



INTERNET BANKING SERVICE AGREEMENT & DISCLOSURE

I. Terms and Conditions for Both Consumer and Non-Consumers

A. General

This Internet Banking Service Agreement & Disclosure ("Agreement") governs the use of the **MetroBank, N.A.'s** Online Banking System ("Services"), including Online Banking and Cash Manager Plus. The Services allows you to perform a number of banking functions through the use of a personal computer and the Internet. This Agreement establishes the terms and conditions for electronic access to the internet banking system ("System"). When you use the Services or authorize others to use them, you and any such users agree to be bound by the terms and conditions contained in this Agreement.

For purposes of this Agreement, the words "we," "our," "us," "Bank" and other similar terms mean MetroBank, N.A. "You," "Your," "User," "Customer," "Company" and other similar terms refer to the each person or business entity in whose name the account with the Bank is maintained or who exercises an ownership interest therein, each person who applies to use the Services and each person who uses the Services with the permission of the applicant. "Account" or "accounts" means your accounts at the Bank. "Electronic funds transfers" means ATM withdrawals, preauthorized transactions, point of sale transactions and transfers to and from your Bank accounts (including electronic transfers through Bill Payment) using the System.

If you are an individual, then you agree to use our Services for consumer transactions only. If you are not an individual, including, but not limited to, a sole proprietor, corporation, partnership, limited liability company, unincorporated business entity or association, then you agree to use our Services for non-consumer transactions only. A "consumer transaction" means the use of our Services to electronically transfer funds to or from a consumer account. A "consumer account" is an account of yours that is established primarily for personal, family or household purposes. **If you use the Services for a consumer transaction, then the terms and conditions in Section III of this Agreement will not apply.**

A "non-consumer transaction" means the use of the Services for any purpose that is not a consumer transaction (for example, to transfer funds to or from a business account or any account that is not a consumer account) and in addition includes (to the extent allowed by law): (i) any transfer of funds through Fedwire or a similar wire transfer system; (ii) any transfer of funds the primary purpose of which is the purchase or sale of a security or commodity; and any other use of the Services if the use is not covered by the Electronic Fund Transfer Act and its implementing Regulation E. **If you use the Services for a non-consumer transaction, then the terms and conditions in Section II of this Agreement will not apply.**

Except as otherwise required by law, we may change the terms of this Agreement from time to time and at any time without notice. When changes are made, we will update this Agreement on the System. The System will be updated on the effective date of the change, unless an immediate change is necessary to maintain the security of the system or unless applicable law requires that it be updated an earlier time. If such a change is made, and it cannot be disclosed without jeopardizing the security of the System, this Agreement will be updated within thirty (30) days after the change. You will be notified as soon as possible when any changes are made which materially affect your rights, such as changes regarding how your information is maintained or used unless such notification is not required by law. Your continued use of the Services indicates your agreement to the changes to the Agreement. Changes to fees or terms applicable to Accounts are governed by the agreement otherwise governing the applicable Account. It is your responsibility to review this Agreement including, without limitation, the Bank's Privacy Policy, from time to time in order to be aware of any such changes.

This Agreement will be in effect from the date your enrollment in the Services is submitted by you and accepted by the Bank and at all times while you are using the Services until terminated by you or the Bank. Unless otherwise required by law, the Bank may terminate this Agreement and/or your access to the Services, in whole or in part, at any time without notice. You may cancel the Services at any time by notifying us of your intent to cancel in writing by sending us notice of cancellation to MetroBank, N.A., by calling us at 888-414-3556. This cancellation applies to your use of the Services and does not terminate your Accounts. The termination of this Agreement by you or the Bank will not terminate your obligations or our rights arising under this Agreement before such termination. Access to the Services, in whole or in part, may be reinstated by us, at our discretion, at any time. If reinstated, the then current terms of this Agreement will control. You may request reinstatement the Services by calling us at 888-414-3556, "auto enrolling" through the System if you are a consumer account holder, or by or visiting any one of our locations if you are a business account holder. If you do not access your Accounts via the Services for any 180 day period, we may terminate your Services, in whole or in part. All applicable provisions of this Agreement shall survive termination by either you or the Bank, including, without limitation, provisions related to intellectual property, warranty disclaimers, limitations of liability, indemnification, and the miscellaneous provisions.

We may assign our interest in this Agreement to any now-existing or future direct or indirect subsidiary of the Bank. You may not assign or transfer this Agreement or any of your rights or responsibilities hereunder. We may also assign, in whole or in part, our rights and responsibilities under this Agreement. In addition, the Bank reserves the right, in its sole discretion, to delegate its duties and responsibilities, in whole or in part, to third parties.

All content included or available on the System or used in connection with the Services, such as advertisements, text graphics, logos, button icons, images, audio clips, and software, is the sole property of the Bank and/or third parties, and is protected by copyrights, trademarks, or other intellectual and proprietary rights. The compilation (meaning the collection, arrangement, and assembly) of all content on the System or used in connection with the Services is the exclusive property of the Bank and/or its licensors and is protected by copyright or other intellectual property rights. The trademarks, logs, and service marks displayed on the System or used in connection with the Services (individually, a "Trademark," collectively the "Trademarks") are the registered and unregistered trademarks of the Bank or third parties. Under no circumstances may you use copy, alter, modify, or change these Trademarks. Nothing contained on the System or used in connection with the Services should be construed as granting by implication or otherwise any license or right to use any Trademark without the express written permission of the Bank, or the third party which as right to such Trademarks, as appropriate.



B. Other Agreements

Your use of the Services may also be affected by the agreements between you and us for your Accounts linked to the Services. The terms and conditions of the deposit agreements and disclosures for each of your Bank accounts, in addition to your other agreements with the Bank such as loan agreements, the Automated Clearing House Agreement, Wire Transfer Agreement, continue to apply notwithstanding anything to the contrary in this Agreement and are in full force and effect. In the event of a conflict between the terms and conditions of your other agreements with the Bank and this Agreement, the terms and conditions of this Agreement shall control. When you link an Account to the Services, you do not alter the agreements you already have with us for that Account. For example, if you link a checking account to the Services, the terms and conditions governing your deposit account do not change and remain in full force and effect. You should review those agreements for any applicable fees, Account limitations and for other restrictions that might impact your use of such Account with the Services.

C. Enrollment and Usage

Enrollment access is based upon the type of account arrangement you have with the Bank:

1. Individual Accounts. Sign this Agreement and complete the Online Banking Enrollment Form for your individual account(s). Persons with individual accounts may also access joint accounts for which they are an owner.
2. Corporate Accounts. Sign this Agreement and complete the Cash Manager Plus Service Application Form for business account(s) you wish to enroll for the System. You must be a signer on the account(s) to access business account(s) via the System. You must be a signer on the account(s) to grant access to others who do not sign on the account(s).

You will need to designate certain accounts for specific purposes in connection with some of the Services. If you link more than one checking account to our wire or ACH Services, for example, you will need to specify the account from which transfers should be made.

You may appoint an individual (an "Administrator") with the authority to determine who will be authorized to use the Services on your behalf. Your Administrator can establish separate security codes for you and each user, as well as limits on each user's authority to access information and conduct transactions. You assume sole responsibility for the actions of your Administrator, the authority he or she gives others to act on your behalf, and the actions of the persons designated by the Administrator to use the Services.

You or your Administrator will need to designate which accounts will be utilized for Service payments and transfers. If your Administrator designates an account that requires more than one signature for the withdrawal or transfer of funds, you agree that we may act upon any Service instruction that is accompanied by the security code(s) designated by you or your Administrator for that account and the Service in question. Note: This may mean that we will act upon the instruction of only ONE person (e.g., to wire funds), even though the signature card for the account in question requires two or more signatures on checks. As long as an instruction is accompanied by the designated security codes, the transaction will be deemed authorized by you.

You authorize the Bank to provide access to you to some or all Accounts through the Services. Subject to the terms of this Agreement, you will generally be able to access your Accounts through the System seven (7) days a week, twenty-four (24) hours a day. At certain times, one or more Services may not be available due to system maintenance or circumstances beyond our control.

The System can be used to access only the Bank accounts that you have designated for use in this Agreement. When you enroll in the Services, we will link all of your eligible Accounts. All Accounts on which the enrolling customer is listed as an account owner or authorized signer will be linked, including those accounts opened after you enroll to use the Services. You may request to add or delete any of your Bank accounts from this Agreement by contacting us. Your use of Bank accounts added per your request will also be governed by this Agreement. We reserve the right, in our sole discretion and as permitted by applicable law, to limit the availability of the Services to certain account types, IP addresses or end-user country of origin. When your Services are linked to one or more joint accounts, we may act on the verbal, written or electronic instructions of any joint accountholder or authorized signer on your account regarding your use of the Services. Joint accounts may be enrolled under the same user name or you may enroll them under separate user names. It is your responsibility to notify us if a signer or other person to whom you have provided your user name and password should no longer be given access to the Services. The Bank attempts to provide accurate, complete and timely account information through the Services. However, except as otherwise required by law, the Bank will not be liable to you if any such information is unavailable, inaccurate or delayed.

Additionally, each Account and your use of the Services will be subject to the following:

- the terms or instructions appearing on a screen when using the Services;
- the Bank's rules, procedures and policies applicable to each Account and each Service;
- the rules and regulations of any funds transfer system used in connection with the Services; and
- applicable state and federal laws and regulations.

D. Your Responsibility When the User ID, Password and Authentication Method are Used

In your electronic communications with us, you must use your User ID, Password and the authentication method provided on the System (the "Authentication Method") to initiate a secure System session with us. You may then use the tools provided by us within the System.

When we commence your ability to access the System, we will establish access for you by using a temporary Password. You will be required to change your Password upon your first login and periodically thereafter. You agree that you will not under any circumstances disclose your Password to anyone, including anyone claiming to represent the Bank. You are solely responsible and liable for transactions and other activities that occur or are undertaken using your username and password includes those transactions and activities that may be taken by anyone using the Services after logging in with your username and password.



Your Password must have minimum number of characters specified by the System. It may be letters, numbers, specials characters or a combination of any for purposes of security. We recommend that you create a Password that utilizes both upper and lower case characters. Your Password should not be associated with any commonly known personal identification, such as social security numbers, address, date of birth, names of children, and should be memorized rather than written down. Your User ID and password allow access to your Account(s) and the Services provided for herein; providing these to another person shall constitute a grant of authority to access your Account(s) for all purposes, including, without limitation, under the Electronic Fund Transfer Act and Regulation E (15 U.S.C. 1693 et seq., 12 C.F.R. Part 205). Such authorization shall continue until you have notified us that such person is not authorized to act with regard to your Account(s) and the Services.

We are entitled to act upon instructions we receive with respect to the Service under your User ID, Password and Authentication Method, and you are liable for all transactions made or authorized with the use of your User ID, Password and Authentication Method. We have no responsibility for establishing the identity of any person who uses your User ID, Password and Authentication Method. You agree that if you give your User ID, Password and Authentication Method to anyone or fail to safeguard its secrecy, you do so at your own risk since anyone with your User ID, Password and Authentication Method will have access to the Services. You agree to provide true, accurate, current and complete information about yourself as requested and you agree to not misrepresent your identity.

You agree to take appropriate steps to ensure that all User IDs, Passwords, Authentication Methods and any other applicable security procedure issued to your agents, representatives, employees or officers are protected and kept confidential. In your review of the System, including those aspects of the System pertaining to the issuance, use, and protection of User IDs, Passwords, Authentication Methods and security procedures, you agree to promptly notify the Bank in the event you believe your use of the System would necessitate or be better served by a level of security that exceeds that offered by the System. If you fail to promptly notify the Bank, you acknowledge and agree that the security aspects of the System are appropriate for your needs and will provide you with a commercially reasonable degree of security against unauthorized use.

You agree to indemnify, release and hold the Bank, its officers, directors, employees and representatives harmless from any and all liability, and agree not to make any claim against the Bank or bring any action against the Bank, relating to its honoring or allowing any actions or transactions that were conducted under your User ID, Password and Authentication Method or acting upon messages or authorizations provided to us using your User ID, Password and Authentication Method.

You agree that we shall not be responsible for any loss, property damage or bodily injury arising out of or resulting from the failure of any person to provide you with access to the System, whether caused by the equipment, software, the Bank, Internet service providers, Internet browsers, or the parties providing communication services to or from us to you. We are not liable for war, acts of government that may restrict or impair use of System services, hurricanes, floods or other disasters, nor shall we be responsible for any direct, indirect, special or consequential, economic or other damages relating in any way to the foregoing.

By directing us, through the use of the System, the Service used in conjunction with your User ID, Password and Authentication Method, you authorize the Bank to complete the transaction. Any requests or instructions we receive from you through the System using your User ID, Password and Authentication Method shall constitute writings with your signature as provided under all applicable law, and shall have the same force and effect as a writing signed by you. This includes, but is not limited to, inquiries, deposit transactions, items deposited, check images, changes to accounts or Service or any other communication you provide us through the System using your User ID, Password and Authentication Method.

Your access to the System will be blocked in the event your User ID, Password and Authentication Method is entered incorrectly on multiple consecutive attempts. If this happens, please call us at 888-414-3556. You agree not to use the Services to conduct any business or activity or solicit the performance of any activity which is prohibited by law or any contractual provision by which you are bound. You agree to comply with all applicable laws, rules and regulations in connection with the Services. You certify that you are at least 18 years of age.

E. Data Protection

You understand the importance of your role in preventing misuse of your Accounts through the System and you agree to promptly examine your paper Account statement and/or eStatement (electronic copies of paper statement) for each of your Bank accounts as soon as you receive it. You agree to protect the confidentiality of your account and account number, and your personal identification information, such as your driver's license number and social security number. You understand that personal identification information by itself, or together with information related to your account, may allow unauthorized access to your Account. Your User ID, Password and Authentication Method are intended to provide security against unauthorized entry and access to your Accounts. Data transferred via the System is encrypted in an effort to provide transmission security and the System utilizes identification technology to verify that the sender and receiver of System transmissions can be appropriately identified by each other. Notwithstanding our efforts to insure that the System is secure, you acknowledge that the Internet is inherently insecure and that all data transfers, including electronic mail, occur openly on the Internet and can potentially be monitored and read by others. We cannot and do not warrant that all data transfers utilizing the System, or e-mail transmitted to and from us, will not be monitored or read by others. Do not send us or ask for sensitive information (such as account numbers or other financial information) via any third-party e-mail system. If you wish to contact us electronically, you must use the secure message system through the Services. If you send the Bank a message using the secure message system, you agree that the Bank may take a reasonable period of time to act on any message received. By sending us an e-mail or otherwise providing us with an e-mail or text message address, you expressly consent to the Bank sending e-mail or text messages to such address.

F. Services

You can use the System to access these Services:

1. View current balance information on your Bank accounts;
2. View Bank account history
3. Transfer funds between your Bank accounts;
4. Make on-us loan payments;



5. View check images;
6. Make stop payment requests;
7. Export history information in a Quicken, QuickBooks, or spreadsheet format; or
8. Pay bills.
9. Treasury Management services, such as ACH origination, Wire Transfer, Accounts Reconciliation, Positive Pay, etc.

Some of the Services may appear on your screen that have not been approved for you and, therefore, will not be available to you. Also, the Bank may, from time to time, introduce new Services. We shall update this Agreement to notify you of the existence of these new services. By using these services when they become available, you agree to be bound by the terms and conditions in this Agreement and any updates thereto.

Information shown on the System is generally up to the minute. The available account balance may include deposits still subject to verification or other items memo posted to the account (e.g., debit card activity) and may not include outstanding checks or credits. The current balance is a count of items posted to the account. Transfers initiated through the System may not result in immediate availability because of the time required to process the request. Please contact us if you have further questions.

G. Posting of Transfers

Transfers initiated through the System before 4:00 PM CT on a business day are posted to your account the same day. Transfers completed after 4:00 PM CT or on a non-business day will be posted on the next business day. You agree to communicate with any other persons with authorized access to your accounts concerning any transfers, bill payments, or other transactions from your accounts in order to avoid overdrafts.

H. Stop Payment

You may initiate stop payment requests online via the System only for paper checks you have written (non-electronic) on your Bank accounts. The System allows you to: (1) place a stop payment order request of up to 14 days in duration; or (2) determine the paid status of a check. If you use the Services stop payment feature, then you must follow the procedures and specification described in this Agreement.

The cut-off time for us to receive a stop-payment request is 4:00 PM CT on a business day and a stop payment request received after that time or on a non-business day will be processed on the next business day. You must provide the Bank with complete and accurate information in a timely manner on: the account number, the date of the item or check; the item or check number; the EXACT amount of the item or check (dollars and cents); the payee name and the reason for the stop payment. If any information is incomplete or incorrect, the Bank will not be responsible for failing to stop payment on the item or check. The Bank shall have no responsibility to determine the accuracy of such information. Stop payment requests which cover a range of checks or items that are missing or stolen will be processed without regard to the dollar amount. The Bank is not responsible for stop payment requests received for items or checks that have already cleared or been paid from your account. The Bank may provide you notice of the actual stop payment of a check by making such information accessible to you online via the System. Stop payment orders are effective for only 14 days unless confirmed in writing within that period. Written stop payment become ineffective 6 months from date accepted. From time to time, Services may be inoperable. If that occurs, your request can be communicated to the Bank by telephone instructions.

You agree to indemnify the Bank against any loss for the amount of said check and all expenses, costs and consequential damages, if any, incurred by the Bank because of refusing payment pursuant to your stop payment order. You agree not to hold the Bank liable on account of payment contrary to your stop payment order if same occurs through inadvertence, accident or oversight, or if by reason of such payment other items drawn by you are returned insufficient. You agree that any stop payment placed on any check issued on your accounts designated on the Internet Banking Enrollment Form may be relied upon by the Bank to have been placed by an agent of you duly authorized to place the stop payment, and the Bank shall have no duty or obligation to verify either the authenticity of the stop payment order request or the authority of the person placing it.

We currently impose a stop payment fee of \$25.00 for each stop payment request on a check or item. This fee will be deducted from the account which the check or item was initiated or drawn on. Stop payment order on a Bill Payment will depend on the payment method and whether or not a check has cleared.

I. System Bill Payment

This Service allows you to obtain information about your accounts and transactions, communicate with us electronically, and make payments to others.

1. Bill Payments. You may make payments to others from one or more of your designated checking accounts with us. If you link more than one checking account to the Services, you must specify which account you wish to use in making payments.
2. Eligible Payees. We reserve the right to determine who may be a payee of online payments. You may not use the Service to pay taxes. Unless we advise you otherwise, payments may be made only to payees located in the United States.
3. Initiating Payments. To initiate a payment, you must specify the person or business you are paying, the date for processing your payment, the amount to be paid, and (if you have one) your account number with the payee. The first time you request a payment to be made to a payee, you must also specify the payee's address and the number of the account from which the payment is to be made. We may modify the payee address to accommodate special processing requirements. We will send your payment to the payee either by transferring the funds electronically or by mailing a check to the payee.
4. Automatic Recurring Payments. You may use the bill payment function to arrange for the automatic payment of bills that have a fixed frequency and amount. Once your automatic bill payment arrangements are established, we will make the payments without



further requests by you. If the payment due date for an automatic payment falls on a weekend or holiday, the payment may be made the following business day.

5. Charging Your Account. When you transmit a payment request, you authorize us to charge your designated account on the date we process the payment (e.g., the day we initiate payment by an ACH entry or pay a check). We may treat online checks with the same effect as if you had signed them. You may not stop the payment of an online check once the transaction has been posted to your account.
6. Scheduling Bill Payments. Our online system will ask you to specify a "Process Date" for each payment. Since we cannot initiate a payment by check or ACH transfer earlier than the business day following our receipt of your instruction, you may select any business day other than the current date as the Process Date. You should enter and transmit your payment instructions to us five-to-ten business days before your payment is due (without regard to any grace period). The first time you initiate a bill payment for a specific payee, you must provide us with the necessary payment information and instruction 10 business days in advance of the date you want us to initiate payment. Although we may be able to pay certain payees electronically within three business days of the Process Date, it may take longer for payments sent by mail, depending on the location of the payee and the speed of the mail. It is your responsibility to request that payments be made in such a manner that they will be received in time. You are solely responsible for any damages, such as late charges, that may be imposed as a result of your failure to identify the correct Process Date and transmit your payment instructions to us in a timely manner. To ensure that critical or time-sensitive payments are received on time, you should consider establishing Process Dates (especially for payees that will receive payments by mail) well in advance of the payment due date.
7. Notification - The Service will use its best efforts to present all of your electronic bills promptly. In addition to notification within the Service, the Service may send an e-mail notification to the e-mail address listed for your account. It is your sole responsibility to ensure that this information is accurate. In the event you do not receive notification, it is your responsibility to periodically log on to the Service and check on the delivery of new electronic bills. The time for notification may vary from Payee to Payee. You are responsible for ensuring timely payment of all bills.
8. Cancellation of electronic bill notification - The electronic Payee reserves the right to cancel the presentment of electronic bills at any time. You may cancel electronic bill presentment at any time. The timeframe for cancellation of your electronic bill presentment may vary from Payee to Payee. The Service will notify your electronic Payee(s) as to the change in status of your account and it is your sole responsibility to make arrangements for an alternative form of bill delivery. The Service will not be responsible for presenting any electronic bills that are already in process at the time of cancellation.

This Agreement does not alter your liability or obligations that currently exist between you and your Payees.

- J. User ID, Password and Authentication Method Security. You agree not to give or make available your User ID, Password and Authentication Method or other means to access your Account to any unauthorized individuals. You are responsible for all payments you authorize using the Services. If you permit other persons to use the Services or your password or other means to access your account, you are responsible for any transactions they authorize. If you believe that your User ID, Password and Authentication Method or other means to access your account has been lost or stolen or that someone may attempt to use the Services without your consent or has transferred money without your permission, you must notify the Service immediately by calling 888-414-3556 during customer service hours.

Errors and Questions. In case of errors or questions about your transactions, you should notify us as soon as possible via one of the following:

Telephone us at 888-414-3556 during customer service hours; and/or, Write to us at:

Attn: **EBU DEPARTMENT**
9600 Bellaire Blvd., Suite 225
Houston, Texas 77036

II. Terms and Conditions for Consumers Only

Section II applies only to Consumer and Consumer Transactions.

A. Liability for Unauthorized Use

Tell us AT ONCE if you believe that your User ID, Password or Authentication Method has been lost or stolen. Telephoning is the best way of keeping your possible losses down. You could lose all of the money in your account (plus your maximum overdraft line of credit if you have one).

If you tell us within two business days, you can lose no more than \$50.00 if someone used your User ID, Password and Authentication Method without your permission. If you do NOT tell us within two business days after you learn of the loss or theft of your User ID, Password and Authentication Method, and we can prove that we could have stopped someone from using the User ID, Password and Authentication Method without your permission if you had told us, you could lose as much as \$500.00.

Also, if your statement shows transfers that you did not make, tell us at once. If you do not tell us within 60 days after the statement was mailed to you, you may not get back any money you lost after the 60 days if we can prove that we could have stopped someone from taking the money if you had told us in time.

If a good reason (such as a long trip or hospital stay) kept you from telling us, we may extend the time periods.



B. Error Resolution

Telephone us at 888-414-3556 or write to us at 9600 Bellaire Blvd., Suite 225 Houston, Texas 77036 as soon as you can, if you think your statement or receipt is wrong or if you need more information about a transfer listed on the statement or receipt.

We must hear from you no later than 60 days after we sent the FIRST statement on which the problem or error appeared.

1. Tell us your name and account number (if any).
2. Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.
3. Tell us the dollar amount of the suspected error.

If you tell us verbally, we may require that you send us your complaint or questions in writing (Bank provided Affidavit Form) within 10 business days.

We will determine whether an error occurred within 10 business days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 days to investigate your complaint or question. If we decide to do this, we will credit your account within 10 business days for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within 10 business days, we may not credit your account.

For errors involving new accounts, point-of-sale, or foreign-initiated transactions, we may take up to 90 days to investigate your complaint or question. For new accounts, we may take up to 20 business days to credit your account for the amount you think is in error.

We will tell you the results within three business days after completing our investigation. If we decide that there was no error, we will send you a written explanation, and potentially result in chargeback of all the provisional credit you received from the Bank. You may ask for copies of the documents that we used in our investigation.

C. Financial Institution's Liability

If we do not complete a transfer to or from your account on time or in the correct amount according to our agreement with you, we will be liable for your losses or damages proximately caused by us. However, there are some exceptions. For instance, we will not be liable:

1. If, through no fault of ours, you do not have enough money in your account to make the transfer or accounts status become inactive/dormant.
2. If the transfer would go over the credit limit on your overdraft line (if any).
3. If the System wasn't working properly, and you knew about the breakdown when you started the transfer.
4. If circumstances beyond our control (such as fire or flood) prevent the transfer, despite reasonable precautions that we have taken.
5. If there are other exceptions stated in our agreement with you.

D. Fees and Charges

You agree to pay the fees and charges for your use of the System as we have established and may amend from time to time. These fees and charges will be in addition to any charges associated with the account you maintain with the Bank. Our schedule of fees for the System is set forth in the Bank's Schedule of Fees. You agree that all such fees and charges will be deducted from the Bank checking account designated in this Agreement. If you close your account, you must contact us immediately to designate another account. You agree to pay any additional reasonable charges for services you request, which are not covered by this Agreement. You are also responsible for telephone and Internet service fees you incur in connection with your use of the System.

III. Terms and Conditions for Non-Consumers Only

Section III applies only to non-consumers and non-consumer transactions.

A. Services

In addition to the Services listed in Section I, Item F above, you may also use the Services to:

1. Conduct Cash Concentration activities;
2. Initiate domestic and international wire transfers; and
3. Initiate ACH entries.

B. Bill Payment

You agree that that terms and conditions for the Bill Payment Service as described in Section I., Item I., under "Terms and Conditions for Both Consumers and Non-Consumers", applies to non-consumer Bill Payments.

C. Wire Transfer

You and your authorized representatives listed on the Cash Manager Plus Application Form desire to originate the wire transfer of funds in accordance with the terms of this Agreement, and the Bank is willing to act as your originating and receiving Bank for that purpose, but only with respect to those payment orders of you which the Bank originates and accepts.



1. Purpose and Scope. You shall maintain at all times during the term of this Agreement a balance of immediately available funds in these account(s) sufficient to meet your payment obligations under this Agreement. The Bank may, without prior notice or demand, obtain payment of any amount due and payable to the Bank under this Agreement by debiting any or all of the account(s). In the event there are not sufficient funds available in the account(s) to meet your payment obligations under this Agreement, in order to obtain payment of such obligations, the Bank shall be entitled to debit any account maintained by you with the Bank or any affiliate of the Bank and/or shall be entitled to set off the amount of such obligations against any amount the Bank owes to you.
2. Verification of Payment Order. The Bank may take any action in an attempt to verify that a payment order (or request for cancellation of a payment order) which the Bank receives from you is that of you, or in order to detect error in the transmission or the content of a payment order (or request). The Bank shall not be liable for failing to take or correctly perform such additional actions. You authorize the Bank to record electronically any and all telephone calls between the Bank and you relating, directly or indirectly, to this Agreement or to any transfer of funds under this Agreement, and to retain, refer to and use such recordings in the Bank's sole and absolute discretion.
3. Transmittal. All payment orders from you must be received by the Bank by 2:00 PM CT on a business day. Payment orders shall be deemed received by the Bank only when received in compliance with this Agreement. If payment order from you is received by the Bank after the cut-off time on a business day, such payment order shall be treated as being received by the Bank at the opening of the Bank's next business day.
4. Inconsistency of Name and Number. If a payment order inconsistently describes an intermediary Bank or a beneficiary's Bank by name and number, execution of such payment order might be made by the Bank based solely upon the number, even if the number identifies a Bank different from the named Bank or identifies a person who is not a Bank, and your obligations for the payment order as provided in this agreement shall not be excused in such circumstances.

If a payment order inconsistently describes a beneficiary by name and account number, payment of such payment order might be made by the beneficiary's Bank based solely upon the account number, even if the account number identifies a person different from the named beneficiary, and your obligations for the payment order as provided in this Agreement shall not be excused in such circumstances.

5. Execution. The Bank shall process orders received from you based solely upon information received from you. The Bank shall execute each payment order received from you by issuing and transmitting to the Federal Reserve Bank, on the execution date, a corresponding payment order which complies with and is intended to carry out the payment order received from you.

The Bank shall have no duty or obligation to process, execute on such execution date, or otherwise accept any payment order from you which the Bank receives after the cut-off time, or which does not otherwise comply strictly with this Agreement and with applicable law. Nonetheless, if the Bank receives a payment order or that payment order is delayed longer than the next business day after the execution date, it shall execute such payment order on the Bank's next business day after the execution date.

The Bank shall promptly notify you by telephone, by electronic transmission, or by United States mail, any one of which shall be considered commercially reasonable, of the date each transfer from you is debited and credited by the Bank to the appropriate accounts and the total dollar amount of such transfer.

D. Automated Clearing House

WHEREAS, the Bank (the "Bank") is a Participating Depository Financial Institution ("Participating Institution") of **ASSOCIATION** ("Association") and may initiate electronic fund transfer entries ("Entries") by means of the Automated Clearing House ("ACH").

WHEREAS, Company (the "Company") desires to initiate Credit and/or Debit Entries through the Bank for deposit of funds to the accounts of certain of Company's customers and other parties ("Customers") maintained at the Bank and other Participating Institutions ("Accounts"). (Such Entries may be referred to herein as "Entries.")

NOW, THEREFORE, the Bank and Company agree as follows:

1. Rules. If you are approved for our ACH Service, Company shall comply with the Operating Rules of Association, the Operating Rules of the National Automated Clearing House Association ("NACHA"), and the rules of the Federal Reserve Bank ("Federal Reserve") in existence as of the date of this Agreement and as amended from time to time (herein collectively referred to as the "Rules"). The terms of this Agreement shall in no way limit Company's obligation of complying with the Rules. Unless otherwise defined herein, capitalized terms shall have the meanings provided in the Rules. The term "Entries" shall have the meaning provided in the Rules and shall also mean (i) the data received from Company hereunder from which the Bank prepares Entries, and (ii) for the purposes of Sections 2.5, 8.3, and 8.4 any request from Company for reversal of an Entry.
In order to use all of the functionality of the ACH services, you will need to execute a separate ACH Agreement and complete the related schedules. For more information please contact the Bank at 888-414-3556.
2. Delivery of Entries to the Bank.
 - 2.1 Delivery Requirements. All Entries shall be delivered by Company to the Bank to the location(s) and in compliance with the formatting and other requirements set forth in the Cash Manager Plus Application Form attached hereto and the "Delivery Requirements" outline below in this section. The total dollar amount of Entries transmitted by Company to the Bank on any one day shall not exceed the limited established on the Cash Manager Plus Application Form.
 - 2.2 Security Procedures. Company and the Bank shall comply with the security procedure requirements described in the "Security Procedures" section with respect to Entries transmitted by Company to the Bank.



2.3 Customer Authorizations and Record Retention. Before the initiation by Company of the first Entry to a Customer's Account, Company shall obtain from such Customer an authorization to initiate one or more Entries to or from the Customer's Account, which authorization shall comply with the Rules. Company shall provide Customer with a copy of such authorization. Each Entry thereafter shall be made pursuant to such authorization, and no Entry shall be initiated by Company after such authorization has been revoked or the arrangement between Company and such Customer has terminated. Company shall retain Customer authorizations for two (2) years after they have terminated and other documents related to Entries for a period of two (2) years. Company shall immediately furnish such authorizations and documents to the Bank upon the Bank's request.

Companies originating ARC and/or RCK entries shall provide clear and conspicuous notice of the check conversion/truncation policy.

2.4 Prenotification. When a Company chooses to deliver a prenotification, it will be in a format and in the medium set forth in Delivery Requirements section provided below and/or prescribed by the Rules to the Bank, to be transmitted to the Participating Institution at which the Customer's Account is held ("RDFI") within the time limits set forth in the Rules. If Company has received notice that such prenotification has been rejected by the RDFI within the prescribed period, Company shall not initiate any corresponding Entry until the cause for rejection has been corrected and another prenotification has been submitted to, and accepted by, the RDFI in accordance with the Rules.

2.5 Cancellation and Amendment of Entries; Reversals. Company shall have no right to cancel or amend an Entry after it is delivered to the Bank. The Bank, however, shall use reasonable efforts to act on a request by Company for reversal of an Entry file pursuant to the Rules; provided, however, that the Bank shall not be liable for interest or losses if such reversal is not effected. Any request by Company for reversal of an Entry must comply with the Delivery Requirements and the Security Procedures. Company shall reimburse the Bank for any expenses, losses, or damages the Bank may incur in effecting or attempting to affect Company's request for the reversal of an Entry.

3. Processing, Transmittal, and Settlement by the Bank.

3.1 Processing, Transmittal, and Settlement. Except as provided in Sections 4, 5 and 9, the Bank shall (i) process Entries received from Company to conform with the requirements set forth in this Agreement, (ii) transmit such Entries as an Originating Depository the Bank to an Automated Clearing House processor ("ACH") selected by the Bank in its sole discretion, and (iii) settle for such Entries as provided in the Rules.

3.2 Timing. The Bank shall transmit such Entries to the ACH Operator by the deadline of the ACH ODFI [two (2) business days] prior to the Effective Entry Date shown in such Entries, provided (i) such Entries are received by the Bank's related cut-off time set forth in the Delivery Requirements on a business day, (ii) the Effective Entry Date is at least two days after such business day, and (iii) the ACH is open for business on such business day. For purposes of this Agreement (x) a "business day" is a day on which the Bank is open to the public for carrying on substantially all of its business [other than a Saturday or Sunday], and (y) Entries shall be deemed received by the Bank in the case of transmittal by electronic transmission, when the transmission (and compliance with any related Security Procedure) is completed as provided in the Delivery Requirements.

If any of the requirements of clause (i), (ii), or (iii) of the preceding paragraph is not met, the Bank shall use reasonable efforts to transmit such Entries to the ACH by the next deposit deadline of the ACH following which is a business day and a day on which the ACH is open for business.

4. On-Us Entries. Except as provided in Section 5, in the case of an On-Us Entry, the Bank shall credit or debit the Receiver's account in the amount of such Entry on the Effective Entry Date contained in such Entry, provided the requirements set forth in clauses (i) and (ii) of Section 3.2 are met. If either of those requirements is not met, the Bank shall use reasonable efforts to credit or debit the Receiver's account in the amount of such Entry on the next business day following such Effective Entry Date.

5. Rejection of Entries. The Bank may reject any Entry for any reason. The Bank shall notify Company of such rejection (either electronically, in writing, by telephone, or as otherwise agreed to by the Bank and Company) no later than the end of the business day after the Effective Entry Date. The Bank shall not be liable to Company for the rejection of any Entry, for Company's non-receipt of a notice given to Company, or for the failure to give notice of rejection at an earlier time than provided for herein. The Bank shall not be required to pay Company interest on a rejected Entry for the period from rejection to the Entry to Company's receipt of the notice of rejection.

6. Notice of Returned Entries. The Bank shall notify Company either electronically, in writing, by telephone, or as otherwise agreed to by the Bank and Company of the receipt of an Entry returned by the ACH no later than one (1) business day after the Bank's receipt of the returned Entry. The Bank shall have no obligation to re-execute a returned Entry.

7. Provisional Payment. Company represents to the Bank and agrees that it shall be bound by the provision of the Rules making payment of an Entry by the RDFI to a Receiver provisional until receipt by the RDFI of final settlement for such Entry, and specifically acknowledges that it has received notice of that Rule and of the fact that, if such settlement is not received, the RDFI shall be entitled to a refund from the Receiver of the amount credited and Company shall not be deemed to have paid the Receiver the amount of the Entry.

8. Security Procedures: Unauthorized and Authorized Entries; Inconsistent Entries.

8.1 Purpose of Security Procedures. The security procedures related to your use of the Services are set forth in Sections I.D, III.G, III.H, III.I and III.J of this Agreement and in and in documentation related to the applicable Service (collectively, the "Security Procedures"). Company agrees that one of the purposes of the Security Procedures is to verify the authenticity of Entries transmitted to the Bank in the name of Company and not to detect an error in the transmission or content of any Entry, and that no



security procedure for the detection of such errors has been agreed upon by the Bank and Company, and the Bank will undertake no such effort.

- 8.2 Protection of Security Procedures. Company is strictly and solely responsible to establish and maintain procedures to safeguard against unauthorized transmissions of Entries. Company warrants that no individual will be allowed to initiate transfers in the absence of proper supervision and safeguards, and agrees to take reasonable steps to maintain the confidentiality of the Security Procedures and of any User ID, Password and Authentication Method, codes, security devices and related instructions provided by the Bank in connection with the Security Procedures. If Company believes or suspects that any such information or instructions are known or have been accessed by unauthorized persons, Company shall notify the Bank immediately.
- 8.3 Unauthorized Entries. An Entry delivered to the Bank that purports to have been transmitted or authorized by Company shall be effective as Company's Entry as provided herein even if Entry was not in fact authorized by Company, provided the Bank has accepted the Entry in compliance with the Security Procedures with respect to such Entry.
- 8.4 Authorized Entries. If an Entry received by the Bank was transmitted or authorized by Company, it shall be effective as the Company's Entry as provided herein, even if the Bank did not comply with the Security Procedures with respect to that Entry and even if that Entry was erroneous in any respect or such error would have been detected if the Bank had complied with the Security Procedures.
- 8.5 Inconsistent Entries. Company acknowledges and agrees that (i) if any Entry inconsistently describes the Receiver by name and account number, payment of the Entry transmitted by the Bank to an RDFI may be made by RDFI (or by the Bank in the case of an On-Us Entry) on the basis of the account number even if it identifies a person different from the named Receiver, and that Company's obligations to pay the amount of the Entry to the Bank is not excused in such circumstances, and (ii) if an Entry inconsistently describes the RDFI by name and identifying number, payment of the Entry may be made by the RDFI on the basis of the account number even if it identifies an RDFI different from the named RDFI, and that Company's obligation to pay the amount of the entry to the Bank is not excused in such circumstances.
9. Company Account. Company shall at all times maintain sufficient available funds in a deposit account maintained by Company at the Bank (the "Company Account") to pay the amount of all Credit or Debit Entries, fees and other amounts that Company is obligated to pay the Bank under this Agreement. The Bank in its sole discretion may require Company to have sufficient available funds in the Company Account to cover the amount of a Credit or Debit Entry prior to the Bank's transmittal of such Entry to an ACH or the Bank's crediting or debiting of a Receiver's account in the amount of an On-Us Entry. In the absence of such a requirement, Company shall be obligated to have such available funds in the Company Account at such time on the Settlement Date with respect to such Entry, or in the case of an On-Us Entry, the date of crediting or debiting the Receiver's account, as the Bank, in its discretion, may determine. The Bank may, without prior notice or demand, obtain payment of any amount due and payable to it under this Agreement by debiting the Company Account, and may credit the Company Account for any amount to which Company is entitled under this Agreement. If there are insufficient funds available in the Company Account to pay amounts Company owes the Bank under this Agreement, Company shall pay any amounts due immediately upon demand, and Company agrees that the Bank may debit any account maintained by Company with the Bank or that the Bank may set off against any amount it owes to Company, in order to obtain payment of Company's obligations.
10. Company's Representations, Warranties and Indemnification. Company represents and warrants that for each Entry Company delivers to the Bank that: (i) the Entry is a Credit or Debit Entry and complies with the terms of this Agreement and the Rules; (ii) Company has complied with the Rules with respect to the Entry; (iii) there has not been and shall not later be any breach of any warranty of Company as an Originator or of the Bank as an ODFI under the Rules; (iv) Company has not breached any warranty contained in this Agreement; and (v) the Entry complies with all local, state, and federal regulations, including but not limited to the Electronic Fund Transfer Act and Regulation E and laws administered by the United States of America.
- Company shall indemnify the Bank against any loss, liability, or expense (including attorneys' fees and expenses) resulting from or arising out of any breach of any of the foregoing representations or warranties.
11. Notices and Statements. The Bank is not required to and will not provide Company or Customers with notice of receipt or the Bank's transmittal or crediting of Entries. Entries and other debits and credits to the Company Account will only be reflected on the periodic statement for the Company Account. Company shall notify the Bank of any unauthorized or erroneous Entries or any other discrepancy or error on the periodic statement within fourteen (14) calendar days of receipt of the statement, after which the statement will be conclusively presumed to be correct. The Bank shall not be liable for any interest or losses resulting from Company's failure to give such notice.
12. Liability of the Bank; Limitations on Liability.
- 12.1 Performance of the Bank. The Bank shall be responsible for only performing the services it expressly agrees to perform in this Agreement, and shall be liable for only direct damages caused by its gross negligence or willful misconduct in performing those services. The Bank shall not be responsible for any acts or omissions of Company, including without limitation the amount, accuracy, timeliness of delivery or Customer authorization of any Entry received from Company, or any act or omission of any other person, including without limitation Association, and Federal Reserve Bank, any ACH or transmission or communications facility, and data processor of Company, or any Receiver or RDFI (including without limitation the return of an Entry by such Receiver or RDFI), and no such person shall be deemed the Bank's agent. The limitations on liability in this Section III.D.12 are in addition to those set forth elsewhere in this Agreement.
- 12.2 Limit on Damages. In no event shall the Bank be liable for any consequential, special, punitive, or indirect loss or damage which Company may incur or suffer in connection with this Agreement, including without limitation loss or damage from subsequent wrongful dishonor resulting from the Bank's acts or omissions in performing its services under this Agreement.



- 12.3 Force Majeure. The Bank shall not be responsible for any failure to act or delay in acting if such failure is caused by legal constraint, the interruption of transmission or communication facilities, computer malfunction or equipment failure, war, emergency conditions, or other circumstances beyond the Bank's reasonable control. In addition, the Bank shall be excused from failing to transmit or delay in transmitting an Entry if such transmittal would result in the Bank's having violated any provision of any present or future risk control program of the Federal Reserve or any rule or regulation of any other governmental regulatory authority.
- 12.4 Interest. Subject to the foregoing provisions of this Section 12, any liability which the Bank may have for loss of interest for an error or delay in performing its services hereunder shall be calculated by using a rate equal to the average Federal Funds rate of the Federal Reserve Bank of TEXAS for the period involved, less any applicable reserve requirements.
13. Indemnification. Company shall defend, indemnify, and hold harmless the Bank, and its officers, directors, agents and employees, from and against any and all actions, costs, claims losses, damages or expenses, including attorneys' fees and expenses, resulting from or arising out of (i) any breach of any of the agreements, representations, or warranties of Company contained in this Agreement, or (ii) any act or omission of Company or any other party acting on Company's behalf, including but not limited to parties described in Section 12.1 above. The indemnification provided for in this Section III.D.13 is in addition to indemnities provided to the Bank elsewhere in this Agreement.
14. Termination. The Bank may terminate this Agreement immediately by notice to Company, or without notice if Company breaches any of its obligations under this Agreement or the Rules. Company may terminate this Agreement at any time upon prior notice to the Bank. Termination shall not affect any of the Bank's rights or Company's obligations under Sections 2.3, 10, 12, and 13 above or related to Entries initiated by Company prior to such termination.
15. Confidentiality. Company acknowledges that it will have access to certain confidential information regarding the Bank's execution of Entries, the Security Procedures, and the services contemplated by this Agreement. Company shall not disclose any such confidential information of the Bank and shall use such confidential information only in connection with the transactions contemplated by this Agreement.
16. Tapes and Records. All magnetic tapes, Entries, Security Procedures and records used by the Bank for transactions contemplated by this Agreement shall be and remain the Bank's property. The Bank may, in its sole discretion, make available such information upon Company's request. Any expenses incurred by the Bank in making any such information available to Company shall be paid by Company.
17. Credit Review. Company is subject to satisfactory credit review by the Bank from time to time, at the Bank's sole option and discretion, and in accordance with the Bank's established credit criteria. Company shall, upon the Bank's request, provide to the Bank any such credit related information and assistance as the Bank may require to perform any such review. Failure of Company to meet such standards in the sole discretion of the Bank or to provide such information or assistance when requested shall constitute a breach of this Agreement and shall permit the Bank to terminate this Agreement.
18. Security Procedures. You agree that the Security Procedures are commercially reasonable pursuant to Section 4A-202 (C) of the Article 4A of the Uniform Commercial Code. By executing this Agreement, Company agrees that its participation in Company originated ACH Entries will be governed by the Agreement to Perform Automated Clearing House Services, the Rules, and agrees to the Security Procedures for the ACH service in which Company participates.

All methods of input shall contain the following control information:

- Debit Dollar Amount Total
- Credit Dollar Amount Total
- Total Amount
- Item Counts
- Effective Date

E. Account Reconciliation Service

If you are approved for this Service, and you provide us with a list of the serial numbers and the exact amount (dollars and cents) of the checks that you issue, we will compare the list with the information that is encoded on items presented to us for payment against your designated account.

1. Checks Covered by Service. This Service applies to checks that are presented for payment to us through normal interbank clearings. It is not designed to compare your list of issued checks against items that are presented in any other manner (e.g., at a teller window, through an automated teller machine, or by mail). At our sole discretion, we may attempt to compare your list with such items; we will not be liable for our failure or refusal to do so, however, even if we have done so on previous occasions.
2. Suspect and Exception Item Reporting. Upon request, we can provide you with a daily report, detailing suspect and exception items, and enabling you to review and return items on a check-by-check basis. We make no representation or warranty regarding the effectiveness of this report, and make the report available only as an accommodation to you. You agree to indemnify, defend and hold us harmless from every loss, liability and claim arising from information provided on, or excluded from, this report by us. You understand that the fee for this Service has been established in contemplation of this limitation on our liability.
3. Security. As set forth in Sections I.D., III.G, III.H, III.I and III.J of this Agreement and in documentation related to the applicable Service (collectively, the "Security Procedure").



F. Positive Pay Service

Account Reconciliation Service customers who participate in our Positive Pay Service can instruct us not to pay certain items presented against their accounts. If our Account Reconciliation reports of checks presented against your account matches the information you provide to us regarding the checks you have issued, you agree that we may treat the matching items as validly issued and properly payable, and that we may process such items for payment. If the information does not match, we will reject and return the non-matching items (unless you and we agree on another procedure).

1. Exceptions. We assume no duty to identify and/or return duplicate checks, checks with duplicate serial numbers, misencoded items, or checks lacking an encoded serial number. The Service does not apply to items that have been finally paid before the effective date of any listing or items that are not processed as part of the Account Reconciliation Service.
2. Reliance on MICR Encoding. We will not be obligated to verify signatures on any checks that match the information you provide. You understand and agree that we may compare your information on approved checks with information that is encoded on the items presented to us for payment. We will not be required to physically examine matching checks to confirm that they are properly signed, completed and encoded. You agree that we may rely on such a process and that the process will be deemed an acceptable standard of care for this Service and your account. You understand that the Service may not identify counterfeit or duplicate checks. As such, you agree to review promptly all statements, returned checks, reports and other check and transaction information we make available to you.
3. Stale-Dated Checks. We may pay stale-dated checks unless you place a stop payment order on such items or remove them from your list of checks approved for payment.
4. Security. As set forth in Sections I.D., III.G, III.H, III.I and III.J of this Agreement and in documentation related to the applicable Service (collectively, the "Security Procedure").

G. Responsibility for Access Codes and Instructions in Your Name

The User ID, Password and Authentication Method form part of the Security Procedures. You agree that we may use the Security Procedures to verify the authenticity of requests for a transfer, ACH, or wire transaction, or any other payment order (collectively a "communication") in your name that are received by us. If we verify the authenticity of an instruction using the Security Procedures, we may rely on and you will be obligated on the instruction, whether or not the instruction was authorized by you. Also, if an instruction was authorized by you, you will be obligated for the transaction that is the subject of the instruction even if we did not verify its authenticity using the Security Procedures and even if the Security Procedures would have prevented error. You agree that the Security Procedures are intended to verify authenticity and not to detect error.

You agree to consider the size, type and frequency of transfers, payment orders or other money transactions or instructions you use the Services to accomplish. You will consider the risks presented by the possibility of unauthorized access to these Services and your obligation on instructions even though they are unauthorized. You should choose security procedures that are commercially reasonable for you, after considering these risks. Your use of the Services constitutes your agreement and acknowledgement that the Security Procedures are commercially reasonable for you and that you will be bound by instructions in your name as set forth above. If Security Procedures are not, in your judgment, commercially reasonable, you must inform us within thirty (30) days of registering for the Services. If the size, type, or frequency of your Bill Pay transactions and other transfers executed using the Services change, and the result is that the Security Procedures cease to be commercially reasonable, you must also inform us within thirty (30) days of such change. In such case, we may terminate your access to the Services.

You are responsible for the input and verification of all information onto the System. The Bank shall have no responsibility to determine the accuracy of such information. Should there be any conflict between account number and account name, the account number shall prevail. The Bank shall be entitled to rely upon any instruction via the Services if the instruction was authenticated by the Security Procedures.

H. Obligations to Ensure Compliance with Security Procedures

You agree to take appropriate steps to ensure that your agents, representatives, employees or officers maintain the confidentiality and security of your User IDs, Passwords and the Authentication Methods and comply with the Security Procedures.

I. Security Procedures; Customer's Data Security Obligations; Limitation on Liability; Responsibility for Loss.

- (a) Security Procedures under the Agreement. As part of the Security Procedures, Bank may employ various authentication technologies. As part of the Services, the Bank employs various security and authentication technologies to ensure that you, or users authorized by you, are communicating directly with the Bank, and also to ensure that your computer is communicating with a legitimate Bank computer. Such Bank authentication procedures and technologies include, but are not limited to, use of User IDs, passwords and other "Additional Authentication Information" ("AAI") that Bank may require you to provide at the Bank's sole discretion. Such AAI is required as a component of various Services authentication procedures that the Bank may employ, including, but not limited to, security questions and responses and/or use of other hardware-based and software-based security and authentication tools, programs and procedures. You are responsible for the establishment and maintenance of internal procedures reasonably adapted to insure the confidentiality and security of your User IDs, passwords and Authentication Methods. **YOU UNDERSTAND AND AGREE THAT YOU ARE SOLELY RESPONSIBLE FOR MAINTAINING SECURITY AND CONTROL OVER ALL USER IDS AND PASSWORDS OF YOUR AUTHORIZED USERS AND YOU AGREE TO MAINTAIN YOUR OWN SECURITY PROGRAM TO ENSURE THE SECURITY OF SUCH ITEMS COMPARABLE TO THE SECURITY AND CONTROL YOU WOULD USE TO SECURE CASH, BUT IN NO EVENT LESS THAN COMMERCIALY REASONABLE SECURITY AND CONTROL PROCEDURES.** If you or your employees or agents have reason to believe that any Security Procedures, including, without limitation, your User ID, password or the Authentication Method, has or may have become known



by unauthorized persons (whether or not employed by you), you agree to immediately notify the Bank by telephone and confirm such oral notification in writing to the Bank within twenty-four (24) hours of the oral notification. The Bank will assign new User IDs, passwords and/or revise the Authentication Methodology in accordance with the Bank's standard security requirements related to the applicable Service(s). To the maximum extent permitted by applicable law, you will be solely liable for all transactions, including funds transfer instructions and other communications, initiated before the Bank has received such notification and has had a reasonable opportunity to act on such notification. The Bank reserves the right to change any or all of the Security Procedures offered and/or used at any time by giving oral or written notice to you. You agree that your use of the related Service or Services after the Bank provides notice of such changes constitutes your acceptance of the new Security Procedures. You acknowledge and agree that the purpose of the Security Procedures is to authenticate the identity of the person initiating the action, not to detect errors in any transmission or content. The Bank is not agreeing to any security or other procedure for the detection of errors.

- (b) Customer's Data Security Obligations. With regard to obtaining any Services under this Agreement, Customer must comply with the Computer (as defined herein) hardware, software, and Security Procedures requirements as set forth in this Agreement and/or as set forth in any Service specific provisions or any supplemental information and/or instructions provided by the Bank. The Bank reserves the right as encryption technology develops to impose further reasonable requirements to maintain the appropriate level of security for the Services and transactions contemplated hereunder and the Customer agrees to abide by such requirements. Furthermore, the Customer understands and acknowledges that if Customer does not follow commercially reasonable hardware, software, physical access and physical storage security procedures regarding any Customer-owned Data (defined herein), including, without limitation, such data containing the sensitive personally identifiable information ("PII") of any individual, as well as Customer's User ID and passwords, the security of Customer's transactions and/or Customer-owned Data (including sensitive PII) may be compromised. Customer understands, acknowledges and agrees that installation, maintenance and operation of Customer's Computer (hardware and software) and related security procedures, including, but not limited to, data security protection, firewalls and anti-virus & anti-spyware software, is the Customer's sole responsibility, and that Customer is solely responsible for securing, encrypting, protecting and otherwise safeguarding the Customer-owned Data. This includes updating anti-spyware and anti-malware to ensure your Computer has the latest definition files.
- (c) Limitation on Liability. Under no circumstances will we have any liability to you for failing to provide you access to your Accounts or the Services. Furthermore, unless otherwise required by law, we will only be responsible for performing the Services as expressly stated in this Agreement, and will only be liable for material losses incurred by you to the extent such losses directly and solely result from our gross negligence or intentional misconduct in performing the Services. Customer understands, acknowledges and agrees that the Bank is not responsible for any loss or damages resulting from any errors or failures of the Customer's Computer or data processing systems, including, but not limited to any computer virus or malware attack (such as a keystroke logging program or similar malware), any attack by a person attempting or actually gaining unauthorized access to Customer-owned Data, or any Internet-related problems that may be associated with the Customer's access and use of the Services. EXCEPT WHERE THE LAW SPECIFICALLY REQUIRES A DIFFERENT STANDARD, YOU EXPRESSLY AGREES TO HOLD HARMLESS AND INDEMNIFY THE BANK, ITS DIRECTORS, SHAREHOLDERS, LICENSORS, THIRD-PARTY SERVICE PROVIDERS, OFFICERS, EMPLOYEES, AGENTS, AFFILIATES, CONTROLLING PERSONS, AND REPRESENTATIVES AND THEIR SUCCESSORS AND ASSIGNS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, COSTS, EXPENSES (INCLUDING, BUT NOT LIMITED TO ATTORNEYS FEES AND COSTS), LOSSES OR DAMAGES (COLLECTIVELY, "LOSSES") OF ANY NATURE WHATSOEVER ARISING DIRECTLY OR INDIRECTLY FROM: (i) ANY REQUEST INITIATED PURSUANT TO THIS AGREEMENT OR THE SERVICES PROVIDED HEREUNDER; (ii) ANY ACTIONS OR FAILURE TO ACT OF THIRD PARTIES; (iii) YOUR BREACH OF ANY PROVISION OF THIS AGREEMENT; (iv) ANY MATTERS RELATED TO OR ARISING OUT OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, ANY ELECTION MADE BY BANK TO ACT OR REFRAIN FROM ACTING UPON A REQUEST WHEN BANK IS UNABLE TO OBTAIN PROPER AUTHENTICATION OR YOUR SUBMISSION OF AN INACCURATE, ERRONEOUS OR INCOMPLETE REQUEST; (v) AN ACCOUNT OR YOUR USE OF THE SERVICES; (vi) A THIRD PARTY CLAIM, ACTION, OR ALLEGATION OF INFRINGEMENT, MISUSE OR MISAPPROPRIATION BASED ON INFORMATION, DATA, FILES, OR OTHER MATERIALS SUBMITTED BY YOU TO US; (vii) ANY THIRD PARTY CLAIM, ACTION, OR ALLEGATION BROUGHT AGAINST THE BANK ARISING OUT OF OR RELATING TO A DISPUTE WITH YOU OVER THE TERMS AND CONDITIONS OF AN AGREEMENT, PURCHASE OR SALE OF ANY GOODS OR SERVICES; (viii) YOUR VIOLATION OF ANY LAW OR RIGHTS OF A THIRD PARTY; AND (ix) USE OF YOUR ACCOUNT BY ANY THIRD PARTY, EXCEPT FOR LOSSES CAUSED SOLELY BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF BANK. EXCEPT WHERE THE LAW SPECIFICALLY REQUIRES A DIFFERENT STANDARD, IN NO EVENT SHALL THE BANK OR ITS DIRECTORS, SHAREHOLDERS, LICENSORS, THIRD-PARTY SERVICE PROVIDERS, OFFICERS, EMPLOYEES, AGENTS, AFFILIATES, CONTROLLING PERSONS, AND REPRESENTATIVES AND THEIR SUCCESSORS AND ASSIGNS BE LIABLE FOR ANY CONSEQUENTIAL, EXEMPLARY, SPECIAL, PUNITIVE, INDIRECT, SPECIAL OR INCIDENTAL LOSSES OR DAMAGES, INCLUDING LOST PROFITS (WHETHER OR NOT THE POSSIBILITY OF SUCH LOSSES OR DAMAGES WAS KNOWN OR REASONABLY FORESEEABLE TO THE BANK) WHICH YOU MAY INCUR OR SUFFER IN CONNECTION WITH THIS AGREEMENT. EXCEPT TO THE EXTENT SPECIFICALLY PROHIBITED BY LAW, THE AGGREGATE LIABILITY OF THE BANK AND OUR THIRD PARTY SERVICE PROVIDERS TO YOU UNDER THIS AGREEMENT SHALL NOT EXCEED ONE THOUSAND (\$1,000.00) DOLLARS.
- (d) Serious Potential Threat to Customer's Business; Notification to Bank. Customer acknowledges and agrees that the threat of fraud resulting from theft of electronic data is a serious potential threat to Customer's business and, accordingly, Customer will take all reasonable steps to make certain that its Computers and data security systems are protected from unauthorized access or use, and in an event of any unauthorized access or use, Customer will take all reasonable steps to immediately inform Bank of the security breach.
- (e) Responsibility for Loss. If, despite Customer efforts, Customer suffers any damage or loss as a result of Customer's failure to comply with its data security obligations, and regardless of whether such damage or loss results from the activities of Customer's employees, agents, subcontractors or any unaffiliated third party, any such loss or damage shall be the sole responsibility of Customer.
- (f) NO WARRANTIES. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN ANY APPLICABLE AGREEMENT, YOU UNDERSTAND AND AGREE THAT YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK AND THAT THE SERVICES AND ALL INFORMATION, PRODUCTS AND OTHER CONTENT (INCLUDING THIRD PARTY INFORMATION, PRODUCTS AND CONTENT) INCLUDED IN OR ACCESSIBLE FROM THE SYSTEM, ARE PROVIDED ON AN "AS IS" "WHERE-IS" AND "WHERE AVAILABLE" BASIS, AND ARE SUBJECT TO CHANGE AT ANY TIME WITHOUT NOTICE TO YOU. YOU ACKNOWLEDGE THAT WE MAKE NO WARRANTY THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE UNLESS OTHERWISE STATED ON THE