.2 Customer specifically acknowledges and agrees that its rights with respect to the Account(s) of each Designated Related Entity are limited to those rights specifically described in this Section, and that other features of the Business Online Banking Services described in the Agreement may or may not be made available with respect to any Designated Related Entity's Account(s).

33.5.3 Each Designated Related Entity specifically acknowledges and agrees that its rights with respect to Customer's Account(s) and of each other Designated Related Entity are limited to those rights specifically described in this Section, and that other features of the Business Online Banking Services described in this Agreement may be made available with respect to Customer's Account(s) or the Account(s) of any other Designated Related Entity at Bank's sole and exclusive discretion.

33.5.4 Customer and each Designated Related Entity acknowledge and agree that: (a) each Administrator and Authorized User of the Services will have the ability to exercise the rights described herein with regard to both Customer's and each Designated Related Entity's Account(s); (b) each Administrator of Customer and each Authorized User designated by such Administrator(s) shall be deemed to be an Authorized User of each Designated Related Entity, subject to such limitations, restrictions and other requirements designated by the Administrator(s) for each Authorized User with respect to each Account of each Designated Related Entity; and (c) all Authorized Users of a Designated Related Entity

may be designated by such Administrator(s) as an Authorized User of Customer and all other Designated Related Entities, subject to such limitations, restrictions and other requirements designated by the Administrator(s), and as otherwise provided under the terms herein.

33.5.5 Customer may remove or add additional Designated Related Entities, or additional Accounts of current or future Designated Related Entities, to this arrangement without notice to, or the knowledge or consent of, any current Designated Related Entity.

33.5.6 Customer may add additional Administrator(s) and/or Authorized User(s) to this arrangement without the knowledge or consent of any other Designated Related Entity. Such Administrator(s) and/or Authorized User(s) may or may not be signers on the Designated Related Entity's Account(s), in which case funds can be transferred to or from any Designated Related Entity's Account(s) by individuals who are not signers on the Designated Related Entity's Account(s).

33.5.7 Customer and each Designated Related Entity acknowledge and agree that Bank did not at any time solicit Customer and/or any Designated Related Entity for activation of this arrangement, and that Bank is providing the arrangement as an accommodation to and at the express request of Customer and each applicable Designated Related Entity.

33.5.8 Customer and each Designated Related Entity acknowledge and agree that Customer and each Designated Related Entity are all responsible for reviewing and understanding any negative impact on Customer or any Designated Related Entity that may arise due to this arrangement or allowance of these affiliated-entity access services (for example, loss of any insurance coverage, increased possibility of liability for obligations or actions of each other in insolvency or otherwise, and increased losses due to unauthorized transactions).

33.5.9 Customer and each Designated Related Entity acknowledge and agree that Bank shall have no obligation to allow any person or entity to become a Designated Related Entity with respect to this arrangement, to allow any Account of any person or entity to be added to this arrangement, or to provide or continue to provide this arrangement for any Designated Related Entity or Account. Bank may also, at any time and from time to time, establish limits on or eligibility criteria for the types or number of Designated Related Entities or Accounts for which this arrangement is provided.

### 33.6 Representations, Warranties and Covenants.

33.6.1 Customer and each Designated Related Entity represent, warrant and covenant that any and all transfers and commingling of funds that may occur via the Business Online Banking Services and as described herein, and all other aspects of the rights with respect to the Account(s) of Customer and each other Designated Related Entity, have been duly authorized by all necessary parties, including, without limitation, the accountholder of each Account, and that Customer and each Designated Related Entity have obtained, and shall maintain in their regular business records and make available to Bank upon reasonable demand for a period of six (6) years after the termination of this Agreement or any Business Online Banking Service(s), adequate documentary evidence of such authorization from the accountholder of each Account, executed by the duly authorized officer(s) of each such accountholder in accordance with that accountholder's organizational requirements.

33.6.2 Customer and each Designated Related Entity further covenant and agree that: (a) each transfer or any commingling of funds that may occur via the Business Online Banking Services and described herein shall not be in violation of any of their internal policies and procedures, nor be in violation of any applicable federal, state or local statute, ordinance, regulation or rule of law, or of any decree, judgment or order of any judicial or administrative authority; and (b) this Agreement has been duly

authorized by all necessary organizational action and are the valid and binding agreements of each of them, enforceable in accordance with their terms.

33.7 Ongoing Customer Responsibilities. Customer and each Designated Related Entity shall have the sole responsibility, on an ongoing basis, for:

(i) Monitoring the features and capabilities of the Business Online Banking Services and assessing the propriety of continuing its enrollment in the Business Online Banking Services and the activities authorized under this Section 33;

(ii) Assessing the propriety of its continuing participation in the activities authorized hereunder (which includes Customer's authority and ability to designate additional Designated Related Entities, additional Accounts, and additional Authorized Users);

(iii) Obtaining from Customer updated listings of all Designated Related Entities, Accounts and Authorized Users under this arrangement, together with such further information concerning such Designated Related Entities, Accounts and Authorized Users as the Designated Related Entity deems necessary;

(iv) Obtaining from Customer the level of access (e.g., "View" only or "Full") provided to each Authorized User, and determining the propriety of that level of access; and

(v) Establishing and maintaining appropriate procedures to account for its funds and transactions in its Accounts.

33.8 Modifications. Customer and each Designated Related Entity acknowledge and agree that additional Designated Related Entities may be added to this arrangement by request of Customer, subject to Bank's approval. A Designated Related Entity may be removed from this arrangement by request of Customer, or by action of Bank. Each Designated Related Entity hereby approves of the addition or removal, at any time, of other Designated Related Entities, Accounts and Authorized Users as provided herein, without notice to or further consent of such Designated Related Entity. Customer and each Designated Related Entity acknowledge and agree that the addition of any new or deletion of any current Designated Related Entity(ies) to this arrangement shall require the execution and delivery of an appropriate form(s) by Customer, and by any new Designated Related Entity(ies) in Bank's sole discretion, which documents shall be considered a part of this arrangement and otherwise attached hereto. Removal of a Designated Related Entity shall not relieve that Designated Related Entity of any contingent or matured obligation incurred hereunder prior to that removal.

33.9 Indemnification. Without limiting anything else contained herein, Customer and each Designated Related Entity shall indemnify Bank in the manner described in **Section 16** of this Agreement against any claim made by any of them, or by any third party, relating to or arising out of Bank's compliance with the instructions of Customer or any Designated Related Entity pursuant to this Agreement, including, without limitation, any claim that any transfer or deposit authorized pursuant hereto was wrongful as against any of Customer, any Designated Related Entity, or any such third party. The foregoing indemnification obligation shall also apply, and Bank shall have no liability whatsoever, in the event that any of the Services are used by Customer and/or any current Designated Related Entity(ies) involving any new Designated Related Entity(ies) for which a new request has not been delivered to Bank by Customer, as described in **Section 33.8** above.

**34. Third Party Service Provider Activities.** Subject to Bank's prior approval and in its sole and exclusive discretion, Customer may be permitted to use one or more of the Services provided hereunder on

behalf of and in conjunction with Accounts that belong to Customer's clients, who may or may not otherwise be customers of Bank, as well as on Customer's own behalf (hereinafter, in such capacity as a "Third-Party Service Provider"). Customer shall execute any such other agreement(s) or documents as deemed necessary or appropriate by Bank prior to the initiation or continuation by Customer of any Services in the capacity of a Third-Party Service Provider. Customer agrees that Bank retains the right to reject any request by Customer to engage in Third-Party Service Provider activities as well as any transactions initiated by Customer in such capacity, in Bank's sole discretion. In the event Bank approves Customer's use of the Services as a Third-Party Service Provider, then the following shall also apply:

(a) Customer represents and warrants to Bank that each Customer client has given Customer authority to access and conduct transactions with respect to its Accounts through use of any of the Services to the same extent as if Customer owned them, including in the capacity of a "third party service provider;"

(b) each reference to "Customer" in the Agreement will be deemed to be a collective reference to Customer and each Customer client whose Accounts are included in Bank's implementation of Customer's set-up for the Services;

(c) all of the provisions set forth in the Agreement will apply to the Customer client's Account(s) as if Customer owned them;

(d) each person who is authorized to act on Customer's behalf with respect to a Service is also authorized to act on Customer's behalf to the same extent with respect to the Accounts of each Customer client whose Accounts are included in Bank's implementation of Customer's set-up for that Service; and

(e) Customer shall be liable for all monetary, confidentiality and other obligations to Bank under this Agreement as they relate to Customer's use of the Services for itself as well as each such Customer client. Bank may require written confirmation from each Customer client that it has authorized Customer to include its Accounts in Bank's implementation of Customer's set-up for the Services, and Customer agrees to notify Bank immediately if that authority is revoked or changed.

**35. Section Headings.** The section headings used in this Agreement are only meant to organize this Agreement and do not in any way limit or define Customer's or Bank's rights or obligations.

## **PART II: ONLINE BANKING SERVICE**

This Part applies to Online Banking.

**36. Definitions.** In addition to the definitions set forth in Part I, certain terms used in this Part II are defined in the specific portion of this Part II where they are used. The following terms are also used throughout this Part II and have the meanings indicated:

*"Available Funds"* means the dollar amount of money in a Deposit Account that is currently available for use. It considers all collected funds on deposit, all posted transactions, certain electronic transactions, any holds placed on the Deposit Account due to uncollected funds, pending deposits, or

withdrawals, and any overdraft or other credit line balance associated with the Deposit Account. Please refer to Bank's Federal Availability Schedule in Compliance with the Expedited Availability Act and Regulation CC ("Federal Availability Schedule") and Bank's Deposit Account Disclosure Notice for more information.

**37. Eligibility.** Customer is eligible to use Online Banking if Customer maintains an Account (checking, savings and/or loan), has executed this Agreement, satisfies the Computer requirements associated with Online Banking and maintains an email address, and if Bank has otherwise approved Customer's use of Online Banking as described further below.

**38. Access.** To use Online Banking, Customer must have a Computer, access to the Internet and an email address. Customer will be assisted by Bank in setting up Online Banking. Once Bank has processed the set-up information and verified Customer's Account information, Bank will send Customer (by, e.g., telephone, secure email or similar method as Bank may elect from time to time) confirmation of Bank's acceptance of Customer's enrollment. For security reasons and to maintain the confidentiality of Customer's Log-on ID, Password(s), and Secure Login information, Customer will select its own Log-on ID, Password, and other secure factors authenticating and authorizing Customer to obtain access to Online Banking. Customer can also add or remove access to any of Customer's Accounts through Online Banking by completing required form(s). Access to Customer's Accounts through Online Banking will be based upon the identification of Authorized Users and authority levels specified by Customer. Except as may otherwise be set forth in this Part II, Bank shall have no responsibility or obligations whatsoever to monitor transactions through Online Banking to determine that they are made by or on behalf of Customer.

**39. Administrator and Authorized Users.**

39.1 Customer shall designate an Administrator of its Accounts in the Set-Up Form. Customer is solely responsible for designating its Administrator.

39.2 The Administrator may designate other Administrators and/or Authorized Users. Notwithstanding the foregoing, Bank recommends, as an additional security procedure, that Customer designate only one Administrator at a time. Customer accepts and agrees that it is sole responsibility designation of and the acts and/or omissions of each Administrator, including but not limited to the designation of Authorized Users. Customer understands and agrees that Administrator(s) possess the authority to bind Customer to the terms and conditions of any disclosures or agreements that are presented or agreed to by an Administrator; will control, and Customer authorizes Administrator(s) to control, access by Authorized Users of Online Banking by instructing Bank to issue Access Devices. The Administrator(s) may instruct Bank to add, change or terminate Customer's Authorized User(s) or de-activate an Access Device(s) from time to time and in his/her sole discretion. Bank does not control access by any of Customer's Authorized Users to any feature of Online Banking. In the event that Customer designates more than one Administrator, Bank recommends that Customer manage its use of Online Banking by requiring dual approval to set up new Authorized Users.

39.3 Customer will require each Administrator and each Authorized User to review and comply with all provisions of this Agreement and all other applicable agreements. Customer acknowledges and agrees that it is fully responsible for the failure of any Administrator or any Authorized User to so comply. Customer is responsible for any payment, transfer and other use of Online Banking and any charges incurred by any Administrator and any Authorized User, even if such Administrator or Authorized User exceeds his/her authorization as established by Customer.

39.4 If any Authorized User authorizes other persons/entities to use such Authorized User's Access Devices in any manner, said authorization will be considered unlimited in amount and manner until

Customer has notified Bank in writing as set forth in this Agreement, that Customer has revoked the authorization and changed, or caused Bank to change, the subject Authorized User's Access Devices. Customer is responsible for any transactions made by such persons/entities until Customer notifies Bank that transfers by that person/entity are no longer authorized and Bank has had a reasonable opportunity to act upon the requested change. Bank will not be liable for and will not reimburse Customer for any losses that may occur as a result of this authorized use of an Authorized User's Access Devices.

39.5 Customer shall notify Bank of any changes in access to or use of Online Banking by the Administrator(s) or Authorized User(s) in accordance with the terms of this Agreement. Notwithstanding the foregoing, whenever an Administrator or Authorized User leaves Customer's employ or Customer otherwise revokes an Administrator's or Authorized User's authority to access or use Online Banking, Customer must notify Bank in writing immediately.

#### **40. Access Devices; Security Procedures.**

40.1 Upon successful enrollment, Authorized Users of Customer can access Online Banking from Bank's designated website, using the Access Devices and Security Procedures applicable to Customer's access to and use of Online Banking, as described throughout this Agreement from time to time (hereinafter collectively the "Security Procedures").

40.2 Customer accepts as its sole responsibility the use, protection and maintenance of confidentiality of, and access to, the Access Devices. Customer agrees to take reasonable precautions to safeguard the Access Devices and keep them confidential. Customer agrees not to reveal the Access Devices to any unauthorized person. Customer further agrees to notify Bank immediately if Customer believes that the confidentiality of the Access Devices has been compromised in any manner.

40.3 The Access Devices identify and authenticate Customer (including the Administrator and Authorized Users) to Bank when Customer accesses or uses Online Banking. Customer authorizes Bank to rely on the Access Devices to identify Customer when Customer accesses or uses any of Online Banking and as signature authorization for any payment, transfer or other use of Online Banking. Customer acknowledges and agrees that Bank is authorized to act on any and all communications or instructions received using the Access Devices, regardless of whether the communications or instructions are authorized. Bank owns the Access Devices, and Customer may not transfer them to any other person or entity.

40.4 Customer acknowledges and agrees that the Access Devices and other Security Procedures applicable to Customer's use of Online Banking and set forth in this Part II as well as this Agreement generally are a commercially reasonable method for the purpose of verifying whether any payment, transfer or other use of Online Banking was initiated by Customer. Customer also agrees that any election Customer may make to change or waive any Security Procedures recommended by Bank is at Customer's risk and that any loss resulting in whole or in part from such change or waiver will be Customer's responsibility. Customer further acknowledges and agrees that the Access Devices are not intended and that it is commercially reasonable that the Access Devices are not intended to detect any errors relating to or arising out of a payment, transfer or any other use of Online Banking.

#### **41. Basic Features of Online Banking.**

By subscribing to Online Banking, Customer can choose to have access to various of the basic features of Online Banking, which can include the following features:

- (a) View Account(s) histories;



- (b) Export Account(s) histories, including the use of financial management software;
- (c) Perform Internal Transfers from Customer's checking, money market deposit, savings and certain line of credit Account(s) to Customer's checking, money market deposit, savings and loan Account(s);
- (d) Change Customer's address;
- (e) Stop payment of checks written (Customer may refer to Bank's Fee Schedule for applicable fees); and
- (f) Sign up for Account alerts.

In addition to basic features of Online Banking, additional features or modules related to Online Banking may be offered from time to time by Bank, in its sole and exclusive discretion, including but not limited to the following:

(i) **ACH Originations.** ACH originations are subject to the terms and conditions of Part III of this Agreement. The ACH Origination Service allows Customer to initiate and approve (with pre-authorization) certain ACH transactions that Customer desires Bank to enter into the ACH network on Customer's behalf.

(ii) **Wire Transfers.** Wire transfers are subject to the terms and conditions of Part IV of this Agreement. The Wire Transfer Service allows Customer to transfer funds electronically, typically from Customer's Account(s) to other account(s) with Bank or to account(s) at other banks.

(iii) **Re-order Checks.** This feature allows Customer to request and pay for additional checks for any of Customer's Account(s).

(iv) **Bill Payment.** The bill payment feature allows Customer to pay bills to certain third-party payees. This feature is subject to the terms and conditions provided in **Section 46** of this Part II.

(v) **Mobile Banking.** Mobile banking allows Customer to use a smartphone or other eligible mobile device to perform certain electronic banking tasks such as view and monitor certain Account balances, transfer funds between certain Accounts, and pay bills. This feature is subject to the terms and conditions provided in Part V of this Agreement.

Additional electronic business banking services may be added by Bank from time to time in Bank's sole discretion. The use of certain features or modules related to Online Banking may incur fees or other charges, which are disclosed in the Fee Schedule.

**42. Internal Transfers.** Internal Transfers (transfers between Customer's eligible Accounts) may be processed as follows:

42.1 **One-Time Transfers.**

(i) One-Time transfers and payments are used for transfers and payments between eligible Accounts which occur on an infrequent or irregular basis, or which vary in amount. Such transfers may only be scheduled for a Business Day. To have a transfer processed on the same Business Day, Bank must receive Customer's instructions before the established funds transfer cut-off time described in **Section 43.**

Customer must have sufficient Available Funds (either in the Account or via an overdraft line of credit) on the day and at the time Customer requests a same-day one-time transfer, as the transfer is memo-posted to Customer's Account immediately.

(ii) Customer may also request that a transfer be made on a future date that Customer may designate which is in advance of the Scheduled Transfer Date. Such transfers may only be scheduled for a Business Day. The "Scheduled Transfer Date" will be the effective date Customer enters, or the previous Business Day should the effective date fall on a weekend or holiday. If Customer requests a transfer for a future date, Bank processes the transaction at the close of business on that day only if it is a Business Day; otherwise, the transaction will be processed on the following Business Day. If Bank receives Customer's instruction after the end of a Business Day, Bank will process the transaction on Bank's next Business Day.

(iii) If Customer designates an Internal Transfer for a future date, Customer must have sufficient Available Funds before the established funds transfer cut-off time. Scheduled future Internal Transfers may be cancelled up to the established funds transfer cut-off time in advance of the Scheduled Transfer Date.

42.2 Recurring Transfers. If Customer designates an Internal Transfer as a recurring transfer, Customer may request, and Bank will use, a Scheduled Transfer Date that re-occurs on a specified regular basis (e.g., weekly, bi-weekly, semi-monthly, monthly, etc.). In conjunction with each Internal Transfer, Customer may designate an "end" date. Customer must have sufficient Available Funds before the established funds transfer cut-off time on the Scheduled Transfer Date as described below. Recurring transfers may be cancelled up to the established funds transfer cut-off time in advance of the Scheduled Transfer Date.

42.3 Limits on Transfers. Internal Transfers initiated through Online Banking are subject to there being sufficient Available Funds in the affected Account to cover the transfer on the Scheduled Initiation Date. Except as provided herein, Internal Transfers are subject to the terms and conditions applicable to such Account as set forth in the governing Account Disclosure Notice. Bank reserves the right to limit the frequency and dollar amount of transfers for security reasons.

Customer's ability to transfer funds between and/or make payments from Customer's savings or money market Deposit Accounts is limited by federal and state law, as may be further set forth in the Account Disclosure Notice.

#### **43. Internal Transfers: Other Features.**

43.1 Account Designation. Customer will designate Accounts between which Customer may transfer funds electronically through Online Banking. All of these Accounts must be in Customer's name (as owner or co-owner), unless otherwise approved by Bank and subject to the terms of this agreement, and be eligible for Internal Transfer. Eligible Accounts for Internal Transfer include checking, savings, and money market Accounts.

43.2 Cut-off Time; Funds Availability. Although Customer receives immediate provisional credit upon completion of an Online Banking session for Internal Transfers made during the session, Customer must make Internal Transfers before 5:00 p.m. ET on a Business Day for those funds to be posted on an Account on the same Business Day and to be available for non-Online Banking transactions. Internal Transfers designated as One-Time transactions made after 5:00 p.m. ET on a Business Day or on a weekend or holiday will be available for the payment of non-Online Banking transactions on the following Business Day.

**44. Internal Transfers: Canceling or Modifying.** A One-Time Internal Transfer cannot be canceled. In order to cancel or change a scheduled transaction through Online Banking that is designated as “Future” or “Recurring,” Customer must use Online Banking and follow the instructions provided to Customer. Customer must cancel or modify the “Future” or “Recurring” Internal Transfer using Online Banking before the cut-off times described above.

**45. Stop Payment.** Subject to Bank’s approval, Customer may elect to use Online Banking to initiate a stop payment request for any check written on Customer’s Accounts. Customer agrees that any stop payment request shall be null and void after six (6) months from the date of the order, or such earlier time as communicated by Bank to Customer. Customer agrees to provide all required information relating to stop payment requests. If Customer fails to provide Bank with complete information or if the information Customer provides is incorrect, Customer agrees that Bank shall not be responsible for any failure to stop payment on such item. Customer understands that if the stop payment request comes too late for Bank to have a reasonable time to act on it prior to paying, settling for, posting or becoming accountable for the check described in the request, then Customer’s stop payment request shall be of no effect. Customer agrees not to make a claim against Bank if the check is paid through inadvertence, accident, oversight or if Bank is required to pay such check by a holder in due course or if by reason of such payment, other items drawn on Customer’s Account(s) are returned insufficient. Customer agrees to indemnify and hold Bank harmless from and against any and all losses, damages and expenses, including court costs and attorney’s fees, incurred by Bank due to Bank’s refusal of payment of any check or other item in accordance with Customer’s stop payment instructions. Unless otherwise provided in this Part II, Customer may not stop payment of electronic fund transfers. Therefore, Customer should not employ electronic access for purchases or services unless Customer is satisfied that it will not need to stop payment.

**46. Bill Payment Service.**

46.1 The Online Banking Bill Payment Service (“Bill Payment”) allows Customer to schedule business-purpose bill payments through the Internet. Bill Payment is offered through and actual payments are handled by Bank’s third party service provider. Additional terms and conditions govern Bill Payment and are available on the Online Banking site. In addition to the terms and conditions available on the Service’s site, this Agreement, including the Bill Payment security procedures described herein and the following additional terms and conditions, shall also apply to Customer’s use of Bill Payment.

46.2 Customer is required to enroll in Bill Payment prior to using it. Each Deposit Account owner, regardless of the type of ownership held on a Deposit Account (joint, sole, business, etc.), must enroll separately to use Bill Payment. Bill Payment may be used for the business use of Customer only. Any attempt or use of Bill Payment to process payments for third parties is prohibited and can result in termination of Bill Payment.

46.3 Enrollment in Bill Payment includes separate terms and conditions provided during enrollment that Customer will be required to accept as a condition for using Bill Payment. Customer and/or at least one (1) Authorized Representative must enroll in Bill Payment in order for it to be activated. Customer and/or Customer’s Authorized Representative and all Authorized Users of Bill Payment will be required to review and accept, and thereby be bound by, the additional terms and conditions, which will be displayed electronically during the Bill Payment Service enrollment process. Without limiting the foregoing, by granting its Authorized Representative(s) and any Authorized User(s) access to Bill Payment, Customer acknowledges and agrees to all of the terms and conditions contained in this Agreement, as well as those available on the Service’s site, with respect to the Bill Payment Service.

46.4 Except as is otherwise provided by this Agreement or by applicable law, Bank cannot and will not guarantee or have any responsibility whatsoever for the completion or accuracy of transactions

performed through Bill Payment, including electronic fund transfers that Customer requests be performed by Bank's service provider. Payments initiated through Bill Payment that are paid via paper check may appear to be drawn on a third-party processor and not Bank.

**46.5 Single Payments.** A single payment will be processed on the Business Day that Customer designates as the payment's process date, provided the payment is submitted prior to the daily cut-off time on that date. The daily cut-off time is currently 2:00 p.m. A single payment submitted after the cut-off time on the designated process date will be processed on the following Business Day. If you designate a non-Business Day as the payment's process date, the payment will be processed on the first Business Day following the designated process date.

**46.6 Recurring Payments.** When a recurring payment is processed, it is automatically rescheduled by the system. Based upon your selected frequency settings for the payment, a process date is calculated for the next occurrence of the payment. If the calculated process date is a non-Business Day, it is adjusted based upon the following rules:

**46.6.1** If the recurring payment's "Pay Backward" option is selected, the process date for the new occurrence of the payment is adjusted to the first Business Day prior to the calculated process date. If the recurring payment's "Pay Backward" option is not selected (or if the "Pay Backward" option is not available), the process date for the new occurrence of the payment is adjusted to the first Business Day after the calculated process date.

**46.6.2** If Customer's frequency settings for the recurring payment specify the 29th, 30th, or 31st as a particular day of the month for processing and that day does not exist in the month of the calculated process date, then the last calendar day of that month is used as the calculated process date.

**46.7** For single and recurring payments, CUSTOMER MUST ALLOW AT LEAST FIVE (5) BUSINESS DAYS, PRIOR TO THE DUE DATE, for each bill payment to reach the payee. Any bill payment can be changed or canceled, provided Customer accesses the bill paying service prior to the cut-off time on the Business Day prior to the Business Day the bill payment is going to be initiated.

**46.8** Customer agrees to have Available Funds on deposit in the Account Customer designates in amounts sufficient to pay for all bill payments requested, as well as any other payment obligations Customer has to Bank. Bank reserves the right, without liability, to reject or reverse a bill payment if you fail to comply with this requirement or any other terms of this section. If you do not have sufficient funds in the Account and Bank has not exercised its right to reverse or reject a bill payment, you agree to pay for such payment obligations on demand. You further agree that Bank, at its option, may charge any of your Accounts with Bank to cover such payment obligations.

**47. Balance Reporting.** This feature provides Customer with various online reports that display certain Account(s) balances, status summary and information detail that can be reviewed online and exported. This feature also provides online access to images of paid checks.

**48. Alerts.** Online Banking provides optional, voluntary Account alerts associated with certain modules of Online Banking that must be activated by Customer. Account alerts allow Customer to choose alert messages for Customer's Account(s). Bank may add new alerts from time to time, or cancel old alerts. If Customer has opted to receive an alert that is being canceled, Bank will notify Customer in accordance with the terms of this Part II. Each alert has different options available, and Customer may select from among these options upon activation of Customer's alerts service.

Voluntary alerts are subject to the following:

(i) Electronic alerts will be sent to the email address, text or phone number identified by Customer on the Set-Up Form, as applicable. If Customer's email address, facsimile, text or phone number changes, Customer is responsible for updating that information via Online Banking, and such change(s) will apply to all of Customer's alerts.

(ii) Customer understands and agrees that Customer's alerts may be delayed or prevented by a variety of factors. Bank will use commercially reasonable efforts to provide alerts in a timely manner with accurate information. Bank neither guarantees the delivery nor the accuracy of the contents of any alert. Customer also agrees that Bank shall not be liable for any delays, failure to deliver, or misdirected delivery of any alert; for any errors in the content of an alert; or for any actions taken or not taken by Customer or any third party in reliance of an alert. Customer agrees that Bank is not responsible for any costs or fees incurred as a result of alerts direct by Customer.

Alerts are not encrypted. Bank will never include Customer's passwords or full Account number(s). However, alerts may include Customer's name and some information about Customer's Accounts, depending upon Customer selection of specified alerts. Customer's employees who have access to the specified transmission address or number enables him/her to view the contents of these alerts.

Bank may charge a fee for Account alerts, once activated. Any such fee and the other Service Fees are disclosed in the Fee Schedule. Fees are subject to change from time to time in accordance with the terms of this Agreement.

**49. Financial Management (FM) Software.** The Financial Management Software feature of Online Banking ("FMS Service") allows Customer to use personal financial management software ("FMS Software") (e.g., Quicken®, or QuickBooks®<sup>[1]</sup>) to access Online Banking and download Account information such as balance and transaction history. This **Section 49** sets forth additional terms and conditions that apply whenever Customer uses or permits any other person(s) or entity to use the FMS Service. The terms and conditions contained in this Section are limited to use of the FMS Service, and do not include use of products and services directly accessible through Online Banking without the use of FMS Software. Online Banking utilizes current releases of Quicken® and QuickBooks®, as may be made available from time to time from the respective software manufacturer. Customer is responsible for obtaining and maintaining any software that is required for operation of the FMS Service. Customer's use of the FMS Software is governed by the software license agreement(s) included with each software application. Customer must agree to the terms and conditions of the software license agreement(s) during the installation of the FMS Software on Customer's Computer. Customer is responsible for the correct set-up and installation of the FMS Software, as well as maintenance, updates and upgrades to the FMS Software and/or Customer's Computer. Bank makes no warranties nor accepts any liability for such software. Bank is not responsible for any problems related to the FMS Software itself, Customer's Computer or Customer's ability to connect using the FMS Software as described in this Part II.

**49.1 The FMS Service.** Information about Account activity is synchronized between Customer's FMS Software and Online Banking website. Customer may access such information directly through Online Banking. Information via Customer's FMS Software may differ from the information that is available directly through Online Banking. Information available directly through Online Banking may not be available via Customer's FMS Software, may be described using different terminology, or may be more current than the information available via Customer's FMS Software. The method of entering instructions via Customer's FMS Software may also differ from the method of entering instructions directly

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<sup>[1]</sup> Quicken® (and QuickBooks®) is a registered trademark of Intuit Inc.

through Online Banking. Bank is not responsible for such differences, whether or not attributable to Customer's use of FMS Software.

49.2 Customer is responsible for all transfers and payments that Customer authorizes using FMS Software. If Customer permits other persons to access Online Banking using FMS Software, Customer is responsible for all transactions it authorizes from Account(s) accessed via FMS Software. Customer must establish its own internal security procedures for employees that Customer authorizes to use Online Banking via FMS Software and to prevent unauthorized use by other employees or persons.

49.3 This Part II describes Bank's responsibility for completing transfers and payments, and any exceptions from liability for its failure to do so. These rules apply to Customer's transactions using FMS Software. Bank is not responsible for any problems that Customer may have using FMS Software to connect to Online Banking if no known problem exists with Bank's systems that might impede such connectivity, or if the problem is due to Customer's software, Computer or Internet service. Customer should verify all Account data obtained and transactions executed on Customer's Accounts using FMS Software. Bank's records of transactions, instructions and communications regarding Customer's Accounts and use of Online Banking supersede any records stored or created on Customer's Computer through the use of FMS Software. Customer is responsible for any and all obligations to any software vendor arising from Customer's use of that vendor's FMS Software.

**50. Authorization to Charge Accounts.** Customer authorizes Bank and Bank's processor(s) to provide Online Banking to Customer, and, if applicable, authorizes Bank or Bank's processor(s) to initiate automated clearing house (ACH) debits or charges to Customer's designated Account(s) for any transactions accomplished through the use of Online Banking, including the amount of any Internal Transfer that Customer makes and any charges for Online Banking.

**51. Documentation and Verification of Transactions.**

51.1 Confirmation Numbers. Upon completion of a transaction using Online Banking, a confirmation number will be given. Customer should record this number, along with the transaction amount in Customer's checkbook register (or other permanent record), because this will help in resolving any problems that may occur. No printed receipts are issued through Online Banking.

51.2 Statements. Customer will not receive a separate Online Banking statement. Transfers to and from Customer's Accounts using Online Banking will appear on the respective periodic statements for each of Customer's Accounts.

**52. Customer Responsibilities; Security.**

52.1 Customer is responsible for all transfers, payments or other Online Banking transactions that Customer authorizes to be made using Online Banking.

52.2 Customer agrees not to disclose any proprietary information regarding Online Banking to any third party (except to Customer's Administrator(s) and Authorized User(s)). Customer also agrees to comply with any operating, security and recognition procedures Bank may establish from time to time with respect to Online Banking. Customer will be denied access to Online Banking if Customer fails to comply with any of these procedures. Customer acknowledges that there can be no guarantee of secure transmissions over the Internet and that Online Banking's Security Procedures are reasonable. Customer is responsible for reviewing the transaction reports Bank provides on-line and in Customer's monthly statements to detect unauthorized or suspicious transactions. In addition to any other provision hereof regarding authorization of transactions using Online Banking, all transactions will be deemed to be

authorized by Customer and to be correctly executed after Bank first provides Customer with a statement or online transaction report showing that transaction, unless Customer has provided written notice that the transaction was unauthorized or erroneously executed within the timeframes set forth in **Section 11** of Part I.

**53. Disclosure of Account Information.** In accordance with Bank's privacy policy, Bank will disclose information to third parties about Customer's Account(s) or Customer's Online Banking transactions:

- (i) when it is necessary in order to complete transfers;
- (ii) to verify the existence and/or condition of Customer's Account(s) for a third party, such as a credit bureau or merchant;
- (iii) to comply with a government agency or court order or the request of a state or federal regulatory agency;
- (iv) if Customer gives permission to Bank; and
- (v) on a closed Account, if Bank believes Customer has mishandled it.

**54. Contacting Bank.** Customer may contact Bank at the phone number and address provided in **Section 26** of Part I to: (a) request stop payment, (b) inquire about the receipt and/or amount of credits to Customer's Account(s), (c) notify Bank if Customer's Access Devices are lost or stolen, (d) notify Bank of unauthorized transactions appearing on Customer's statement, or (e) change Customer's mailing or email address.

**55. Joint Accounts.** To the extent applicable, when Customer's access to Online Banking is linked to one or more jointly owned Accounts, Bank may act on the verbal, written or electronic instructions of any joint owner of those Accounts. Each owner of a Deposit Account is authorized to access all of the Available Funds held in that Deposit Account through Online Banking.

**56. Hyperlinks.** Bank may elect to display one or more hyperlinks on the Online Banking website from time to time. A hyperlink is any highlighted words or phrases in a document that allows Customer to click through to another section of the same document or to another document on the Internet. A hyperlink may allow Customer to click through to a third party website over which Bank has no control. Bank disclaims any responsibility for the content, products and services provided at linked third party websites. Bank is not liable for any failure of the products or services advertised on third party websites. Customer should be aware that third party websites may have privacy policies that differ from Bank's; it is Customer's responsibility to review privacy policies at the linked third party websites to determine whether those policies are acceptable to Customer. The linked third party websites may provide less security than Bank's website.

**57. Hours of Access.** Online Banking is generally available seven (7) days a week, twenty-four (24) hours a day. Some or all features of Online Banking may not be available from time to time due to problems arising in connection with transmissions over the Internet, as well as emergency or scheduled system maintenance. Bank will post a notice of any extended periods of non-availability on the Online Banking site. Certain transactions posted outside normal business hours, such as those using the Bill Payment Service, will not take effect until the next Business Day.

**58. Fees and Charges.** Customer agrees to pay the service fees associated with Customer's use of Online Banking as set forth in the Fee Schedule as it may be amended from time to time. Customer agrees that all such service fees will be deducted from the checking Deposit Account designated as the "Primary Account" on Customer's Set-Up Form. If Customer closes the Primary Account, Customer must contact Bank immediately to designate another Deposit Account as the Primary Account. Customer agrees to pay any and all additional charges for services that Customer may request which are not covered by this Part II or elsewhere in this Agreement. Customer acknowledges and agrees to be responsible for all telephone and Internet service fees Customer may incur in connection with Customer's use of Online Banking.

**59. Reserved**

**60. Reserved**

**61. Unauthorized Online Banking Service Transactions.**

61.1 Customer will notify Bank at once if Customer believes its Access Devices have been stolen or compromised. Customer's Administrator must instruct Bank to de-activate, and has the sole responsibility for instructing Bank to de-activate, any such Access Device(s). In addition, Customer will notify Bank at once if Customer believes someone has transferred or may transfer money from Customer's Account(s) without Customer's permission or if Customer suspects any fraudulent activity on Customer's Account. In no event will Bank be liable for any unauthorized transaction(s) that occurs with any Access Devices.

61.2 When Customer gives someone its Access Device(s), Customer is authorizing that person to use Online Banking, and Customer is responsible for all transactions the person performs using Online Banking. All transactions that person performs, even transactions Customer did not intend or want performed, are authorized transactions. Transactions that Customer or someone acting with Customer initiates with fraudulent intent are also authorized transactions. For Customer's protection, Customer should sign-off after every Online Banking session and close Customer's browser to ensure confidentiality.

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### **PART III: ACH ORIGINATION SERVICE**

This Part applies to the ACH Origination Service.

#### **62. ACH Service.**

62.1 This Part III applies to all transfers made using the automated clearing house (“ACH”) and associated services made available to Customer by Bank (the “ACH Service”).

62.2 The ACH network is a funds transfer system which provides for the interbank clearing of electronic credit and debit Entries among participating financial institutions. The ACH system is governed by the National Automated Clearing House Association’s (“NACHA”) *Operating Rules and Guidelines*, as amended from time to time (the “*NACHA Rules*”).

**63. Types of Entries; Transmission Methods.** Customer will only initiate those Entry types (Standard Entry Class or “SEC” Codes) that Bank has expressly authorized Customer to initiate, as set forth in **Schedule A** attached hereto and/or related ACH Service’s Set-Up Form(s). All other SEC Codes that Bank may subsequently permit in its sole discretion and from time to time with respect to the ACH Service will require pre-approval by Bank and may only be used with proper designation on the set-up or enrollment form(s) associated with the ACH Service. The use of the ACH Service is subject to the approval of the Bank and in accordance with any additional instructions from and requirements by Bank, as applicable. Bank reserves the right to reject any Entry or group of Entries that includes an unauthorized SEC Code. Customer agrees to initiate Entries described herein in accordance with the requirements of and in compliance with its responsibilities, representations and warranties as an Originator under the *NACHA Rules*. Customer may transmit a NACHA-formatted file to Bank via Online Banking as forth in **Schedule A**. Customer expressly authorizes Bank to process each such file and to originate Entries on behalf of Customer (as the Originator) to Receivers’ accounts. Customer agrees to the terms of Part II and the Security Procedures when initiating Entries. If required by Bank, prior to the origination of Entries, Customer agrees to create a test file pursuant to procedures established by Bank.

**64. Compliance with the NACHA Rules and Applicable Law.** Customer’s rights and obligations with respect to any Entry are governed by the *NACHA Rules*, this Part III and applicable law and regulation. Customer has access to a copy of the *NACHA Rules* and acknowledges receipt of a copy. (The *NACHA Rules* may be obtained at NACHA’s website at [www.NACHA.org](http://www.NACHA.org) or by contacting NACHA directly at 703-561-1100.) Customer agrees to subscribe to receive revisions to the *NACHA Rules* directly from NACHA. Customer represents and warrants that it is bound by and will comply with the *NACHA Rules* and applicable laws, regulations and regulatory requirements. Customer further represents and warrants that it will not transmit any Entry or engage in any act or omission that violates or causes Bank to violate the *NACHA Rules* or the laws of the United States, or any other applicable laws, regulations or regulatory requirements, including, without limitation, regulations of the Office of Foreign Asset Control (“OFAC”), sanctions or executive orders.

#### **65. Transmittal of Entries.**

65.1 Customer will transmit file(s) of credit and debit Entries to Bank with: (i) computer readable information; (ii) an ACH file and format consistent with then current NACHA file and/or Bank specifications; (iii) via Online Banking and in accordance with the Security Procedures associated with that transmission medium, and otherwise with the formatting and content requirements identified in **Schedule A** attached hereto or as otherwise instructed by Bank. Bank may establish transactions limits associated with Customer’s use of the ACH Service, which may include, e.g., a limit on the dollar amount of Entries or files transmitted by Customer to Bank and on the total dollar amount of Entries that may be transmitted

by Customer on any one day as may be set forth in **Schedule A**, and across multiple settlement dates. Bank shall also monitor Entries initiated by Customer relative to such transaction limits, which limits may be modified from time to time by Bank at its sole discretion with notice to Customer. Bank may in its sole discretion reject any file that exceeds such transaction limits. Bank may further reject any Entry or file transmitted by Customer in the event Bank deems reasonably necessary in order to protect the safety and soundness of Bank, or if Bank reasonably suspects that the Entry or file includes fraudulent or unauthorized Entries, or if Bank has such other reasonable basis upon which to reject the transmission.

65.2 With respect to any credit and debit Entries initiated and transmitted by Customer that involve consumers, Customer will comply with: (i) all authorization, disclosure and other requirements of the *NACHA Rules* and (ii) all applicable federal and state laws and regulations, including, without limitation, any applicable requirements of Regulation E of the Consumer Financial Protection Bureau (or any successor entity who administers Regulation E) (hereinafter “Regulation E”) and the Federal Electronic Funds Transfer Act, including as each may be amended from time to time

65.3 Customer acknowledges the right of a consumer Receiver of an unauthorized debit Entry, to obtain a refund of the funds debited from Receiver’s account by sending a timely written notice in accordance with NACHA Rules to the Receiving Depository Financial Institution (“RDFI”) disputing such debit Entry. Customer also acknowledges the right of a corporate Receiver of an unauthorized debit Entry to obtain a refund of the funds debited from such Receiver’s account by sending a notice to the RDFI within two (2) Business Days following the Settlement Date of the original Entry. Customer indemnifies Bank against any such claim for a refund by any Receiver.

## **66. Security Procedures.**

66.1 Customer and Bank shall comply with the Security Procedures described in Part I and/or Part II of this Agreement and as applicable with respect to Entries transmitted by Customer via that mechanism to Bank, and/or as set forth herein hereto. Customer acknowledges and agrees that such Security Procedures are a commercially reasonable method of providing security against unauthorized payment orders, and that Bank shall be deemed to have acted in good faith so long as it complies with such Security Procedures. Customer acknowledges that the purpose of such Security Procedures is to attempt to verify the authenticity of Entries transmitted by Customer and not to detect errors in the transmission or content of an Entry. No security practice or procedure for the detection of any such error has been agreed upon between Bank and Customer.

66.2 Customer is strictly responsible for establishing, implementing and maintaining and (as appropriate) updating its own appropriate and commercially reasonable security procedures (a) to safeguard against the unauthorized transmissions, and (b) relating to the initiation, processing and storage of Entries. Customer shall prevent and safeguard against unauthorized transmissions, disclosures and access to security-related items, including information associated with the transmittal of Entries, such as security procedures, instructions, passwords and user identifications, and systems and equipment that interface with, connect to or allow access to Bank, its information, systems and equipment (hereinafter referred to collectively as “Security-Related Items”). Customer shall establish, maintain and enforce its own commercially reasonable security practices, techniques and procedures with respect to access to, storage and maintenance of Security-Related Items to safeguard against unauthorized transmissions and unauthorized access to Security-Related Items. Such practices, techniques and procedures shall be no less than the security-related requirements set forth in this Part III and in the *NACHA Rules*.

66.3 As required by the *NACHA Rules* with respect to the protection of ACH information (non-public information, including information that is used to create or contained within an ACH Entry and any related addenda record), Customer shall ensure that its security policies, procedures and systems: (1) protect

the confidentiality and integrity of the protected information; (2) protect against anticipated threats or hazards to the security or integrity of protected information until its destruction, and (3) protect against unauthorized use of protected information that could result in substantial harm to the Receiver/customer.

66.4 Customer warrants that no individual will be allowed to initiate transfers without proper authorization, supervision and safeguards, and agrees to take reasonable steps to maintain the confidentiality of the Security Procedures and any passwords, codes, security devices and related instructions provided by Bank in connection with the Security Procedures and to restrict access thereto to Customer's employees trusted with the duty to transmit Entries to Bank. If Customer suspects, knows, believes or has reason to believe that any such information or instructions have been known or otherwise accessed by unauthorized persons, Customer agrees to immediately notify Bank by phone, followed by written confirmation. For the avoidance of doubt, Customer hereby agrees that any requests for transfers received by Bank in good faith by a person who is identified as an Authorized User and complies with all applicable Security Procedures constitute authorized ACH entries.

66.5 Bank may, from time to time, propose additional or enhanced Security Procedures for use with the ACH Service. Customer understands and agrees that if it declines to use any such enhanced Security Procedures, it will be liable for any losses that would have been prevented by such Security Procedures. Notwithstanding anything to the contrary contained in this Part III, if Bank believes immediate action is required for the security of Bank or Customer funds, Bank may suspend access to the ACH Service or initiate additional Security Procedures immediately and provide prompt notice thereof to Customer.

#### **67. Compliance with Security Procedures.**

67.1 If an Entry (or a request for cancellation or amendment of an Entry) received by Bank was initiated in accordance with the Security Procedures applicable to the ACH Service and thereby purports to have been transmitted or authorized by Customer, it shall be deemed effective as Customer's Entry (or request), even if the Entry (or request) was not authorized by Customer. If Bank accepted the Entry (a) in compliance with the Security Procedures with respect to such Entry, (b) in compliance with any written agreement or instruction of Customer restricting acceptance of payment orders issued in Customer's name, and (c) in good faith, then with respect to a credit Entry, Customer shall be obligated to pay Bank the amount of such Entry, and with respect to a debit Entry, Customer shall maintain sufficient Available Funds in the Settlement Account, as defined in **Section 73**, to fund the reversal of such Entry, if necessary.

67.2 If an Entry (or a request for cancellation or amendment of an Entry) received by Bank was actually transmitted or authorized by Customer, Customer shall pay Bank the amount of any such credit Entry and shall maintain Available Funds in the Customer's Settlement Account to fund the reversal of any such debit Entry, whether or not Bank complied with the Security Procedures and whether or not that Entry was erroneous in any respect or that any such error would have been detected if Bank had complied with the Security Procedures.

#### **68. Processing, Transmittal and Settlement of Entries by Bank.**

68.1 Except as provided in **Section 77** -- On-U's Entries and **Section 78** -- Rejection of Entries, Bank will process, transmit and settle for credit and debit Entries initiated by Customer as provided in the *NACHA Rules* as in effect from time to time and pursuant to this Part III.

68.2 Bank will transmit such Entries as an Originating Depository Financial Institution ("ODFI") to the ACH Operator by the deadline of the ACH Operator, provided such Entries are received by Bank prior to the cut-off time(s) set forth in **Schedule A** on a Business Day and the ACH Operator is open for business on such Business Day. Entries received after the cut-off time(s) set forth in **Schedule A**

on a Business Day will be deemed received the following Business Day. Except as Bank may agree otherwise, a credit Entry must have an effective date of at least two (2) Business Days, and a debit Entry must have an effective date of at least one (1) Business Day, after the Business Day such Entry is received by Bank. Neither a credit Entry nor a debit Entry may have an effective date of more than seven (7) calendar days after the Business Day such Entry is received by Bank. Customer will hold Bank harmless from all charges that may be incurred by Bank as a result of Customer's delivery of late Entries.

68.3 If any of the above Customer requirements is not met, Bank shall use reasonable efforts to transmit such Entries to the ACH Operator by the next deadline that is a Business Day and a day on which the ACH Operator is open for business.

68.4 Customer acknowledges and agrees that credit given by Bank to Customer with respect to an ACH credit Entry is provisional until Bank receives final settlement for such Entry through a Federal Reserve Bank. If Bank does not receive such final settlement, Customer acknowledges and agrees that Bank is entitled to a refund of the amount credited to Customer in connection with such Entry, and the party making payment to Customer via such Entry (i.e., the Originator of the Entry) shall not be deemed to have paid Customer the amount of such Entry. Customer also acknowledges and agrees that Bank will not provide Customer, as the Receiver, with notice that Bank has received a credit Entry to Customer's Account.

**69. Payment by Customer for Credit Entries.** Customer shall pay Bank the amount of each credit Entry transmitted by Bank pursuant to this Part III at such time on the Settlement Date with respect to such Entry as Bank, in its discretion, may determine, and the amount of each On-U's Entry at such time on the Effective Entry Date of such Entry as Bank, in its discretion, may determine, and in accordance with the requirements of **Section 73** -- Settlement Account; Pre-Funding.

**70. Customer Representations, Warranties and Agreements; Indemnification.**

70.1 In addition to Customer's obligations and agreements otherwise described in this Part III, Customer further represents and warrants to Bank and agrees, with respect to each and every Entry transmitted to Bank by Customer that:

(i) each person shown as the Receiver on an Entry has authorized the initiation of such Entry and the crediting or debiting of its account in the amount and on the Effective Entry Date shown on such Entry;

(ii) each authorization is operative at the time of transmittal, crediting or debiting by Bank as provided herein;

(iii) Entries transmitted to Bank by Customer are limited as set forth in **Section 63** and in **Section 65**;

(iv) Customer shall perform its obligations under this Part III in accordance with the *NACHA Rules* and all applicable federal and state laws, regulations and orders, including, but not limited to, the transaction screening and sanctions laws, regulations and orders administered by OFAC, and the laws, regulations and orders administered by FinCEN, as applicable;

(v) Customer shall be bound by and comply with the provisions of the *NACHA Rules* that make payments of an Entry by the RDFI to the Receiver provisional until receipt by the RDFI of final settlement for such Entry;

(vi) Customer specifically acknowledges that it has received notice of the foregoing rule in (v) regarding provisional payment 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 of the Entry;

70.2 Customer hereby represents and warrants that it shall have received all necessary authorizations and complied with all applicable requirements for initiating any type of ACH Entry that Bank, in its sole and exclusive discretion, permits Customer to initiate through the ACH Service from time to time, including but not limited to the following:

(i) with respect to Prearranged Payment and Deposit (PPD) and Corporate Credit or Debit (CCD) Entries that Customer is permitted to initiate under this Part III, Customer shall comply with and be subject to all requirements of the *NACHA Rules* with respect to such Entries;

(ii) with respect to any International ACH Transactions (IATs) that Customer may be permitted by Bank to initiate, that Customer shall (a) classify and format payments transmitted to or received from a financial agency outside the U.S. as IATs in accordance with the *NACHA Rules*, (b) provide data necessary to accompany the transaction in compliance with the Bank Secrecy Act's "Travel Rule," (c) screen IATs prior to transmitting any file(s) of Entries to Bank in accordance with the requirements of OFAC and comply with OFAC sanctions, and (d) otherwise comply with and be subject to all other requirements of the *NACHA Rules* and OFAC, as well as the laws and payment rules of a non-U.S. foreign destination;

(iii) as to any Internet-initiated/mobile (WEB) ACH Entries, (as defined under the *NACHA Rules*) that Customer may be permitted by Bank to initiate, that (a) Customer employs commercially reasonable detection systems to minimize risk of fraud related to Internet-initiated payments, (b) Customer employs commercially reasonable procedures to verify validity of routing numbers, (c) Customer employs commercially reasonable methods of authentication to verify the identity of the Receiver, (d) Customer employs commercially reasonable security technology that at a minimum is equivalent to 128-bit encryption technology, and (e) where required by the *NACHA Rules* and/or Bank, Customer conducts annual audits as to its security practices and procedures that include, at a minimum, verification of adequate levels of (1) physical security to protect against theft, tampering, or damage, (2) personnel and access controls to protect against unauthorized access and use and (3) network security to ensure secure capture, storage, and distribution, and will provide proof of such audits to Bank upon request;

(iv) as to any Telephone-Initiated (TEL) Entries that Customer may be permitted by Bank to initiate, that Customer (a) has employed commercially reasonable procedures to verify the identity of the Receiver, and (b) has utilized commercially reasonable procedures to verify that routing numbers are valid;

(v) as to any Accounts Receivable (ARC) Entries that Customer may be permitted by Bank to initiate, that (a) the amount of the Entry, the routing number, the account number, and the check serial number are in accordance with the source document, (b) Customer will retain a reproducible, legible image, microfilm, or copy of the front of the Receiver's source document for each ARC Entry for two (2) years from the Settlement Date of the ARC Entry, (c) Customer has employed commercially reasonable procedures to securely store (1) all source documents until destruction and (2) all banking information relating to ARC Entries, and (d) Customer has established reasonable procedures under which the Receiver may notify Customer that receipt of Receiver's checks does not constitute authorization for ARC Entries to the Receiver's account and that Customer will allow the Receiver to opt-out of check conversion activity;

(vii) as to any Back Office Conversion (BOC) Entries that Customer may be permitted by Bank to initiate, that (a) Customer has employed commercially reasonable procedures to verify the identity of the Receiver, (b) Customer has established and maintains a working telephone number for Receiver inquiries regarding the transaction that is answered during normal business hours and that such number is displayed

on the notice required by the *NACHA Rules* for BOC Entries, (c) the amount of the Entry, the routing number, the account number and the check serial number are in accordance with the source document, (d) Customer will retain a reproducible, legible image, microfilm, or copy of the front of the Receiver's source document for each BOC Entry for two (2) years from the Settlement Date of the BOC Entry, (e) Customer has employed commercially reasonable procedures to securely store (1) all source documents until destruction and (2) all banking information relating to BOC Entries;

(viii) as to any Point-of-Purchase (POP) Entries that Customer may be permitted by Bank to initiate, that the source document provided to Customer for use in obtaining the Receiver's routing number, account number, and check serial number for the initiation of the POP Entry (a) is returned voided to the Receiver after use by Customer and (b) has not been provided to the Receiver for use in any prior POP Entry; and

(ix) as to any Returned Check (RCK) Entries that Customer may be permitted by Bank to initiate, that (a) all signatures on the item are authentic and authorized, (b) the item has not been altered, (c) the item is not subject to a defense or claim, (d) the Entry accurately reflects the item, (e) the item will not be presented unless the related Entry has been returned by the RDFI, (f) the information encoded after issue in magnetic ink on the item is correct and (g) any restrictive endorsement placed on the item is void or ineffective.

70.3 Customer shall indemnify and defend Bank against any third-party claims, alleged claims, loss, liability or expense (including attorneys' fees and expenses) directly resulting from, related to or arising out of:

(i) any material breach of the foregoing representations and warranties or agreements contained in this Part III;

(ii) Customer's failure to exercise ordinary care in connection with its duties hereunder;

(iii) any action by an RDFI upon an unauthorized or erroneous Entry initiated by Customer;

(iv) any actions by a service provider or agent of Customer that result in a material breach of this Part III by Customer; or

(v) to the extent that it involves Bank, any litigation by an ACH Operator, an RDFI or any Receiver asserting noncompliance on Customer's acts or omissions under the *NACHA Rules* or any other applicable laws, regulations or regulatory requirements.

## **71. Bank Responsibilities; Limitations on Liability; Indemnity; Disclaimer of Warranties.**

71.1 The liability of Bank under this Part III shall in all cases be subject to the provisions of Part I of this Agreement, including, without limitation, any provisions thereof that exclude or limit warranties made by, damages payable by or remedies available from Bank. Without limiting the foregoing, Bank shall not be responsible for Customer's acts or omissions (including, without limitation, the amount, accuracy, timeliness of transmittal or authorization of any Entry received from Customer) or those of any other person, including without limitation any Federal Reserve Financial Institution, Automated Clearing House or transmission or communications facility, any Receiver or RDFI (including without limitation the return of an Entry by such Receiver or RDFI), and no such person shall be deemed Bank's agent. Customer agrees to indemnify and defend Bank against any loss, liability or expense (including reasonable attorneys' fees and expenses) resulting from or arising out of any claim of any person that Bank is responsible for any act or omission of Customer or any other person described in this **Section 71.1**. Customer shall be responsible

for any fines levied against Bank by NACHA, the ACH Rules Enforcement Panel, and any regulatory authority having jurisdiction over Bank arising from any violation or alleged violation of any applicable law, regulation, or the *NACHA Rules* directly resulting from Entries transmitted by Customer. Customer shall also be responsible for any fees imposed upon Bank by NACHA for the return of an Entry initiated by Customer that did not comply with the *NACHA Rules* or the terms of this Part III.

71.2 Customer acknowledges and agrees that Bank's provision of the ACH Service hereunder may be interrupted from time to time. Without limiting the generality of the foregoing, Bank shall be excused from failing to act or delay in acting if such failure or delay is caused by legal constraint, interruption of transmission or communication facilities, equipment or software error or malfunction, war, acts of terrorism, emergency conditions or other circumstances beyond Bank's control. From time to time Bank may need to temporarily suspend processing of a transaction (particularly an international ACH transaction) for greater scrutiny or verification, including, but not limited to, suspending processing to review for suspected fraudulent activity or for OFAC compliance in accordance with applicable OFAC guidance, and Bank shall be excused if this action causes delay in the settlement and/or availability of the transaction. In addition, Bank shall be excused from failing to transmit or delay in transmitting an Entry (i) if such transmittal would result in Bank exceeding any limitation upon its intra-day net funds position established pursuant to present or future Federal Reserve guidelines; (ii) if, for any reason, the ACH Operator fails or declines to process an Entry; (iii) if, in Bank's reasonable judgment, processing an Entry would violate or contribute to the violation of any present or future risk control program of the Federal Reserve or any applicable rule, law, regulation, or regulatory requirement; (iv) if Bank reasonably suspects that a transaction involves fraudulent activity, or (v) if processing an Entry, in Bank's sole discretion, would cause it to engage in an unsafe or unsound practice.

71.3 EXCEPT AS OTHERWISE PROVIDED IN THIS PART III, CUSTOMER EXPRESSLY AGREES THAT USE OF THE ACH SERVICE IS AT CUSTOMER'S SOLE RISK, AND THE ACH SERVICE IS PROVIDED "AS IS," AND BANK AND ITS AGENTS DO NOT MAKE, AND EXPRESSLY DISCLAIM ANY, WARRANTIES, EITHER EXPRESSED OR IMPLIED, WITH RESPECT TO THE ACH SERVICE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, OR THAT THE ACH SERVICE WILL BE UNINTERRUPTED OR ERROR FREE, WITHOUT BREACHES OF SECURITY OR WITHOUT DELAYS. IN THOSE STATES THAT DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY, THE LIABILITY OF BANK AND ITS SERVICE PROVIDERS AND AGENTS IS LIMITED TO THE FULLEST POSSIBLE EXTENT PERMITTED BY LAW.

**72. Set-Off and Other Bank Remedies.** Bank may, but shall not be obligated to, complete any transaction in connection with providing the ACH Service hereunder if there are insufficient available funds in Customer's Settlement Account(s) (as defined below) to complete the transaction. In the event any actions by Customer result in an overdraft in Customer's Settlement Accounts, including but not limited to Customer's failure to maintain sufficient balances in any of Customer's Settlement Accounts, Customer shall be responsible for repaying the overdraft immediately, without notice or demand. Bank has the right, in addition to all other rights and remedies available to it, to set-off the unpaid balance of any amount owed to Bank in connection with the ACH Service against any debt owing to Customer by Bank, including, without limitation, any obligation under a repurchase agreement or any funds held at any time by Bank, whether collected or in the process of collection, or in any other account maintained by Customer at, or evidenced by any certificate of deposit issued by, Bank. If any of Customer's Settlement Accounts become overdrawn, under-funded or for any reason contain a negative balance, then Bank shall have the right of set-off against all of Customer's Accounts and other property or deposit accounts maintained at Bank, and Bank shall have the right to enforce its interests in collateral held by it to secure debts of Customer to Bank

arising from notes or other indebtedness now or hereafter owing or existing under this Part III, whether or not matured or liquidated.

**73. Settlement Account; Pre-Funding.**

73.1 Bank may, without prior notice or demand, obtain payment of any amount due and payable to it under this Part III by debiting the Account(s) of Customer (the "Settlement Account") or any future Accounts established by Customer at Bank, and Bank shall credit the Settlement Account for any amount received by Bank by reason of the return of an Entry transmitted by Bank for which Bank has previously received payment from Customer. Such credit shall generally be made as of the day of such receipt by Bank.

73.2 Customer agrees to irrevocably provide Available Funds in the Settlement Account for the total amount of all credit Entries submitted to Bank for processing. Customer's Settlement Account will generally be debited on the Settlement Date of the Entries/files.

73.3 Notwithstanding the requirements of **Section 73.2**, Bank reserves the right, in its sole and exclusive discretion and at any time, to require, as a condition of initiating any ACH credit Entries/files, that Customer irrevocably provide Available Funds in the Settlement Account for the total amount of such Entries/files submitted to Bank for processing, e.g., two (2) Business Days prior to the Effective Date of the transactions ("Pre-Funding"). In such event, Bank will place a hold on funds in the Settlement Account equal to the total amount of the ACH credit Entries on the Business Day that Bank begins processing Customer's ACH file, and Customer's Settlement Account will be debited on the Settlement Date of the Entries/files, simultaneously with removal of the hold on funds in the Settlement Account.

**74. Risk Mitigation.** In order to reduce the risk of loss to which Bank is subject under this Part III, Bank may in its sole discretion establish such risk mitigation procedures as Bank deems reasonably necessary, including without limitation, requiring personal guaranties of Customer's principals, prefunding of credit Entries, delayed availability of funds to Customer to cover returned debit Entries, and submission of balanced or unbalanced files (e.g., submission of a credit file for which Bank shall then create the offsetting debit file.)

**75. Due Diligence.** Customer will supply Bank with due diligence information when reasonably requested. This information may include, but is not limited to, financial data, names and other information concerning the principles of Customer, information about the business in which Customer participates, information regarding the creditworthiness of Customer, projected return rates, and payment history. Bank may, in its reasonable discretion, conduct a limited review of Customer's operations to ensure compliance with the provisions of this Part III. Where Bank reasonably believes that Customer's financial condition is impaired or deteriorating, Bank may refuse to process any Entries or may require Pre-Funding of all Entries.

**76. Cancellation or Amendment of an Entry.** Customer shall have no right to cancel or amend any Entry after its receipt by Bank. However, Bank shall use reasonable efforts to act on a request by Customer to cancel an Entry before transmitting it to the ACH Operator or crediting or debiting an On-Us Entry. Any such request shall comply with this Part III, including the Security Procedures described in this Agreement. Bank shall have no liability if cancellation or amendment is not accomplished as requested. Customer shall reimburse Bank for any expenses, losses or damages Bank may incur in effecting or attempting to effect Customer's request for the cancellation or amendment of an Entry.

**77. On-Us Entries.** Except as provided in **Section 78 -- Rejection of Entries**, in the case of an Entry received for credit or debit to an account maintained by Bank (an "On-Us Entry"), Bank shall debit or credit the Receiver's account, as applicable, in the amount of such Entry on the Effective Entry Date contained in



such Entry, provided the requirements set forth in **Section 68** are met. If those requirements are not met, Bank shall use reasonable efforts to debit or credit the Receiver's account, as applicable, in the amount of such Entry no later than the next Business Day following such Effective Entry Date. In the case of an On-Us Entry, Bank will have all rights of an RDFI including, without limitation, the rights set forth in *NACHA Rules*.

**78. Rejection of Entries.** Bank may reject any Entry which does not comply with the requirements of **Section 65** – Transmittal of Entries, or **Section 66** – Security Procedures or which contains an Effective Entry Date more than seven (7) days after the Business Day such Entry is received by Bank, unless otherwise agreed by Bank in its sole discretion. Bank may also reject an On-Us Entry for any reason for which an Entry may be rejected under the *NACHA Rules*. Bank may reject any Entry if Customer has failed to comply with its Account balance or pre-funding obligations under **Section 73** – Settlement Account / Pre-Funding, and as otherwise provided in **Section 65** of this Part III. Bank may reject any Entry if Customer does not adhere to the Security Procedures described herein and may reject any Entry if Customer is not otherwise in compliance with the terms of this Part III or the *NACHA Rules*. Bank shall notify Customer in accordance with **Schedule A** of such rejection no later than the Business Day such Entry would otherwise have been transmitted by Bank to the ACH Operator or, in the case of an On-Us Entry, its Effective Entry Date. Notices of rejection shall be effective when given. Bank shall have no liability to Customer by reason of the rejection of any such Entry or the fact that such notice is not given at an earlier time than that provided for herein.

**79. Reversals; Re-Initiation of Entries.** Customer may reverse a file or Entry pursuant to the *NACHA Rules*. If Customer reverses an Entry or file, Customer shall indemnify Bank against any claim, alleged claim, demand, loss, liability or expense resulting directly or indirectly from such reversal. Customer may not re-initiate Entries except as prescribed by the *NACHA Rules*.

**80. Notice of Returned Entries and Notifications of Change.**

80.1 Bank shall notify Customer in accordance with **Schedule A** of the receipt of any returned Entry from the ACH Operator no later than one (1) Business Day after the Business Day of such receipt. Bank shall have no obligation to retransmit a returned Entry to the ACH Operator if Bank complied with the terms of this Part III with respect to the original Entry. If a customer or client of Customer asserts that an Entry was unauthorized, Customer shall be solely responsible to collect any funds owed to Customer. Bank has no obligation to originate a transaction where authorization has been revoked.

80.2 Bank shall notify Customer of all Notifications of Change received by Bank relating to Entries transmitted by Customer, in accordance with **Schedule A**, no later than one (1) Business Day after receipt thereof. Customer shall ensure that changes requested by the Notifications of Change are made within six (6) Business Days of receipt of the Notification of Change information from Bank or prior to initiating another Entry to the Receiver's account, whichever is later.

**81. Entries Returned as Unauthorized.** Customer shall comply with all requirements in the *NACHA Rules*, including the duty to submit only those Entries that have been properly authorized. In the event that an Entry is returned as unauthorized or authorization revoked, Customer will contact the necessary parties and resolve any dispute. During this process, Customer may ask Bank to request from the RDFI a copy of the "Written Statement of Unauthorized Debit." Bank will use reasonable efforts to obtain the statement and will deliver it to Customer when received. Customer agrees not to re-originate any transaction returned as unauthorized or as authorization revoked unless the Receiver re-authorizes the Entry or Entry stream.

**82. Pre-Notification and Rejection of Pre-Notification.** Bank recommends that, as permitted by the *NACHA Rules* or applicable law, Customer send pre-notifications at least three (3) Business Days prior to

initiating an authorized Entry to a particular account in a format and medium approved by the *NACHA Rules*. Customer may also initiate a new pre-notification (i) when any changes are made to an account number, financial institution, or individual identification number or (ii) as otherwise stated in the *NACHA Rules*. If Customer receives notice that any such pre-notification has been rejected by an RDFI, Customer will not initiate any related Entry until the cause for rejection is resolved as provided in the *NACHA Rules*. If Customer receives notice that an RDFI will not receive Entries without having first received a copy of the authorization signed by its customer, Customer will not initiate any Entry to such customer(s) until it has provided the RDFI with such authorization within the time limits provided in the *NACHA Rules*. Customer understands and acknowledges that once a pre-notification has been initiated using the Services, Customer will be restricted from initiating any Entry to such customer(s) for three (3) Business Days.

**83. Unauthorized Return Rate in Excess of NACHA Rules Limits.** In the event the rate of unauthorized returns of Entries submitted by Customer exceeds the limits provided in the *NACHA Rules*, as the same may be amended from time to time, Bank will share the data with Customer and Customer will take immediate steps to revisit its authorization procedures to reduce the unauthorized return rate to comply with the *NACHA Rules* and shall further promptly prepare and submit a written plan and timeline to Bank noting Customer's intended plan to reduce unauthorized returns. The unauthorized return rate provided under the *NACHA Rules* is currently 0.5%.

**84. Inconsistency of Name and Account Number.** Customer acknowledges and agrees that, if an Entry describes the Receiver inconsistently by name and account number, posting of the Entry transmitted by Bank to the RDFI may be made by the RDFI (or by Bank in the case of an On-U's Entry) on the basis of the account number supplied by Customer, even if such account number identifies a person different from the named Receiver. Customer's obligation to settle the amount of the Entry to Bank is not excused in such circumstances. Similarly, if an Entry describes an RDFI inconsistently by name and routing number, payment of such Entry may be made based on the routing number, and Customer shall be liable to pay that Entry.

**85. Right to Audit.** Customer agrees to review its compliance with the *NACHA Rules* on a periodic basis. Upon reasonable written notice to Customer (five (5) Business Days being deemed, in all circumstances, the maximum reasonable notice required), Customer shall permit Bank to review Customer's operations as they relate to compliance with this Part III and the *NACHA Rules*, and to examine and copy any books, records, and source documents related thereto.

**86. Data Retention.** Customer shall retain Entry data on file in a format adequate to permit remaking of Entries for five (5) Business Days following the date of their transmittal by Bank as provided herein, and shall provide such data to Bank upon request. Without limiting the generality of the foregoing provision, Customer specifically agrees to be bound by and comply with all applicable provisions of the *NACHA Rules* regarding the retention of documents or any record, including, without limitation, Customer's responsibilities to retain all items, source documents and records of authorization, in accordance with the *NACHA Rules*. Customer and Bank agree that all telephone conversations or data transmissions between them or their agents made in connection with this Part III may be electronically recorded and retained by either party by use of any reasonable means.

**87. Evidence of Participant Authorization.**

87.1 To the extent required by the *NACHA Rules* or applicable law, Customer will obtain all consents and written authorizations for all Entries in accordance therewith. Such authorizations and any related disclosures shall be in a form that complies with (i) all requirements of the *NACHA Rules* and (ii) all applicable federal and state laws and regulations, as the same may be amended from time to time, including, without limitation, any applicable requirements of Regulation E, the Federal Electronic Funds

Transfer Act, and sanctions enforced by OFAC. Customer shall obtain and maintain current information regarding OFAC enforced sanctions. (This information may be obtained directly from the OFAC Compliance Hotline at (800) 540-OFAC or by visiting the OFAC website at [www.ustreas.gov/ofac](http://www.ustreas.gov/ofac).) Each Entry will be made according to such authorization and shall comply with the *NACHA Rules*. No Entry will be initiated by Customer after such authorization has been revoked or the arrangement between Customer and such Receiver or other party has terminated.

87.2 Customer shall retain all consents and authorizations for the period required by the *NACHA Rules*. Customer will furnish to Receiver, or to Bank upon its request, an original or a copy of an authorization as required under or for any purpose required by the *NACHA Rules*. No investigation or verification procedure undertaken by Bank shall be deemed to limit or waive Customer's obligations under this **Section 87**.

**88. Cooperation in Loss Recovery Efforts.** In the event of any damages for which Bank or Customer may be liable to each other or to a third party pursuant to the services provided under this Part III, Bank and Customer shall undertake reasonable efforts to cooperate with each other, as permitted by applicable law, in performing loss recovery efforts and in connection with any actions that the relevant party may be obligated to defend or elects to pursue against a third party.

**89. Records of Bank.** All electronic or other files, Entries, security procedures, and related records used by Bank for transactions contemplated by this Part III shall be and remain Bank's property. Bank may, at its sole discretion, make available such information upon Customer's request. Any expenses incurred by Bank in making such information available to Customer shall be paid by Customer.

**90. Data Breaches.**

90.1 Customer agrees that it will adopt and implement its own commercially reasonable policies, procedures and systems to provide security as to the information being transmitted and to receive, store, transmit and destroy data or information in a secure manner to prevent loss, theft or unauthorized access to data or information ("Data Breaches"), including but not limited to, Consumer-Level ACH Data.

90.2 Customer agrees that it will promptly investigate any suspected Data Breaches and monitor its systems regularly for unauthorized intrusions.

90.3 Customer will provide prompt and accurate notification to Bank by calling Customer Service with regard to any Data Breaches when known or reasonably suspected by Customer, including but not limited to, Data Breaches to Consumer-Level ACH Data, and will take all reasonable measures, which may include, without limitation, retaining computer forensic experts, to determine the scope of any data or transactions affected by any Data Breaches, providing all such determinations to Bank.

**91. Fees / Charges.**

91.1 Customer agrees to compensate Bank for the ACH Service provided by Bank pursuant to this Part III in accordance with the applicable Fee Schedule or other agreements between Bank and Customer in effect from time to time that apply to the ACH Service. By and upon entering into this Part III, Customer acknowledges receipt and acceptance of the Fee Schedule and agrees to be bound by its terms, as those terms may be amended from time to time.

91.2 Customer authorizes Bank to charge the Settlement Account for all applicable charges and fees for the ACH Service to the extent that such charges and fees are not offset by earnings credits or other allowances for Customer's Deposit Account(s) with Bank. If the balance of Available Funds in the

Settlement Account is not sufficient to cover such fees, Bank may charge such fees to any other Deposit Account maintained by Customer with Bank.

**92. Termination; Survival.** The parties may terminate this Part III in accordance with the terms and conditions of Part I. This Part III will automatically and immediately terminate if the Agreement terminates. In addition, if Customer breaches the *NACHA Rules* or causes Bank to breach the *NACHA Rules*, this Part III may be terminated or suspended by Bank upon ten (10) Business Days' notice, or such shorter period as may be provided in Part I. Any termination of this Part III shall not affect any of Bank's rights and Customer's obligations with respect to Entries initiated by Customer prior to termination or the payment obligations of Customer with respect to services performed by Bank prior to termination or any obligations or provisions that survive termination of this Part III, including with limitation Sections 81 and 82 of this Part III and as set forth in Part I.

**93. Governing Law.** Any claim, controversy or dispute arising under or related to Part III of this Agreement are subject to Section 25 hereof.

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## **PART IV: WIRE TRANSFERS**

This Part applies to Wire Transfers.

**94. Meaning of Certain Terms.** In addition to the definitions set forth elsewhere in this Agreement, certain terms used in this Part IV are defined in the specific portion of this Part IV where they are used.

**95. Wire Service.** The service described in this Part IV provides Customer with the capability to wire transfer funds from specific Deposit Account(s) to other accounts (the "Recipient Account(s)") as directed by Customer (the "Wire Service"). The Recipient Account(s) may be Customer accounts or domestic-only (U.S.-based) or international (non-U.S.-based) third-party accounts and may be with Bank or with domestic or international third-party financial institutions. Customer may use the Wire Service to initiate one-time wire transfers. All wire transfers must be initiated by Customer and/or an Authorized User of Customer. The use of the ACH Service is subject to approval by the Bank and may only be used with proper designation on the set-up or enrollment form(s) and in accordance with any additional instructions from and requirements by Bank, as applicable.

### **96. Transfer Instructions and Transmission Methods.**

96.1 Customer may instruct Bank to transfer funds from Customer Deposit Account(s) maintained at and approved for use with the Wire Service by Bank. For purposes of this Part IV, such instruction (or "order") shall be initiated by Customer or an Authorized User by means of the Online Banking, or such other transmission method as Bank may permit in its sole discretion from time to time.

96.2 Customer agrees to transmit all instructions in accordance with all of the terms, conditions of this Part IV and the security procedures, including any schedules associated therewith described herein, including as each may be amended from time to time.

96.3 Customer's authority to make the transfer and to issue other directions and instructions shall be conclusively presumed if the Security Procedures associated with the applicable transmission method are followed.

### **97. Transactions Limits; Execution of Wire Transfers.**

97.1 By submitting a wire transfer request, Customer authorizes and instructs Bank to withdraw the amount of any requested wire transfer, plus any applicable fees and charges, from Customer's designated Deposit Account. Subject to the terms of this Part IV, Bank will accept and execute a wire transfer received from Customer that has been authenticated by Bank and is in conformity with the Security Procedures (as further described below), cut-off times, transaction limits and other requirements as described in this Part IV, set-up form(s) and other documentation. Bank will reject wire transfer orders that would cause Customer's transactions to exceed any daily transaction limit or any daily exposure limit established by Bank for Customer. Such daily transaction limit and the daily exposure limit may be modified from time to time upon request of Customer in accordance with Bank's rules and policies. Any change to such limits shall be in Bank's sole discretion.

97.2 Customer shall, upon request by Bank from time to time, provide Bank with such financial information and statements and such other documentation as Bank reasonably determines to be necessary or appropriate showing Customer's financial condition, assets, liabilities, stockholder's equity, current income and surplus, and such other information regarding the financial condition of Customer as Bank may reasonably request to enable Bank to evaluate its exposure or risk. Any transaction, exposure or similar

limits established by Bank hereunder shall be made in Bank's sole discretion and shall be communicated promptly to Customer.

97.3 All wire transfers to accounts at other depository institutions are transmitted using the Fedwire funds transfer system owned and operated by the Federal Reserve Bank or via a similar wire transfer system used primarily for funds transfers between financial institutions, which may include a system provided by or through a Bank service provider.

97.4 Each wire transfer must include the following information in addition to any information which Bank may require for proper identification and security purposes: (i) Deposit Account number from which the funds are to be withdrawn, (ii) amount to be transferred, (iii) name and ABA routing number of the beneficiary's bank, and (iv) account name and account number of the beneficiary. In the event a wire transfer describes an account number for the beneficiary that is in a name other than the designated beneficiary, Bank may execute the wire transfer to the account number so designated notwithstanding such inconsistency.

## **98. Repetitive Transfers / Templates.**

98.1 A Repetitive Transfer is a template-based transfer order that Customer intends to be made on a recurring, periodic basis to the same beneficiary and the same account at the same beneficiary bank, and for which only the date and dollar amount and any additional optional information vary.

98.2 Upon set-up of a Repetitive Transfer, which may include the incorporation of a repeat code, Bank will transfer funds from Customer's Account(s) according to Customer's instructions.

98.3 For domestic and international Repetitive Transfers transmitted through Online Banking, Customer shall be responsible for the creation of all Repetitive Transfer templates. Bank shall not be liable for any error in Customer's set-up or creation of any template.

98.4 Modifications or deletions of Repetitive Transfers that were established via Online Banking must be modified or deleted by Customer via Online Banking prior to Customer's desired effective date of the change or deletion and/or in accordance with the requirements associated with Online Banking.

## **99. Time of Execution - Domestic Wires.**

99.1 Bank will execute each wire transfer request that is authenticated by and in conformity with all Security Procedures, cut-off times and other requirements set forth herein, on the Business Day received or on the Business Day requested by Customer if the wire transfer request is future-dated. Bank may require additional authentication of any wire transfer request. Bank reserves the right to reject a wire transfer request that cannot be properly authenticated. Cut-off times may be established and changed by Bank from time to time. Instructions for wire transfers received after such cut-off times may be treated by Bank for all purposes as having been received on the following Business Day.

99.2 Except for future-dated outgoing wire transfers, domestic outgoing wire transfers (U.S.-based receivers) initiated and approved by the cut-off time set forth in **Schedule A** on a Business Day will be processed that same day if that day is also a Business Day for Bank's correspondent facility and the recipient bank. Outgoing domestic wire transfers initiated and approved after the cut-off time set forth in **Schedule A** will be processed the next Business Day if that day is also a Business Day for Bank's correspondent facility and the recipient bank. Future-dated domestic outgoing wire transfers will be initiated on the effective date requested by Customer, provided that date is a Business Day. Customer may

submit a future-dated domestic wire transfer up to such period of time in advance of the effective date requested by Customer as the Wire Service permits.

99.3 If more than one wire transfer request is made at or about the same time and the Available Funds in the applicable Account do not cover all of such orders or requests, Bank may at its option execute as many of such orders or requests as possible within the dollar limits of such Available Funds.

## **100. International Wires.**

100.1 International wire transfers (non-U.S. receivers) of U.S. currency only initiated and approved by Bank's cut-off time for such transfers on a Business Day, all as set forth in **Schedule A** will be processed within the industry standard delivery times of foreign wire transfers (in most, but not all cases, two (2) Business Days). Foreign wire transfers may be subject to delays based on time-zone issues; the remote location of the recipient bank; cultural differences with respect to holidays and times of observation, etc.; and incorrect or incomplete information being supplied by Customer.

100.2 Bank shall send Customer's authorized and authenticated wire transfers to foreign banks through any bank which is a member of Bank's correspondent network. Neither Bank nor any of Bank's correspondents shall be liable for any errors, delays or defaults in the transfer of any associated messages in connection with a foreign wire transfer by any means of transmission. Unless otherwise approved by Bank in its sole discretion, international wire transfers will be made in U.S. currency only.

100.3 Bank makes no guarantee or representation as to the availability of funds at the foreign destination. Bank makes no express or implied warranty as to the time or date the wire transfer will arrive at the receiving bank, the amount of any fees to be charged by the receiving bank or any other correspondent or intermediary financial institution involved in the wire transfer, or the time or date the beneficiary will receive credit for funds.

100.4 Customer understands and acknowledges that if the named beneficiary does not match the account at the receiving bank, there is a risk the beneficiary may not receive the wired funds. If the transfer is not received or credited in a timely manner, Bank will follow normal and customary procedures to complete the wire transfer, determine the location of the wired funds and/or return the funds to Customer. If Bank is unable to determine that the funds have been credited to the beneficiary's account or have the funds returned, Customer assumes all financial liability or risk of loss for the amount of the wire transfer.

100.5 International wire transfers are subject to any and all applicable regulations and restrictions of U.S. and foreign governments relating to foreign exchange transactions. Bank has no obligation to accept any international wire transfer(s) directed to or through persons, entities or countries restricted by government regulation or prior Bank experience with particular countries. To the extent not otherwise prohibited by law, in connection with any international wire transfer(s) involving a transfer to or from any country outside of the U.S., Customer agrees to release and hold Bank harmless from any loss or liability which Customer may incur after Bank has executed the international wire transfer(s), including without limitation, any loss due to failure of a foreign bank or intermediary to deliver the funds to a beneficiary.

**101. Cancellation and Amendment of a Wire.** Customer may request that Bank attempt to cancel or amend a wire transfer request previously received from Customer. If a cancellation or amendment request is received by Bank before the wire transfer is executed and with sufficient time to afford Bank an opportunity to act upon Customer's request, Bank may, on its own initiative but without obligation, make a good faith effort to act upon such request. In the event Customer's cancellation or amendment request is received after execution or without sufficient notice for Bank to act on Customer's wire transfer request, Bank will attempt to have the wire transfer returned. Notwithstanding the foregoing, Bank shall have no

liability for the failure to effect a cancellation or amendment, and Bank makes no representation or warranty regarding Bank's ability to amend or cancel a wire transfer. Customer agrees to indemnify Bank against any loss, liability or expense (including reasonable attorney's fees) which Bank incurs as a result of the request to cancel or amend a wire transfer and the actions Bank takes pursuant to such request.

**102. Notice of Rejection or Return.** Bank shall have no liability for wire transfers sent by Bank as directed by Customer which cannot be completed or which are returned due to incorrect information furnished by Customer. Customer is required to fully complete beneficiary name and address, as beneficiary bank may elect to return an otherwise valid wire transfer for incomplete beneficiary information. Bank may reject or impose conditions that must be satisfied before it will accept Customer's instructions for any wire transfer, in its sole discretion, including, but not limited, to if there are insufficient Available Funds on deposit with Bank for the specified Deposit Account, if the transfer order that does not comply with the security procedures, if there is any inconsistency between a transfer order and information previously supplied to Bank, if Bank is unable to obtain confirmation of such transfer order satisfactory to Bank, if Bank believes that the wire transfer may not have in fact been authorized, or if Bank has other reasonable grounds not to honor the payment order. A wire transfer may also be rejected by an intermediary or beneficiary bank or by operation of law. If a wire transfer is rejected, Bank will endeavor to notify Customer promptly. If Customer wishes to elect a method of notification other than the method set forth above, Customer must obtain Bank's prior agreement thereto in writing. Upon rejection or return, Bank shall have no further obligation to act upon a wire transfer, nor shall Bank have any liability to Customer due to rejection by another person in the wire transfer process, or the fact that notice was not given or was not given at an earlier time, or within any specified time of receipt, acceptance, execution or payment of any wire transfer.

**103. Security Procedures.**

103.1 Customer and Bank shall comply with the Security Procedures described herein and as applicable with respect to wire transfers sent by Customer to Bank. Customer acknowledges and agrees that the Security Procedure requirements described herein are a commercially reasonable method of providing security against unauthorized wire transfers, and that Bank shall be deemed to have acted in good faith so long as it complies with such Security Procedure requirements. Customer acknowledges that the purpose of such Security Procedures is to attempt to verify the authenticity of wire transfers sent by Customer and not to detect errors in the transmission or content of wire transfer. No security practice or procedure for the detection of any such error has been agreed upon between Bank and Customer.

103.2 Customer is strictly responsible for establishing and maintaining its own appropriate and commercially reasonable security procedures to safeguard against the unauthorized transmission of wire transfers to Bank. Customer shall prevent and safeguard against unauthorized transmissions, disclosures and access to security-related items, including information associated with the transmittal of wire transfers, such as security procedures, instructions, passwords and user identifications, and systems and equipment that interface with, connect to or allow access to Bank, its information, systems and equipment (hereinafter referred to collectively as "Security-Related Items"). Customer shall establish, maintain and enforce its own commercially reasonable security practices, techniques and procedures with respect to access to, storage and maintenance of Security-Related Items to safeguard against unauthorized transmissions and unauthorized access to Security-Related Items. Such practices, techniques and procedures shall be no less than the security-related requirements set forth in this Part IV.

103.3 Customer warrants that no individual will be allowed to initiate transfers without proper authority, supervision and safeguards, and agrees to take reasonable steps to maintain the confidentiality of the Security Procedures and any passwords, codes, security devices and related instructions provided by Bank in connection with the Security Procedures described herein and to restrict access thereto to



Customer's employees trusted with the duty to transmit Entries to Bank. If Customer suspects, knows, believes or has reason to believe that any such information or instructions have been known or otherwise accessed by unauthorized persons, Customer agrees to immediately notify Bank by phone, followed by written confirmation. The occurrence of unauthorized access shall not affect any transfers made in good faith by Bank prior to receipt of such notice and within a reasonable time period after notice is received to allow sufficient time for Bank to respond to such notice.

103.4 Except as may otherwise be noted, the following Security Procedures are required for all Online Banking customers, unless otherwise indicated:

**Log-on ID and Password:** This is the individual electronic identification, in letters and/or numerals, assigned to the Administrator and to each of Authorized User properly enrolled in Online Banking that will be used for log-in by each Administrator(s) and Authorized Users.

At set-up, Bank will also provide an individual, temporary password to each Administrator(s) and Authorized User(s). Each Administrator(s) and Authorized User(s) will be required to change their individual password upon the first sign-on to a unique password known only to him/her. Passwords are case-sensitive and require a minimum number of alpha-numeric characters and must utilize punctuation marks along with letters and numbers, as the Bank may set forth from time to time. Each Administrator and each Authorized User will have an individual, unique User ID and password. Bank strongly recommends that each Administrator(s) and Authorized User(s) change his or her individual password at least every thirty (30) days for security purposes. Passwords should not be associated with any commonly known personal identification, such as the User's name, date of birth, telephone numbers, addresses, children's names, or pets' names, and should be memorized rather than written down. Upon three unsuccessful attempts to use a password, access to Online Banking will be suspended. To re-establish authorization to use Online Banking, Customer must contact Trustco Bank Online Banking Support at 518-381-3615 or 1-800-670-3110 to have the password re-set.

**Enhanced Secure Log-In Security:** In addition to the above individual Log-on ID and Password(s), access to Online Banking includes, as part of the Access Devices, a multi-factor authentication security procedure at first log-in for Customer, including Customer's Administrator and Authorized Users. "Secure Log-in" security incorporates a multi-part credential for each user of Online Banking that is in addition to Log-on IDs and Password security. It incorporates an additional factor(s) of identity authentication that may include, but is not limited to, additional log-in security features such as security cookies, device recognition and registration, and flash objects. Secure Log-in security will require each user of Online Banking to establish and utilize, in addition to individual Log-on IDs and Passwords, Customer's own individual authentication through the use of personal identifying images and questions as part of a multi-part credential. Further authentication and monitoring by Bank and/or its third party service provider(s) may occur automatically due to the detection of unusual source or log-in occurrences in relation to that access identity.

**One-Time Passcodes:** An additional required Security Procedure incorporates use of a one-time passcode delivered out-of-band via text or voice message for use with certain transactional functionality associated with ACH transactions and wire transfers. A one-time passcode will be issued to any Authorized User(s), for example, of Online Banking, and for use in initiating and/or approving ACH transactions and wire transfers. Notwithstanding the foregoing, Bank reserves the right to require the use of one-time passcodes for all or certain other functionality from time to time, in its sole discretion, including by way of example only and not by way of limitation, the use of one-time passcodes with certain administrative functionality and for the creation of ACH and wire templates, as applicable.

Minimum Computer Requirements: Online Banking may be used with various Internet browsers as Bank may specify from time to time. To provide the highest degree of confidentiality and to protect the security of Customer's financial information, Customer must have an Internet browser that supports a minimum of 128-bit encryption and secure sockets layer version 3.0 or higher. Any use of Online Banking with lower than 128-bit encryption is strictly prohibited. To the extent Customer is able to access Online Banking using lower than 128-bit encryption, Bank specifically disclaims any and all responsibility and liability for losses resulting from Customer's use of such lower encryption. Bank may change these requirements from time to time.

**Additional Strongly Recommended Security Procedures:**

From time to time and as applicable, Bank may make available additional Security Procedures for use with Online Banking and related Services. Bank strongly recommends the use of these additional Security Procedures to help deter and protect against unauthorized transactions associated with the Online Banking Services, including the following:

- **Dual Control:** With this additional security feature, one Authorized User is permitted to create, edit, cancel, delete and restore ACH Entries or files, or wire transfer requests with his/her Access Devices; a second different Authorized User with his/her Access Devices is required to approve, release or delete the transaction request.
- **Browser Security Software:** As and when made available to Customer by Bank or otherwise, browser security software may be downloaded on all Customer Computers used in conjunction with Online Banking to help protect against online fraud committed by financial malware and phishing attacks throughout the online banking process.
- **Other Customer Alerts:** Customer will be alerted by email when the following Customer information is updated: email address, password, or when a Bill Payment Service biller record is updated or a payee is added. Customer may self-enroll in other types of alerts, as described in the Agreement.

CUSTOMER ACKNOWLEDGES AND AGREES THAT THE SECURITY PROCEDURES DESCRIBED IN THIS SCHEDULE ARE A COMMERCIALY REASONABLE METHOD FOR THE PURPOSE OF VERIFYING WHETHER ANY PAYMENT, TRANSFER OR OTHER REQUEST WAS INITIATED BY CUSTOMER. CUSTOMER AGREES THAT ANY ELECTION CUSTOMER MAY MAKE TO WAIVE OR CHANGE (WHERE PERMITTED BY BANK IN ITS SOLE AND EXCLUSIVE DISCRETION) THE SECURITY PROCEDURES ASSOCIATED WITH THE SERVICES ARE AT CUSTOMER'S SOLE RISK. CUSTOMER FURTHER AGREES THAT ANY PAYMENT, TRANSFER OR OTHER REQUEST TRANSMITTED OR PURPORTED TO BE TRANSMITTED BY CUSTOMER BY WAIVING THE SECURITY PROCEDURES SHALL BE TREATED AS AUTHORIZED, AND CUSTOMER SHALL BE RESPONSIBLE FOR ANY LOSS RESULTING IN WHOLE OR IN PART FROM SUCH WAIVER.

103.5 Bank may, from time to time, propose modified, additional or enhanced security procedures for use with the Wire Service. Customer understands and agrees that if it declines to use any such modified, additional or enhanced security procedures, it will be liable for any losses that would have been prevented by such security procedures. Notwithstanding anything to the contrary contained in this Part IV, if Bank believes immediate action is required for the security of Bank or Customer funds, Bank may initiate modified, additional or enhanced security procedures immediately and provide prompt subsequent notice thereof to Customer.

#### **104. Compliance with Security Procedures.**

104.1 If a wire transfer (or a request for cancellation or amendment of a wire transfer) received by Bank was sent in accordance with the Security Procedures described herein and thereby purports to have been transmitted or authorized by Customer, it shall be deemed effective as Customer's wire transfer (or request), even if the wire transfer (or request) was not authorized by Customer. If Bank accepted the wire transfer (a) in compliance with the Security Procedures referred to herein with respect to such wire transfer, (b) in compliance with any written agreement or instruction of Customer restricting acceptance of wire transfer issued in Customer's name, and (c) in good faith, then Customer shall be obligated to pay Bank the amount of such wire transfer.

104.2 If a wire transfer (or a request for cancellation or amendment of a wire transfer) received by Bank was actually sent or authorized by Customer, Customer shall pay Bank the amount of any such wire transfer, whether or not Bank complied with the Security Procedures described herein and whether or not that wire transfer was erroneous in any respect or that any such error would have been detected if Bank had complied with the Security Procedures.

**105. Accuracy; Inconsistency of Receiving Beneficiary Name and Account Number.** In submitting any wire request or related instructions, Customer shall be responsible for providing all necessary information required by Bank. Bank's Wire Service is only designed to respond to information provided by Customer. Accordingly, any inaccuracy in any information provided by Customer may result in a transfer of funds to an unintended beneficiary. Bank bears no responsibility and shall not be liable to Customer for any information provided by Customer in a wire request or related instructions that is inaccurate, incomplete or otherwise incorrect. Customer acknowledges and agrees that, in accordance with Article 4A of the UCC, Bank shall be entitled to rely upon the numbers supplied by Customer to identify banks, beneficiaries and other parties to the wire transfer, even if those numbers disagree or are inconsistent with the names of those parties as provided by Customer. Bank and any other receiving financial institution shall have no obligation to determine whether a name and number identify the same person or institution. Customer acknowledges that payment of a wire request or related instructions may be made by the beneficiary's bank on the basis of an identifying or bank account number even if it identifies a person different from the named beneficiary.

#### **106. Payment; Authorization to Charge Account.**

106.1 Customer will compensate Bank for the Wire Service as provided in the Fee Schedule. In connection with each wire transfer, Customer shall also pay Bank's online wire transfer fee(s) as may be in effect at the time of such transfer and as may be set forth in the Fee Schedule. Bank shall be authorized to deduct its fees hereunder from any Deposit Account of Customer.

106.2 Customer agrees to pay Bank the amount of each transfer order received from Customer on the Business Day that Bank executes said order or at such other time as Bank may determine. Bank may, without prior notice or demand, obtain payment of such amount by debiting the Deposit Account designated or, in the event there are not sufficient Available Funds in the Deposit Account, debiting any other Deposit Account or crediting any line of credit that Customer maintains with Bank, in Bank's sole and exclusive discretion. Customer agrees to at all times maintain a balance of Available Funds in Customer's designated Deposit Account sufficient to cover payment of Customer's obligations under this Part IV.

**107. Advices and Statements.** All wire transfers accepted by Bank (including wire transfers sent or received on behalf of Customer) will be reflected on Customer's Online Banking daily history and/or on

Customer's periodic Deposit Account statement issued by Bank with respect to the Deposit Account(s) to or from which Customer's wire transfer was made. Customer agrees to monitor its use of the Wire Service as set forth in **Section 11** of Part I.

**108. Refunds.** In the event that a beneficiary does not receive payment for the wire transfer and Customer is entitled to a refund, upon receipt by Bank of the returned funds, Bank will refund the amount to Customer less any fees and expenses associated with the recovery. Bank will notify Customer of such a refund by telephone or in writing, in its discretion, as soon as reasonably practical.

**109. Use of Correspondent Accounts.** A wire transfer may be executed through any one, or a series of, correspondent banks of the beneficiary's bank and of Bank in a manner deemed most appropriate and effective by Bank or by any other bank participating in the wire transfer.

**110. Bank Reliance; Authentication.**

110.1 Bank shall be entitled to rely in good faith on communications it receives as being given or sent by an Authorized User and as being genuine and correct when made in accordance with applicable Security Procedures. Bank shall not be liable to Customer for the consequences of such reliance.

110.2 **BANK MAY TAKE SUCH ADDITIONAL STEPS AND IMPLEMENT SUCH PROCEDURES AS IT MAY DEEM APPROPRIATE TO VERIFY THE AUTHENTICITY OF ANY WIRE TRANSFER. BANK MAY DELAY THE EXECUTION OF ANY WIRE TRANSFER PENDING COMPLETION OF A CALL-BACK OR RECEIPT OF ANOTHER FORM OF VERIFICATION WHICH IS SATISFACTORY TO BANK. IF BANK IS UNABLE TO OBTAIN SATISFACTORY VERIFICATION, BANK, IN ITS SOLE DISCRETION, MAY REFUSE TO EXECUTE ANY WIRE TRANSFER.** In no event shall Bank be liable for any delay in executing a wire transfer or for failure to execute a wire transfer due to the absence of satisfactory verification.

110.3 Bank may electronically record any telephone conversations between Bank personnel and Customer.

110.4 Wire transfer transactions are subject to all the foregoing and all regulations governing electronic transactions, including but not limited to Article 4A of the UCC.

**111. Bank Responsibilities.**

111.1 In the performance of the Wire Service, Bank shall be entitled to rely solely on the information, representations, and warranties provided by Customer and shall not be responsible for the accuracy or completeness thereof. Bank shall be responsible only for performing the Wire Service as expressly provided for in this Part IV. Bank shall not be responsible for Customer's acts or omissions (including, without limitation, the amount, accuracy, timeliness of transmittal or authorization of any instruction or transaction received from Customer or through Customer's Access Devices) or those of any other person, including without limitation any Federal Reserve Bank or transmission or communications facility, and no such person shall be deemed Bank's agent. Customer agrees to indemnify and defend Bank against any loss, liability or expense (including reasonable attorneys' fees and expenses) resulting from or arising out of any claim arising from the Wire Service.

111.2 Customer acknowledges and agrees that Bank's provision of the Wire Service hereunder may be interrupted from time to time. Without limiting the generality of the foregoing, Bank shall be excused from failing to act or delay in acting if such failure or delay is caused by legal constraint, interruption of transmission or communication facilities, equipment or software error or malfunction, war,

acts of terrorism, emergency conditions or other circumstances beyond Bank's reasonable control. From time to time Bank may need to temporarily suspend the Wire Service or the processing of a transaction for greater scrutiny or verification, including, but not limited to, suspending processing to review for suspected fraudulent activity, verification that Available Funds are sufficient as well as fully collected and valid, or for OFAC compliance in accordance with applicable OFAC guidance, and Bank shall be excused if this action causes delay in the settlement and/or availability of the transaction. In addition, Bank shall be excused from failing to transmit or delay in transmitting a payment, transfer or other use of the Wire Service (i) if, in Bank's reasonable judgment, processing a payment, transfer or other use of the Wire Service would violate or contribute to the violation of any present or future risk control program of the Federal Reserve or any applicable rule, law, regulation, or regulatory requirement; (ii) if Bank reasonably suspects that a transaction involves fraudulent activity or that Available Funds will not ultimately be sufficient to cover a transaction, or (iii) if processing a payment, transfer or other use of the Wire Service, in Bank's sole discretion, would cause Bank to engage in an unsafe or unsound practice.

**112. Cooperation in Loss Recovery Efforts.** In the event of any damages for which Bank or Customer may be liable to each other or to a third party pursuant to the Wire Service provided under this Part IV, Bank and Customer shall undertake reasonable efforts to cooperate with each other, as permitted by applicable law, in performing loss recovery efforts and in connection with any actions that the relevant party may be obligated to defend or elects to pursue against a third party.

**113. Records of Bank.** All electronic or other files, transactions, security procedures, and related records used by Bank for transactions through the Wire Service shall be and remain Bank's property. Bank may, at its sole discretion, make available such information upon Customer's request. Any expenses incurred by Bank in making such information available to Customer shall be paid by Customer.

**114. Data Breaches.** Customer agrees to comply with the requirements of **Section 10** of Part I with respect to Data Breaches.

**115. Compliance.** Customer shall comply with all applicable laws, rules and regulations in connection with the Wire Service. Customer agrees to be bound by such rules, and agrees not to initiate or receive a wire transfer request or related instruction in violation of international, federal, state and local laws and regulations including, without limitation, the regulations promulgated by the Office of Foreign Asset Control ("OFAC"). To the extent permissible under applicable law, Customer shall be responsible for and shall fully indemnify Bank for any and all fines, assessments and reasonable attorney's fees incurred by or imposed on Bank as a result of any infraction or violation of such rules caused by or attributable to Customer.

**116. Termination.** The parties may terminate this Part IV in accordance with the terms and conditions of Part I. This Part IV will automatically and immediately terminate if this Agreement terminates. Any termination of this Part IV shall not affect any of Bank's rights and Customer's obligations with respect to wire requests or related instructions initiated by Customer prior to the effective time of such termination, or the payment obligations of Customer with respect to services performed hereunder by Bank prior to the effective time of such termination, or any other obligations that survive termination of this Part IV. The provisions of this Part IV that are necessary to give effect to the purposes of this Part IV shall survive its termination.

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## **PART V: MOBILE BANKING SERVICE**

This Part applies to Mobile Banking.

**117. Mobile Banking.** Mobile banking is a service that allows Authorized Users of Customer to use a downloadable software application on a smartphone or other eligible Mobile Device (as defined below) to perform certain electronic banking tasks, as fully described below (hereinafter, “Mobile Banking”).

**118. Definitions.** In addition to the definitions set forth in Parts I and II of this Agreement, certain terms used in this Part V are defined in the specific portion of this Part V where they are used. The following terms are also used throughout this Part V.

“*Mobile Apps*” means a downloadable application designed to run on smartphones, tablet computers and other mobile devices, through which Mobile Banking may then be accessed.

“*Mobile Device*” means (a) a web-enabled cell phone, tablet or other handheld mobile device whose network allows secure SSL traffic using the software that supports Mobile Banking, and (b) that Customer registered with Bank.

“*Mobile Web*” is the mobile-optimized version of the authenticated portions of the designated Bank’s website through which Mobile Banking may be accessed from any web-enabled Mobile Device.

“*Short Message Service*” or “*SMS*” is a text messaging service component of Mobile Banking that uses standardized communication protocols to allow fixed line or Mobile Devices to exchange short text messages regarding Customer’s Accounts.

**119. System Requirements.** To use Mobile Banking, Customer must have:

(i) An iPhone running iOS or later or Android device running Android 1.6 or later in order to download the applicable Bank Mobile App that is available in the Apple App Store and Google Play; and/or

(ii) Any Mobile Device with an Internet connection can access a mobile version of Business Online Banking Services that is optimized for use on a Mobile Device at [www.trustcobank.com](http://www.trustcobank.com).

**120. Enrolling in Mobile Banking.** The use of Mobile Banking is subject to approval by the Bank and may only be used with proper designation on the set-up or enrollment form(s) and in accordance with any additional instructions from and requirements by Bank, as applicable. In order to use Mobile Banking, Customer must: (a) be enrolled in Online Banking, (b) have a Mobile Device and (c) register while logged into Online Banking. Although Mobile Banking is phone device agnostic and will work with most Mobile Devices, the enrollment process may require Customer to provide information about the Mobile Device that Customer will use for Mobile Banking, as well as the telephone number for Customer’s Mobile Device, the telecommunications carrier that provides service to Customer’s Mobile Device, and Customer’s email address. Enrollment requires identification of Customer’s banking relationship with Bank as well as verification of Customer’s Mobile Device. The Mobile Device verification is completed by Customer receiving an SMS message with a verification code on Customer’s Mobile Device that Customer will have to enter on the Online Banking website. If Customer uses a handheld mobile device other than its Mobile Device to access Mobile Banking, all SMS text messages originating from Mobile Banking will be sent to the Mobile Device that Customer entered and verified when registering for Mobile Banking. ***It is Customer’s responsibility to provide Bank with accurate, complete and current information about Customer and Customer’s Mobile Device (including its telephone number, and Customer’s email address), and to notify Bank immediately if any of this information changes or if service to Customer’s***

**Mobile Device is terminated.** Bank reserves the right to refuse or cancel Customer's registration for Mobile Banking if Bank cannot verify information about Customer and/or Customer's Mobile Device.

**121. Standard Data and Text Messaging Rates Apply.** *Customer understands that the standard data and text messaging rates charged by the telecommunications carrier providing service for the Mobile Device of each Authorized user apply when they enroll in and use Mobile Banking.*

**122. Representations, Warranties and Covenants.** When Customer uses Mobile Banking to access Account(s) designated during the enrollment process (each Account so designated being a "Mobile Banking Account"), Customer agrees to the following:

(a) Representations and Warranties. When enrolling in and using Mobile Banking, Customer represents and warrants that:

(i) Customer is the legal owner of the Accounts and other financial information that may be accessed via Mobile Banking; and

(ii) All information Customer and/or its Authorized Users provide to Bank in connection with Mobile Banking is accurate, current and complete, and that Customer has the right to provide such information.

(b) Covenants and Agreements. When enrolling in and using Mobile Banking, Customer covenants and agrees that:

(i) Customer will not misrepresent its identity or its Account information;

(ii) Customer will keep its Account information up-to-date and accurate;

(iii) Bank and Bank's service providers may send Customer, by SMS message, email, and other methods, communications relating to Mobile Banking (with an opportunity to opt-out where required by applicable law), including without limitation welcome messages, information and requests for information relating to use of Mobile Banking, Online Banking and other ancillary services;

(iv) Customer will use Mobile Banking carefully, and will ensure that its Authorized Users to keep their Access Credentials confidential and secure and not share that information with others;

(v) Customer will ensure that its Authorized Users comply with all applicable Security Procedures;

(vi) Customer will check its statements and transactions regularly, report any errors to Bank promptly by visiting a branch or calling Bank at 518-377-3311 between the hours of 9:00 a.m. to 6:00 p.m., Monday through Friday, and cancel immediately Customer's participation in Mobile Banking if Customer observes any material errors in Mobile Banking; and

(vii) If Customer uses any location-based feature for Mobile Banking, Customer agrees that Customer's geographic location and other personal information may be accessed and disclosed through Mobile Banking. If Customer wishes to revoke access to such information, Customer may cease using location-based features of Mobile Banking.

**123. Proper Use of Mobile Banking.** Mobile Banking will not work unless Customer uses it properly. Customer accepts responsibility for making sure that its Authorized Users understand how to use its Mobile

Device and Mobile Banking and applicable associated software / application (the “Software”) before using it, and that its Authorized Users always use it in accordance with any online instructions that may be delivered or made available to Customer. From time to time Bank may change, upgrade, or add new features to Mobile Banking. In the event of such changes, Customer is responsible for making sure that Customer understands how to use the updated or changed version of Mobile Banking and/or Software. Bank will not be liable to Customer for any losses caused by Customer’s failure to properly use Mobile Banking or any Mobile Device.

**124. Relationship of these Mobile Banking Terms to Other Agreements.** Customer agrees that this Part V remains subject to the terms and conditions of Online Banking (as set forth in Part II of this Agreement) and the Bill Pay Terms (as set forth in **Section 46** of Part II of this Agreement), the agreements associated with Customer’s Account(s) and any and all other existing agreements with Bank and Bank’s affiliates. Customer also agrees it will continue to be subject to the terms and conditions of its existing agreements with any unaffiliated service providers, including, but not limited to, the telecommunications carrier for Customer’s Mobile Device, and Customer understands that its use of Mobile Banking and these terms do not amend or supersede any of the agreements with these telecommunications carriers (such agreements being Customer’s “Mobile Device Agreements”). Customer understand that its Mobile Device Agreements may provide for fees, limitations and restrictions which might impact Customer’s use of Mobile Banking (for example, they may impose data usage or text message charges for use of or interaction with Mobile Banking, including while downloading the Software, receiving or sending Mobile Banking text messages and alerts, or other use of Customer’s Mobile Device when using the Software or other products and services provided by Mobile Banking). Customer agrees to be solely responsible for all such fees, limitations and restrictions. Customer agrees that only Customer’s mobile service carrier or provider is responsible for its products and services, and that Customer’s mobile service carrier is not the provider of Mobile Banking. Accordingly, Customer agrees to resolve any problems with its carrier or provider directly with its carrier or provider without involving Bank. Customer also agrees that if Customer has any problems with Mobile Banking, you will contact Bank directly.

**125. Mobile Banking Transactions.** As approved by the Bank, Customer may use Mobile Banking to initiate the following types of transactions to or from Customer’s Mobile Banking Accounts through Customer’s Mobile Device (each, a “Mobile Banking Transaction”):

(a) View Limited Transaction History: To view balances and recent transactions for Customer’s Mobile Banking Accounts.

(b) Make One-Time Transfers Between Customer’s Mobile Banking Accounts: To make immediate, one-time transfers of funds between Customer’s Mobile Banking Accounts (each such transfer a “Mobile Transfer”). Customer may transfer any amount of its Available Funds (as defined in Customer’s Account Disclosure Notice) per Mobile Transfer as long as the transaction does not cause Customer’s Available Funds in the Mobile Banking Account to be debited to be less than zero. Mobile Transfers received by 3:00 p.m. will be effective on the current Business Day. Mobile Transfers made after this cut-off time or any time on a Saturday, Sunday or federal holiday will be effective the following Business Day. Customer is not able to schedule future or recurring transfers with Mobile Banking, or to make two or more transfers from one Mobile Banking Account to a second Mobile Banking Account in exactly the same amount between the cut-off hour on one Business Day and the cut-off hour on the next Business Day. If Customer attempts to make two such identical transfers, only the first transfer will be transmitted.

(c) Initiate Mobile Bill Pay Transactions: If Customer is enrolled in the Bill Pay Service, Customer may use Mobile Banking to pay a bill from the Mobile Banking Account that Customer has designated as its payment Account under the terms of our Bill Pay terms (which are incorporated into and made a part of these Mobile Banking terms). Each Bill Pay Service transaction that Customer initiates



through its Mobile Device will be considered a “Mobile Bill Pay Transaction.” Customer may also use Mobile Banking to view, edit and delete pending Mobile Bill Pay Transactions. Customer must maintain its payment Account in good standing with Bank in order to perform Mobile Bill Pay Transactions. If Customer’s payment Account is closed for any reason, Bank will suspend or terminate Customer’s right to initiate Mobile Bill Pay Transactions. Customer may initiate Mobile Bill Pay Transactions in amounts up to the Available Funds (as defined in Customer’s Account Disclosure Notice) in Customer’s payment Account. For security reasons, Bank may limit the frequency and dollar amount of Mobile Bill Pay Transactions from Customer’s payment Account. Customer may not set-up or initiate Mobile Bill Pay Transactions to any new Payees that are not currently on Customer’s Payee list as established pursuant to Bank’s Bill Pay terms. Customer may not establish (or delete or edit any pending) recurring Mobile Bill Pay Transactions through Mobile Banking.

(d) Initiate ACH Entries and Wire Transfers: If Customer is enrolled in the ACH Origination Service and/or the Wire Transfer Service, Customer may use Mobile Banking to initiate an ACH entry or file or a wire transfer to any payee previously established through Online Banking. As an additional Security Procedure, Customer will be required to utilize a one-time PIN when initiating an ACH entry or file or a wire transfer through Mobile Banking.

(e) Text Message Alerts: Bank also offers its Customers access to certain Account information (e.g., for checking balances and last transactions) through SMS text messages, as well as the option to set up alerts for certain Accounts (e.g., low balance alerts). Additionally, Customers may select the type of alerts and other preferences which will determine, together with their account data, the frequency of alerts delivered to them. *Standard messaging charges apply if Customer enrolls to receive such alerts, and Customer will be allowed to opt out of this program at any time.* To stop the messages from coming to Customer’s Mobile Device, Customer can opt out by sending a text that says "STOP" to this number: 4692228. Customer will receive a one-time opt-out confirmation text message. After that, Customer will not receive any future messages.

## **126. Limitations on Mobile Banking Transactions.**

**126.1 Regulatory Limits.** Because regulations require Bank to limit certain types of transfers from Customer’s Accounts, the following limitations apply:

(i) Statement Savings Accounts. Customer can make no more than six (6) transfers per statement period by preauthorized or automatic transfer or by telephone or through Mobile Banking from a statement savings Account (transfers to such an Account are unlimited).

(ii) Money Market Accounts. Customer can make no more than six (6) transfers per statement period by preauthorized or automatic transfer or by telephone or through Mobile Banking from a money market Account.

**126.2 Dollar and Frequency Limitations on Transfers.** Funds can be transferred immediately or on a future date between your Account(s), where they are Mobile Banking Accounts. Bank reserves the right to limit the frequency and dollar amount of transfers for security reasons. Customer may transfer any amount of Customer’s Available Funds per transaction, as long as the transaction does not cause the Available Funds in Customer’s Account to be less than zero.

**126.3 Mobile Device Limitations.** Mobile Banking and some Mobile Banking Transactions may not be available on all types of Mobile Devices. Customer also understands and agrees that Mobile Banking may not be accessible or may have limited utility over some mobile networks, such as while roaming.

**127. Changes to Mobile Banking.** Bank reserves the right to modify the scope of Mobile Banking at any time. Bank reserves the right to refuse to make any Mobile Banking Transaction requested by Customer.

**128. Availability.** Customer can use its Mobile Device to access Mobile Banking 24 hours a day, 7 days a week. However, Customer's access to Online Banking and Mobile Banking may be restricted during regular maintenance periods and any special maintenance periods. Bank may process requests for Mobile Transactions only on Business Days. The cut-off times for your Mobile Transactions are disclosed above. Any requests for a Mobile Transaction received after these cut-off times will be processed on the next Business Day.

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## **SCHEDULE A**

### **TRUSTCO BANK BUSINESS ONLINE BANKING SERVICES:**

#### **ACH ORIGINATION PROCESSING SPECIFICATIONS**

**A. Delivery Method(s):** Bank will accept the following method of file transmission or delivery:

**Online Banking** – when Customer initiates Entries via this method, Customer agrees to the terms and conditions of the Online Banking and its related Security Procedures when initiating Entries, as described in Part II of the Business Online Banking Services Agreement and **Schedule B**.

Any method which utilizes the Internet must be appropriately encrypted using a commercially reasonable security technology that, at a minimum, is equivalent to 128-bit encryption technology.

**B. Format and content of Entries:** File format and content must meet the specifications as detailed in Appendix Two of the *NACHA Rules* as in effect on the date of transmission.

**C. Permitted SEC Codes:** As of the date of this Agreement, authorized SEC Codes include **PPD** and **CCD**. All other SEC Codes that Bank may subsequently permit in its sole discretion and from time to time with respect to the ACH Service will require pre-approval by Bank and may only be used with proper designation on Set-Up Form associated with the ACH Service and in accordance with additional instructions from and requirements by Bank, as applicable. Bank reserves the right to reject any Entry or group of Entries that includes an unauthorized SEC Code.

**D. Delivery Deadlines / Cut-Off Times:**

ACH transmissions must be received by Bank as follows:

- **Debit transactions** must be received by Bank no later than 5:00 p.m. ET on a Business Day, at least one (1) Business Day prior to the Effective Entry Date of the transactions contained in the submission. Transactions received after the cut-off time on a Business Day will be deemed to have been received on the following Business Day.
- **Credit transactions** must be received by Bank no later than 5:00 p.m. ET on a Business Day, at least two (2) Business Days prior to the Effective Entry Date of the transactions contained in the submission. Transactions received after the cut-off time on a Business Day will be deemed to have been received on the following Business Day.

**E. Business Day(s):** Federal holidays shall not be considered a Business Day for purposes of the ACH Service.

**F. Notice by Bank:** If an Entry is rejected, returned or if a Notification of Change is received, Bank shall notify Customer by phone or electronic (email) transmission.

## **SCHEDULE A - Continued**

### **TRUSTCO BANK BUSINESS ONLINE BANKING SERVICES: WIRE TRANSFER PROCESSING SPECIFICATIONS**

#### **Delivery Deadlines / Cut-Off Times:**

For wire requests transmitted via Online Banking, the following cut-off time requirements will apply:

- A. Domestic Wire Transfers initiated and approved by 5:00 p.m. ET on a Business Day will be processed that same day if that day is also a Business Day for Bank's correspondent facility and the recipient bank; transfers initiated and approved after 5:00 p.m. ET will be processed the next Business Day if that day is also a Business Day for Bank's correspondent facility and the recipient bank.
  
- B. International Wire Transfers of U.S. currency initiated and approved by 5:00 p.m. ET on a Business Day and approved by 5:00 p.m. ET on a Business Day will be processed within the industry standard delivery time (in most, but not all cases, two (2) Business Days). Foreign transfers may be subject to delays based on time-zone issues; the remote location of the recipient bank; cultural differences with respect to holidays and times of observation, etc.; and incorrect information being supplied by Customer.

## **SCHEDULE B**

### **TRUSTCO BANK BUSINESS ONLINE BANKING SERVICES:**

#### **SECURITY PROCEDURES**

Except as may otherwise be noted, the following Security Procedures are **required** for all Online Banking customers, unless otherwise indicated:

**Log-on ID and Password:** This is the individual electronic identification, in letters and/or numerals, assigned to the Administrator and to each of Authorized User properly enrolled in Online Banking \that will be used for log-in by each Administrator(s) and Authorized Users.

At set-up, Bank will also provide an individual, temporary password to each Administrator(s) and Authorized User(s). Each Administrator(s) and Authorized User(s) will be required to change their individual password upon the first sign-on to a unique password known only to him/her. Passwords are case-sensitive and require a minimum number of alpha-numeric characters and must utilize punctuation marks along with letters and numbers, as the Bank may set forth from time to time. Each Administrator and each Authorized User will have an individual, unique User ID and password. Bank strongly recommends that each Administrator(s) and Authorized User(s) change his or her individual password at least every thirty (30) days for security purposes. Passwords should not be associated with any commonly known personal identification, such as the User's name, date of birth, telephone numbers, addresses, children's names, or pets' names, and should be memorized rather than written down. Upon three unsuccessful attempts to use a password, access to Online Banking will be suspended. To re-establish authorization to use Online Banking, Customer must contact Trustco Bank Online Banking Support at 518-381-3615 or 1-800-670-3110 to have the password re-set.

**Enhanced Secure Log-In Security:** In addition to the above individual Log-on ID and Password(s), access to Online Banking includes, as part of the Access Devices, a multi-factor authentication security procedure at first log-in for Customer, including Customer's Administrator and Authorized Users. "Secure Log-in" security incorporates a multi-part credential for each user of Online Banking that is in addition to Log-on IDs and Password security. It incorporates an additional factor(s) of identity authentication that may include, but is not limited to, additional log-in security features such as security cookies, device recognition and registration, and flash objects. Secure Log-in security will require each user of Online Banking to establish and utilize, in addition to individual Log-on IDs and Passwords, Customer's own individual authentication through the use of personal identifying images and questions as part of a multi-part credential. Further authentication and monitoring by Bank and/or its third party service provider(s) may occur automatically due to the detection of unusual source or log-in occurrences in relation to that access identity.

**One-Time Passcodes:** An additional required Security Procedure incorporates use of a one-time passcode delivered out-of-band via text or voice message for use with certain transactional functionality associated with ACH transactions and wire transfers. A one-time passcode will be issued to any Authorized User(s), for example, of Online Banking, and for use in initiating and/or approving ACH transactions and wire transfers. Notwithstanding the foregoing, Bank reserves the right to *require* the use of one-time passcodes for all or certain other functionality from time to time, in its sole discretion, including by way of example only and not by way of limitation, the use of one-time passcodes with certain administrative functionality and for the creation of ACH and wire templates, as applicable.

**Minimum Computer Requirements:** Online Banking may be used with various Internet browsers as Bank may specify from time to time. To provide the highest degree of confidentiality and to protect the security of Customer's financial information, Customer must have an Internet browser that supports a minimum of 128-bit encryption and secure sockets layer version 3.0 or higher. Any use of Online Banking with lower than 128-bit encryption is strictly prohibited. To the extent Customer is able to access Online Banking using lower than 128-bit encryption, Bank specifically disclaims any and all responsibility and liability for losses resulting from Customer's use of such lower encryption. Bank may change these requirements from time to time.

**Additional Strongly Recommended Security Procedures:**

*From time to time and as applicable, Bank may make available additional Security Procedures for use with Online Banking and related Services. Bank strongly recommends the use of these additional Security Procedures to help deter and protect against unauthorized transactions associated with the Online Banking Services, including the following:*

- **Dual Control:** With this additional security feature, one Authorized User is permitted to create, edit, cancel, delete and restore ACH Entries or files, or wire transfer requests with his/her Access Devices; a second *different* Authorized User with his/her Access Devices is required to approve, release or delete the transaction request.
- **Browser Security Software:** As and when made available to Customer by Bank or otherwise, browser security software may be downloaded on all Customer Computers used in conjunction with Online Banking to help protect against online fraud committed by financial malware and phishing attacks throughout the online banking process.
- **Other Customer Alerts:** Customer will be alerted by email when the following Customer information is updated: email address, password, or when a Bill Payment Service biller record is updated or a payee is added. Customer may self-enroll in other types of alerts, as described in the Agreement.

***CUSTOMER ACKNOWLEDGES AND AGREES THAT THE SECURITY PROCEDURES DESCRIBED IN THIS SCHEDULE ARE A COMMERCIALY REASONABLE METHOD FOR THE PURPOSE OF VERIFYING WHETHER ANY PAYMENT, TRANSFER OR OTHER REQUEST WAS INITIATED BY CUSTOMER. CUSTOMER AGREES THAT ANY ELECTION CUSTOMER MAY MAKE TO WAIVE OR CHANGE (WHERE PERMITTED BY BANK IN ITS SOLE AND EXCLUSIVE DISCRETION) THE SECURITY PROCEDURES ASSOCIATED WITH THE SERVICES ARE AT CUSTOMER'S SOLE RISK. CUSTOMER FURTHER AGREES THAT ANY PAYMENT, TRANSFER OR OTHER REQUEST TRANSMITTED OR PURPORTED TO BE TRANSMITTED BY CUSTOMER BY WAIVING THE SECURITY PROCEDURES SHALL BE TREATED AS AUTHORIZED, AND CUSTOMER SHALL BE RESPONSIBLE FOR ANY LOSS RESULTING IN WHOLE OR IN PART FROM SUCH WAIVER.***