



Terms and Conditions

# Treasury Management Agreement

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## **F&M BANK TREASURY MANAGEMENT SERVICES AGREEMENT**

This Treasury Management Services Agreement contains terms and conditions for the Treasury Management Services offered by F&M BANK. The General Provisions of this Agreement apply to all Treasury Management Services, and other provisions govern specific Treasury Management Services. By signing and submitting a Request for Treasury Management Services to F&M BANK, you agree to be bound by the General Provisions and the provisions contained in this Agreement governing each service requested or used by you. You also agree to the implementation requirements provided to you by F&M BANK for each service for which you submit an Implementation Form.

As a new service is added to the Treasury Management product line, this Agreement will be updated to include the terms and conditions for that service, and a revised Agreement will be made available.

Please review this Agreement carefully and retain it for your records. As you use additional services in the future, they will also be covered by the terms and conditions contained in this Agreement. This Agreement and the Deposit Account Agreement serve as the governing documents for your F&M BANK Treasury Management relationship.

Should you have any questions about this Agreement, or the Deposit Account Agreement, please contact your Relationship Manager or Treasury Management Representative. Thank you for choosing F&M BANK as your Treasury Management service provider. We appreciate your business and look forward to serving you.

In this Treasury Management Services Agreement (the "Agreement"), F&M Bank referred to as "F&M BANK" or "Bank" and the customer obtaining services from F&M BANK is referred to as "Company." The Service Instructions (as defined below) are part of and incorporated into this Agreement.

## GENERAL PROVISIONS

1. **Related Agreements.** This Agreement shall be supplementary to, and be construed in conjunction with any and all other applicable deposit account agreement(s) ("Account Agreements"), legal entity resolutions ("Resolutions"), forms necessary to request, authorize and/or implement specific services ("Implementation Forms"), Addendums, and other documents and agreements covering Company Accounts (as defined below) with F&M BANK. All such written agreements constitute the full and entire agreement regarding the Services. To the extent there is a conflict in the terms of this Agreement and any other agreement or contract between Company and F&M BANK, the terms of this Agreement will control, unless the other agreement(s) specifically states otherwise.
2. **Services.** F&M BANK shall perform Treasury Management Services ("Services" or, individually a "Service") in accordance with the terms and conditions of this Agreement and as more particularly described in separate Implementation Form(s). Implementation Form(s) shall constitute Company's election as to specific Services offered hereunder and shall become effective as both parties hereto may execute one or more of the same from time to time either contemporaneous herewith or hereafter; all of which shall constitute counterparts and exhibits to this Agreement.
3. **General Provisions.** The General Provisions set forth in this Agreement apply to each and every Treasury Management Service received by Company from F&M BANK whether now or in the future, and whether or not that particular Service is provided for specifically in this Agreement or in other agreements between the Company and F&M BANK and further applies to any new Service introduced by F&M BANK and obtained by Company after the date on which this Agreement is delivered to Company.
4. **Definitions. Except as otherwise expressly provided in this Agreement, the following capitalized terms shall have the following meanings for the entire Agreement, conflicting definitions should be controlled by the section therein:**
  - "Applicable Law" means any and all federal, state and local statutes, regulations, and/or rules that govern a Service provided under this Agreement.
  - "Authorized Person" each officer or employee of Company who is authorized to request and obtain Services on Company's behalf.
  - "Business Day" means each Monday through Friday on which F&M BANK's main office is open for business in Clarksville, Tennessee, excluding all holidays recognized by the Federal Reserve Bank System and bank holidays as posted at our branch locations and the F&M Bank website – [www.myfmbank.com](http://www.myfmbank.com).
  - "Check" includes all "items" as defined in Section 4-104(a)(9) of the UCC, and all "substitute checks" as defined in the Check Clearing for the 21st Century Act (sometimes referred to as Check 21 Act) and Regulation CC of the Bureau of Consumer Financial Protection.
  - "Mobile Device" means by any data enabled electronic mobile device (for example a cell phone or tablet) that can send and receive information, data and communications via the internet or cellular service.
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5. **Fees.** Company will pay F&M BANK in immediately available funds when due the fees and charges listed in the then current fee schedule, Implementation Form or otherwise chargeable to Company in connection with each Treasury Management Service provided ("Fees"). Notwithstanding anything herein to the contrary, F&M BANK may change the amount of such fees and charges, or add new fees and charges, after providing Company with at least 10 days' notice prior to the effective date of the change or addition. Additionally, Company will pay and reimburse F&M BANK for all governmental and third party fees or taxes arising out of or related to F&M BANK providing Treasury Management Services to Company. For each Service provided to Company under this Agreement, Company authorizes and directs F&M BANK to debit the Company Account: (a) on or before the 15th of each month for the amount of all such fees then due, and (b) at other times as necessary to pay all other amounts owing from time to time under and as provided for in this Agreement. If the parties agree, Fees may be payable through the maintenance by Company of compensating collected balances in specified Company Account(s) or by monthly invoice. The compensating collected balance requirement will be measured by F&M BANK by profitability analysis of the Company's specified Company Account(s) and any such measurement shall be in F&M BANK's sole discretion using whatever criteria it deems appropriate. Fees which are charged to a Company Account shall be reflected on Company's monthly statement.
6. **Company Account.** Company will at all times maintain with F&M BANK or its affiliate one or more deposit accounts in the Company's name (each a "Company Account"). Company will at all times maintain with F&M BANK in the Company Account collected balances sufficient to reimburse F&M BANK for all items, orders for payment, and other amounts which F&M BANK pays on Company's behalf or are chargeable to Company in connection with any Treasury Management Service. Each Company Account and all other deposits and other accounts of the Company located at F&M BANK (or an affiliate of F&M BANK) shall each be subject to the terms and provisions of all deposit agreements and contracts relating to those accounts, as they may be amended and modified from time to time.
7. **Data Review.** Company has the sole responsibility for confirming the accuracy and validity of all information, data, entries, and processing services prepared and performed by F&M BANK. Company shall
  - "NACHA Rules" mean the operating rules and operating guides of the applicable regional clearing house association and the National Automated Clearing House Association ("NACHA"), as they may be modified from time to time.
  - "Payment System Rules" mean the rules of any private or governmental group that govern a payment system through which funds may be transmitted in connection with a Service provided under this Agreement, including without limitation, the NACHA Rules, the Visa rules, the MasterCard rules, the rules of the Electronic Check Clearing House Organization, the rules of the Federal Reserve System and the rules of the Bureau of Consumer Financial Protection.
  - "Service Instructions" mean, for any Service provided under this Agreement, the specific instructions by which a Treasury Management Service will be provided to Company, and include the Implementation Form along with any user guides, service guides, software licenses, templates, operating procedures, security procedures, specifications, service level agreements, definition of scope and deliverables ("DSD") or other descriptions, materials or documentation provided or made available by F&M BANK and applicable to that Service.
  - "Service Provider" means a third party that provides services, including, without limitation, subcontractors, couriers, vendors, processors and all other agents. With respect to F&M BANK, its Service Providers shall include any other financial institution and any payment system that F&M BANK may use in providing a Service.
  - "UCC" means the Uniform Commercial Code, as adopted in the state in which F&M BANK maintains the Company Account (as hereinafter defined).

carefully review all reports prepared by F&M BANK and shall reject in writing incorrect daily reports within 5 Business Days after receipt and all other reports provided by F&M BANK within 10 Business Days after receipt or within such time as required by the applicable Service. Company's failure to so reject any report constitutes (a) Company's acceptance of the report, and (b) notwithstanding the terms of Section 7 of these General Provisions, and except, as prohibited by law, the release of F&M BANK from any liability arising under or in connection with the report. With respect to daily Services, Company must give F&M BANK notice within a reasonable time after receipt of the material or report containing an error but is agreed that for such errors, a "reasonable time" cannot exceed 24 hours.

8. **Authorized Representative.** Company shall designate each Authorized Person in writing who is authorized to administer Company's use of one or more specific Services. Each Authorized Person may designate in writing authorized users for a specific Service, including but not limited to, authorized ACH users and authorized wire users. F&M BANK may require that the designation of any Authorized Person, authorized user, authorized ACH user or authorized wire user be made on F&M BANK's form of authorization certificate. F&M BANK is entitled to rely on the continuing authority of each Authorized Person, authorized User, authorized ACH user and authorized wire user until F&M BANK is notified otherwise in writing by Company.

9. **Standard of Care; Limitation of Liability; Indemnity.**

a) **Standard of Care.** F&M BANK agrees to use substantially the same type of procedures and equipment in performing the Services requested by Company as F&M BANK uses in performing similar services on its own behalf. These standards of care, and F&M BANK's compliance with any instructions given it by Company, or believed by F&M BANK to be given it by Company, shall constitute proper, reasonable, and ordinary standards of care.

b) **Limitation of Liability.** Subject to and without limiting any other provision in this Agreement, or in any other document from time to time entered into between F&M BANK and Company, F&M BANK's liability to Company for its failure to provide any Treasury Management Service or other service to Company is limited to the amount of liability imposed by applicable law, including, but not limited to, all liability provisions set forth in the UCC as adopted in the state where F&M BANK maintains the Company Account(s); provided that under no circumstances shall F&M BANK's liability exceed the amount of actual costs and damages incurred by Company directly as a result of such failure; provided further that F&M BANK shall not be liable under any circumstances for any consequential, special, punitive, incidental, or similar damages arising from or in connection with the Treasury Management Services to be provided to Company by F&M BANK.

Except as required by applicable law, F&M BANK'S sole responsibility for any error is to correct that error, provided F&M BANK has received notice within a reasonable time. Correction of errors shall be Company's sole and exclusive remedy.

Notwithstanding the foregoing, in the event F&M BANK cannot correct an error, and solely in the event the Company incurs a direct actual loss as a result thereof which is due to the negligence of F&M BANK with respect to any entry or entries, F&M BANK'S maximum liability to the Company shall be limited to (a) actual money damages not to exceed the actual money damages sustained and proven by the Company, reduced on a comparative basis by the negligence, if any, of Company, or (b) the total amount due from the Company for the specific Services in connection with the uncorrected error(s) for the month during which those Services in connection with the uncorrected error(s) were performed, WHICHEVER IS LESS.

c) **Indemnity.** COMPANY WILL INDEMNIFY AND HOLD F&M BANK, ITS OFFICERS, EMPLOYEES, AGENTS, AFFILIATES, ATTORNEYS, AND CONTRACTORS, HARMLESS FROM ANY CLAIM, LOSS, PENALTY, ASSESSMENT, COST, OR DAMAGE, WHETHER IN CONTRACT OR IN TORT (INCLUDING REASONABLE ATTORNEYS' FEES), ARISING

UNDER THIS AGREEMENT, OR IN CONNECTION WITH THE TREASURY MANAGEMENT SERVICES PROVIDED UNDER THIS AGREEMENT, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THOSE ASSERTED BY THIRD PARTIES FOR REIMBURSEMENT OR DAMAGES AND THOSE WHICH ARISE OUT OF OR UNDER THE ELECTRONIC FUNDS TRANSFER ACT, ANY APPLICABLE STATE ELECTRONIC FUND TRANSFER RULES OR REGULATIONS, OR ANY RULES OR GUIDELINES OF ANY AUTOMATED CLEARING HOUSE.

10. **Actual Receipt.** Actual receipt by F&M BANK of proper notice or delivery of any information (including stop payment, return, process, dishonor, and similar notices required under this Agreement or any agreement executed by Company from time to time) from Company before the deadline required by F&M BANK in its sole discretion is an express and condition precedent to F&M BANK's related obligation to perform any service or to meet any deadline imposed by law, regulation, or any person. Company bears the burden of proof of the time and manner of F&M BANK's actual receipt of any notice or transmittal of information.

11. **Term; Termination.** Subject to the following provisions, the terms and conditions contained in this Agreement shall continue in effect so long as Company is using or has requested from F&M BANK a Treasury Management Service; provided, however, that either party shall have the right, upon 30 days' written notice to the other, to terminate any or all Treasury Management Services then being provided by F&M BANK to Company with or without cause, provided that all obligations arising prior to termination shall not be affected by termination. Further, F&M BANK may terminate any or all existing Treasury Management Services at any time without notice to any party upon the happening of any of the following events or circumstances: (a) Company's violation or breach of any of the terms or conditions contained in this Agreement or in any agreement to provide specific Treasury Management Services; (b) misrepresentation by Company of any material fact in any statement, report, or representation given or made to F&M BANK in any document or writing; (c) receipt by F&M BANK of any legal process with respect to any of Company's deposit accounts; (d) Company's business failure, insolvency, or bankruptcy; (e) the default or violation by Company, or any affiliate of Company, in any document, instrument or agreement between F&M BANK and Company or between F&M BANK and that affiliate; (f) F&M BANK is required to terminate pursuant to any law, regulation or supervisory regulatory agency; (g) F&M BANK determines in good faith that cause exists, in its sole discretion, for terminating this Agreement (or any individual Service or Services); or (h) upon closing of Company Accounts. All sums Company owes to F&M BANK for any Treasury Management Service shall be due and payable in full immediately upon the termination of the service. All warranties, indemnities, representations, and covenants made before termination shall survive and be binding and enforceable after termination of Treasury Management Services, and termination of this Agreement or any Service shall not affect the rights or obligations of either party which may have arisen or accrued prior to such termination. Upon termination of any Services for any reason, F&M BANK shall have no further obligations or duties.

12. **No waiver.** No delay or failure of F&M BANK to exercise any option or right set forth in this Agreement shall constitute a waiver of that option or right. F&M BANK's waiver of any right, agreement or option on one occasion shall not constitute or be deemed a waiver as to any future occasion.

13. **Representations and Warranties.**

a) Company represents, warrants, and covenants to and with F&M BANK: (i) it is duly organized, validly existing, and in good standing in the state of its organization; (ii) the execution, delivery and performance of all documents or agreements provided in connection with any Treasury Management Service are within its powers, have been duly and validly authorized, and do not contravene its charter, by-laws, or any indenture, agreement, undertaking, law, regulation or order binding it; (iii) no approval, consent or authorization of any government authority is necessary for Company to obtain any Treasury Management Service from F&M BANK; (iv) the terms and conditions contained in this Agreement are valid and binding obligations of Company enforceable in accordance with their terms; and (v) Company expressly warrants that Company is not a "Consumer" as defined in section 205.2(e) of Regulation E of the

Bureau of Consumer Financial Protection pursuant to the Consumer Credit Protection Act, as amended, 15 U.S.C. 1601 et seq., and that Company will use each Treasury Management Service solely for business, and not personal, family or household purposes.

- b) EXCEPT AS REQUIRED BY LAW, F&M BANK MAKES NO REPRESENTATIONS, WARRANTIES, AGREEMENTS, OR GUARANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION: (i) ANY REPRESENTATIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AS TO ANY ITEMS OR TREASURY MANAGEMENT SERVICES PROVIDED BY F&M BANK TO COMPANY; (ii) ANY WARRANTIES ARISING UNDER THE UCC AS ADOPTED IN THE STATE IN WHICH F&M BANK MAINTAINS COMPANY'S ACCOUNTS; (iii) ANY WARRANTIES WITH RESPECT TO COMPLIANCE WITH THE ELECTRONIC FUNDS TRANSFER ACT OR REGULATION E OF THE FEDERAL RESERVE BOARD; (iv) ANY RULE OR REGULATION OF ANY AUTOMATED CLEARING SYSTEM; OR (v) ANY STATE ELECTRONIC FUNDS TRANSFER STATUTE OR REGULATIONS.

**14. Arbitration; Actions; Jury Waiver.** Any controversy or claim arising out of or relating to any Treasury Management Service provided under this Agreement shall be settled by arbitration at a location in the State where F&M BANK maintains the Company Account(s) in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator(s) may be entered in any Court having jurisdiction thereof. This agreement to arbitrate shall be specifically enforceable under applicable law in any court of competent jurisdiction. Unless specifically waived in writing, F&M BANK shall not be deemed to have waived its right to compel arbitration hereunder by instituting legal action or taking any other action. Company submits to jurisdiction in the State where F&M BANK maintains the Company Account(s) for any action or cause of action arising out of this Agreement, and agrees that venue shall be in a county selected by F&M BANK. All parties hereto hereby waive all rights to a trial by jury in any action or proceeding arising out of or in connection with the Services or this Agreement.

**15. Notices.** Notices and communications from F&M BANK to Company regarding any Treasury Management Service may be in writing, postage prepaid by first class mail or hand-delivered, or may be delivered electronically by facsimile, e-mail or text message (to the physical address, fax number, email address or cellular telephone number on file with F&M BANK) or, if a Treasury Management Service is provided by access to an Internet website, then by the posting of a notice or communication on the website. Except as otherwise expressly permitted hereunder, notices and communications from Company to F&M BANK regarding any Treasury Management Service shall be in writing, postage prepaid by first class mail, or hand delivered to the following address:

F&M BANK  
Treasury Management Operations  
2081 Wilma Rudolph Boulevard  
Clarksville, TN 37040

F&M BANK may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by F&M BANK; provided that approval of such procedures may be limited to particular notices or communications.

**16. Changes.**

- a) F&M BANK may make changes to the terms and conditions contained in this Agreement at any time from time to time by notice thereof to Company. Such changes shall automatically become effective 10 days after the date of such notice unless rejected by the Company within such 10 day period. If the Company rejects any such change, in writing, then all Treasury Management Services shall automatically terminate. Notwithstanding the foregoing, F&M BANK may change any term or condition without prior notice if F&M BANK, in its sole discretion, determines that the change is necessary: (A) to avoid potential loss to F&M BANK or the Company, (B) due to circumstances that substantially affect F&M BANK operations, or (C) to maintain or restore the security of a funds transfer system or deposit account. If such changes are made, F&M BANK will

make reasonable efforts to give notice to Company as soon as possible.

- b) Any changes or modifications requested by Company to the Treasury Management Services provided by F&M BANK are subject to the written approval of F&M BANK. If F&M BANK so elects, price changes may be implemented concurrently with the requested changes or modifications. The Company shall reimburse F&M BANK for all costs and expenses required to implement any changes or modifications specifically requested by Company.
- c) The terms and conditions of this Agreement shall be deemed to be amended automatically, without notice to either party, to comply with any statute, regulation, or ruling of any government agency to whose jurisdiction F&M BANK is subject.
- 17. Eligible Accounts.** F&M BANK, in its sole discretion, will designate the specific types of F&M BANK accounts that are eligible to be used in connection with any Service, and may change these designations from time to time. F&M BANK reserves the right to refuse to provide a Service to any Company Account.
- 18. Joint Use of Services.** If Company requests, authorizes, and/or allows one of Company's affiliates or any other entity (such affiliate or other entity, a "Delegated Servicer") to request, initiate, maintain or use any Service on behalf of Company or to otherwise have access to any of Company's Services, then Company agrees that any and all instructions, transactions, requests, documents and/or files initiated by such Delegated Servicer or received by F&M BANK from such Delegated Servicer (or any individual authorized by such Delegated Servicer) through or in connection with such Service, shall be deemed to have been made by or received from Company and to have been fully authorized by Company. If Company requests, authorizes, maintains or otherwise uses any Service on behalf of an affiliate of Company (or any other entity), then Company (a) represents and warrants that it has been authorized by such affiliate or other entity to request, initiate, maintain and use such Service and to transmit instructions, transactions, requests, documents and/or files in connection with such Service on behalf of such affiliate or other entity, (b) agrees that it shall be liable for obligations under this Agreement as if such instructions, transactions, requests, documents and/or files had been made on behalf of Company, and (c) agrees that any account of such affiliate or other entity maintained at F&M BANK and used in connection with the Services may be deemed a Company Account under this Agreement.
- 19. Third Party Service Providers.** Upon Company's submission of a request for Services on which Company has designated a third party to provide payment, processing or files transferring services related to a Company Account ("Service Provider") and the approval of the Service Instructions for the applicable service, or upon use of service, with a Service Provider, the Company agrees:
- a) Company has separately authorized the Service Provider to initiate certain payment and processing electronically (including but not limited to ACH Services described herein) to and from a Company Account ("Designated Account").
- b) Company hereby authorizes F&M BANK: (i) to provide the Service Provider with all software, security codes and other devices that the Service Provider or its Designated Users must use ("Service Provider Codes") and instructional materials necessary for the Service Provider to initiate files or entries electronically to and from each Company Account electronically, and (ii) to process each file or entry (including all related instructions or information) to or from a Designated Account that is initiated electronically using the Service Provider Codes in accordance with Company's instructions (each, an "Authorized Transaction").
- c) Each Authorized Transaction shall be deemed a file or transaction initiated by Company, and F&M BANK may rely upon each Authorized Transaction as a transaction properly authorized by Company without further verification. F&M BANK shall have no responsibility for erroneous data provided by the Service Provider. F&M BANK is authorized to process each Authorized Transaction until: (i) F&M BANK receives written notice from Company that Company has revoked its authorization for the Service Provider to initiate files or transactions or entries to and from any or all Company

Accounts; and (ii) F&M BANK has had a reasonable opportunity to act upon Company's notice.

- d) Company represents and warrants that each ACH Entry electronically submitted to or received by F&M BANK from the Service Provider will fully satisfy and comply with all applicable requirements of all applicable laws and regulations. Company expressly warrants (i) that neither Company nor the Service Provider is a "Consumer" as defined in Section 205.2 (e) of Regulation E promulgated by the Bureau of Consumer Financial Protection pursuant to the Consumer Credit Protection Act, as amended, 15 U.S.C. 1601 et seq., and (ii) that all ACH Entries initiated by the Service Provider are for commercial purposes, and not for personal or household purposes
- e) Company agrees to develop, implement and maintain effective policies and procedures to ensure that its Service Providers who may, at any time, initiate an entry or file on behalf of the Company are fully trained, aware of, and are following electronic system or network rules, including the NACHA Rules, Payment System Rules, and all state and federal laws and regulations. In the event Company or Service Provider is a Third Party Sender under the NACHA Rules, Company acknowledges and agrees that a separate Third Party Sender Agreement is required before Service Provider may initiate any ACH entries on behalf of its customers. **The approval of any Third Party Sender Agreement is wholly within F&M Bank's sole discretion.**
- f) Company represents and warrants that its Service Provider will implement and maintain adequate information security measures to protect against unauthorized access to or use of the applicable Service or Company Accounts.
- g) Company represents and warrants that its Service Provider will implement and maintain adequate information security measures to protect against unauthorized access to or use of any Service covered by this Agreement, including, without limitation: (i) access controls on information systems, including controls to authenticate and permit access only to authorized individuals and controls to prevent employees from providing Access Devices (as defined below) to unauthorized individuals who may seek to obtain this information through fraudulent means; (ii) encryption of electronic information while in transit over any network (LAN/WAN including MPLS) using well known (non-proprietary) encryption algorithms with a minimum key length standard in the financial services industry; (iii) procedures designed to ensure that information system modifications are consistent with the information security measures; (iv) monitoring systems and procedures to detect actual and attempted attacks on or intrusions into information systems; (v) response programs that specify actions to be taken when Service Provider detects unauthorized access to information systems, including immediate reports to F&M BANK (vi) training of staff to implement the information security measures; (vii) maintain all systems and applications current with latest release of software and/or security packs, security patches, and security hot fixes; (viii) regular testing of key controls, systems and procedures of the information security measures by independent third parties or staff independent of those that develop or maintain the security measures; and (ix) appropriate firewalls and access control lists between all Service Provider and F&M BANK networks, with only required traffic allowed between networks.
- h) Company shall maintain a process for conducting due diligence and ongoing monitoring of its Processor to confirm that required security procedures and compliance standards are being met.
- i) Company acknowledges that F&M BANK is not responsible for ensuring that Service Provider's equipment and software is compatible with the Services and associated electronic software. All hardware and telecommunications equipment must be purchased and maintained by Service Provider.
- j) Notwithstanding any other provision of this Agreement or any other agreement between F&M BANK and Company, neither F&M BANK nor any of its suppliers, licensors, service providers or vendors (each, including F&M BANK, a "Provider") shall have any liability for any losses, damages, claims, judgments, costs or expenses (collectively, "Damages") incurred by Company that arise from or relate to (i) Company's authorization of Service

Provider to initiate files or entries (including, but not limited to, ACH files) electronically to or from any Designated Account, (ii) the Service Provider's use of any electronic system or network for the initiation of these files or entries, (iii) any dispute of any nature whatsoever between the Service Provider and the Company, or (iv) from any error, delay or failure to perform any obligation hereunder which is caused by fire, natural disaster, pandemic, strike, civil unrest, any inoperable communications facilities or any other circumstance beyond the reasonable control of that Provider. In addition to the foregoing, all disclaimers and limitations on the liability of F&M BANK and the obligation of Company to indemnify F&M BANK with respect to the Service Provider's initiation of files or entries to or from any Designated Account, whether under this Agreement or any other agreement between F&M BANK and Company, shall apply equally to all other Providers.

- k) Notwithstanding any other provision regarding termination set forth in any third-party agreement, this Agreement or in any other agreement between F&M BANK and Company, F&M BANK may terminate at any time, effective immediately, Service Provider's ability to initiate files and entries. F&M BANK shall use reasonable efforts to promptly communicate notice of the termination to Company and the Service Provider, and will thereafter provide written confirmation of the termination if the initial notice of termination was not communicated in writing. F&M BANK, at any time, may require Company or the Service Provider to execute additional documents or agreements in order for the Service Provider to continue to initiate files or entries electronically to or from any Company Account.
- l) Notwithstanding any other provision regarding termination set forth in this Agreement or in any other agreement between F&M BANK and Company, F&M BANK may terminate at any time, effective immediately, Service Provider's ability to initiate ACH Entries or any other entries, files or transfers on behalf of Company. F&M BANK shall use reasonable efforts to promptly communicate notice of the termination to Company and the Service Provider, and will thereafter provide written confirmation of the termination if the initial notice of termination was not communicated in writing. F&M BANK, at any time, may require Company or the Service Provider to execute additional documents or agreements in order for the Service Provider to continue to initiate ACH Entries or any other entries, files or transfers electronically to or from any Designated Account.

## 20. Miscellaneous.

- a) No Partnership. F&M BANK is an independent contractor and not Company's agent, partner, or employee.
- b) Confidentiality. F&M BANK will use reasonable efforts to hold in confidence and not disclose to other than its affiliates, employees, agents and independent contractors all confidential information received by F&M BANK in the course of rendering its Treasury Management Services except to the extent disclosure is required by legal process or by any regulatory or supervisory agency. The Company acknowledges and agrees that F&M BANK may employ third-party servants, agents, independent contractors or other persons or entities to perform such service, and that F&M BANK will not be liable for disclosure by any third-party servants, agents, independent contractors or other persons or entities.

F&M BANK may advise potential users of its Services that Company has a relationship with F&M BANK and uses the Services provided under this Agreement.

Company agrees that all information regarding this Agreement, including pricing for Services shall be maintained by Company as confidential and shall not be disclosed to any third party other than Company's Service Providers except as required by Applicable Law. If so required, Company shall immediately notify F&M BANK and, at F&M BANK's request, cooperate with F&M BANK in pursuing a protective order.

- c) Information and Materials. Specifications, tapes, and programs generated by F&M BANK in connection with any Treasury Management Service are F&M BANK's sole property unless otherwise provided in this Agreement. All data, reports, items or other materials

which Company is required to furnish or perform, including computer tapes or data, will conform to F&M BANK computer and other specifications unless waived in writing by F&M BANK. F&M BANK is authorized, but not required, to electronically record telephone conversations between F&M BANK and Company's agents or employees. Company will provide F&M BANK all records and data processing media necessary to perform the Services. The records will be legible, correct, complete and in the format specified on the Implementation Form(s). The records will contain all necessary information as determined by, and satisfactory to, F&M BANK.

- d) If this Agreement is terminated, the Company will notify F&M BANK in writing within 30 days of the effective date of termination whether F&M BANK should return or destroy any data processing media furnished by the Company and any records in its possession or produced as a result of the expiring Services. If the Company does not notify F&M BANK within 30 days, F&M BANK may destroy, retain or return any such material, as Company would have then been deemed to have abandoned such media; therefore all risk of loss is with Company and F&M BANK shall have no responsibility for said media, or liability to Company for same, if the media is destroyed, not returned, or otherwise dealt with by F&M BANK.
- e) COMPANY'S FAILURE TO FURNISH SATISFACTORY RECORDS OR MEDIA.

F&M BANK's performance is based on F&M BANK receiving timely, accurate and complete data for each Service, acceptable to F&M BANK, and which can be used on F&M BANK systems or equipment. If any of these requirements are not met by the Company, F&M BANK shall

- (i) no longer be bound to any applicable delivery schedules;
  - (ii) be empowered to charge appropriate fees for converting nonstandard data; and/or
  - (iii) deliver as complete and final whatever portion or part of the Services that can be performed with the data available.
- f) Records. Absent manifest error, the records of F&M BANK shall be conclusive evidence with respect to the matters governed by this Agreement
- g) Entire Agreement. The terms and conditions set forth in this Agreement constitute the entire agreement between the parties, supersede all prior agreements relating to the Treasury Management Services governed by this Agreement, and any other agreements (including but not limited to depository agreements) to the extent that they conflict with any terms herein, and except as provided in Section 16 of these General Provisions shall not be modified nor any provision waived by F&M BANK except by a written instrument duly executed by F&M BANK. Any waiver shall be effective only for the specific purposes, circumstances and duration provided in that waiver. Company acknowledges that, in entering into this Agreement, Company has not relied on any oral promises or on any representations made by F&M BANK other than those specifically set forth in this Agreement.
- h) Force Majeure. Notwithstanding any other provision of this Agreement, neither F&M BANK nor any Service Provider acting on its behalf shall have any liability for any error, delay or failure to perform any obligation under this Agreement which is due, directly or indirectly, to any cause beyond the reasonable control of F&M BANK or its Service Provider, including, without limitation, fire, flood, natural catastrophe or other acts of God, pandemic, outbreak or escalation of hostilities, war, terrorism, riots or civil disorders, strikes or work stoppage, electrical, computer, mechanical, utility or telecommunications failures or fluctuations. Company agrees that no financial institution, payment system, communication carrier or other third party through which F&M BANK may transmit information or funds in performing its obligations under this Agreement will be deemed to be F&M BANK's agent, and F&M BANK shall not be responsible for errors, delays, acts, or failures to act by such third party. All of F&M BANK's obligations under this Agreement, whether express or implied, shall be suspended if at any time F&M BANK's performance of these obligations is prevented by,

or is in conflict with, any Applicable Law or Payment System Rules.

- i) Commitment to Lend. Nothing in this Agreement nor any course of dealing between the Company and F&M BANK constitutes a commitment or obligation to lend money or extend credit to the Company or to otherwise advance money to the Company for any reason, including payment of any item contrary to F&M BANK's published availability schedules.
- j) Severability. If any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable for any reason, such holding shall not invalidate or render unenforceable any other provisions of this Agreement. To the extent permitted by applicable law, the parties hereto waive any provision of law which prohibits or renders unenforceable any provision hereof, and to the extent that such waiver is not permitted by applicable law, the parties intend that such provision be interpreted as modified to the minimum extent necessary to render such provision enforceable.
- k) Interpretation. The parties agree that the parties have carefully reviewed this Agreement and that the normal rule of construction to the effect that any ambiguities be resolved against the drafting party shall not be employed in the interpretation of this agreement. The article and section headings contained in this agreement are for reference purposes only and shall not affect the interpretation of this Agreement.
- l) Equitable Relief. Company acknowledges and agrees that, in the event of a breach or threatened breach of any provision in this Agreement involving Confidential Information or any infringement or misappropriation of any intellectual property rights with respect to any licensed products, money damages would be an inadequate remedy and F&M BANK shall be entitled to seek equitable relief from a court of law, including temporary or permanent injunctive relief.
- m) Terminology. Whenever terms such as "include" or "including" are used in this Agreement, they shall mean "include" or "including", as the case may be, without limiting the generality of any description or word preceding such term. Whenever the expression "satisfactory to F&M BANK", "in F&M BANK's judgment" or similar words are used, or F&M BANK is granted the contractual right to choose between alternatives or to express its opinion, the satisfaction, judgment, choices and opinions are to be made in F&M BANK's sole and absolute discretion. Whenever the terms "state" or "states" are used in this Agreement, it shall mean one or more of the 50 states that make up the United States of America, the District of Columbia, and/or one or more of the politically organized territories of the United States of America.
- n) Applicable Law. This Agreement shall be governed by the laws of the state where we maintain the Company Account(s) or, if we maintain accounts for the Company in more than one state, the state where the first account with F&M BANK was opened and applicable federal laws and regulations in effect from time to time.
- o) No Third Party Beneficiaries. The parties acknowledge and agree that this Agreement constitutes a contract to extend financial accommodations solely to and for the benefit of Company. No third party beneficiary rights exist hereunder, nor are any intended. Company's rights and duties hereunder may not be assigned without the prior written consent of F&M BANK, which may be withheld in its sole discretion.
- p) Binding Effect. This Agreement will take effect when the first Service is implemented hereunder by Company.
- q) Special Provisions for Certain Public Entity Customers. If Company is a public entity such as a state, county, parish, municipality, political subdivision or department, bureau or other governmental entity of any of the foregoing (for example, a public hospital, a public university or college, or a public school district), and if governing law makes any term or provision of this Agreement or any Implementation Form regarding indemnification, limitation of liability, waiver, venue or arbitration inapplicable to, unenforceable against, or invalid with respect to Company, then each such inapplicable, unenforceable or invalid term and provision shall be deemed modified to the least extent necessary to become applicable, enforceable and valid and to



encompass the intent of the parties, and this Agreement and any Implementation Form shall be enforced as so modified.

- r) F&M BANK may, but is not required to, make audio recordings of any telephone conversations with Company, any customer representative, or with any Authorized User involving a payment order or any other matter relating to the services provided under this Agreement. F&M BANK shall have no liability for failing to record a telephone conversation with Company, and F&M BANK'S failure to record any conversation shall not constitute a waiver of the F&M BANK'S right to record such conversations.
- s) Company shall not sell, transfer, publish, disclose, divulge, furnish, display or otherwise make available any portion of any documentation related to any Service hereunder to others.
- t) **Audit Rights.** Upon reasonable notice, F&M BANK may audit, at its own expense, Company's hardware, Software, procedures, processes, and any and all relevant business records directly relating to this Agreement and/or any Service provided hereunder. If any errors or discrepancies are found or any failure by the Company to comply with the terms of this Agreement, Applicable Law or any applicable clearinghouse rules, state or federal regulations or guidance for the audited period are found, F&M BANK may, in its sole discretion and option, immediately terminate this Agreement.
- u) **Prohibited Transactions.** Company agrees not to use or attempt to use the Services: (i) to engage in any illegal purpose or activity or to violate any applicable law, rule or regulation (ii) to breach any contract or agreement by which Company is bound (iii) to engage in any internet or online gambling transaction, whether or not gambling is legal in any applicable jurisdiction or (iv) to engage in any transaction or activity that is not specifically authorized and permitted by this Agreement. Company acknowledges and agrees that F&M Bank has no obligation to monitor Company's use of the Services for transactions and activity that is impermissible or prohibited under the terms of this Agreement; provided, however, F&M Bank reserves the right to decline to execute any transaction or activity at it believes or suspects violates the terms of this Agreement.
- v) In the event Company discovers or is notified of a breach of security relating to the Services, the bank's data, the software or equipment accessed by Company, or under Company's control, or any other event that compromises, or potentially compromises, the security, confidentiality or integrity of the bank's data, equipment, systems or equipment (an "Incident"), Company shall, immediately, or as soon as practicable under the circumstances (i) notify the bank of such Incident, (ii) investigate and mitigate, or if possible, remediate, the effects of the Incident (iii) provide the bank with a written corrective action plan, that is satisfactory to The bank, regarding how Company intends to mitigate or remediate future Incidents of such a nature and/or (iv) cooperate with The bank with its efforts to investigate, mitigate and/or remediate the effects of the Incident.

In addition to, and not in lieu of any other indemnification obligations of Company under this Agreement, Company shall indemnify, defend and hold harmless The bank from and against any and all losses, claims, damages and expenses arising out of or in connection with an Incident and/or any a breach of Company's security obligations under this Agreement.

## **AUTOMATED CLEARING HOUSE SERVICES**

Upon Company's submission of a request for Automated Clearing House Services ("ACH Services") and the approval for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Definitions.** In addition to the capitalized terms defined elsewhere in this Agreement the following terms shall have the following meanings:
  - a) INTENTIONALLY LEFT BLANK
  - b) "Customer" means the person, entity or other organization holding the account at a Participating Depository Institution to

which an Entry relates. The term "Customer" includes, without limitation, Company's customers and the employees of those customers, Company's employees and, with respect to the concentration of Funds, Company and its affiliates.

- c) "Designated Persons" at Company shall mean the individuals designated by an Authorized Person (or by a systems manager designated by an Authorized Person) to F&M BANK in writing who shall be the Designated Persons for purposes of this Agreement.
  - d) "Entry" or "Entries" mean an electronic transfer of Funds to Company Accounts from third-party accounts or from Company Accounts to third party accounts and for automatic deposit programs.
  - e) "Entry Settlement Limit" or "Maximum Daily Limit" means the maximum aggregate amount of In-Process Entries permitted to be outstanding at any time, which amount shall be separately communicated to Company by F&M BANK in writing from time to time.
  - f) "Funds" means Company's funds held at F&M BANK or another financial institution which are available for transfer under this Agreement, whether held in the form of investments, instruments, or balances.
  - g) "In-Process Entries" means the aggregate dollar amount of all credit or debit Entries initiated by Company and in process on any date for which settlement has not occurred with respect to credit Entries or the applicable period for the return of items has not expired with respect to debit Entries.
  - h) "Overlimit Entry" means an Entry the amount of which would cause the aggregate amount of In-Process Entries to exceed the Entry Settlement Limit.
  - i) "Participating Depository Financial Institutions" means, collectively, F&M BANK and all other financial institutions holding accounts of Company and Customers which are accessible through an applicable regional or national clearing house association.
  - j) "Rules" mean the operating rules and operating guides of the applicable regional clearing house association and the National Automated Clearing House Association ("NACHA").
  - k) "Settlement Date" means, with respect to any Entry, the date on which such Entry is reported to the account of F&M BANK by the applicable Federal Reserve Bank in accordance with the Rules.
  - l) "Software" means the computer software used in connection with transfers made under this Agreement. All capitalized terms not defined in this Agreement shall have the meanings set forth in the Rules.
2. **Transfer Services Authorization.** Company authorizes and directs F&M BANK upon a Designated Person's request and as otherwise permitted by this Agreement, to transfer Funds of Company, by automated clearing house, for payment directly to Company or to any third party designated by the Designated Person (including, but limited to, federal tax payments ("FTPs")). Company further authorizes and directs F&M BANK to concentrate its Funds to or from all sources from which Funds are available for transfers made under this Agreement. In connection with the foregoing, F&M BANK agrees to process Entries. Company shall be responsible for generating, accepting, and authorizing all Entries and delivering the same to F&M BANK in the form specified in this Agreement and otherwise in accordance with these terms. F&M BANK shall not be obligated at any time to transfer from any Account any amount in excess of the collected balance on deposit in the Account at the time of the request or time of transfer. F&M BANK shall have the right, but shall not be obligated, to refuse any transfer for the purpose of determining whether Company has authorized the transfer and shall incur no liability for any delay caused by its determination.
  3. **Obligations of Company.** Company shall provide all items specified in this Agreement, and any additional items reasonably requested by F&M BANK, in a complete, accurate, and timely manner, and in the form specified by F&M BANK. Company shall provide, at its expense, all electronic equipment, and other media required in order to satisfy the

media and format requirements required by F&M BANK from time to time.

- a) Signed Authorization. Prior to the initiation of the first Entry to an Account, Company will execute on its own behalf and will obtain completed and duly executed written authorization agreements ("Authorization Agreements") from its Customers that desire preauthorized electronic transfers to or from their accounts with Participating Depository Financial Institutions ("Customer Accounts"). The Authorization Agreements shall authorize Company to initiate Entries with respect to its Customers' Accounts. The Authorization Agreements shall be in a form that complies with the Rules, Regulation E of the Bureau of Consumer Financial Protection, the Electronic Funds Transfer Act, and all other applicable federal and state laws and regulations. Company agrees to provide a copy of the Authorization Agreement to the Customer at the time it is executed. Company agrees to retain and maintain the original or other copy of the Authorization Agreement and its records relating to the Authorization Agreement as required by the Rules. Upon request of F&M BANK, an Originating Depository Financial Institution, or a Receiving Depository Financial Institution, Company shall promptly furnish an original or copy of the Authorization Agreement to the requesting party within 2 business days or as otherwise required by the Rules. If the Customers' Authorization Agreements are changed, Company shall not initiate any Entries to or from those Customers' Accounts, except in accordance with the Authorization Agreement as changed. Company shall not initiate any Entries to or from any Customers' Accounts after expiration, termination, or cancellation of those Customers' Authorization Agreements.
  - b) Regularly Scheduled Debit Entries. Company shall comply in all respects with the requirements of the Rules and all state and federal laws and regulations, including notification to Customers (i) if the amount of any debit Entry differs from that of the next previous debit Entry relating to the same Authorization Agreement or the pre-authorized amount or range of amounts; (ii) if any change is made by Company to the date on which a debit entry is scheduled to be transferred from a Customer's account; or (iii) under any other circumstances required under the Rules.
  - c) Form and Format. All Entries shall be in the form of a balanced file. As used in this paragraph, - a balanced file means the file contains an offset or settlement transaction equal to the total of the originated debit or credit items. . All Pre-notifications and Entries shall be furnished to F&M BANK at least two (2) Business Days prior to the opening of business on the applicable Settlement Date in computer readable media as provided under the Rules, and in the record format specified by F&M BANK from time to time. F&M BANK may reject any Entry which F&M BANK determines in its sole discretion not to be in compliance with its then applicable media and format requirements, the Rules, any federal or state laws or regulations, or the terms and conditions of this Agreement. The parties agree that F&M BANK has no responsibility to determine whether Company has complied with any federal or state law or regulation.
  - d) Company shall transmit ("Release") Entries and Prenotification thereof to F&M BANK through Online Banking for Business ("Online Bank"). Pre-notifications and Entries Released after F&M BANK'S Release deadline specified on the implementation form or otherwise specified in any notice given by F&M BANK to Company will be processed by F&M BANK the next Business Day. F&M BANK may change said deadline from time to time as provided herein. All transactions shall be Released by Company to F&M BANK in the manner and within the time limits prescribed by the Rules.
  - e) Delivery. Company shall be solely responsible for transporting, transmitting, or delivering to the delivery point, by the times and on the dates specified by F&M BANK, all Entries, Entries files, and other data, information, instruments, and documents to be supplied to F&M BANK in connection with ACH Services. F&M BANK may reject any Entry determined by F&M BANK, in its sole discretion, to have been submitted after or before the time required by any applicable schedule or deadline.
  - f) Other Duties. All Designated Persons shall be trained personnel familiar with the Software and Rules and procedures described in this Agreement and with the ACH Originators Handbook by NACHA.
  - g) Limitations. Company agrees that F&M BANK is not required to process an Overlimit Entry. F&M BANK will suspend any Overlimit Entry submitted by Company and may, following its receipt of an Overlimit Entry, suspend all In-Process Entries. Company acknowledges that any Overlimit Entry or other In-Process Entries suspended by F&M BANK will not settle on their scheduled Settlement Date. If Company wishes to initiate an Entry that would cause the amount of In-Process Entries to exceed the Entry Settlement Limit, *Company may submit to F&M BANK its request to initiate an Entry that otherwise would be an Overlimit Entry. Company must submit its request at least two (2) Business Days prior to the date on which Company wishes to initiate the Entry that otherwise would be an Overlimit Entry.* F&M BANK may require from Company financial or other information in connection with F&M BANK's consideration of the request. F&M BANK may grant or deny Company's request at its sole discretion. In addition to the foregoing, F&M BANK generally reserves the right to limit the nature and amount of the preauthorized debit/credit Entries processed under this Agreement or to refuse to process any debit/credit Entries under this Agreement if, in F&M BANK's sole judgment (i) there is reasonable cause to believe that any Entry will be returned or will not settle in the ordinary course of the transaction for any reason, (ii) to do otherwise would violate any limit set by the applicable clearing house association or any governmental authority or agency to control payment system risk, or (iii) a pre-authorized credit Entry or the return of a pre-authorized debit Entry would create an overdraft of Company's Accounts. If any of the foregoing actions are taken by F&M BANK with respect to a particular pre-authorized debit/credit Entry, F&M BANK will notify Company as promptly as practicable.
  - h) Providing Information Upon Request. Within two (2) Business Days of F&M BANK's request, Company shall provide to F&M BANK all information necessary to respond to any inquiries from N.A.C.H.A. about Company or Company's Entries.
  - i) Prohibited Entries. Notwithstanding any provisions of this Agreement to the contrary, Company agrees that it will not act as a Third-Party Sender (as defined in the Rules) to initiate any Entry on behalf of another party unless F&M BANK has agreed Company may do so, and Company has entered into the Third Party Sender Agreement with F&M BANK.
  - j) Company also agrees to permit F&M BANK, its regulators and/or agents to examine Company's books, records, practices and systems to confirm that Company maintains the security practices and procedures required by this Agreement to protect the financial information Company obtains from Customers and to verify Company's ongoing compliance with the NACHA rules. Any such examination will be conducted during normal business hours upon written notice to Company, which agrees to cooperate fully by providing F&M BANK with access to reports of audits, tests and/or other evaluations of information security policies and procedures conducted in the ordinary course of Company's business.
  - k) **Cancellation or Amendment by Company.** Company shall have no right to cancel or amend any Entry after it is received by F&M BANK. However, F&M BANK shall use reasonable efforts to act on a request by Company for cancellation of an Entry prior to transmitting it to the ACH Operator or, in the case of an On-Us Entry, prior to crediting or debiting a Receiver's account, but F&M BANK shall have no liability if such cancellation is not effected.
4. **Scope of F&M BANK's Services.** If the Entries comply with the Rules and requirements of this Agreement, F&M BANK will process and transmit the Entries to the Participating Financial Depository Institutions, subject to the Rules. F&M BANK has no obligation to act on, correct, reverse, adjust, or stop payment or posting of Entries or Entry data that does not comply with the requirements or deadlines of F&M BANK or the Rules. F&M BANK has no obligation to detect errors with respect to any Entry. However, if F&M BANK detects an error with respect to any Entry, F&M BANK will attempt to give Company notice of the error, and Company agrees to furnish to F&M BANK corrections promptly via the Software or as F&M BANK shall direct. If Company discovers that any Entry is in error, Company immediately shall give telephonic notice to F&M BANK of the

complete nature of the error and Entries affected, confirmed immediately thereafter in writing ("Company Error Notice"). Company has no right to reverse, adjust or stop payment or posting of any Entry after the Entry has been transmitted by F&M BANK or subsequent to any earlier time as the Rules or F&M BANK may prescribe from time to time, except in accordance with procedures contained in the Rules, or any other applicable agreement.

F&M BANK has no obligation to determine whether the recipient identified in any Entry, whether submitted alone or included within any batch of Entries, is the account holder for the account to or from which funds are to be transferred. If any Entry contains any inconsistent information or other discrepancy regarding the name of the intended recipient and the account to or from which the funds are to be transferred, F&M BANK shall make the transfer on the basis of the account number, even if that number identifies an account held by a person or entity other than the named recipient.

**Same Day ACH Credits Only:** Bank shall transmit or complete the necessary batch authorization of such ACH Entries on the Settlement Date (Send on Date) deadline, provided (1) such Entries are received by the Bank's Same Day ACH cut-off time 10:30 a.m. CST and (2) the amount of each credit transaction does not exceed \$100,000.00, and (3) the Receiving Bank's ACH is open for business on such Business Day. Entries shall be deemed received by Bank when the transmission of the file to F&M Bank (in compliance with any related security procedure provided for herein) is completed.

**Automated Clearing House Debit (ACH) Transactions:** ACH transactions initiated through Online Banking and received by F&M BANK on a Business Day prior 3:00 p.m. CST will be processed the same day. ACH transactions initiated through Online Banking and received by F&M BANK after 3:00 p.m. CST or on a non-Business Day, will be processed on the next Business Day. Company acknowledges that all ACH transactions fulfilled by the Online Services are subject to the terms and conditions of the Automated Clearing House Services section.

**Recurring ACH Payments.** The Recurring ACH Payment feature available in the F&M BANK Online Banking system permits each of Company's Authorized Users who are authorized to establish a standing order of the Company to F&M BANK to submit a group of one or more Entries (referred to as an "ACH Batch") on an automated and recurring basis, without further act or instruction by Company unless payment requires approval by another user (a "Recurring ACH Payment"). In setting up a Recurring ACH Payment on the F&M BANK Online Banking system, Company shall specify when each ACH Batch is to be transmitted, including:

- The Start Date, which is the date requested by Company as the Settlement Date for the first transmission of this ACH Batch.
- End Date, date of when the recurring creation of the ACH batch should stop. May be set to a specific number of occurrences or for a specific date.
- The Previous business day or future Business Day designation, which indicates whether an ACH Batch should be back-dated or future-dated if the requested Settlement Date is a holiday or other non-Business Day.

F&M BANK Online Banking will activate and, subject to the overall terms of this Agreement and any additional approval required of Company, F&M BANK will process each Recurring ACH Payment according to the instructions provided by Company through the F&M BANK Online Banking system. If the Company has elected to require additional approval for recurring ACH Payment, F&M BANK will not process any ACH Batch until the necessary approval has been provided by Company. With respect to each properly established ACH Recurring Payment, F&M BANK has (a) no duty to make any inquiries regarding the performance of any contract or the completion of any transaction between Company and the recipient of any Entry, (b) no obligation to Company other than to transmit each ACH Batch according to Company's instructions, and (c) no liability if F&M BANK fails to transmit any ACH Batch due to an Overlimit Entry. In order to cancel a Recurring ACH Payment, Company must use the F&M BANK Online Banking system (a) to delete the

recurring payment feature from the ACH Batch, to disable the ACH batch, or (b) to delete the ACH Batch.

5. **Payment.**

- a) **Credit Entries.** F&M BANK reserves the right to require that Company pay F&M BANK in immediately available funds at the time of transmittal the amount of each credit Entry submitted by Company.
- b) **Debit Entries.** On the applicable Settlement Date your Account will automatically be credited for the total of the debit Entries transmitted to F&M BANK by its Automated Clearing House. In the event any Entry is properly returned by a Receiving Depository Financial Institution after F&M BANK has provided credit, (i) Company shall, upon demand, repay F&M BANK the amount of the returned Entry or Depository Transfer Check, or (ii) F&M BANK may, at its election, set off such amounts against any Company Account.
- c) **Deletion/Reversal.** Actual receipt by F&M BANK of proper notice or delivery of any information (e.g., stop payment, return, processing, dishonor and similar notices required by this Agreement, the Rules, or any other instrument) from Company before the deadline required by F&M BANK in its sole discretion is an express and condition precedent to F&M BANK's related obligation to perform any service or to meet any deadline imposed by law or regulation. Company bears the burden of proof of the time and manner of F&M BANK's actual receipt of any notice or transmittal of information.

6. **Rejected Entries.** Company shall be responsible for remaking any Entries rejected during processing or rejected by any Participating Depository Financial Institutions ("Rejected Entries"), except Entries rejected as a result of F&M BANK's error, if sufficient data is made available to F&M BANK to permit it to remake those Entries in a correct manner ("Correcting Entries"). In the case of Rejected Entries which are debits or any adjustment memoranda or Entries relating to a debit Entry, upon notification by F&M BANK, Company immediately will provide F&M BANK with sufficient available collected funds to reimburse and indemnify F&M BANK for any funds which were received or subject to any adjustment. Company shall retain for not less than ten (10) Business Days after midnight of the Settlement Date all information necessary to remake any Entries, file or make any Correcting Entries, and, if requested by F&M BANK, shall supply such information to F&M BANK. Company agrees and acknowledges that if F&M BANK receives a Notification of Change ("NOC") file from a Receiving Depository Financial Institution that results from an Entry Company submitted, Company is required to ensure future entries are modified to reflect the corrected information received in the NOC.

F&M Bank may reject any Entry for any reason in its sole discretion including, but not limited to, failure to follow the requirements of this Agreement, an Effective Date more than ten (10) calendar days after the Business Day such Entry is received by F&M Bank, and Company's default under any other agreement, contract or

7. **Returned and Disputed Entries.** Returned Entries will be delivered by F&M BANK to Company and Company shall reimburse F&M BANK immediately in collected funds for the amount of these items and any fees associated with these items, including without limitation fees and/or fines assessed by a payment network against F&M BANK or Company. If Company notifies F&M BANK that an Entry was in an incorrect amount, was not properly authorized, was erroneous or unauthorized under any applicable law or regulation, or was otherwise improperly, erroneously or unlawfully processed or paid, Company agrees to pay to F&M BANK, in immediately available funds, the full amount of the Entry, plus any expenses for costs (including legal fees) incurred by F&M BANK in connection with that Entry, including without limitation fees and/or fines assessed by a payment network against F&M BANK or Company. Company further agrees that F&M BANK may, as appropriate, pay the amount to the Customer or may return the amount to Company; provided, however, that upon payment of the amount by Company to the Customer, F&M BANK shall be absolved and released from any expenses or costs incurred by Company with respect to such Entry. When a returned Entry indicated "payment stopped" as the reason for the return, Company shall not reinitiate that Entry unless

Company subsequently received the Customer's authorization for re-initiation of that Entry.

**8. Notice of Entries.**

a) Company shall provide each Customer with positive written notice of each credit Entry to the Customer's Account ("Positive Credit Notice"), and shall otherwise fully comply with the provisions of the Electronic Funds Transfer Act, Regulation E of the Bureau of Consumer Financial Protection and any applicable state law, rules or regulations governing electronic fund transfers.

b) Company shall provide written notice to each Customer of the amount and scheduled date of each debit Entry prior to the scheduled date of the debit Entry. All such written notices of debit Entries, and any other means of debit Entry notice selected by Company, shall fully comply with the Electronic Funds Transfer Act, Regulation E of the Bureau of Consumer Financial Protection and any applicable state law, rules or regulations governing such electronic fund transfers.

**9. Entry Settlement.** Company shall provide F&M BANK with immediately available funds not later than one business day prior to each Settlement Date sufficient in amount to pay all Entries initiated by Company which are to be settled on that date. Company hereby authorizes and instructs F&M BANK to make deposits and withdrawals from any of Company's Accounts as appropriate to provide the services specified in this Agreement. Notwithstanding anything in this Agreement to the contrary, F&M BANK reserves the right to require that sufficient collected funds be in Company's Accounts prior to the time any Entry is processed by F&M BANK under this Agreement. In the case of an Entry received for credit or debit to an account maintained with F&M BANK (an "On-Ups Entry"), F&M BANK shall credit or debit the Receiver's account, as the case may be, in the amount of such Entry on the Effective Entry Date shown in such Entry, provided the requirements of this Agreement have been met.

**10. Effect of Rules.** The parties hereto expressly agree to be bound by the Rules as now or hereafter in effect, including, without limitation, that Company shall be bound by and comply with all limitations and requirements imposed upon an "Originator" under the Rules. Any changes in the Rules shall be deemed to automatically amend this Agreement, effective as of the date the changes in the Rules become effective. It is agreed that no Rule shall be deemed to diminish F&M BANK's rights under this Agreement, except in the case of direct conflict, in which event the Rules shall control. Without limiting the foregoing, F&M BANK may issue from time to time operating rules and procedures to Company describing the operating procedures for each service provided under this Agreement. From time to time, F&M BANK may also issue updates to the operating rules and procedures. Company agrees that it will access and utilize all such services in accordance with the operating rules and procedures.

**11. File Suspension.** Notwithstanding anything in this Agreement to the contrary, F&M BANK shall not be liable if a file suspends in connection with an Entry as the result of an error by Company or F&M BANK's inability to contact a Designated Person, after using reasonable efforts to make contact.

**12. Effective Entry Date.** Any Entry having an Effective Entry Date coinciding with a day which is not a Business Day will not post until the next Business Day. Company assumes sole responsibility for scheduling Effective Entry Dates around days which are not Business Days. The total dollar amount of Entries Released by Company to F&M BANK on any one day shall not exceed the daily transaction limit set forth on the Electronic Transaction Limit Form, as revised from time to time

**13. Company's Duty to Examine Daily Balance Reporting.** Entries Released by Company and transmitted by F&M BANK will be reflected on Company's ACH status history and daily balance reporting pages accessible by Company through Online Banking. Company shall examine such pages daily and shall immediately notify F&M BANK of any discrepancy between Company's records and the information shown on such pages. If Company fails to so examine such pages, or if Company so examines such pages but fails to immediately notify F&M BANK of any such discrepancy, then

Company agrees that Company will be precluded from asserting any claim against F&M BANK, and Company agrees that any loss will be entirely Company's.

**14. Company Representations and Agreements; Indemnity; Audit.**

With respect to each and every Entry Released by Company, Company represents and warrants to F&M BANK and agrees that (a) each person shown as the Receiver on any Entry Released to F&M BANK by Company has authorized, in accordance with the Rules and, where applicable, the federal Electronic Funds Transfer Act and Regulation E, the initiation of such Entry and the crediting or debiting of such person's account in the amount and on the Effective Entry Date shown on such Entry and that Company shall retain and make available to F&M BANK all such authorizations for not less than three (3) years following their expiration; (b) such authorization is operative at the time of Release, crediting, and/or debiting by F&M BANK as provided herein; (c) Entries Released to F&M BANK by Company are limited to those entry types designated in the ACH Implementation Form; (d) the Receiver of a Reversing Entry has been notified, on or before the settlement date of the reversing entry, of the fact that the Reversing Entry has been sent to the Receiver's account and the reason for the reversal; (e) Company shall perform its obligations under this Agreement in accordance with all applicable laws and regulations, including, but not limited to, (i) the federal Electronic Funds Transfer Act and Regulation E, (ii) laws and regulations pertaining to resolution of errors alleged by consumers, (iii) laws, regulations and orders respecting the United States Treasury Department's Office of Foreign Assets Control (OFAC) or FinCEN, and (iv) the federal Unlawful Internet Gambling Enforcement Act of 2006 ("UIGEA"); (f) Company may not send any restricted transaction or any transaction which violates United States law; (g) in the event that F&M BANK may be liable to any person for damages which are in any way connected with the subject matter of this Agreement, Company shall cooperate with F&M BANK in loss recovery efforts and in efforts to defend against such liability; (h) Company shall be bound by and shall comply with the Rules as in effect from time to time; and (i) Company accepts F&M BANK'S right to terminate or suspend, the right to audit Company's compliance with this Agreement and Rules and the right to impose restrictions on Company's ACH activity. In the event of any audit pursuant to clause (i) above, F&M BANK shall give to Company written notice of its intent to conduct the audit, and F&M BANK and Company shall establish a mutually agreeable date and time during Company's normal business hours to conduct the audit. The audit shall occur within thirty (30) days following the date of F&M BANK'S initial request for the audit. F&M BANK may utilize a third-party auditor to conduct the audit. F&M BANK shall bear the cost of any such audit unless the audit reveals Company's material noncompliance with this Agreement or the Rules, in which case Company shall bear the cost of the audit. Company shall indemnify F&M BANK against any loss, liability or expense (including attorney's fees and expenses) resulting from or arising out of any breach of any of the foregoing representations, warranties or agreements.

**16. Interbank Same Day ACH.** Upon opting-in by the Company and upon F&M BANK's approval for the same day interbank settlement option, Company may originate qualified ACH transactions under the Rules, with a same-day effective date, so the receiver accounts at another financial institution can receive ACH transactions on a same day basis. In order to process same day, it is the Company's responsibility to originate qualified ACH transactions under the Rules within the specific entry window for same day processing. Company is responsible for managing its use and selection of the same day settlement option and F&M BANK is under no obligation to confirm Company's intention for ACH transactions to settle same day. Any unqualified same day effective-dated transactions originally intended for same day processing are subject to being originated on the next available processing day. Further, F&M BANK has no responsibility for Company selecting the same day settlement option in error even if Company's intention is to settle on the following Business Day or later. Company is responsible for payment of all associated fees for the same day settlement option whether or not same day settlement option was selected in error.

**17. Limitation on Liability.** Without limiting the provisions of the General Provisions, F&M BANK shall not be responsible for Company's acts or omissions (including without limitation the amount, accuracy, timeliness of Release or due authorization of any Entry received from Company or Company's failure to comply with the Rules) or those of any other person, including without limitation any Federal Reserve Bank or communications facility, any Receiver or Receiving Depository

Financial Institution (including without limitation the return of an Entry by such Receiver or Receiving Depository Financial Institution), and no such person shall be deemed F&M BANK'S agent.

18. **All Entries Deemed Genuine.** All Entries, requests for cancellation, amendments of Entries and other information Released to F&M BANK and showing Company as originator shall be deemed to have been Released and authorized by Company, and shall be deemed effective upon receipt by F&M BANK. Company shall be obligated to honor such Entry or other Release even though such Entry or Release was not in fact authorized by Company. Each such Release shall be deemed a writing signed by Company. Company waives any defense or claim premised upon the ground that such Release is not in writing or is not signed by Company.
19. **Inconsistency of Name and Account Number.** Company acknowledges and agrees that if an Entry describes the Receiver inconsistently by name and account number, processing of such Entry may be made by the Receiving Depository Financial Institution (or by F&M BANK in the case of an On-Us Entry) on the basis of the account number designated in such Entry, notwithstanding that such account number is styled in the name of a person different from the named Receiver. In no event shall F&M BANK be obligated to discover, rectify, or give notice or advice of such inconsistency.
20. **Notification of Changes.** F&M BANK shall advise Company of all notifications of changes received by F&M BANK related to Pre-notifications and Entries Released by Company no later than two (2) Business Days after F&M BANK'S receipt thereof. Company shall correct the cause of such changes within ten (10) days after its receipt of such notification or before its next Release to F&M BANK, whichever is later. In any case, Company shall not initiate any such Entry(s) following six (6) Business Days after its receipt of such notification unless Company has corrected the cause of such changes.
21. **Data Retention.** Company shall retain data on file adequate to permit remaking of Entries for ten (10) Business Days following the date of Company's Release of such data to F&M BANK and shall provide such data to F&M BANK upon its request within two (2) Business Days.
22. **No Entries after Termination.** Company shall not originate any Entries after it or F&M BANK sends notice of termination of the ACH Services or of this Agreement.
23. F&M Bank will, from time to time, perform a credit review of Company and any guarantors of Company's obligations. Company agrees and consents to F&M Bank obtaining credit reports and agrees and consents to the release of information to F&M Bank which is relevant to the creditworthiness or financial affairs of Company including matters of opinion. Company will deliver to F&M Bank any instruments, documents, financial statements, consents, tax returns or information Bank may request.

#### **AUTOMATED CLEARING HOUSE BLOCK SERVICES**

Upon Company's submission of a request for Automated Clearing House Block Services and the approval of the Implementation Form for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Authorization of ACH Debit Items.** F&M BANK Automated Clearing House Block Services allow Company to (a) authorize the payment of certain predefined ACH debit items ("ACH Debit Items") presented for payment against the Company's accounts maintained at F&M BANK (the "Accounts") by an Originating Depository Financial Institution ("ODFI") for credit to the account of a third-party (the "Debit Originator"), or (b) restrict the payment of any and all ACH Debit Items presented for payment against the Accounts, or (c) restrict the payment of all ACH Debit Items initiated by one or more Debit Originators (together with the services described in Section 2 hereof, collectively the "ACH Authorization Services"). If provided in the Implementation Form, Company may, (a) designate to F&M BANK those ACH Debit Items that Company authorizes F&M BANK to pay upon presentation for payment against the Accounts (the "Payable Items," or, singularly, a "Payable Item"), or (b) authorize and direct

F&M BANK to return any and all ACH Debit Items presented for payment against the Accounts (the "Restricted Debit Accounts"), or (c) authorize and direct F&M BANK to return all ACH Debit Items initiated by one or more Debit Originators designated by Company on the Implementation Form (the "Restricted Debit Originators"). With respect to Payable Items, Restricted Debit Accounts, and Restricted Debit Originators, the Company shall provide the information required by F&M BANK for the Implementation Form. By designating any Payable Items on the Implementation Form, Company authorizes F&M BANK to pay all Payable Items presented for payment against the Accounts. By designating any Restricted Debit Accounts on the Implementation Form, Company authorizes F&M BANK to return unpaid all ACH Debit Items presented for payment against the Restricted Debit Accounts. By designating any Restricted Debit Originators on the Implementation Form, Company authorizes F&M BANK to return unpaid all ACH Debit Items presented for payment against the Accounts that are initiated by any Restricted Debit Originators. Company agrees that an item is a Payable Item if the information transmitted by an ODFI to F&M BANK in connection with the item is substantially consistent with the information provided by Company for the Implementation Form for ACH Authorization Services with respect to that item. Company agrees that an Account is a Restricted Debit Account if the information identifying the Restricted Debit Account transmitted by an ODFI to F&M BANK is substantially consistent with the information provided by Company for the Implementation Form for ACH Authorization Services with respect to the Restricted Debit Accounts. Company agrees that an ACH Debit Item is deemed to be initiated by a Restricted Debit Originator if the information identifying the Debit Originator of the item transmitted by an ODFI to F&M BANK in connection with the item is substantially consistent with the information provided by Company for the Implementation Form for ACH Authorization Services with respect to the Restricted Debit Originators. If Company designates to F&M BANK any Payable Items, Restricted Debit Accounts, or Restricted Debit Originators, F&M BANK will maintain in the F&M BANK ACH Authorization Services system a database (the "ACH Authorization Database") which will contain the information received from the Company regarding Payable Items, Restricted Debit Accounts and Restricted Debit Originators. In the event Company wishes to add Payable Items, Restricted Debit Accounts, or Restricted Debit Originators to the ACH Authorization Database from time to time, Company will provide to F&M BANK complete and accurate input to the ACH Authorization Database by providing the information required by F&M BANK to accurately identify additional (a) Payable Items which are authorized by Company, (b) Restricted Debit Accounts, or (c) Restricted Debit Originators. F&M BANK shall be fully protected in acting in good faith without investigation on any request, direction or instruction purporting to be from an employee of Company (including a request to add or remove Payable Items, Restricted Debit Accounts or Restricted Debit Originators). Upon the presentation of a Payable Item against the Accounts by an ODFI, F&M BANK will pay the Payable Item so long as collected funds sufficient to pay the Payable Item are maintained in the Accounts at the time that the Payable Item is presented for payment. Upon the presentation of an ACH Debit Item by an ODFI (a) against a Restricted Debit Account, or (b) that was initiated by a Restricted Debit Originator, F&M BANK will return that ACH Debit Item. **ACH Debit Items presented for payment against the Accounts which have not been designated by the Company as Payable Items, or which are Payable Items for which insufficient collected funds exist to pay the item, or which are presented against Restricted Debit Accounts or initiated by Restricted Debit Originators will be returned to the presenting ODFI. Company acknowledges and agrees that Payable Items that are paid, or ACH Debit Items that are returned, are paid or returned, as the case may be, automatically and systematically without review or intervention by any F&M BANK employee or agent. Company agrees that F&M BANK shall have no obligation to review or investigate the contents of any ACH Debit Item presented for payment against the Accounts, whether or not the item is a Payable Item.** Upon its receipt of (a) a form from the Company requesting that Company add information to the ACH Authorization Database with respect to an additional Payable Item, Restricted Debit Account, or Restricted Debit Originator, or (b) written notice from the Company of a request that F&M BANK delete from the ACH Authorization Database information regarding any Payable Item, Restricted Debit Account or Restricted Debit Originator, F&M BANK will use its best efforts to add or delete that information to or from the ACH Authorization Database, as the case may be, within a reasonable time of its receipt of the request. Company is solely responsible for the integrity and accuracy of the information provided to F&M BANK for

input to the ACH Authorization Database, whether that information is provided at the inception of ACH Authorization Services or at a later date. **If Company provides inaccurate information regarding ACH Debit Items, Restricted Debit Accounts or the identity of Restricted Debit Originators, Company acknowledges that Payable Items may be returned, and unauthorized ACH Debit Items, ACH Debit Items presented to a Restricted Debit Account, or ACH Debit Items initiated by a Restricted Debit Originator may be paid, and the Company shall bear any and all responsibility for any losses or other consequences that may occur in either event. Company waives any claim of wrongful dishonor arising from the return of any Payable Item which is returned due to (a) incorrect or incomplete information given by Company to F&M BANK regarding the Payable Item, (b) the fact that information for the Payable Item was received by F&M BANK before F&M BANK had an adequate time to add the information to the ACH Authorization Database, or (c) the lack of sufficient funds in the Accounts to pay the Payable Item. Further, Company waives any claim of erroneous payment arising from the payment of any otherwise unauthorized ACH Debit Item, any ACH Debit Item presented to a Restricted Debit Account, or any ACH Debit Item initiated by a Restricted Debit Originator which is paid due to (a) incorrect or incomplete information given by Company to F&M BANK regarding the item, the Restricted Debit Account or the Restricted Debit Originator, as the case may be, or (b) the fact that information for the ACH Debit Item, Restricted Debit Account, or Restricted Debit Originator, as the case may be, was received by F&M BANK before F&M BANK had an adequate time to add the information to the ACH Authorization Database.** Company hereby authorizes F&M BANK to initiate ACH Debit Items for payment against the Accounts (a) to pay fees payable to F&M BANK that are associated with the Accounts, and (b) in connection with transfers of funds associated with other services provided Company by F&M BANK, and Company agrees that all of these items are Payable Items.

- 2. Authorization of ACH Credit Items.** In addition to services provided in connection with ACH Debit Items, ACH Authorization Services allows Company to (a) authorize the receipt and posting of certain predefined ACH credit items ("ACH Credit Items") presented by an ODFI for credit to the Accounts from the account of a third-party (the "Credit Originator"), or (b) restrict the receipt of any and all ACH Credit Items presented for credit to the Accounts, or (c) restrict the receipt of all ACH Credit Items initiated by one or more Credit Originators. In the Implementation Form for ACH Authorization Services, Company may, by providing the information required by F&M BANK, (a) designate to F&M BANK those ACH Credit Items that Company authorizes F&M BANK to accept for credit to the Accounts (the "Credit Posting Items," or, singularly, a "Credit Posting Item"), or (b) authorize and direct F&M BANK to return any and all ACH Credit Items presented in connection with the Accounts ("Restricted Credit Accounts"), or (c) authorize and direct F&M BANK to return all ACH Credit Items initiated by one or more Credit Originators designated by Company on the Implementation Form ("Restricted Credit Originators"). With respect to Credit Posting Items, Restricted Credit Accounts and Restricted Credit Originators, the Company shall provide the information required by F&M BANK on the Implementation Form. By designating any Credit Posting Items on the Implementation Form, Company authorizes F&M BANK to accept all Credit Posting Items presented for credit to the Accounts. By designating any Restricted Credit Accounts on the Implementation Form, Company authorizes F&M BANK to return unaccepted all ACH Credit Items presented for credit to the Restricted Credit Accounts. By designating any Restricted Credit Originators on the Implementation Form, Company authorizes F&M BANK to return unaccepted all ACH Credit Items presented for credit to the Accounts that are initiated by any Restricted Credit Originators. Company agrees that an item is a Credit Posting Item if the information transmitted by an ODFI to F&M BANK in connection with the item is substantially consistent with the information provided by Company on the Implementation Form for ACH Authorization Services with respect to that item. Company agrees that an Account is a Restricted Credit Account if the information identifying the Restricted Credit Account transmitted by an ODFI to F&M BANK is substantially consistent with the information provided by Company on the Implementation Form for ACH Authorization Services with respect to the Restricted Credit Accounts. Company agrees that an ACH Credit Item is deemed to be initiated by a Restricted Credit Originator if the information

identifying the Credit Originator of the item transmitted by an ODFI to F&M BANK in connection with the item is substantially consistent with the information provided by Company on the Implementation Form for ACH Authorization Services with respect to the Restricted Credit Originators. If Company designates to F&M BANK any Credit Posting Items, Restricted Credit Accounts, or Restricted Credit Originators, F&M BANK will maintain in the ACH Authorization Database the information received from the Company regarding Credit Posting Items, Restricted Credit Accounts, and Restricted Credit Originators. In the event Company wishes to add Credit Posting Items, Restricted Credit Accounts, or Restricted Credit Originators to the ACH Authorization Database from time to time, Company will provide to F&M BANK complete and accurate input to the ACH Authorization Database by providing the information required by F&M BANK to accurately identify additional (a) Credit Posting Items which are authorized by Company, (b) Restricted Credit Accounts, or (c) Restricted Credit Originators. F&M BANK shall be fully protected in acting in good faith without investigation on any request, direction or instruction purporting to be from an employee of Company (including a request to add or remove Credit Posting Items, Restricted Credit Accounts or Restricted Credit Originators). Upon the presentation of a Credit Posting Item for credit to the Accounts by an ODFI, F&M BANK will accept the Credit Posting Item and post the amount of the item as a credit to the Accounts. Upon the presentation of an ACH Credit Item (a) for credit to a Restricted Credit Account, or (b) that was initiated by a Restricted Credit Originator, F&M BANK will return that ACH Credit Item. **ACH Credit Items presented for credit to the Accounts which have not been designated by the Company as Credit Posting Items, or which are presented for credit to a Restricted Credit Account, or which are initiated by Restricted Credit Originators will be returned to the presenting ODFI. Company acknowledges and agrees that Credit Posting Items that are accepted, or ACH Credit Items that are returned, are accepted or returned, as the case may be, automatically and systematically without review or intervention by any F&M BANK employee or agent. Company agrees that F&M BANK shall have no obligation to review or investigate the contents of any ACH Credit Item presented for payment against the Accounts, whether or not the item is a Credit Posting Item.** Upon its receipt of (a) a form from the Company requesting that Company add information to the ACH Authorization Database with respect to an additional Credit Posting Item, Restricted Credit Account, or Restricted Credit Originator, or (b) written notice from the Company of a request that F&M BANK delete from the ACH Authorization Database information regarding any Credit Posting Item, Restricted Credit Account or Restricted Credit Originator, F&M BANK will use its best efforts to add or delete that information to or from the ACH Authorization Database, as the case may be, within a reasonable time of its receipt of the request. Company is solely responsible for the integrity and accuracy of the information provided to F&M BANK for input to the ACH Authorization Database, whether that information is provided at the inception of ACH Authorization Services or at a later date. **If Company provides inaccurate information regarding ACH Credit Items, Restricted Credit Accounts, or the identity of Restricted Credit Originators, Company acknowledges that Credit Posting Items may be returned, and unauthorized ACH Credit Items, or ACH Credit Items presented to a Restricted Credit Account, or ACH Credit Items initiated by a Restricted Credit Originator may be accepted, and the Company shall bear any and all responsibility for any losses or other consequences that may occur in either event. Company waives any claim of wrongful or erroneous return arising from the return of any Credit Posting Item which is returned due to (a) incorrect or incomplete information given by Company to F&M BANK regarding the Credit Posting Item, or (b) the fact that information for the Credit Posting Item was received by F&M BANK before F&M BANK had an adequate time to add the information to the ACH Authorization Database. Further, Company waives any claim of erroneous acceptance arising from the acceptance by F&M BANK of any otherwise unauthorized ACH Credit Item, or any ACH Credit Item presented to a Restricted Credit Account, or any ACH Credit Item initiated by a Restricted Credit Originator which is accepted and posted to the Accounts due to (a) incorrect or incomplete information given by Company to F&M BANK regarding the item, the Restricted Credit Account or the Restricted Credit Originator, as the case may be, or (b) the fact that information for the item, Restricted Credit Account, or Restricted Credit Originator, as the case may be, was received by F&M BANK before F&M BANK had an adequate time to add the information to the ACH Authorization Database.** Company hereby authorizes F&M

BANK to initiate ACH Credit Items for credit to the Accounts in connection with transfers of funds associated with other services provided Company by F&M BANK, and Company agrees that all of these items are Credit Posting Items.

3. **Company's Representations and Warranties.** Company represents and warrants that (a) each ACH Debit Item for which Company authorizes payment against the Accounts, and (b) each ACH Credit Item for which Company authorizes credit to the Accounts fully satisfies and complies with all applicable requirements of all applicable laws and regulations.
4. **Termination.** In addition to any other termination rights in this Agreement, if F&M BANK believes, in its discretion, (a) that a Payable Item or a Credit Posting Item, as the case may be, has been returned due to incorrect or incomplete information given by Company to F&M BANK regarding the Payable Item or Credit Posting Item, (b) an otherwise unauthorized ACH Debit Item has been paid or an otherwise unauthorized ACH Credit Item has been accepted due to incorrect or incomplete information given by Company to F&M BANK regarding the item, (c) F&M BANK is unable to pay a Payable Item due to the lack of sufficient funds in the Accounts to pay the Payable Item, or (d) there exists facts or circumstances that support the reasonable conclusion that (i) F&M BANK or Company is or may be subject to losses for fraud, other illegal activity, mistake, negligence, or the communication of erroneous information arising from the actions of Company or any third party, including Company's employees or agents, (ii) Company may be unable in any respect to comply with these provisions for ACH Authorization Services, F&M BANK may terminate the ACH Authorization Services with respect to Company immediately and without notice. In the event F&M BANK terminates the ACH Authorization Services with respect to Company immediately in accordance with the terms of this Section, F&M BANK shall use reasonable efforts to communicate notice of the termination to Company promptly. F&M BANK may require Company to execute additional documents or agreements to continue its use of the ACH Authorization Services.
5. **ACH Rules.** Company acknowledges that with respect to the ACH Authorization Services, under the current Operating Rules of the National Automated Clearing House Association (the "NACHA Rules"), F&M BANK is a Receiving Depository Financial Institution. Company further acknowledges that the NACHA Rules apply to all ACH Debit Items and ACH Credit Items subject to these ACH Authorization Services provisions, including Payable Items and Credit Posting Items.
6. **No Third Party Beneficiaries.** Nothing contained herein, express or implied, is intended to or shall confer upon any person or entity, other than the parties hereto and their respective permitted successors and assigns, any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement. The Services described in this Section are not intended to and shall not affect the authorization of any ACH Debit Item or ACH Credit Item as between Company and any Debit Originator or Credit Originator.

### **AUTOMATED INVESTMENT SWEEP ACCOUNT OVERNIGHT REPURCHASE AGREEMENT**

Company desires to earn interest income on available balances in the Automated Investment Sweep Account ("AISA") by collection of available balances and investment of such balances in Investment Securities as defined in 12 U.S.C. 24(7) (the "Securities") for Overnight Periods (as herein defined) subject to repurchase; and F&M BANK maintains a program through which such investment is available to Company from F&M BANK.

Upon Company's submission of a request for Automated Investment Sweep Account Overnight Repurchase Services and the approval of the Implementation Form for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Appointment of F&M BANK As Agent.** Company hereby appoints F&M BANK as its agent and F&M BANK hereby accepts such appointment and agrees to invest for Company's available AISA balances in Securities for Overnight Periods subject to repurchase by

F&M BANK as described in this Agreement. As used in this Agreement, the term "Overnight Period" shall mean that period of time which begins on the close of each Business Day at the F&M BANK'S main office at Clarksville, Tennessee and ends upon the opening of the next succeeding Business Day at said main office.

2. **Account; Minimum Balance and Target Balance.** Company authorizes F&M BANK at the beginning of each Overnight Period to determine the available balance in Company's AISA and to determine the amount by which such available balance exceeds a Target Balance. The account which is the subject of this Agreement (the "Account") and the Target Balance determined for the Account are specified in Implementation Form, along with additional information necessary to carry out this agreement.
3. **Investable Funds.** If Company's available AISA balance is less than the Target Balance, such balance will not be collected and invested pursuant to this Agreement, and shall remain in Company's AISA. If Company's available AISA balance is greater than the Target Balance, the amount in excess of the Target Balance (the "Investable Funds") will be invested in Securities for the Overnight Period as provided in Section 4. Company expressly agrees that F&M BANK has no responsibility to invest AISA balances if the amount available for investment is less than the Target Balance.
4. **Purchase of Securities.** Company authorizes F&M BANK to purchase Securities at the beginning of each Overnight Period with Investable Funds. F&M BANK agrees to use its best efforts to purchase Securities for the benefit of Company. Securities in which a Company's Investable Funds are invested will be (a) maintained in the custody of F&M Bank; (b) pooled with the securities of other AISA customers of F&M BANK in an account designated on the records of F&M Bank's designated depository institution as a customer securities account (for purposes of this section, the "Account"); (c) identified daily on the books and records of F&M BANK on a customer-by-customer basis; and (d) not subject to substitution by F&M BANK while so invested.
5. **Repurchase of Securities.** At the end of each Overnight Period during which the Company's Investable Funds are invested in Securities (the "Repurchase Date"), F&M BANK will repurchase the Company's Securities from the Account for an amount equal to the amount of Investable Funds invested in Securities which interest shall be calculated and accrued in the manner set forth in the Implementation Form. Company may not require F&M BANK to repurchase Securities other than as provided herein.
6. **Daily Confirmations.** F&M BANK shall send to Company daily confirmations with respect to the purchase and repurchase of Securities. The confirmations shall specify the issuer, maturity date, coupon rate, par amount, market value and CUSIP or pool number, as appropriate, of Securities.
7. **Rate of Return.** The rate of return paid to Company upon the repurchase by F&M BANK of Securities shall be an administered rate established by F&M BANK from time to time and which is subject to change at any time without prior notice to Company. The initial rate of return is specified on the Implementation Form.
8. **Interest Accrual.** Any and all return paid on Securities will be accrued daily to Company's AISA and will be credited monthly and thereafter available for use by Company. Any gain or loss in the market value of Securities will inure solely to the benefit or the detriment of F&M BANK.
9. **Non-Transferable Rights.** Company's rights are not assignable or transferable under this Agreement, nor shall Company hypothecate, pledge, assign, loan or transfer Securities or Investable Funds subject to this Agreement. Notwithstanding the foregoing, in the event of failure of F&M BANK while Company's funds are invested in Securities pursuant to this Agreement, Company shall have the right to direct disposition of the Securities.
10. **Nature of Transactions.** Although the parties intend that all transactions hereunder constitute sales and purchases of Securities and not loans, in the event any such transactions are deemed to be loans by any appropriate federal or state regulatory authority, F&M BANK shall be deemed to have pledged Securities to Company as security for performance by F&M BANK of its obligation to purchase and repurchase Securities, and grants to Company a security interest in the

Account and in the total amount of Securities equal to the amount of Investable Funds invested in Securities pursuant to this Agreement.

11. **Best Efforts to Invest.** F&M BANK will have no liability to Company for lost income or otherwise if F&M BANK is unable, using its best efforts, to invest Investable Funds in Securities as provided in this Agreement because of the unavailability of any Securities or otherwise.
12. **Sub-Accounts.** To carry out its limited authority hereunder, F&M BANK shall be authorized to transfer to accounts, ledgers, trailers, or other methods of accounting for the transactions ("Sub-Accounts"), which are Sub-Accounts of F&M BANK as contemplated by this Agreement, funds sufficient to make the purchases of Securities and to repurchase Securities first through Sub-Accounts, and receive and receipt for the proceeds thereof, as authorized by this Agreement.
13. **Termination.** Notwithstanding anything in the General Provisions, the termination by Company of this service shall be effective two (2) Business Days after written notice of termination is received by F&M BANK. Termination by F&M BANK shall be effective two (2) Business Days after written notice is given to the Company by F&M BANK.
14. **Disclosures Required by FDIC.** Company's funds invested in Securities pursuant to this Agreement are NOT deposits and therefore are NOT insured by the Federal Deposit Insurance Corporation ("FDIC"). In the event of failure of F&M BANK while Company's funds are invested in Securities pursuant to this Agreement, F&M BANK expects, but does not guarantee, that FDIC will recognize Company's interest in the Securities as shown on the books and records of F&M BANK and (a) will transfer this Agreement to a successor institution or (b) if there is no successor to F&M BANK under this Agreement, will pay Company to acquire Company's interest in the Securities according to FDIC's normal procedures.

#### **BILL PAYMENT SERVICES**

Upon Company's submission of a request for Bill Payment Service ("Bill Pay") and the approval of the Implementation Form for this service, or upon its use of the service, whichever occurs first, and in addition to Company agreeing to the terms and conditions set forth elsewhere herein or by separate agreement for using certain payment channels as applicable to and required for Bill Payment Service, Company agrees:

1. **Description of Service.** This section governs payment of funds to third-party Payees through Online Banking by means of electronic payment or issuance of paper checks other than debit and credit transfers by means of automated clearing house transfers, funds (wire) transfers, or transactions governed by the Electronic Funds Transfer Act. Bill Pay payments are made by transfer to bank accounts specified by Company or by paper checks made payable to persons specified by Company and mailed to addresses specified by Company. As used in this section, "Payee" means (a) any owner of any bank account specified by Company as the account to which a Bill Pay payment is to be made or (b) any person specified as the payee of a paper check issued through the Online Banking Bill Pay Module.
2. **Payment Processing Methods.** F&M BANK or anyone acting for F&M BANK, including any third-party vendor to F&M BANK, may choose whatever method for processing Bill Pay transactions which F&M BANK, in its sole discretion, deems best, whether by electronic payment or by issuance of paper checks. Where paper checks are utilized, Company acknowledges that character limitations may be insufficient to print complete names of Payees, and particularly multiple Payees, on checks. F&M BANK will not be responsible for any failure to print on any check the complete name of any Payee or all of the names of multiple Payees. F&M BANK may refuse to accept Company's designation of any Payee or Payee's account for any reason. The address specified as the address to which a check is to be mailed must be within the United States (including United States territories and APO and AE addresses).
3. **Payment Dates; Deadlines.** For each payment transaction Company initiates through Bill Pay, Company agrees to designate the payment date on which Company desires funds to be sent to the Payee. The payment date must be a Business Day. If Company

designates a payment date which is not a Business Day, then the payment date will be deemed to be the next Business Day. Company further acknowledges that, since the time for processing Bill Pay transactions varies according to Payee, Company assumes the responsibility to designate each payment date sufficiently in advance of the date, if any, on which Payee requires payment. F&M BANK will have no liability to Company for any losses caused by Company's improper or mistaken designation of a payment date or by Company's failure to allow a sufficient number of Business Days between the date Company initiates the Bill Pay transaction and the payment date. ESTIMATED PAYMENT ARRIVAL DATES, IF ANY, GENERATED BY THE BILL PAY MODULE ARE ESTIMATES ONLY AND ARE NOT GUARANTEED. Every Bill Pay order must be received by F&M BANK on a Business Day by 4:00 pm Central time (the "Bill Pay Deadline"). If the Bill Pay order is not received on a Business Day or is received after the Bill Pay Deadline, F&M BANK will not process it until the next Business Day.

4. **One-Time Payments.** Provided that Company complies with section 3 above, each one-time payment will be processed on the payment date unless the payment date is not a Business Day, in which event the payment will be processed on the next Business Day.
5. **Recurring Payments.** Provided that Company complies with section 3 above, each recurring payment will be processed on the same payment date of each period specified by Company (monthly, etc.). If any such recurring payment date falls on a date that is not a Business Day, then such payment shall be processed on either the first Business Day before such date or the first Business Day after such date, depending upon Company's specification. If Company specifies the "Pay Before" option for recurring payments, then the payment shall be processed on the first Business Day before such recurring payment date. If Company specifies the "Pay After" option for recurring payments, then the payment shall be processed on the first Business Day after such recurring payment date. If Company specifies a recurring payment date that is the 29th, 30th, or 31st day of a month and any month does not have such date, then the payment date shall be deemed to be the last Business Day of such month.
6. **Cancellation or Amendment of Payments.** Company may use the Bill Pay Module to cancel or amend any payment transaction sent to F&M BANK through Bill Pay at any time prior to the Bill Pay Deadline or as otherwise specified in any notice given by F&M BANK to Company on the payment date. The Stop Payment Requests provisions of the Online Banking Section do not apply to Bill Pay.
7. **Funds Sufficient for Payment.** Company shall maintain in the Company Account balances sufficient to cover all payment transactions. F&M BANK shall have no obligation to process any payment against an insufficient balance. F&M BANK may place holds upon the balance of the Company in the amount of any pending payment. F&M BANK may cancel or reverse a payment in the event that the balance of the Company Account insufficient while such payment is in process. In the event sufficient funds are not available the Company Account to cover any payment, Company agrees that F&M BANK may, without prior notice to Company, debit any account maintained by Company with F&M BANK or with any affiliate of F&M BANK in order to obtain such payment. Alternatively, in such event, F&M BANK, at its option, may set off the amount of such insufficiency against any amount F&M BANK owes to Company in order to obtain such payment.

#### **ONLINE BANKING SERVICES**

1. **Subscription to Services.** Online Banking, F&M BANK's online commercial information and transaction system, provides information on Company account activity and allows Company to make certain transactions on Company's deposit and loan accounts maintained with F&M BANK, all as more fully set out in the terms and conditions of this Agreement. By means of Internet access on a personal computer or other device, Company may access Online Banking to utilize these services. Basic Online Banking services are those which are described herein, and which are implemented through Company's execution of one or more Company Portfolios, one or more Account Portfolios and one or more User Portfolios. Additionally, Company may subscribe to any of the further Online Banking services described in the various parts of this Agreement by executing one or more Online Banking Portfolios pertaining to such further Online



Banking services (each, a "Portfolio"). Such further Online Banking services may be subscribed to by Company at any time while this Agreement is in force, including subsequent to Company's execution of this Agreement. Portfolios may be aggregated to allow for changes to information set forth therein from time to time, with such aggregated forms constituting a single Portfolio. Each and every Portfolio is a part of this Agreement.

## 2. Access to F&M BANK Online Banking.

- a) Security Codes. F&M BANK shall provide a customer identification code (the "Customer ID"), a user identification code ("User ID"), and a user password ("User Password"). Each Authorized User may be required to select or create one or more alphanumeric codes, images, phrases, questions with a matching answer, or to use other types of security techniques or devices. ("User Code"). In addition to the Customer ID, User IDs and User Passwords described in this Section, each Authorized User (sometimes called a "User") will be required to select one or more Multi-Factor Authentication options (for example, a soft token,) ("MFA Option"). The Customer ID, User ID's, User Codes and User Passwords together with the selected MFA Option shall be referred to as "Security Codes".

Company agrees that use of the Security Codes will authenticate the identity of each User and verify all requests, communications or other instructions submitted through F&M BANK Online Banking. In order to prevent unauthorized access to the Company Accounts and unauthorized use of F&M BANK Online Banking services, Company agrees to maintain the confidentiality of the Security Codes, and to instruct all Users to maintain the confidentiality of the Security Codes. Company also agrees to review promptly each statement sent by F&M BANK for any Company Account that is accessible through F&M BANK Online Banking in order to detect any unauthorized transactions. To the fullest extent permitted by applicable law, Company is responsible for all transactions on Company Accounts initiated using the Security Codes. Company is responsible for maintaining the confidentiality of all Security Codes, and for implementing the necessary internal controls, balancing and reconciliation functions, and audit procedures to prevent unauthorized use of F&M BANK Online Banking.

Company agrees that the use of the Security Codes constitutes a commercially reasonable security procedure for Company. Company also agrees to be bound by all requests, communications, or other instructions to F&M BANK that are initiated using F&M BANK Online Banking and in compliance with this security procedure (including any transfer, payment instruction initiation or cancellation), regardless of whether or not Company actually authorized the request, communications and other instructions. If any request, communications or other instructions initiated through F&M BANK Online Banking and accepted by F&M BANK in compliance with this security procedure contains any error, to the full extent allowed by law, Company shall be liable for, and shall indemnify F&M BANK against any claims, losses and expenses F&M BANK may incur that arises from or relates to the erroneous request, communications or other instructions. F&M BANK's records demonstrating compliance with this security procedure will be deemed conclusive proof that the payment order received by F&M BANK was authorized and that Company is bound by those requests, communications or other instructions.

Company agrees to download and install any and all security software required by F&M BANK and to install all updates, patches and/or any other amendments or modifications to the same when directed by F&M BANK to do so. Company will not be allowed to access F&M BANK Online Banking and utilize its services unless any and all required security software is installed on all desktop computers and laptop computers accessing Online Banking.

If Company requests, based on technical or administrative constraints, that F&M BANK perform any or all set-up functions for Company, F&M BANK will do so; provided, however, that Company hereby acknowledges that Company remains

responsible for all access to F&M BANK Online Banking and actions taken by Authorized Users with respect to Online Services.

- b) Multi-Factor Authentication. The MFA Options that are available to the Company as part of the required security procedures and to authorize individuals to receive a randomly generated numeric authentication code and initiate certain Online Services are as follows:

Authentication Token. The Company may select that each Authorized User receive a soft token to receive authentication codes to verify request, communication or other instructions ("Authentication Token") via a Mobile Device. To receive an Authentication Token, the Authorized User must (i) be authorized by the Company; (ii) provide certain information designated by F&M BANK regarding each Authorized User with which F&M BANK can, when necessary, confirm the identification of each Authorized User. **An Authorized User should not request that an Authentication Token (soft) be sent to unsecure devices. Company agrees to instruct and monitor each Authorized User accordingly.**

- (i) Company agrees to instruct each Authorized User: (i) to maintain the confidentiality and security of the MFA Option; (ii) to safeguard the security of the Authentication Token; and (iii) to immediately notify F&M Bank if the Authentication Token is lost so the Authentication Token can be disabled.

**Company agrees to hold harmless F&M BANK from and against any loss caused by the failure by any Authorized User to select, change, or to maintain the confidentiality of the MFA Option, and/or assumes the risk of loss with respect to any MFA option that has not been maintained and/or protected according to the terms of this Agreement.**

- c) Safe-keeping of Security Codes.

Company acknowledges that while F&M BANK will attempt to ensure that the Customer ID, all User IDs, all User Passwords, MFA Option and all electronic communications between Company and F&M BANK are encrypted, scrambled or otherwise protected against interception by a person whose access to F&M BANK Online Banking is unauthorized, Company nonetheless accepts and assumes all risk of loss or dissemination of information attributable to the electronic communications between Company and F&M BANK through F&M BANK Online Banking. Company and each Authorized User are responsible for safekeeping its Security Codes. Company and Authorized Users shall not, at any time, permit access to F&M BANK Online Banking by any person who does not need to obtain access to F&M BANK Online Banking consistent with Company's rights hereunder.

If an Authorized User loses or forgets his or her User ID or a User Password, they should contact F&M BANK for assistance.

If an Authorized User loses an Authentication Token, the Authorized User shall immediately notify F&M BANK in writing. The request for a replacement Authentication Token may be electronically sent to F&M BANK.

If Company believes that one or more Security Codes have become known or obtained by unauthorized persons (whether or not employed by Company), the Company or Authorized User shall immediately notify F&M BANK. If Company believes that an Authentication Token has become known or obtained by unauthorized persons (whether or not employed by Company), it is the responsibility of each Authorized User to immediately follow the procedures set forth above in this Section 2 for lost authentication tokens. Additionally, F&M BANK may change or disable any Security Code or Authentication Token at any time and for any reason. If F&M BANK takes such action, F&M BANK will make every reasonable effort to notify Company promptly. F&M BANK assumes no responsibility to discover, audit, or report to Company any possible breach of security by Company's agents or representatives or anyone else for unauthorized disclosure or use of Security Codes or Authentication Token(s). Company acknowledges that the security procedures in this Section

constitute commercially reasonable security procedures for the Company's business and the type and volume of transactions to be conducted hereunder.

If Company is unable to access F&M BANK Online Banking or transact or conduct any Online Services, Company shall immediately notify F&M BANK of such inability and shall transact or conduct such service through other means available to Company.

F&M BANK CANNOT AND DOES NOT GUARANTEE THAT COMPANY'S COMPUTERS ARE FREE FROM RISKS WHICH ARE INHERENT IN INTERNET-BASED APPLICATIONS. F&M BANK SHALL NOT BE RESPONSIBLE AND SHALL INCUR NO LIABILITY TO COMPANY FOR ANY LOSS RESULTING FROM ACCESS GAINED, INFORMATION DISCLOSED OR FROM TRANSACTIONS MADE ON ITS ACCOUNT(S) THROUGH ONLINE BANKING BY OR THROUGH ANY UNAUTHORIZED MEANS.

3. **Authorized Transactions.** F&M BANK may rely upon any Online Service transacted or conducted through or by use of F&M BANK Online Banking as properly authorized by Company (including, without limitation, any transfer of funds, any advance from a F&M BANK Online Banking Accessible Loan or any instructions or information related thereto it receives from Company through F&M BANK Online Banking). Each Authorized User to whom F&M BANK has provided access to Security Codes, or who has otherwise obtained access to Security Codes, is deemed an authorized representative of Company for purposes of all Online Services transacted or conducted through or by use of F&M BANK Online Banking, whether or not such person is authorized by this Agreement or any other agreement between F&M BANK and Company. Those Authorized Users who have received Authentication Tokens or anyone who has otherwise received an Authentication Token by any means, are deemed authorized representatives of Company for purposes of Online Banking access, Wire Transfer Services and/or ACH Services transacted or conducted through or by use of F&M BANK Online Banking, whether or not such person is authorized by this Agreement or any other agreement between F&M BANK and Company. The Company shall not permit Authorized Users of F&M BANK Online Banking that are not specifically authorized by the Company to access Online Banking or initiate Wire Transfer Services or ACH Services. Company agrees to be bound by any wire transfers or ACH transaction initiated in compliance with the security procedures.

Company acknowledges and agrees that its Authorized Users are authorized to request advances on any F&M BANK Online Banking Accessible Loans where advances are available, regardless of whether the Authorized User is authorized to do so under the applicable loan documentation. Company authorizes F&M BANK to process and make advances on F&M BANK Online Banking Accessible Loans without further verification or authorization if requested by an Authorized User in accordance with the procedures and processes set forth herein.

Notwithstanding the terms of any Treasury Management Services Agreement or any other agreement between Company and F&M BANK, once Company accesses F&M BANK Online Banking to transact or conduct any Online Service, F&M BANK will not verify that the transaction is authorized and Company is solely responsible for the accuracy and completeness of any data or information received by F&M BANK. F&M BANK is authorized by Company to process transactions in accordance with information F&M BANK receives electronically through F&M BANK Online Banking using the Security Codes. Company shall be solely responsible for the information contained in the instructions and F&M BANK shall have no responsibility for erroneous data provided by Company. **F&M BANK shall have no liability for losses resulting from or related to Company's failure to limit access to F&M BANK Online Banking or maintain the confidentiality of the Security Codes including Authentication Tokens.** At the sole discretion of F&M BANK, F&M BANK may also require the use of other identifying information or other security procedures for certain Online Services and F&M BANK may add to, change or delete any security procedure.

4. **Basic Online Banking Online Access.** Company shall designate on the Account Online Banking Authorization all of Company's deposit and loan accounts maintained with F&M BANK on which Company desires to access via Online Banking. All accounts so designated shall be accessible by Company and Authorized Users via Online Banking for the purposes of allowing retrieval of daily balances, checks and other items presented or cleared, deposits made, fees assessed, the making of deposit transactions, the procurement of advances and the making of payments on loan accounts, and such other transactions and information as may be made available through Online Banking from time to time.

5. **Transaction Processing.**

- a) **Wire Transfers:** Wire transfers initiated through F&M BANK Online Banking are subject to the terms and conditions set forth in the Online Funds Transfer Service section of this Agreement and the terms and conditions set forth in any other agreement related thereto entered into from time to time between F&M BANK and the Company.
- b) **Account Transfers:** Account Transfers initiated through F&M BANK Online Banking and received by F&M BANK on a Business Day prior to 7:00 pm CST will be posted to the applicable accounts the same day. Account Transfers initiated through F&M BANK Online Banking and received by F&M BANK after 7:00 pm CST or received on a non-Business Day will be posted to the applicable account on the next day Business Day.
- c) **Stop Payment Requests:** Stop Payment Requests initiated through Online Banking and received by F&M BANK on a Business Day prior 7:00 pm CST will be filed in relation to the applicable account the same day. Reasonable notification of a Stop Payment Request must be given to F&M BANK at least twenty-four (24) hours prior to the relevant item being presented for payment. A stop payment request issued via F&M BANK Online Banking will expire and become null and void six (6) months from the date received, unless revoked or released prior to that time, or unless renewed for an additional period of six (6) months. The stop payment fee applicable to a stop payment order initiated electronically will apply to each stop payment request.

To the extent the procedures and timing requirements set forth herein for stop payment requests initiated through F&M BANK Online Banking are inconsistent with any provisions applicable to stop payment requests set forth in the Uniform Commercial Code, then those provisions are deemed to be varied by agreement as contemplated by Section 1-302 of the Uniform Commercial Code. Company agrees to hold F&M BANK harmless and indemnify it against any loss, expense, or cost incurred resulting from F&M BANK's refusal to pay any item upon which customer places a stop payment request.

6. **Online Image Services.**

- a) **Image Services.** F&M BANK Online Banking Online Image Services ("F&M BANK Online Banking Online Image Services") permits Company, using F&M BANK Online Banking, to retrieve and view online images of items, reports, and other documents issued or created in connection with Company's Accounts (the "Image Services"). The type of items, reports, and documents for which Image Services are available may be changed or updated from time to time by F&M BANK.
- b) **Image Processing.** F&M BANK will use its best efforts to process and provide retrieval access to images of all items, reports, and documents. F&M BANK does not, however, guarantee that Company will be able to retrieve and view all images at all times or that all items, reports, and documents may be available. Company acknowledges that the Image Services archive system may not be accessible from time to time or a retrieval request may not be completed, and an Authorized User may be required to access Image Services at a later time. Company acknowledges that there exist many reasons and causes that certain images may not be available for retrieval or that certain items or documents may not adequately process to the Image Services system, including, but not limited to, (a) an item bearing a deficient MICR line that does not post to the Images Services archive, (b) errors based on

account or routing number information, (c) incompatible search criteria for certain items or documents, and (d) images, reports, and other documents are retrievable through Online Banking for a finite amount of time. F&M BANK shall have no liability or obligation for Company's inability to retrieve one or more images at any time.

- c) **Image Quality.** Company acknowledges that the visual quality of a retrieved image depends on the visual quality of the item or document from which the image was created. The darkness, tint, tone, and clarity of both written and background characters contained in the original source item or document affects directly the quality of the image created. F&M BANK shall have no responsibility or obligation to enhance or improve the visual quality of any image based on the condition or visual quality of the original source item, image, or document.
  - d) **Timeliness of Response.** Company acknowledges that the timeliness of a response to a retrieval request for one or more images depends on the Company's Internet Service Provider ("ISP") and the medium through which Company connects to the Internet. Company acknowledges that certain ISPs and Internet medium connections produce a more rapid response than others, and that F&M BANK has no responsibility or obligation to enhance or improve the response time to Company's Image Services retrieval requests.
  - e) **Time of Image Availability.** F&M BANK from time to time will communicate to Company the time of day the various types of images created in connection with Image Services will be available for retrieval and the length of time the same will be retrievable through Online Banking. The availability times may change from time to time as communicated to Company by F&M BANK.
  - f) **Inadvertent Retrieval.** In the event, due to operating error, any Authorized User inadvertently retrieves an image of an item, report or document related to an account owned by an entity other than Company, Company agrees that the Authorized User, upon recognition that the image is of an item, report, or document that does not relate to Company's Account, will immediately take the action necessary to delete the image from the Authorized User's screen. Company agrees that neither Company nor any Authorized User will use the inadvertently retrieved image for any purpose whatsoever. Company further waives any action or claim arising from the inadvertent retrieval of the image of any item, report, or document related to Company's Accounts by another entity using Image Services.
7. **Sharing of Data.** F&M BANK Online Banking and the Online Services allow an Authorized User to share reports, statement(s), images and other information ("Content") from a computer. Company hereby acknowledges and agrees that (a) any Content shared by an Authorized User may pass through private and public networks with varying levels of security, (b) F&M BANK is not responsible for the security or privacy of the Content shared by an Authorized User through a computer, and (c) F&M BANK is not liable for any damages that occur as a result of any Content that is shared by an Authorized User through a computer.
8. **Grant of License.** F&M BANK hereby grants Company a limited, nonexclusive, non-transferable, limited term, royalty-free, revocable sublicense to use F&M BANK Online Banking and the software creating, maintaining and supporting F&M BANK Online Banking (the "Software") and the printed, digital or electronic user materials provided in connection therewith (the "Documentation") solely to conduct transactions in connection with the Online Services, for Company's internal business purposes only. Except as specifically provided herein, F&M BANK does not grant to Company any other right or license, express or implied. Company may not sublicense, sell, lease, distribute or provide access to F&M BANK Online Banking, the Software or Documentation to any third parties, nor use the Software or Documentation in a service bureau, time-sharing or other similar arrangement, nor make any other use of the Software or Documentation that is not expressly permitted hereunder. F&M BANK, or a third party are the exclusive owners of and shall retain all right, title and interest in and to F&M BANK

**Online Banking, the Software, the Documentation and the Intellectual Property Rights (as defined herein).**

9. **Equipment and Internet Service.** In connection with its use of F&M BANK Online Banking and Online Services for the purposes provided in this Agreement, or otherwise, Company shall be solely responsible for satisfying the minimum hardware, software, and Internet browser requirements specified by F&M BANK from time to time and maintaining Internet service sufficient to access and use F&M BANK Online Banking as provided herein. Company shall be solely responsible for ensuring equipment and software compatibility with F&M BANK Online Banking and Online Services. All of the foregoing will be purchased and maintained by Company, at its sole expense. F&M BANK shall have no liability or responsibility for any failures or delays relating to any of the foregoing, including, without limitation, Company's ISP's performance or actions or omissions.
10. **F&M BANK Representations and Warranties.** Subject to all terms of this Agreement, F&M BANK warrants that it has the right to grant the sublicense to the Software and Documentation. In the event the Software or Documentation, or any portion thereof, is held to constitute an infringement of any third party's rights, and use thereof is enjoined, F&M BANK shall, at its election: (a) promptly procure the right for Company; or (b) notify Company of its intent to discontinue use of the Software and/or Documentation.
11. **Disclaimers.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, F&M BANK ONLINE BANKING, THE SOFTWARE AND THE DOCUMENTATION ARE PROVIDED FOR COMPANY'S USE DURING THE TERM HEREOF "AS IS" AND "WHERE IS", AND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, F&M BANK AND THE OTHER PROVIDERS MAKE NO REPRESENTATIONS OR WARRANTIES AND DISCLAIM ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH REGARD TO F&M BANK ONLINE BANKING, THE SOFTWARE OR THE DOCUMENTATION, OR USE OF F&M BANK ONLINE BANKING BY COMPANY, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY AND NON- INFRINGEMENT. F&M BANK DOES NOT WARRANT THAT THE OPERATION OF F&M BANK ONLINE BANKING OR SOFTWARE WILL BE UNINTERRUPTED, ERROR FREE OR FREE FROM ANY OTHER PROGRAM LIMITATIONS, OR VIRUS OR OTHER DISABLING ROUTINE. F&M BANK DOES NOT MAKE ANY REPRESENTATION REGARDING THE USE OR THE RESULTS OF THE USE OF F&M BANK ONLINE BANKING, THE SOFTWARE OR THE DOCUMENTATION IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY OR OTHERWISE. COMPANY ACKNOWLEDGES THAT IT MUST PROVIDE ALL EQUIPMENT AND PROVIDE AND MAINTAIN SERVICE THROUGH AN INTERNET SERVICE PROVIDER ("ISP") SUITABLE TO ACCESS F&M BANK ONLINE BANKING AND IS SOLELY RESPONSIBLE FOR ALL FEES, COSTS AND CHARGES ASSOCIATED WITH AND MAINTENANCE OF SUCH EQUIPMENT OR SERVICE. COMPANY ACKNOWLEDGES THAT ITS ISP MAY HAVE UNINTENDED EFFECTS ON COMPANY'S USE OF F&M BANK ONLINE BANKING AND THE ABILITY TO CONDUCT OR TRANSACT ONLINE SERVICES (INCLUDING, WITHOUT LIMITATION, COMPANY'S ABILITY TO ACCESS F&M BANK ONLINE BANKING), AND THAT F&M BANK SHALL HAVE NO RESPONSIBILITY FOR SUCH EFFECTS. COMPANY ACKNOWLEDGES THAT THE SOFTWARE MUST INTERFACE WITH F&M BANK'S COMPUTERS, AND ASSUMES THE RISK THAT F&M BANK'S COMPUTERS MIGHT NOT BE OPERATIONAL OR COMPATIBLE AT ALL TIMES. COMPANY FURTHER ACKNOWLEDGES THAT F&M BANK SHALL HAVE NO LIABILITY OR RESPONSIBILITY FOR THE SATISFACTORY PERFORMANCE OF COMPANY'S HARDWARE AND SOFTWARE USED TO INITIATE OR RECEIVE COMMUNICATIONS OVER THE INTERNET. COMPANY ALSO ACKNOWLEDGES THAT ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF F&M BANK ONLINE BANKING IS DONE AT COMPANY'S OWN DISCRETION AND RISK AND THAT COMPANY WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO COMPANY'S COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.
12. **Proprietary Rights.** Company acknowledges that F&M BANK or the other Providers shall retain all rights, title and interests in and to F&M

BANK Online Banking, the Software (including, without limitation, the source code, listings, magnetic and digital media and any support materials related thereto) and Documentation, as well as the ideas and concepts incorporated in those items, and all modifications, improvements and enhancements thereof and additions thereto, including ownership of all trade secrets, copyrights and other associated proprietary and intellectual property rights pertaining thereto (collectively, the "Intellectual Property Rights"), except as granted hereunder. Company shall not take any action that is inconsistent with the Intellectual Property Rights of F&M BANK or any Provider, nor shall it take any actions or engage in any conduct that violates the Intellectual Property Rights of F&M BANK or any other Provider.

The Software and Documentation include trade secrets and other proprietary information of F&M BANK and its suppliers, licensors, service providers and vendors and are confidential property of such person(s) or legal entity(ies). Company shall treat as confidential and shall not disclose or otherwise make available the Software, the Documentation (collectively, the "Confidential Information"), in any form, to any person other than Company's employees who have a need to know such Confidential Information. Company shall not attempt to nor shall it reverse engineer, disassemble, decompile or otherwise attempt to derive source code from Confidential Information, make the Confidential Information available to any third parties, modify, adapt, translate or create derivative works based upon such Confidential Information, or permit or authorize any third party to do any of the foregoing.

Company will instruct its employees who have access to the Confidential Information to keep the same confidential, by using the same care and discretion which Company uses with respect to its own confidential property and trade secrets. Company agrees that it shall not take any action to change or make any modification to F&M BANK Online Banking or the Software.

13. Termination. Notwithstanding any other provision regarding termination set forth herein or in any other agreement between F&M BANK and Company, F&M BANK may terminate Company's access to and its ability to transact any or all of the Online Services through F&M BANK Online Banking at any time for any reason, effective immediately. F&M BANK shall use reasonable efforts to communicate notice of the termination to Company promptly, and will thereafter provide written confirmation of the Termination if the initial notice of termination was not communicated in writing. F&M BANK may require Company to execute additional documents or agreements to continue to conduct or transact Online Services through or by use of F&M BANK Online Banking at any time. The terms and provisions of Sections 7, 8, 11, 12 and 13 of this F&M BANK Online Banking section of this Agreement shall survive the termination of this Agreement and Company's right to access and submit transactions through F&M BANK Online Banking.
14. Commercially Reasonable Security Procedures. Company agrees that the use of the Security Codes that F&M BANK has established for each Online Service constitutes a commercially reasonable security procedure for Company. Company agrees to be bound by all requests, communications, or other instructions to F&M BANK that are initiated using this security procedure (including any transfer requests, payment requests, stop payment orders and, if applicable, payment orders and requests for cancellation or amendment of payment orders for ACH entries and wire transfers), regardless of whether or not Company or any Authorized User actually authorized the instruction. If any instruction initiated through an Online Service and accepted by F&M BANK in compliance with this security procedure contains any error, to the full extent allowed by law Company shall be liable for, and shall indemnify F&M BANK against any claims, losses and expenses F&M BANK may incur that arise from or relate to the erroneous instructions. F&M BANK's records demonstrating compliance with this security procedure will be deemed conclusive proof that the payment order received by F&M BANK was authorized and that Company is bound by those instructions.

#### **F&M Bank Alerts Terms and Conditions**

**Alerts.** Your enrollment in F&M Bank Online Banking (the "Service") includes enrollment to receive transaction alerts and notifications ("Alerts"). Alerts are electronic notices from us that contain transactional information about your F&M Bank account(s). Account Alerts and Additional Alerts must be managed and/or added online through the Service. We may add new alerts from time to time or cancel old alerts. We usually notify you when we cancel alerts but are not obligated to do so. F&M Bank reserves the right to terminate its alerts service at any time without prior notice to you. **Methods of Delivery.** We may provide alerts through one or more channels ("endpoints"): (a) a mobile device, by text message, (b) a mobile device, by push notification; (c) an email account, by an e-mail message; or (d) your F&M Bank Online Banking message inbox. You agree to receive alerts through these endpoints, and it is your responsibility to determine that each of the service providers for the endpoints described in (a) through (c) above supports the email, push notification, and text message alerts provided through the alerts service. Please be advised that text or data charges or rates may be imposed by your endpoint service provider. Alert frequency varies by account and preferences. You agree to provide us a valid mobile phone number or email address so that we may send you alerts. If your email address or your mobile device's number changes, you are responsible for informing us of that change. Your alerts will be updated to reflect the changes that you communicate to us with regard to your primary and secondary email addresses or mobile device number. **Alerts via Text Message.** To stop alerts via text message, text "STOP" to 96924 at any time. Alerts sent to your primary email address will be unaffected by this action. To restore alerts on your mobile phone, just visit the alerts tab in F&M Bank Online Banking. For help with SMS text alerts, text "HELP" to 96924. In case of questions please contact customer service at 800-645-4199 during regular business hours. Our participating carriers include (but are not limited to) AT&T, T-Mobile®, U.S. Cellular®, Verizon Wireless, MetroPCS. **Limitations.** F&M Bank provides alerts as a convenience to you for information purposes only. An alert does not constitute a bank record for the deposit or credit account to which it pertains. We strive to provide alerts in a timely manner with accurate information. However, you acknowledge and agree that your receipt of any alerts may be delayed or prevented by factor(s) affecting your mobile phone service provider, internet service provider(s) and other factors outside F&M Bank's control. We neither guarantee the delivery nor the accuracy of the contents of each Alert. You agree to not hold F&M Bank, its directors, officers, employees, agents, and service providers liable for losses or damages, including attorneys' fees, that may arise, directly or indirectly, in whole or in part, from (a) a non-delivery, delayed delivery, or the misdirected delivery of an Alert; (b) inaccurate or incomplete content in an Alert; or (c) your reliance on or use of the information provided in an Alert for any purpose. **Alert Information.** As alerts delivered via SMS, email and push notifications are not encrypted, we will never include your passcode or full account number. You acknowledge and agree that alerts may not be encrypted and may include your name and some information about your accounts, and anyone with access to your alerts will be able to view the contents of these messages

#### **ONLINE FUNDS TRANSFER SERVICES**

Upon Company's submission of a request for the Online Funds Transfer Service and the approval of the Implementation Form for this Service, or upon its use of the Service, whichever occurs first, Company agrees:

1. **Description of the Service.** With this Service, Company may initiate funds transfers under Article 4A of the UCC, which are commonly referred to as "wire transfers." Company's use of the Online Funds Transfer Service is subject to the General Provisions of this Agreement, the following terms and conditions for this Service, the applicable Service Instructions, and all Applicable Laws.
2. **Definitions.** For purposes of this Agreement, the following definitions apply:

"Authorized Wire User" means each officer and/or employee of Company who has been designated as having the authority to initiate wire transfers on Company's behalf. For purposes of wire transfers initiated through the SWIFT network or utilizing F&M BANK Online Banking Services, or any other Service or platform provided by F&M BANK, "Authorized Wire User" shall also mean those authorized to set up/initiate wire transfer deliveries in those channels, platforms or products, including, but not limited to those authorized to initiate/approve wire transfers in such channels, platforms or products.

"Domestic Wire Transfer" means an outgoing funds transfer in U.S. Dollars (USD) sent either:

- (i) to the beneficiary's account at a bank located in the United States; or
- (ii) to a bank located in the United States, for credit to the beneficiary's account at a bank located outside the United States. This kind of a transfer is commonly referred to as an "International Fed Wire."

"Drawdown Wire Transfer Request" is an instruction by Company to debit an account held by Company or another party at a different financial institution. The party holding the account to be debited must authorize the requested Drawdown Wire Transfer.

"International Wire Transfer" means an outgoing funds transfer sent either:

- (i) in U.S. Dollars to the beneficiary's account at a bank located outside the United States; or
- (ii) in foreign currency to the beneficiary's account at a bank located outside the United States.

3. **Company Designations.** In the Implementation Form for this Service, as it may be modified from time to time, Company shall designate, among other items:

- (a) Authorized Users;;
- (b) Each Company Account from which payment orders may be made (a "Wire Transfer Account").

4. **Authorization for Funds Transfers.** F&M BANK is authorized and directed to act upon Company's instructions to transfer funds of Company in accordance with the terms and conditions for this Service. Company authorizes F&M BANK (a) to provide an Authorized Wire User any information related to this Service; (b) to execute payment orders upon the request of any Authorized Wire User, and (c) to take any other actions requested by an Authorized Wire User with regard to this Service. F&M BANK is authorized and directed to act on any oral or written directions from a person representing themselves as an Authorized Wire User which F&M BANK believes to have been signed, sent or made by an Authorized Wire User. F&M BANK may, but is not required to, record any voiced instructions transmitted to F&M BANK.

5. **Transfer Requests.**

- a) **Initiating Transfers.** Except as otherwise provided in this Agreement, Company may use this Service to transfer funds from a Wire Transfer Account to any other account with F&M BANK or an affiliate of F&M BANK, or to an account at another bank or financial institution. Funds transfer requests will be accepted on a Business Day prior to 1:00 p.m. CST. Company agrees that, except as otherwise provided for herein, all funds transfers originated by or on behalf of Company shall comply with this Agreement, and Applicable Law, including Article 4A of the UCC.
  - (i) **Domestic Wire Transfers and Drawdown Requests:** Domestic wire transfers and Drawdown Wire Transfer Requests initiated by Company and received by F&M BANK by its designated cutoff time on a day that both F&M BANK and the Federal Reserve are open for business will be processed the same day; however, if the Federal Reserve is closed on a day F&M BANK is open for business, the wire transfer will be processed by the Federal Reserve on the next Business Day the Federal Reserve is open for business. Domestic wire transfers and Drawdown Wire Transfer Requests received by F&M BANK after its designated cutoff time on a day F&M BANK is open for business or at any time on a day on which F&M BANK is not open for business will be processed on the next day F&M BANK and the Federal Reserve are open for business
    - A) **Drawdown Wire Transfer Requests:** F&M BANK assumes no responsibility for the failure by any financial institution receiving a Drawdown Wire Transfer Request to approve the Request, and has no duty to notify Company if the Request is not approved.

- B) **Incoming Drawdown Wire Transfer Requests:** F&M BANK assumes no responsibility for wire transfer requests initiated by Company-authorized third parties. Company must authorize such requests in accordance with the procedures and policies set out by F&M BANK from time to time.

- (ii) **International Wire Transfers:** International wire transfers initiated by Company and received by F&M BANK by its cutoff time on a day that F&M BANK is open for business will be processed the same day. International wire transfers received by F&M BANK after its designated cutoff time on a day that F&M BANK is open for business or at any time on a day on which F&M BANK is not open for business will be processed on the next day F&M BANK is open for business.

- A) Unless Company instructs otherwise, Correspondent Charges may be deducted from any payment made to the beneficiary. Beneficiary Bank fees may also apply, and may be deducted from the payment made to the beneficiary.

6. **USD Auto Conversion.** The following section is applicable to Non-Consumer transactions only. If Company requests that United States Dollars (USD) be sent to a foreign country by initiating an international wire transfer in USD through F&M BANK, F&M BANK may (but is under no obligation to do so) automatically convert, or arrange with any of its designated correspondent banks to automatically convert, the Company's USD wire transfer to the foreign currency of the beneficiary's account ("AutoConvert").

In the alternative, the beneficiary's bank (or its correspondent) may upon receipt convert the payment into the relevant foreign currency. Neither alternative requires any action or processing change on the Company's part.

In the event that the Company's wire is automatically converted by F&M BANK or its designated correspondent bank under AutoConvert, and the foreign beneficiary requires the payment to be received in USD, the wire will be re-converted by our designated correspondent bank and settled in USD.

If the Company's transfer is returned for any reason, the Company agrees to accept the refund in USD. The refund will be calculated based on the buying rate of exchange of the foreign currency on the date of the refund. The exchange rate will include a commission to F&M BANK for making the exchange. The Company agrees to accept this amount as a full refund, even if it is less than the original amount F&M BANK transferred. The Company also agree to pay F&M BANK all other charges and expenses F&M BANK incurs either as a result of a USD or foreign currency funds transfer.

Transactions processed in foreign currency denominations are subject to daily (or more frequent) changes in exchange rates. When F&M BANK or our specified correspondent bank converts a transaction under AutoConvert, F&M BANK may determine at its discretion the currency exchange rate and then assign that currency exchange rate to the Company's transaction. The Company agrees to this procedure and agrees to accept the resulting determination of the currency exchange rate. F&M BANK and its designated correspondent banks may consider many factors in setting currency exchange rates for these purposes. These factors include exchange rates set by others, its desired rates of return, market risk, and credit risk. Neither F&M BANK nor any of its correspondent banks shall be responsible for any liability the Company may incur if its currency exchange rates are different from rates (1) offered or reported by third parties; (2) offered by F&M BANK (or our correspondent) at a different time, at a different location or for a different transaction amount; or (3) that involve different payment media (such as bank notes, checks and wire transfers). The Company further acknowledges that: (a) its currency exchange rates for retail and commercial transactions, and for transactions affected after its regular business hours or on weekends, are different (and usually less favorable to the Company) than the exchange rates for large interbank transactions affected during a business day, and (b) revenue resulting from fees and rates assessed or applied by our designated correspondent banks in connection with currency conversions under AutoConvert may be shared between F&M BANK and its correspondent.

Alternatively, when a beneficiary's bank (or its correspondent bank) converts a USD transaction into a foreign currency, such conversion will be subject to rates and fees assessed by such banks, and may be further subject to various local laws and practices. F&M BANK has no control over those rates, fees or conditions, and the Company authorizes F&M BANK to process any resulting charges or credits to the Company's account.

7. **Honoring Transfers.** F&M BANK is obligated to honor a request for a funds transfer from an Authorized Wire User only if the request is made in accordance with the terms and conditions of this Agreement. F&M BANK is under no obligation to honor, either in whole or in part, any funds transfer request or amendment thereto that (i) exceeds the aggregate collected balance in the Wire Transfer Account designated for that transfer; (ii) is not in accordance with each term and condition provided for in this Agreement (iii) is not, or F&M BANK believes may not be, authorized or correct; or (iv) is impracticable or not feasible to accept. In addition, F&M BANK shall be excused from failure to transmit or delay acceptance of a payment order if such acceptance would result in F&M BANK exceeding any regulatory limitation upon its intra-day net funds position or in F&M BANK's otherwise violating any provision of any Applicable Laws. If the designated Wire Transfer Account does not contain sufficient funds to accomplish a transfer, F&M BANK, at its sole discretion, may but shall have no obligation to accept the payment order and debit that Account into overdraft, and F&M BANK shall not be liable for damages to Company as a result thereof. If F&M BANK creates an overdraft to complete a funds transfer, Company agrees to pay to F&M BANK the amount of the overdraft upon demand. Company authorizes F&M BANK to charge any Company Account (even if not a Wire Transfer Account) at any time for the amount of the overdraft.

Notwithstanding anything herein to the contrary, F&M BANK agrees to use reasonable efforts to execute each properly authorized funds transfer request on the same day it is received, unless a future payment date is specified, provided (x) the request is received by F&M BANK before the applicable cut-off time; and (y) that day is a Business Day for F&M BANK, the communication facility selected by F&M BANK, and the receiving bank. In executing any funds transfer requests, F&M BANK may utilize such means of transmission as F&M BANK reasonably selects. If Company initiates multiple payment orders for execution on the same Business Day, F&M BANK may execute the payment orders in any order convenient to F&M BANK. If Company directs F&M BANK to use a specific intermediary bank or specific means of execution, Company assumes all risks of failure or of non-payment by the intermediary bank and all risks of loss by the means directed. Until F&M BANK receives final settlement in collected funds, F&M BANK has no obligation to accept or pay Company the amount of a payment order showing Company as beneficiary. If F&M BANK does not receive such final settlement, Company agrees to refund all amounts F&M BANK paid to Company relating to the payment order and the originator of the payment order shall be deemed not to have paid Company.

8. **Canceling and Amending Payment Orders.** If Company wishes to cancel or amend a payment order previously transmitted to F&M BANK, Company must transmit notice of the requested cancellation or amendment and must include the amount and recipient of the payment order in the notice. F&M BANK will make a reasonable effort to comply with any request by Company to cancel or amend a payment order that is made before F&M BANK's acceptance of that payment order, but only if F&M BANK's Wire Transfer Department has been given sufficient notice and a reasonable opportunity to act on it. F&M BANK shall have no obligation or duty to cancel or amend a payment order received from Company after F&M BANK accepts the payment order. If F&M BANK consents to cancel or amend an accepted payment order, Company shall indemnify and hold F&M BANK harmless for all loss and expense, including attorney's fees, relating to the cancellation and amendment or attempted cancellation and amendment. Federal regulations require that F&M BANK include certain information about Company in any funds transmittal order by Company, including Company's true name and street address. F&M BANK's system will include Company's street address contained in its account records unless no such address is on record, in which case F&M BANK will include the street address provided by Company in the Implementation Form for this Service. Company agrees to promptly notify F&M BANK of any changes or corrections to Company's information maintained by F&M BANK, including

Company's street address. Company agrees that, upon and by requesting any transfers of funds through this Service, Company has verified that the information about Company that is maintained by F&M BANK is both accurate and complete. NOTHING CONTAINED IN THIS AGREEMENT SHALL OBLIGATE F&M BANK TO ACCEPT, PROCESS OR EXECUTE ANY PAYMENT ORDER OR ANY AMENDMENT OR CANCELLATION THEREOF. F&M BANK SHALL ONLY BE DEEMED TO HAVE ACCEPTED A PAYMENT ORDER OR ITS AMENDMENT OR CANCELLATION UPON ITS EXECUTION THEREOF.

9. **Repetitive Funds Transfers.** F&M BANK will assign a unique "Repetitive Number" to each manual repetitive wire transfer request (i.e., funds transfer requests made routinely with instructions remaining constant except for the date and dollar amount) except for those repetitive wires transfer templates established on F&M BANK Online Banking. Manual instructions for repetitive wire transfers must be specified on a form supplied to Company by F&M BANK for that purpose. To initiate a manual repetitive wire transfer, an Authorized Wire User, or an individual designated by an Authorized Wire User for that repetitive wire transfer, must provide F&M BANK, in addition to compliance with the Manual Security Procedures, with the following information prior to initiating the wire funds transfer:
- Wire Transfer Account Number from which funds are to be drawn;
  - Appropriate Repetitive Number; and
  - Amount to be transferred.

If an incorrect Repetitive Number or other incorrect information is provided in connection with a repetitive wire transfer request, F&M BANK will not execute the funds transfer request pursuant until the correct Repetitive Number and/or information is provided. If for any reason the Authorized Wire User, or the individual designated by an Authorized Wire User for that repetitive wire transfer, does not provide any Repetitive Number (incorrect or otherwise), then F&M BANK will consider such funds transfer request to be a Non-repetitive Wire Transfer Section below.

11. **Non-Repetitive Funds Transfers.** A non-repetitive wire transfer is a funds transfer request for which the requesting designated representative does not provide F&M BANK with a Repetitive Number. To initiate a non-repetitive wire transfer request, the requesting designated representative must provide F&M BANK with the following information prior to initiating the funds transfer:
- Wire Transfer Account Number from which funds are to be drawn;
  - Amount to be transferred;
  - Bank to which funds are to be transferred; and
  - Name and address of the beneficiary to receive the funds and account number to which funds are to be transferred.

**NOTICE.** IF A FUNDS TRANSFER ORDER ISSUED BY COMPANY IDENTIFIES THE BENEFICIARY OF THE FUNDS TRANSFER INCONSISTENTLY BY NAME WITH THE BANK ACCOUNT OR THE BANK ACCOUNT NUMBER PROVIDED IN CONNECTION WITH THE FUNDS TRANSFER, PAYMENT OF SUCH FUNDS TRANSFER ORDER SHALL BE MADE ON THE BASIS OF THE BANK ACCOUNT NUMBER OR IDENTIFYING NUMBER EVEN IF SUCH NUMBER IDENTIFIES A PERSON OR ENTITY DIFFERENT FROM THE NAMED BENEFICIARY; AND F&M BANK NEED NOT DETERMINE WHETHER THE NAME AND NUMBER REFER TO THE SAME PERSON OR ENTITY. IF A FUNDS TRANSFER ORDER ISSUED BY COMPANY IDENTIFIES AN INTERMEDIARY BANK OR BENEFICIARY'S BANK ONLY BY AN IDENTIFYING NUMBER OR BY BOTH NAME AND IDENTIFYING NUMBER, THE RECEIVING BANK MAY RELY ON THE IDENTIFYING NUMBER AS THE PROPER IDENTIFICATION OF THE INTERMEDIARY BANK OR BENEFICIARY'S BANK, EVEN IF SUCH NUMBER IDENTIFIES A BANK OR INSTITUTION DIFFERENT FROM THE BANK IDENTIFIED BY NAME; AND THE RECEIVING BANK NEED NOT DETERMINE WHETHER THE NAME AND NUMBER REFER TO THE SAME INSTITUTION OR WHETHER THE NUMBER REFERS TO THE BANK. THE FOREGOING IS INTENDED TO BE CONSISTENT WITH AND SUBJECT TO THE TERMS AND PROVISIONS OF SECTIONS 4A-207 AND 4A-208 OF THE UCC, EXCEPT THAT KNOWLEDGE (WHETHER ACTUAL OR CONSTRUCTIVE) BY F&M BANK OF ANY DISCREPANCY OR INCONSISTENCY IN THE INFORMATION PROVIDED IN CONNECTION WITH ANY FUNDS TRANSFER SHALL NOT CHANGE OR IMPAIR THE RIGHT OF F&M BANK TO EXECUTE A FUNDS

TRANSFER REQUEST. AS PROVIDED IN THIS SUBSECTION F&M BANK SHALL NOT BE LIABLE FOR EXECUTING ANY FUNDS TRANSFER REQUEST EVEN WHEN IT HAS KNOWLEDGE OF THE DISCREPANCY OR INCONSISTENCY.

12. **Automatic Standing Funds Transfers.** An automatic standing funds transfer ("AST") is a standing order of Company instructing F&M BANK to make multiple transfers from a Company Account automatically and without further actions by Company (an "AST Order"), with each individual AST being in an amount established according to criteria defined by Company to a recipient and at intervals specified by Company. To initiate an AST Order, Company must provide the following information to F&M BANK:
- The account number for the Company Account from which funds are to be drawn;
  - Criteria to determine the amount to be transferred;
  - Routing number of the financial institution to which funds are to be transferred;
  - Name of the recipient and account number to which funds are to be transferred; and
  - Dates or intervals on which the transfers are to be automatically made, including any date by which the transfers shall cease.

F&M BANK will make each AST according to Company's AST Order instructions, unless notified by Company in writing to cancel that AST Order. With respect to each AST and AST Order, F&M BANK has: (i) no duty to make any inquiries regarding the performance of any contract or the completion of any transaction between Company and any recipient of an AST; (ii) no obligation to Company other than to make each AST according to Company's instructions; and (iii) no liability if F&M BANK fails to make any AST if there are insufficient funds in the designated Company Account to make that AST. In order to cancel an AST, Company must notify F&M BANK in writing within at least two (2) Business Days prior to the next date on which an AST will be made to cancel the AST.

13. **Identifying Information.** Company understands and agrees that all wire transfers shall be executed on the basis of the following information provided by Company in its payment order (which is referred to collectively as "Identifying Numbers"): (i) account number or other identifying number for the beneficiary or, for Drawdown Wire Transfer Requests, receiver of the wire transfer; and (ii) the identifying number for any bank to, from or through which the funds are to be sent (a "Receiving Bank"). F&M BANK and any other bank processing the payment order for wire transfer (a "Processing Bank") may rely solely on the Identifying Numbers that Company provides in its order, regardless of whether Company's order also identifies the beneficiary, receiver or Receiving Bank by name, and neither F&M BANK nor any Processing Bank has any obligation to confirm that any Identifying Number applies to any named beneficiary, receiver or Receiving Bank or to identify any discrepancy between any Identifying Number and the name provided by Company for any beneficiary, receiver or Receiving Bank. The foregoing is intended to be consistent with and subject to the terms and provisions of Sections 4A-207 and 4A-208 of the UCC, except that knowledge (whether actual or constructive) by F&M BANK of any discrepancy or inconsistency in the information provided in connection with any payment order for a wire transfer shall not change or impair the right of F&M BANK to execute a payment order for a wire transfer as provided in this subsection. Neither F&M BANK nor any Processing Bank shall have any liability for executing any payment order, even if it has knowledge of the discrepancy or inconsistency.

14. **Confirmations.** If offered by F&M BANK in its discretion, Company may elect to receive from F&M BANK an automated confirmation message that F&M BANK has received and executed a payment order for a wire transfer from any of the Company Accounts designated by Company ("Automated Confirmation"). If Company elects to receive Automated Confirmations, it shall provide F&M BANK with a list of the Company Accounts for which the Company elects to receive Automated Confirmation and and/ e-mail address to which F&M BANK will send the Automated Confirmations. Company shall diligently monitor the Automated Confirmations received from F&M BANK, and will act upon the information in a responsive manner. Company agrees that, even though e-mail notices are commonly used for many business communications, F&M BANK cannot guarantee the security or delivery of such notice, and F&M BANK will have no liability: (1) for any delays

or failure in providing e-mail notice to Company, (2) if the e-mail notice is intercepted and altered and/or forwarded to any party other than Company, or (3) if the e-mail is infected with intrusive or destructive programs during the delivery process.

15. **Termination.** Notwithstanding any provision of this Agreement to the contrary, F&M BANK may terminate Company's use of this Service at any time and without any prior notice to Company.
16. **Additional Security Procedures for Wire Transfers.** Company shall require Authorized Wire Users to use the following security procedures to initiate a wire transfer through F&M BANK Online Banking Services.
- Correct business online username and password.
  - Authentication PIN. Authorized Wire Users will receive a Wire authentication personal ID (PIN). To receive a wire PIN, the Authorized User must (i) be authorized by the Company; (ii) provide certain information designated by F&M BANK regarding each Authorized User with which F&M BANK can, when necessary, confirm the identification of each Authorized User.
  - An Authorized User should not request that an Authentication PIN be sent to unsecure devices. Company agrees to instruct and monitor each Authorized User accordingly.**

**Company agrees to be bound by any wire transfer initiated in compliance with the additional security procedures and devices described above, which are part of the "Security Codes" described in the Online Banking Services section. Company agrees to hold harmless F&M BANK from and against any loss caused by the failure by any Authorized Wire User to maintain the confidentiality of the Security Codes. Company expressly assumes the risk of loss with respect to any wire transfer initiated using any Security Code has not been maintained and/or protected according to the terms of this Agreement.**

## POSITIVE PAY SERVICES

Upon Company's submission of a request for F&M BANK Positive Pay Services and the approval of the Implementation Form for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Definitions.** Unless otherwise defined in this Agreement, words or phrases used in this Positive Pay Section shall have the meanings set forth in Articles 3 and 4 of the UCC. Additionally, for purposes of this **Service**:

"Authorized Account" means the account(s) of Company, maintained at F&M BANK and specified in the Portfolio, to which the Positive Pay Online Banking services will apply.

"Available Funds" means funds on deposit in an Authorized Account and available for withdrawal pursuant to Regulation CC and F&M BANK'S applicable funds availability schedule and policies.

"Check Issue File/Entry" means a record describing checks drawn by Company on an Authorized Account, provided by Company to F&M BANK under Section 2.

"Exception Check" means a Presented Check that is identified as an exception through Online Banking's utilization of information properly included in the applicable Check Issue File/Entry regarding any of: check number, check amount, check status (such as check voided or payment stopped) or, if Company subscribes to payee match service, payee name. F&M BANK shall be under no duty to make comparison of payee name unless this optional service has been selected by Company and Company's checks strictly comply with all technical specifications required to enable automated payee name comparison.

"Positive Pay Settlement Deadline" means the Positive Pay Settlement Deadline 10:00 a.m. CST \_\_ or otherwise specified in any notice given by F&M BANK to Company.

"Presented Check" means a check drawn on an Authorized Account and presented to F&M BANK for payment through the

check collection system and for which no applicable return deadline has expired.

"Pay Request" means the instructions of Company to F&M BANK ordering F&M BANK to pay an Exception Check timely submitted to F&M BANK by Company through the Online Banking application specifically provided for such purpose.

"Return Request" means the instructions of Company to F&M BANK ordering F&M BANK to return an Exception Check timely submitted to F&M BANK by Company through the Online Banking application specifically provided for such purpose.

"UCC" means the Uniform Commercial Code as in effect from time to time in Tennessee.

2. **Check Issue File/Entry.** Company shall submit a Check Issue File/Entry to F&M BANK through Online Banking so that such Check Issue File/Entry is actually received by F&M BANK not later than the same Business Day as the Issuance Date of the check(s) which are the subject of such Check Issue File/Entry. Each Check Issue File/Entry shall accurately state the Issuance Date, check number, exact amount and (at Company's option) the payee name of each check drawn on each Authorized Account since the last Check Issue File/Entry was submitted.
3. **Comparison of Presented Checks and Reporting of Exception Checks.** F&M BANK shall compare each Presented Check by check number and amount. F&M BANK shall be under no duty to make any other comparison, including, but not limited to, date, signature, endorsement, payee name or check form.
4. **Payment and Return of Exception Checks; Overriding Default Instruction.** Company shall review any Exception Checks before the Positive Pay Settlement Deadline applicable and respond via Online Banking. Such response shall either authorize payment or provide return instructions for each Exception Check. Any Exception Check for which no such response has been provided **by Company in accordance with this Section 4 shall be paid by F&M Bank. Company agrees that F&M BANK exercises ordinary care whenever it acts in accordance with this Section 4. Reporting of Transactions.** F&M BANK shall make available to Company through Online Banking on each Business Day not later than 8:00 a.m., Central Time, a report that indicates whether F&M BANK has received for posting any transactions.
5. **Online Banking as Exclusive Means.** F&M BANK shall not be obligated to comply with any Pay Request or Return Request received other than through Online Banking or in a format or medium, or after any deadline, or at any place other than as permitted under this Positive Pay Section and may instead treat any such Pay Request or Return Request as though it had not been received. F&M BANK shall not be responsible for detecting any Company error contained in any Check Issue File/Entry, Pay Request or Return Request submitted by Company to F&M BANK. Company acknowledges that Online Banking is the sole and exclusive means for Company's transmission of each Check Issue File/Entry, Pay Request and Return Request and for Company's receipt of transaction reports. Company assumes responsibility for familiarizing itself and its Authorized Users with the proper use of Online Banking and the Positive Pay application. In no event shall F&M BANK be liable for any loss or other damage occurring as a result of Company's or any Authorized User's failure to use Online Banking or the Positive Pay application properly and completely.

NOTWITHSTANDING THE FOREGOING, items presented for immediate payment (cashing a check at the bank) not matching the issue file will be an Exception Check. A bank representative may contact the Company by phone for instruction on such Exception Check. In the event we cannot contact an Authorized Representative for instruction, the item will be returned to the presenter unpaid.

6. **General Remedies.** To the extent applicable and except as modified or limited in this Agreement or in any other agreement between Company and F&M BANK, the remedies provided

under UCC Articles 3 and 4 shall govern this Positive Pay Section.

7. **Failure to Honor Return Request or Pay Request.** Except as provided below, if F&M BANK pays an Exception Check listed in a Return Request made in accordance with this Positive Pay Section, or returns an Exception Check listed in a Pay Request made in accordance with this Positive Pay Section, any liability of F&M BANK to Company shall be the lesser of (a) the amount of the Exception Check; (b) Company's actual damages resulting from F&M BANK'S failure to return or pay the Exception Check; or (c) the limit of liability under this Agreement or any other agreement between Company and F&M BANK. Notwithstanding the foregoing, F&M BANK retains the right to assert as a defense to any claim by Company that F&M BANK failed to honor any Return Request (a) that Company failed to exercise reasonable care; (b) that Company sustained no actual damages because payment of the Exception Check discharged for value an obligation of Company; and/or (c) any other defense available to F&M BANK or arising under any other agreement between it and Company or under any applicable law. Notwithstanding any other provision of this Agreement, and irrespective of any Pay Request made in accordance with this Positive Pay Section, F&M BANK shall have no liability to Company when F&M BANK, acting in good faith, returns an Exception Check: (a) that F&M BANK reasonably believed was not properly payable; or (b) if there are insufficient available funds on deposit in the Authorized Account; or (c) if required to do so by the service of legal process on F&M BANK or the instructions of any regulatory or government authority or any court.
8. **Conformity and Sampling.** Company shall be responsible for assuring that all items drawn on each Authorized Account at all times conform to check specifications as may be provided to Company by F&M BANK from time to time. Notwithstanding any provision of this Agreement to the contrary, before becoming eligible to use the Positive Pay services hereunder, Company shall provide F&M BANK with a sample grouping of items, in an amount specified by F&M BANK, for F&M BANK'S inspection to determine, in F&M BANK'S sole discretion, that such sampling satisfies F&M BANK'S quality control and processing specifications with respect to encoding, paper stock and other criteria. In the event that F&M BANK determines that the sampling does not satisfy its specification requirements, whether initially or at any time during the term of this Agreement, F&M BANK may advise Company of such and Company will not be eligible to use Positive Pay services until such time as a new sampling is provided to F&M BANK and determined by F&M BANK to be satisfactory. Further, Company shall provide F&M BANK with a sample Check Issue File/Entry for F&M BANK'S inspection to determine, in F&M BANK'S sole discretion, that such Check Issue File/Entry is compatible with the Positive Pay application. In the event that F&M BANK determines that the Check Issue File/Entry does not satisfy its specification requirements, whether initially or at any time during the term of this Agreement, F&M BANK may advise Company of such and Company will not be eligible to use Positive Pay services until such time as a new Check Issue File/Entry is provided to F&M BANK and determined by F&M BANK to be satisfactory.
9. **Termination.** Upon termination of this Positive Pay Section, if requested by Company and upon payment of a reasonable fee, F&M BANK will provide Company with such archived data, if any, pertaining to Company's use of Positive Pay as may be available to F&M BANK. Nothing in this Section 11 creates any duty on the part of F&M BANK to archive any Company data.

## REMOTE DEPOSIT CAPTURE SERVICES

Upon Company's submission of a request for Remote Deposit Capture Services and the approval of the Implementation Form for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Definitions.**

**Statutory Definitions.** Unless otherwise defined in this Agreement, capitalized words or phrases shall have the meanings set forth in the Uniform Commercial Code and the Check 21 Act.



"Check 21 Act" shall mean the federal Check Clearing for the 21st Century Act and any federal regulations issued in furtherance thereof.

"Check Claim" shall mean any claim against F&M BANK for loss, liability or expense (including the costs and expenses of investigating and defending against such claim and all reasonable attorney's fees in connection therewith) resulting from or arising out of or in any way related to (whether directly or indirectly) any Check which has been captured as an image by the Company and transmitted by the Company to F&M BANK.

"Unacceptable Check" shall mean any item which (a) is not a Check or (b) is a foreign check drawn on a non-U.S. bank, (c) is a Check drawn on any account owned by the Company (d) due to its physical condition or other properties, yields (i) an incomplete image, (ii) an image failing to fully conform to the technical specifications required under Section 2.2, or (iii) an image failing to satisfy the requirements of Section 3.2(a) or (e) is a check payment to someone other than Company.

## 2. Remote capture and transmission of checks.

2.1 Generally. The Company may capture electronic images of Checks and electronically transmit the same to F&M BANK for deposit in accordance with this Agreement.

2.2 Technical Specifications. Each Check captured and transmitted by the Company to F&M BANK must strictly comply with the technical specifications outlined in the Check 21 Act and required by F&M BANK'S remote deposit capture service, including, but not limited to, specifications concerning capture hardware, capture software, transmission medium and image quality. Such technical specifications shall constitute the sole and exclusive means and standards by which the Company makes electronic transmissions of captured images to F&M BANK. The Company assumes responsibility for familiarizing itself with such technical specifications and the proper implementation thereof. In no event shall F&M BANK be liable for any loss or other damage occurring as a result of the Company's failure to properly and completely comply with such technical specifications. All hardware shall be owned by and shall be the property of the Company.

2.3 Change of Specifications. The technical specifications prescribed under Section 2.2 may be modified, superseded or replaced by F&M BANK at any time. If changes to the technical specifications are necessitated by emergency, then such changes shall be effective immediately upon implementation by F&M BANK without prior notice to the Company. If changes to the technical specifications are not necessitated by emergency, then F&M BANK shall make commercially reasonable efforts to give the Company at least 30 days' notice thereof and shall take commercially reasonable efforts to schedule the implementation of such changes in a manner which does not affect the Company's business operations.

2.4 Testing. F&M BANK shall specify a procedure to test the suitability and proper functioning of the Company's software, hardware and transmission means. The Company shall not transmit images of Checks to F&M BANK (other than test images at F&M BANK'S direction) until such time as all software, hardware and transmission protocol testing has been completed to F&M BANK'S satisfaction and F&M BANK has notified the Company that transmission of images of Checks may commence.

2.5 Timeliness of Transmissions. Transmissions shall be made between the hours of 8:30 A.M. Central Time and 3:00 pm CST or as otherwise disclosed to Company from time to time, on Business Days. Transmissions received after such deadline time or on any day which is not a Business Day shall be deemed received on the next following Business Day.

2.6 Deposit Account(s). All imaged Checks transmitted to F&M BANK by the Company and accepted by F&M BANK shall be deposited to the recipient account(s) indicated on the Implementation Form.

2.7 Transmission Limits. The Company shall not on any single day transmit images of Checks having an aggregate face value greater than the Company's daily transmission limit communicated to Company (which may be updated, modified or amended by F&M

BANK from time to time).

2.8 Rejection of Transmissions. F&M BANK may reject any transmission or any portion thereof which does not strictly comply with the technical specifications prescribed under Section 2.2 or which exceeds any transmission limit prescribed under Section 2.7. It shall be the sole responsibility of the Company to retransmit such rejected transmission. F&M BANK shall have no liability for rejection of transmissions. In the event of any dispute as to whether any transmission or any portion thereof complies with the technical specifications prescribed under Section 2.2, the Bank's determination as to compliance shall be final and conclusive.

2.9 Unacceptable Checks. The Company shall not transmit images of Unacceptable Checks. Transmissions containing Unacceptable Checks may be rejected by F&M BANK, in whole or in part, at F&M BANK'S discretion. Unacceptable Checks, if acceptable for deposit at all, must be deposited by the Company by conventional means, preferably at a branch of F&M BANK or by certified, registered or otherwise traceable mail addressed to:

F&M Bank  
Operations Department  
2081 Wilma Rudolph Blvd  
Clarksville TN 37040

Such items must be endorsed all in accordance with the separate terms and conditions governing the Deposit Account(s) identified in Section 2.6 above, as such terms and conditions may be amended by F&M BANK from time to time. The Company agrees not to send cash deposits to the above address. Deposits containing cash must be made by the Company at a branch of F&M BANK.

2.10 Deposit. The Company acknowledges and agrees that neither mere transmission of a Check to F&M BANK nor F&M BANK'S acknowledgment of receipt of such transmission shall constitute deposit of any such Check. Instead, no Check transmitted to F&M BANK shall be deemed to be deposited with F&M BANK until the file containing such image has been imported, captured and balanced by F&M BANK on F&M BANK'S image processing system and F&M BANK has notified the Company that the transmission of such Check has been processed by F&M BANK. All deposits made by the Company pursuant to this Agreement are deemed made in Clarksville, Tennessee, and are governed by the separate terms and conditions governing the Deposit Account(s) identified in Section 2.6 above, as such terms and conditions may be amended by F&M BANK from time to time.

2.11 Retention, Safeguarding and Destruction of Checks. The Company shall retain, at the Company's own risk, and make available to F&M BANK on demand, the originals of all Checks which the Company captures as images and transmits to F&M BANK until not sooner than the time when each such Check is finally paid under all applicable law and all rights of any bank to revoke settlement or payment have expired but in no case, less than 90 days. During the time that the Company retains the originals of Checks, the Company shall use care to protect such originals from unauthorized access (whether by the Company's employees, contractors or others) in order to guard against theft; further negotiation, depositing, presentment for payment or imaging; use of information derived from such Checks (including non-public personal information), and any other unauthorized use or purpose whatsoever. At such time when the Company determines to no longer retain the originals of such Checks (whether as the end of the minimum retention period set forth above or any longer period), the Company shall destroy such Checks by a process which ensures that such Checks are rendered no longer readable or capable of reconstruction and which ensures that the safeguards set out above are observed in the destruction process.

## 3. Company's warranties, liabilities and indemnification.

3.1 Company's Assumption of Liabilities under the Controlling Law. The transmission of any image of a Check to F&M BANK by the Company shall, as between the Company and F&M BANK, constitute the Company's assumption of all liabilities, indemnities, responsibilities

and duties of any warranting and/or indemnifying bank under any Controlling Law, including, but not limited to, the Check 21 Act.

3.2 Company's Warranties and Representations. With respect to each and every image of a Check which the Company transmits to F&M BANK, the Company irrevocably warrants and represents to F&M BANK:

1. the image and the electronic file comprising the image meets or exceeds all standards and requirements under the Check 21 Act and all industry standards existing in the furtherance thereof for the creation of a Substitute Check from the image with the legal equivalence of the subject Check as provided in Section 4 of the Check 21 Act;
2. the Company is in possession of the original of the Check from which the image was captured and will retain, safeguard and destroy the original Check as provided in Section 2.11 above;
3. the Check from which the image was captured (i) is an original Check and not a duplicate; (ii) contains all endorsements necessary to the transfer and negotiation of the Check to F&M BANK; (iii) has not been altered or fraudulently issued or procured and is not counterfeit; (iv) has not been previously paid and has not previously been nor will further be negotiated, deposited, presented for payment or imaged; (v) is not drawn on a foreign bank; (vi) is owned by the Company and is not transmitted to the bank for any purpose other than for deposit to the Deposit Account(s) as the Company's own funds; (vii) only checks made payable to Company will be presented via the Remote Deposit Service; (viii) Company will not transmit any ineligible items as described herein or in any instructional materials provided for Remote Deposit Services; (ix) all information Company provides to F&M BANK is accurate and true; and (x) Company will comply with this Agreement and all applicable rules, laws and regulations in using the Service

3.3 Further Indemnification. In addition to any duty to indemnify assumed by the Company under Section 3.1 above, the Company hereby agrees to unconditionally indemnify F&M BANK against (a) any and all Check Claims (it being the intention of the parties that, as between the Company and F&M BANK, the Company will be strictly liable in connection with all Check Claims) and (b) any claim against F&M BANK for loss, liability or expense (including the costs and expenses of investigating and defending against such claim and all reasonable attorneys' fees in connection therewith) resulting from or arising out of or in any way related to (whether directly or indirectly) any breach of any warranty or representation made by the Company under Section 3.2 above.

3.4 Review of Company's Processes and Procedures. F&M BANK may, but in no event shall be required to, conduct reviews of the Company's processes and procedures for its use of the Remote Deposit Capture services, particularly with regard to the Company's compliance with Section 2.11 above. To facilitate such review, the Company agrees to allow F&M BANK'S employees and agents reasonable access to the Company's premises where any Remote Deposit Capture services function is carried out upon at least 7 (seven) days' prior notice and to cooperate with such review. No such review shall be construed as an endorsement by F&M BANK of any process or procedure utilized by the Company. The fact that F&M BANK has conducted any such review shall not be used against F&M BANK in the event of any claim for indemnity under Section 3.3 above.

#### 4. Miscellaneous.

4.1 Limit on F&M BANK'S Liability. The Company acknowledges that the transmission of Checks is by means of an Internet application subject to the same risks of any of Internet-based application, and as such can be only as secure as the Company's computers which are utilized in the transmission process. The Company acknowledges its independent obligations to assure that (a) its computer equipment and systems have adequate firewalls and are running comprehensive, up-to-date security packages which include protection against the latest viruses, spyware, adware, botnets and other computer infections and malicious software and which scan the Company's computer equipment and systems daily and which update virus definitions daily; (b) the Company closely

safeguards all user IDs and passwords, strictly prohibiting the use of the same user ID and password by multiple users, and instructs its employees and agents as to the critical importance of such safeguarding; and (c) the Company instructs its employees and agents as to the proper exercise of good judgment when using the Internet and vigilance against fraud, such as e-mail messages which prompt the disclosure of a user ID or password. F&M BANK CANNOT AND DOES NOT GUARANTEE THAT THE COMPANY'S COMPUTER EQUIPMENT AND SYSTEMS ARE FREE FROM RISKS WHICH ARE INHERENT IN INTERNET-BASED APPLICATIONS. Accordingly, in no event shall F&M BANK be liable for any defect in, failure of or unavailability of any telecommunications connection, internet site or other web-based application necessary for utilization of the Remote Deposit Capture services, any associated software or hardware or for any technical or editorial errors contained in any user manual or guide pertaining thereto, whether designated by F&M BANK or not. Neither shall F&M BANK be liable for any consequential, special, punitive or indirect loss or damage which the Company may incur or suffer in connection with the subject matter of this Agreement.

4.2 **Administrator Designation.** Subject to any limitations on operating scope indicated on the Implementation Form, persons who are designated as "Administrators" shall be responsible for **designating users (each an "Authorized User") who will access and utilize Remote Deposit Services.** If Company desires to change its Administrator, Company shall provide prior written notice to F&M BANK of such change, signed by a person whose signature appears on the authorizing resolution for the F&M BANK Treasury Management Services. The notice may be electronically sent to F&M BANK, and F&M BANK may request it be followed by a document with original signatures on it. No change of Administrator by Company shall be effective until accepted by F&M BANK, and F&M BANK has had a reasonable opportunity to update its records.

5. **Provisional Settlement; Returns.** Company acknowledges that checks may be returned by the receiving institution for insufficient funds or other reasons. In addition, the Uniform Commercial Code and other applicable law may permit the checks to be returned for r alleged lack of authorization. Any credit or consideration given by F&M BANK to Company with respect to any check shall be deemed provisional, and F&M BANK shall be entitled to reverse same without prior notice in the event one or more checks are rejected or returned to F&M BANK. In the event one or more checks are returned for reason of alleged lack of authorization, Company may (i) promptly submit to F&M BANK such proof of authorization and request that F&M BANK forward such proof to the receiving institution for its consideration, or (ii) present the original paper check for collection in lieu of the electronic image or the IRD.

Company acknowledges and agrees that F&M BANK may make adjustments to any credit or consideration given for a check or checks to remedy any transmission and/or encoding errors.

6. **Equipment.** To utilize the services provided in this section, the Company must use the equipment designated by F&M BANK (the "Equipment") from time to time. Company may purchase the Equipment from F&M BANK or from a third party vendor approved by F&M BANK in writing. Further, Company acknowledges and agrees that F&M BANK must know where the Equipment is physically located at all times. Company will give F&M BANK notice where the Equipment will be installed and Company shall request permission from F&M BANK in advance of any change in location of the Equipment, which permission F&M BANK may grant or refuse in its sole discretion. In addition to, but not in lieu of the foregoing, Company acknowledges that Equipment may not be moved outside the state it was initially installed and/or continental United States without permission from F&M BANK.

7. **Software.** F&M BANK may select and/or require specific Software to be used for the Remote Deposit Service (the "RDC Software"), including, but not limited to, (1) software to operate the Equipment and Service; (2) software to track the location of the Equipment using the Global Positioning System ("GPS") and (3) software to track, record and monitor the Equipment's use. Company acknowledges that any RDC Software is the property of F&M BANK or F&M BANK is the holder of a license for the RDC Software and that Company is a licensee or sublicensee of the RDC Software. F&M BANK claims and reserves all rights and benefits therein afforded under copyright and other laws.

Company's license of and permission to use the Software is non-exclusive and non-transferable, and it extends only to Company's own use of such Software for the purpose of processing Transactions as set forth in this Agreement. RDC Software may not be used to process transactions with or through any other party without the express written consent of F&M BANK and only RDC Software may be used in connection with this Service. Company further acknowledges that RDC Software contains confidential information and trade secrets, which F&M BANK has entrusted to Company in confidence. Company shall protect F&M BANK's property and its interest in the trade secrets contained in the RDC Software by controlling access to the Software, permitting none of its employees nor any other person not an employee or agent of F&M BANK to examine, alter, attach, add to, modify, decode, reverse engineer, transcribe, extract or reproduce, in whole or in part, the Software in any way. Without limiting the generality of the foregoing, Company specifically agrees that it will not delete, mask or obscure any proprietary notices, which F&M BANK places on any RDC Software. Company further agrees to install all new versions, upgrades, patches, protocols and/or any other changes, amendments or alterations (collectively referred to herein as "Upgrades") to the Software within ten (10) days of receipt of the same or receipt of notice from the F&M BANK of where and/or how to retrieve the Upgrades. Company may make one (1) copy of the RDC Software to be used exclusively for backup purposes. Otherwise, Company shall not copy the software and shall not transfer or disclose it to any other person, firm or corporation except for those employees of Company who require such knowledge of the RDC Software in the ordinary course and scope of their employment.

8. **F&M BANK's Right of Refusal.** F&M BANK may, in its sole discretion, refuse to process any electronic image or IRD at any time without prior notification to Company.
9. **Limitation of Remedies.** In the event that F&M BANK undertakes to correct any error caused by Company, the Equipment or a third party vendor or any other third party acting on behalf of Company, F&M BANK shall not have any liability with respect thereto.

It is Company's responsibility to verify that all Checks were delivered to F&M BANK and that the Checks received by F&M BANK were complete and accurate. A CONFIRMATION OF DELIVERY BY F&M BANK DOES NOT RELIEVE COMPANY OF THIS OBLIGATION.

10. **SECURITY.** Company is advised that certain of the Services may be provided by way of the Internet using the F&M BANK Remote Deposit (collectively "F&M BANK Internet System.") Use of any such method of communication requires that Company receive and transmit information via connection to remote computers over telephone lines or other Internet connections. Company acknowledges that data, including e-mail, electronic communications, and confidential financial data, may be accessed by unauthorized third parties when communicated to F&M BANK using the Internet or other network or dial-up communications facilities, telephone or any other electronic means. With respect to F&M BANK Internet System access, Company agrees to use software produced by third parties, including, but not limited to, "browser" software that supports a data security protocol compatible with the protocol used by F&M BANK. Until notified otherwise by F&M BANK, Company agrees to use software that supports the Secure Sockets Layer (SSL) protocol or other protocols accepted by F&M BANK and to follow F&M BANK's log-on procedures that support such protocols. Company acknowledges that F&M BANK is not responsible for notifying Company of any upgrades, fixes or enhancements to any such software. With the exception of applications commonly known as web browser software, or other applications or access devices formally approved by F&M BANK in writing, Company agrees not to (i) use any software, program, application or any other device to access or log on to F&M BANK's computer systems, web site or proprietary software; or (ii) automate the process of obtaining, downloading, re-engineering, transferring or transmitting any information to or from F&M BANK's computer systems, web site or proprietary software. In the event of any system failure, F&M BANK may reserve the right to require additional documentation, including authorizations, from Company before accepting any order or re-instituting Company's access to the F&M BANK Internet System. Company assumes full responsibility for its selection of, access to, and use of products purchased from F&M

BANK as indicated on the Implementation Form. Company shall be responsible for the confidentiality, maintenance, and use both of its financial information on the F&M BANK Internet System, and of its access number(s), password(s), log-in ID(s), and account number(s). If Company requires more than one authorized signer's signature or authorization to conduct certain transactions related to Company's account(s) or the Services, this requirement will be deemed solely for Company's own purposes. F&M BANK will not be liable to Company as long as at least one authorized signer's signature appears on the Company's checks, drafts, instructions, or orders, or if F&M BANK's records indicate that a transaction, payment or other product use was made by or on behalf of one authorized signer by telephone, F&M BANK Internet System, or other method. This includes situations in which Company has provided its access number(s), password(s), log-in ID(s) and/or account number(s) to someone else to use. Company agrees not to hold F&M BANK liable for following Company's written orders or instructions. Company agrees not to hold F&M BANK liable for any damages of any kind resulting from Company's disclosure of its access number(s), password(s), log-in ID(s), or account numbers to any person identified or not identified on the Implementation Form. Company will be responsible for all orders and instructions entered through and under Company's access number(s), password(s), log-in ID(s), and/or account number(s), and any orders or instructions so received by F&M BANK will be deemed to have been received from Company. All orders and instructions shall be deemed to be made at the time received by F&M BANK and in the form received. Company agrees to immediately notify (in the manner prescribed by F&M BANK from time to time) F&M BANK if Company learns of:

- any compromise, loss or theft of Company's access number(s), password(s), log-in ID(s) and/or account number(s); or
- any unauthorized use of any of Company's access number(s), password(s), log-in ID(s), and/or account number(s), or of the electronic Services or any of Company's information; or
- any receipt by Company of confirmation of an order that Company did not place; or any similarly inaccurate or conflicting report or information.

11. **Settlement Reserve.** Company may be required to maintain a reserve ("Settlement Reserve") of an amount to be solely determined by the Bank. Company hereby acknowledges and agrees that any Settlement Reserve will be deposited in a Bank account for exclusive use by the Bank for purposes of offsetting any Company obligations under this Agreement. If Company's Settlement Reserve falls below the required minimum amount, Company authorizes the Bank to immediately replenish the Settlement Reserve to an amount to be determined by the Bank via internal transfer from or by a direct deposit to the Settlement Reserve. No interest will be paid on the Settlement Reserve. Company grants the Bank a security interest in any Settlement Reserve so that the Bank may enforce any obligation owed by Company under this Agreement without notice or demand to Company. Company's obligation to maintain a Settlement Reserve shall survive the termination of this Agreement for the duration of the Termination Period during which time the Bank's security interest shall continue.

12. **The Bank will periodically review Company's usage of the Remote Deposit Capture Service and if the Bank determines (in its sole discretion) that Company consistently submits less than 10 checks per deposit, Company will be transitioned out of the Remote Deposit Capture Service and to the mobile deposit service available through the Bank's mobile application (separate terms and conditions apply to the mobile application).**

#### TARGET BALANCE ACCOUNT SERVICES

Upon Company's submission of a request for Target Balance Account Services and the approval of the Implementation Form for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Account Services.** Company shall designate one or more demand deposit accounts as a "Target Balance Account", and a single separate demand deposit account as the "Master Account". At the close of each Business Day, F&M BANK shall create a Target balance in each Target Balance Account by depositing funds from or transferring funds to the Master Account. Company agrees to maintain, or to cause to be maintained, in the Master Account and Target Balance Accounts at all times and in collected, immediately available funds, an aggregate

amount sufficient to pay all charges to and checks or other items presented against each Target Balance Account and Master Account. Company authorizes and directs F&M BANK, at any time and without prior notice to Company, to transfer to each Target Balance Account from the Master Account, or other deposit accounts of Company maintained at F&M BANK, funds in the amounts sufficient to pay any checks, items or charges presented against or payable from each Target Balance Account. Upon prior written agreement with F&M BANK, Company may add, remove, or change the designation of an account as a Target Balance Account or the Master Account, and F&M BANK may make any changes without prior notice to Company. Subject to approval of F&M BANK and receipt of such approval documentation as F&M BANK may require, Company may (a) designate a F&M BANK demand deposit account held by an affiliate of Company as a Target Balance Account or a Master Account for purposes of this Agreement, and/or (b) designate or permit the use of any Company Account as a Target Balance Account or Master Account for an affiliate's Target Balance Account Services; in each such case the full terms of this Target Balance Account Services section shall apply as if all Target Balance Accounts and Master Accounts used in connection with such Target Balance Account Services were Company Accounts.

2. **Items Drawn on Target Balance Account.** All items drawn on or presented in connection with Target Balance Accounts must be in a format approved by F&M BANK and shall contain such routing transit numbers and other information required by F&M BANK. Specifically, all items will be printed on MICR-Bond paper, having a minimum weight of 24 pounds. The magnetic encoding on each item will include correct routing number, account number and serial number. Company will provide a sample of checks and deposit slips (as directed on the check printing specifications) to F&M BANK from each check printing, including subsequent reorders, for the purpose of testing MICR quality. F&M BANK is not responsible for incorrect posting of items that do not meet these requirements.
3. **Overdrafts.** If at any time the Master Account, after deducting any amounts payable from or chargeable to the Master Account, fails to contain collected, immediately available funds in the amount required to pay the total aggregate amount of checks, items and charges payable against or chargeable to the Master Account and each Zero Balance Account, the Company shall be liable for F&M BANK's demand deposit checking account "insufficient funds" charges as in effect from time to time and F&M BANK may, in its sole discretion, do any one or more of the following:
  - a) Pay in any order any or all of the checks, items, or charges and charge the amount of any payment to the applicable account thereby causing an overdraft to be created in the account subject to F&M BANK's overdraft policies and charges; or
  - b) Dishonor in any order any or all of the checks or items and return the same to the presenter, in which case the policies, charges, and rules provided for in F&M BANK's deposit agreement shall apply, including but not limited to, provisions in the deposit agreement relating to insufficient funds and returns policies or charges.