

**REPORT TO MAYOR AND COUNCIL**

TO THE HONORABLE MAYOR AND COUNCIL:

DATE: May 12, 2015

SUBJECT: AUTHORIZE THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT FOR BANKING SERVICES WITH BANK OF AMERICA FOR AN AMOUNT NOT TO EXCEED \$115,200

Report in Brief

The City of Concord has retained Bank of America for the provision of the City's core banking services since 1967. It is a best practice to periodically undergo a Request for Proposal (RFP) process to ensure the services provided are the best in the market and delivered at a competitive price. The last RFP for banking services was conducted in 1998.

The RFP for Banking Services was issued in fall 2014. Five responses were received and an internal review panel consisting of six staff in the Finance and Information Technology departments reviewed and ranked the proposals. Three finalists were selected and subsequently interviewed by the internal review team. Upon completion of the extensive evaluation process, the team recommended continuing the relationship with Bank of America.

Staff recommends that the City Council authorize the City Manager to enter into a Professional Services Agreement with the Bank of America for an amount not-to-exceed \$115,200 to provide banking services for the City of Concord's operating, payroll, workers compensation, third-party liability insurance, and revolving accounts to the term of June 2020.

Background

The City of Concord has maintained a banking services relationship with Bank of America since 1967. A Government Finance Officers Association (GFOA) best practice recommends that '*prudent procurement practices necessitate the reevaluation of banking services on a periodic basis. In addition, recent changes in technology, cash management practices, and banking-industry structure offer public investors opportunities to reevaluate banking services and costs.*' The City of Concord's last banking services RFP process was conducted in May 1998.

A Request for Proposal (RFP) for Banking Services was issued in fall 2014. The objective of the RFP was to ensure procurement of cost effective banking services that not only maintained the high quality of cash management support to all City departments but to also implement technology enhancements that will further improve the payment process for residents and businesses.

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Qualifications included: a physical presence in the City of Concord, adequate financial strength and credit rating, high and immediate customer service support, experience in governmental services, and a commitment to the City of Concord to enhance current technology with an emphasis on security and cost savings.

Discussion

Five Banking Services proposals were received from: Bank of America, J.P. Morgan Chase, Wells Fargo Bank, WestAmerica Bank, and US Bank. Based on criteria included in the RFP, proposals were evaluated and ranked by a Banking Services committee consisting of six staff members from the finance and information technology departments. The top three (3) ranked banks, Bank of America, Wells Fargo, and US Bank were invited to participate in an interview process.

After the evaluation process was completed, including in-depth, on-site interviews and reference checks, the current incumbent, Bank of America is recommend to be retained. The City's Treasurer reviewed the process and concurs with staff's recommendation.

Fiscal Impact

The budget for this professional services agreement is \$23,040 per fiscal year, for a period of five years for a total not to exceed \$115,200. Sufficient funds are available within the Finance Department's budget for this Agreement this fiscal year and adequate amounts will be budgeted in future years. The contract includes an initial term of five (5) years with five one-year renewal options. The City is expected to save approximately 14.6% or \$2,800 annually under this new contract.

Public Contact

The City Council Agenda was posted.

Recommendation for Action

Staff recommends that the City Council authorize the City Manager to enter into a Professional Services Agreement with Bank of America for an amount not-to-exceed \$115,200 to provide municipal banking services for five years.



Valerie J. Barone
City Manager
Valerie.Barone@cityofconcord.org

Prepared by: Deborah Yamamoto
Senior Financial Analyst
Deborah.Yamamoto@cityofconcord.org

Reviewed by: Karan Reid
Director of Finance
Karan.Reid@cityofconcord.org

AGREEMENT FOR PROFESSIONAL SERVICES

1 THIS AGREEMENT ("Agreement") is entered into on April 14, 2015 between the City of
2 Concord ("CITY") and Bank of America, N.A., a C-Corporation, 315 Montgomery Street, San
3 Francisco, CA 94104-1866 ("CONSULTANT").

4 THE PARTIES ENTER THIS AGREEMENT based upon the following facts, understandings
5 and intentions:

6 The CITY desires to contract with CONSULTANT to provide the professional services
7 described in Section 2 of this Agreement, upon the terms and conditions hereinafter set forth.

8 NOW, THEREFORE, IN CONSIDERATION of the mutual covenants and promises of the
9 parties herein contained, the parties hereto agree as follows:

10 1. **TERM.** This Agreement shall commence on May 1, 2015 and expire on June 30,
11 2020. This is a five (5) year contract with 5 one-year renewal options.

12 A. **Extension of Term.** Upon mutual written agreement by the parties, the term of this
13 Agreement may be extended for 5 additional period(s) of 1 year each commencing upon the expiration
14 of the initial or extended term, subject to the same terms and conditions of this Agreement.
15 CONSULTANT shall give written notice of its request for extension of the term of the Agreement to
16 the City's Authorized Representative, as identified in Section 4 below, at least thirty (30) days prior to
17 expiration of the initial or extended term.

18 The extension(s) of the term of this Agreement shall be subject to a review of
19 CONSULTANT'S performance in accordance with the terms and conditions of this Agreement and
20 shall be subject to City approval. Such extension of time shall be in writing by a duly executed
21 Amendment to this Agreement.

22 2. **SCOPE OF SERVICES.** Subject to such policy direction and approvals provided by
23 the CITY's Authorized Representative, CONSULTANT shall perform the services per **Request for**
24 **Proposal (RFP) #2299 Banking Services** and described in detail in **Exhibit A-Scope of Services (14**
25 **pages)** and 'Technical Proposal' submitted by Bank of America as part of the proposal submitted for
26 RFP#2299 (539 pages). Also refer to **Attachment 1 – Exceptions to Specifications/Requirements**
27 along with referenced documents as Attachment 1A and 1B, which takes precedence over the
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1 Agreement for Professional Services, as there are some conflicting terms. CITY retains all rights of
2 approval and discretion with respect to the projects and undertakings contemplated by this Agreement.

3 **3. PAYMENT.** The compensation to be paid to CONSULTANT including payment for
4 professional services and reimbursable expenses, shall be at the rate and schedules in detail in **Exhibit**
5 **B**, 'Total Cost Proposal' submitted by Bank of America as part of the proposal submitted for
6 RFP#2299 (18 pages). However, shall in no event shall the amount CITY pays CONSULTANT
7 exceed One Hundred Fifteen Thousand Two Hundred dollars (\$115,200) at \$23,040 per fiscal year for
8 the 5 year term of this Agreement. Any Amendment to this Agreement that includes an increase to
9 this compensation amount shall be made in accordance with Section 5 below.

10 CONSULTANT may submit monthly statements for services rendered; all statements shall
11 include adequate documentation demonstrating work performed during the billing period. It is
12 intended that CITY review such statement and pay CONSULTANT for services rendered within 30
13 days of receipt of a statement that meets all requirements of this Agreement. Payment by CITY shall
14 not be deemed a waiver of unsatisfactory work, even if such defects were known to the CITY at the
15 time of payment.

16 **4. AUTHORIZED REPRESENTATIVES.** Authorized representatives shall represent
17 CITY and CONSULTANT in all matters pertaining to the services to be ordered by CITY or rendered
18 by CONSULTANT under this Agreement except where approval for the CITY is specifically required
19 by the City Council. The CITY's authorized representative is Debbie Yamamoto, Senior Financial
20 Analyst of the Finance Department. The CONSULTANT's authorized representative is Susan V.
21 Siefkas, Director for Bank of America.

22 **5. AMENDMENT TO AGREEMENT.** This Agreement may be amended in writing,
23 subject to approval by both parties. If additional services are requested by CITY other than as
24 described in the above Scope of Services, this Agreement may be amended, modified, or changed by
25 the parties subject to mutual consent and in accordance with the CITY's Municipal Code by execution
26 of an Amendment by authorized representatives of both parties setting forth the additional scope of
27 services to be performed, the performance time schedule, and the compensation for such services.

1 **A. Amendment for Additional Compensation.** CITY's Authorized
2 Representative is authorized to execute amendments to the Agreement on behalf of CITY, including
3 amendments providing for additional compensation to CONSULTANT not to exceed \$50,000 during
4 the fiscal year, including the base contract amount, throughout the term of this Agreement. Any
5 additional compensation to CONSULTANT that is \$50,000 or more for the fiscal year, including the
6 base contract amount, must be approved by City Council.

7 Consultant's failure to secure CITY's written authorization for additional compensation or
8 changes to the Scope of Work shall constitute a waiver of any and all right to adjustment in the price
9 or time due, whether by way of compensation, restitution, quantum merit, or similar relief.

10 **6. INDEPENDENT CONTRACTOR.** Both parties understand and acknowledge that
11 CONSULTANT, its agents, employers and subcontractors are and shall at all times remain as to the
12 CITY wholly independent contractors. Neither the CITY nor any of its officers or employees shall
13 have any control over the manner by which the CONSULTANT performs this Agreement and shall
14 only dictate the results of the performance. CONSULTANT shall not represent that CONSULTANT
15 or its agents, employees or subcontractors are agents or employees of the CITY, and CONSULTANT
16 shall have no authority, express or implied, to act on behalf of the CITY in any capacity whatsoever as
17 an agent, and shall have no authority, express or implied, to bind the CITY to any obligation
18 whatsoever, unless otherwise provided in this Agreement.

19 As an independent contractor, CONSULTANT shall not be eligible for any benefits, which the
20 City may provide to its employees and all persons, if any, hired by CONSULTANT shall be
21 employees or subcontractors of CONSULTANT and shall not be construed as employees or agents of
22 the CITY in any respect. CONSULTANT shall receive no premium or enhanced pay for work
23 normally understood as overtime, i.e., hours that exceed forty (40) hours per work week, or work
24 performed during non-standard business hours, such as in the evenings or on weekends.
25 CONSULTANT shall not receive a premium or enhanced pay for work performed on a recognized
26 holiday. CONSULTANT shall not receive paid time off for days not worked, whether it be in the
27 form of sick leave, administrative leave, or for any other form of absence. CONSULTANT shall pay

1 all taxes, assessments and premiums under the federal Social Security Act, any applicable
2 unemployment insurance contributions, Workers Compensation insurance premiums, sales taxes, use
3 taxes, personal property taxes, or other taxes or assessments now or hereafter in effect and payable by
4 reason of or in connection with the services to be performed by CONSULTANT.

5 **7. STANDARD OF PERFORMANCE.** CONSULTANT represents and warrants to
6 CITY that CONSULTANT is skilled and able to provide such services described in the Scope of
7 Work and that such services shall be performed in an expeditious manner, and with the degree of skill
8 and care that is required by current, good, and sound procedures and practices. CONSULTANT
9 further agrees that the services shall be in conformance with generally accepted professional standards
10 prevailing at the time work is performed.

11 **8. PERFORMANCE BY CONSULTANT.** CONSULTANT shall not employ other
12 consultants, subconsultants, experts, or contractors without the prior written approval of the CITY.
13 Notwithstanding the foregoing, CITY shall not be obligated or liable for payment hereunder to any
14 party other than the CONSULTANT. CONSULTANT hereby designates the CONSULTANT'S
15 representative as the person primarily responsible for the day-to-day performance of
16 CONSULTANT'S work under this Agreement. CONSULTANT shall not change the
17 CONSULTANT'S representative without the prior written consent of the CITY. Unless otherwise
18 expressly agreed by the CITY, CONSULTANT'S representative shall remain responsible for the
19 quality and timeliness of performance of the services, notwithstanding any permitted or approved
20 delegation hereunder.

21 **9. OWNERSHIP AND MAINTENANCE OF DOCUMENTS.** All documents
22 furnished by CONSULTANT pursuant to this Agreement are instruments of CONSULTANT'S
23 services in respect to this project. They are not intended nor are represented to be suitable for reuse by
24 others except CITY on extensions of this project or on any other project. Any reuse without specific
25 written verification and adoption by CONSULTANT for the specific purposes intended will be at
26 user's sole risk and without liability or legal exposure and expenses to CONSULTANT, including
27 attorney's fees arising out of such unauthorized reuse.

1 CONSULTANT's records, documents, calculations, and all other instruments of service
2 pertaining to actual project shall be given to CITY at the completion of the project. The CITY
3 reserves the right to specify the file format that electronic document deliverables are presented to the
4 CITY.

5 **10. INDEMNIFICATION.** CONSULTANT agrees to defend, indemnify and hold
6 harmless the CITY, its officers, officials, employees, agents and volunteers from and against any and
7 all claims, demands, actions, losses, damages, injuries, and liability (including all attorney's fees and
8 other litigation expenses) arising out of the CONSULTANT's performance under the terms of this
9 Agreement. This indemnification obligation on CONSULTANT'S part shall not apply to demands,
10 actions, losses, damages, injuries, and liability arising out of sole negligence or willful misconduct on
11 the part of CITY.

12 **11. INSURANCE.** CONSULTANT shall, at its own expense, procure and maintain in
13 full force at all times during the term of this Agreement the following insurance:

14 **A. Commercial General Liability Coverage.** CONSULTANT shall maintain
15 commercial general liability insurance with limits of no less than one million dollars (\$1,000,000)
16 combined single limit per occurrence or two million dollars (\$2,000,000) aggregate limit for bodily
17 injury, personal injury, and property damage.

18 **B. Automobile Liability Coverage.** CONSULTANT shall maintain automobile
19 liability insurance covering all vehicles used in the performance of this Agreement providing a one
20 million dollar (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury,
21 and property damage.

22 **C. Professional Liability Coverage (Errors and Omissions).** CONSULTANT
23 shall maintain professional liability insurance with coverage for all negligent errors, acts or omissions
24 committed by CONSULTANT, its agents and employees in the performance of this Agreement. The
25 amount of this insurance shall be not less than one million dollars (\$1,000,000) on a claims made
26 annual aggregate basis or a combined single limit per occurrence basis.

27 **D. Compliance with State Workers' Compensation Requirements.**

1 CONSULTANT covenants that it will insure itself against liability for Workers' Compensation
2 pursuant to the provisions of California Labor Code §3700, et seq. CONSULTANT shall, at all
3 times, upon demand of the City, furnish proof that Workers' Compensation Insurance is being
4 maintained by it in force and effect in accordance with the California Labor Code. The insurer shall
5 also agree to waive all rights of subrogation against the CITY, its officers, officials, employees and
6 volunteers for losses arising from work performed by CONSULTANT for CITY. This provision
7 shall not apply upon written verification by CONSULTANT that CONSULTANT has no employees.

8 **E. Other Insurance Provisions.** The policies are to contain, or be endorsed to
9 contain the following provisions:

10 (1) **Additional Insured.** CITY, its officers, agents, employees, and
11 volunteers are to be covered as an additional insured as respects: Liability arising out of activities
12 performed by or on behalf of CONSULTANT and operations of CONSULTANT, premises owned,
13 occupied, or used by CONSULTANT. The coverage shall contain no special limitations on the scope
14 or protection afforded to CITY, its officers, officials, employees, or volunteers.

15 Except for worker's compensation and professional liability insurance, the policies mentioned
16 in this subsection shall name CITY as an additional insured and provide for notice of cancellation to
17 CITY. CONSULTANT shall also provide timely and prompt notice to CITY if CONSULTANT
18 receives any notice of cancellation or nonrenewal from its insurer.

19 (2) **Primary Coverage.** CONSULTANT'S insurance coverage shall be
20 primary insurance with respect to CITY, its officers, officials, employees, and volunteers. Any
21 insurance, risk pooling arrangement, or self-insurance maintained by CITY, its officers, officials,
22 employees, or volunteers shall be in excess of CONSULTANT'S insurance and shall not contribute
23 with it.

24 (3) **Reporting Provisions.** Any failure to comply with the reporting
25 provisions of the policy shall not affect the coverage provided to the CITY, its officers, officials,
26 employees, or volunteers.

27 (4) **Verification of Coverage.** CONSULTANT shall furnish CITY with
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1 certificates of insurance and the original endorsements effecting coverage required by this Agreement.
2 The certificates and endorsements for each insurance policy are to be signed by a person authorized by
3 that insurer to bind coverage on its behalf. The aforementioned policies shall be issued by an
4 insurance carrier having a rating of Best A-7 or better which is satisfactory to the City Attorney and
5 shall be delivered to CITY at the time of the execution of this Agreement or before work commences.
6 Such policies and certificates shall be in a form approved by the City Attorney. CITY reserves the
7 right to require complete certified copies of all required insurance policies at any time.

8 **12. TIME OF PERFORMANCE.** The time of performance of the services under this
9 Agreement is of the essence, and all time deadlines identified in this Agreement or Scope of Services
10 shall be strictly construed.

11 **13. SUSPENSION OF WORK.** CITY may, at any time, by ten (10) days' written notice,
12 suspend further performance by CONSULTANT. All suspensions shall extend the time schedule for
13 performance in a mutually satisfactory manner, and CONSULTANT shall be paid for services
14 performed and reimbursable expenses incurred prior to the suspension date. During the period of
15 suspension, CONSULTANT shall not receive any payment for services, or expenses, except for
16 reasonable administration expenses, incurred by CONSULTANT by reason of such suspension.

17 **14. TERMINATION.** CITY may terminate this Agreement for any reason upon ten (10)
18 days written notice to the other party. CITY may terminate the Agreement upon five (5) days written
19 notice if CONSULTANT breaches this Agreement. In the event of any termination, CONSULTANT
20 shall promptly deliver to the CITY any and all finished and unfinished reports or other written,
21 recorded, photographic, or visual materials, documents, data, and other deliverables ("Work
22 Materials") prepared for the CITY prior to the effective date of such termination, all of which shall
23 become CITY's sole property. After receipt of the Work Materials, CITY will pay CONSULTANT
24 for the services performed as of the effective date of the termination.

25 As noted in the RFP, The City has and reserves the right to suspend, terminate, or abandon the
26 execution of any work by the selected Bidder without cause at any time upon giving to the selected
27 Bidder prior written notice. In the event that the City should abandon, terminate or suspend the

1 Contractor's work, the Contractor shall be entitled to payment for services provided hereunder prior to
2 the effective date of said suspension, termination or abandonment. The City may terminate the
3 contract at any time without written notice upon a material breach of contract and substandard or
4 unsatisfactory performance by the selected Bidder. In the event of termination with cause, the City
5 reserves the right to seek any and all damages from the selected Bidder. In the event of such
6 termination with or without cause, the City reserves the right to invite the next highest ranked bidder
7 to enter into a contract or re-bid the project if it is determined to be in its best interest to do so.

8 **15. COMPLIANCE WITH CIVIL RIGHTS.** During the performance of this contract,
9 CONSULTANT agrees as follows:

10 **A. Equal Employment Opportunity.** In connection with the execution of this
11 Agreement, CONSULTANT shall not discriminate against any employee or applicant for employment
12 because of race, religion, color, sex, or national origin. Such actions shall include, but not be limited
13 to, the following: employment, promotion, upgrading, demotion, or transfer; recruitment or
14 recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and
15 selection for training including apprenticeship.

16 **B. Nondiscrimination Civil Rights Act of 1964.** CONSULTANT will comply
17 with all federal regulations relative to nondiscrimination in federally assisted programs.

18 **C. Solicitations for Subcontractors including Procurement of Materials and**
19 **Equipment.** In all solicitation, either by competitive bidding or negotiations, made by
20 CONSULTANT for work to be performed under a subcontract including procurement of materials or
21 leases of equipment, each potential subcontractor, supplier or lessor shall be notified by
22 CONSULTANT of CONSULTANT'S obligation under this Agreement and the regulations relative to
23 nondiscrimination on the grounds of race, religion, color, sex, or national origin..

24 **16. CONFLICT OF INTEREST.**

25 **A.** CONSULTANT covenants and represents that neither it, nor any officer or
26 principal of its firm, has, or shall acquire any interest, directly or indirectly, which would conflict in
27 any manner with the interests of CITY or which would in any way hinder CONSULTANT'S

1 performance of services under this Agreement. CONSULTANT further covenants that in the
2 performance of the Agreement, no person having any such interest shall be employed by it as an
3 officer, employee, agent or subcontractor without the express written consent of the CITY.
4 CONSULTANT agrees to at all times avoid conflicts of interest, or the appearance of any conflicts of
5 interest, with the interests of the CITY in the performance of this Agreement.

6 B. CONSULTANT is not a designated employee within the meaning of the
7 Political Reform Act because CONSULTANT:

8 (1) Will conduct research and arrive at conclusions with respect to its rendition
9 of information, advice, recommendation or counsel independent of the control and direction of the
10 CITY or of any CITY official, other than normal contract monitoring; and

11 (2) Possesses no authority with respect to any CITY decision beyond the
12 rendition of information, advice, recommendation or counsel. (2 Cal. Code Regs. § 18700(a)(2).)

13 **17. COMPLIANCE WITH LAWS.** CONSULTANT shall comply with all applicable
14 Federal, State of California, and local laws, rules, and regulations and shall obtain all applicable
15 licenses, including a business license with the City of Concord, and permits for the conduct of its
16 business and the performance of the services.

17 **18. CHOICE OF LAW.** This Agreement shall be construed and interpreted in accordance
18 with the laws of the State of California, excluding any choice of law rules which may direct the
19 application of the laws of another jurisdiction. In the event that suit shall be brought by either party
20 hereunder, the parties agree that trial of such action shall be held exclusively in a state court in the
21 County of Contra Costa, California.

22 **19. NON-WAIVER.** The waiver by either party of any breach of any term, covenant, or
23 condition contained in the Agreement, or any default in their performance of any obligations under the
24 Agreement shall not be deemed to be a waiver of any other breach or default of the same or any other
25 term, covenant, condition, or obligation, nor shall any waiver of any incident of breach of default
26 constitute a continuing waiver of same.

27 **20. ENFORCEABILITY; INTERPRETATION.** In the event that any of the provisions
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1 or portions of application of any of the provisions of the Agreement are held to be illegal or invalid by
2 a court of competent jurisdiction, CITY and CONSULTANT shall negotiate an equitable adjustment
3 in the provisions of the Agreement with a view toward affecting the purpose of the Agreement. The
4 illegality or invalidity of any of the provisions or portions of application of any of the provisions of
5 the Agreement shall not affect the legality or enforceability of the remaining provisions or portions of
6 application of any of the provisions of the Agreement. This Agreement shall be interpreted as though
7 it was a product of a joint drafting effort and no provisions shall be interpreted against a party on the
8 ground that said party was solely or primarily responsible for drafting the language to be interpreted.

9 **21. INTEGRATION.** All exhibits identified in this Agreement are attached hereto and
10 incorporated herein by reference. The Agreement contains the entire agreement and understanding
11 between the parties as to the subject matter of this Agreement. It merges and supersedes all prior or
12 contemporaneous agreements, commitments, representation, writings, and discussions between
13 CONSULTANT and CITY, whether oral or written.

14 **22. SUCCESSORS AND ASSIGNS: NO THIRD PARTY BENEFICIARIES; NO**
15 **JOINT VENTURE.** CITY and CONSULTANT respectively, bind themselves, their successors,
16 assigns, and legal representatives to the terms and obligations of this Agreement. CONSULTANT
17 shall not assign or transfer any interest in the Agreement without the CITY's prior written consent,
18 which consent shall be in the CITY's sole discretion. Any attempted assignment or transfer in breach
19 of this provision shall be void. This Agreement is not intended and shall not be construed to create
20 any third party benefit. This Agreement is not intended and shall not be construed to create a joint
21 venture or partnership between the parties. CONSULTANT, its officers, employees and agents shall
22 not have any power to bind or commit the CITY to any decision.

23 **23. FINANCIAL RECORDS.** Records of CONSULTANT's direct labor costs, payroll
24 costs, and reimbursable expenses pertaining to this project covered by this Agreement will be kept on
25 a generally recognized accounting basis and made available to CITY if and when required.

26 **24. NOTICES.** All notices required hereunder shall be in writing and mailed postage
27 prepaid by certified or registered mail, return receipt requested, or by personal delivery to the CITY's

1 address as shown below, or such other places as CITY or CONSULTANT may, from time to time,
2 respectively, designate in a written notice given to the other. Notice shall be deemed received three
3 (3) days after the date of the mailing thereof or upon personal delivery.

4
5 To CITY: **Debbie Yamamoto, Senior Financial Analyst**
6 **Finance Department**
7 **City of Concord**
8 **1950 Parkside Drive**
9 **Concord, CA 94519-2578**
10 **Phone: (925) 671-3183/Fax: (925) 676-2290**
11 **Email: Deborah.Yamamoto@cityofconcord.org**

12
13 To CONSULTANT: **Susan V. Siefkas, Director**
14 **Bank of America, N.A.**
15 **555 California Street, Mail Code CA5-705-06-01**
16 **San Francisco, CA 94104**
17 **Phone: (415)913-2878/Fax: (415)844-2813**
18 **Email: Susan.siefkas@baml.com**

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20 **25. NON-LIABILITY.** No member of the CITY and no other officer, employee or agent
21 of the CITY shall be personally liable to CONSULTANT or otherwise in the event of any default or
22 breach of the CITY, or for any amount which may become due to CONSULTANT or any successor in
23 interest, or for any obligations directly or indirectly incurred under the terms of this Agreement.

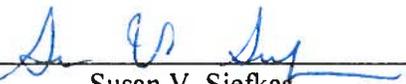
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25 **26. EXECUTION.** Each individual or entity executing this Agreement on behalf of
26 Applicant represents and warrants that he or she or it is duly authorized to execute and deliver this
27 Agreement on behalf of Applicant and that such execution is binding upon Applicant.

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29 This Agreement may be executed in several counterparts, each of which shall constitute one
30 and the same instrument and shall become binding upon the parties when at least one copy hereof
31 shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary
32 to produce or account for more than one such counterpart.

33
34 **IN WITNESS WHEREOF,** the parties have executed this Agreement in one (1) or more
35 copies as of the date and year first written above.

36
37 **CONSULTANT**

38
39 **CITY OF CONCORD, a Municipal Corporation**

1 By: 
2 Name: Susan V. Siefkas
3 Title: Director
4 Address: 555 California Street,
5 Mail Code CA5-705-06-01
6 San Francisco, CA 94104-1866
7 Telephone: (415)913-2878

By: _____
Name: Valerie J. Barone
Title: City Manager
Address: 1950 Parkside Drive
Concord, CA 94519
Telephone: (925) 671-3150

6 APPROVED AS TO FORM:

ATTEST:

8 _____
City Attorney

City Clerk

11 FINANCE DIRECTOR'S CERTIFICATION:

12 Concord, California

13 Date: _____, 2015

14 I HEREBY CERTIFY THAT ADEQUATE FUNDS EXIST OR WILL BE RECEIVED
15 DURING THE CURRENT FISCAL YEAR 2014-15 TO PAY THE ANTICIPATED
16 EXPENSES TO BE INCURRED PURSUANT TO THIS CONTRACT.
17 THE SUM OF \$_____. Account Code_____.

18 _____
Finance Director's Signature

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EXHIBIT A
Scope of Services
(14 Pages)

1 **EXHIBIT A –Scope of Services (Page 1 of 14)**

2
3 **TECHNICAL REQUIREMENTS EXTRACTED FROM RFP#2299 BANKING SERVICES**

4 **A. Content and Format:**

5 In order for the City to be able to adequately compare and evaluate proposals, all proposals
6 must be submitted in accordance with the format detailed below.

7 **Cover Letter and Executive Summary**

8 The letter/summary should designate the proposing bank, the business address of where the
9 relationship will be housed, and be signed by authorized bank officers. The letter/summary
10 should address the bank’s willingness and commitment to provide the proposed services to the
11 City and why the bank believes it should be selected. No pricing information should be
12 included in this section.

13 **Tab A – Table of Contents**

14 A listing of all materials included in the proposal identified by sequential page number and
15 section reference number should follow the RFP format.

16 **Tab B – Bank Profile, Qualifications and Experience**

- 17
- 18 1. Provide a general overview and brief history of your organization, including customer
19 service philosophy, parent and/or subsidiary companies, and the number of employees.
 - 20 2. Provide the address of the primary office and/or branch location that will service the
21 account and where the City will conduct its banking business.
 - 22 3. Describe the bank’s direct experience in providing similar services for other
23 governmental agencies, specifically local government agencies located in California.
24 Please include the number of public agency clients, the dollar amount of public funds
25 on deposit, the types of services offered, and the bank’s knowledge of and adherence to
26 the California Government Code.
 - 27 4. Complete the following table with the current credit ratings by Standard & Poor’s
28 Rating Services and Moody’s Investor Services. If the Proposer is not rated by these
rating organizations, provide other evidence of the institution’s financial strength.

EXHIBIT A—Scope of Services (Page 2 of 14)

Firm / Bank

	Standard & Poor's Rating	Moody's Investor Services
Short-Term Unsecured Senior Debt		
Long-Term Unsecured Senior Debt		

Bank Holding Company

	Standard & Poor's Rating	Moody's Investor Services
Short-Term Unsecured Senior Debt		
Long-Term Unsecured Senior Debt		

5. Discuss the firm's current capital structure, adequacy, and coverage. If applicable, provide the firm's risk-based capital classification (Well Capitalized, Adequately Capitalized, Under Capitalized, significantly undercapitalized).
6. Include an electronic copy of the most recent audited annual financial statement and the latest 10-k report with the proposal.
7. If the firm received funds under the Troubled Asset Relief Program, detail the amount received. What is the history of repayments to date? Does your bank still have outstanding funds from this program? If so, why?

Tab C – Personnel

1. Provide the name, title, address, phone number, fax number and e-mail address of the primary contact person(s) assigned to this account.
2. Describe your firm's policy on changing the primary contact person on an account.
3. Name the individuals who will work with the City on a day-to-day basis. Information should include:

EXHIBIT A—Scope of Services (Page 3 of 14)

- a. Identify what each person’s role and responsibilities will be.
 - b. Biographical information.
 - c. Experience working with governmental agencies.
 - d. Number of years experience in this field.
 - e. Number of years with your firm.
4. Will a specific customer service representative or a customer service department be assigned to handle day-to-day transactions for the City?
- a. Describe the responsibilities of the customer service personnel, including the chain of command for problem resolutions.
 - b. Is local customer service support available at the bank’s local branches?
 - c. If an error is discovered by the City, how would you propose to resolve it (i.e. who should the City contact first, etc.)?

Tab D – References

1. Please provide at least three (3) references that are of similar size and scope of service utilization as the City, preferably local government agencies located in California.

Contact Name: _____
Title: _____
Name of Customer: _____
Address: _____
Telephone Number: _____
Fax Number: _____
of Years as Customer: _____
Services Utilized: _____

2. How many public sector clients, both within and outside of California, have terminated services in the last three years?

Tab E – Collateralization of Deposits

EXHIBIT A—Scope of Services (Page 4 of 14)

- 1
- 2 1. Confirm that the financial institution is a qualified depository for public funds pursuant
- 3 to California Government Code Section 53648, and please detail the bank's procedures
- 4 for collateralizing the deposits of public funds.
- 5 a. What types of securities are used as collateral?
- 6 b. Which bank department is responsible for tracking deposits and monitoring
- 7 collateral?
- 8 c. What is the bank's current level (\$ amount) of public funds deposits and the related
- 9 collateral?
- 10 d. What is the frequency of reporting to the State Treasurer's Office?
- 11 2. Please include a copy of the Bank's Contract for Deposit of Moneys in the Section.

Tab F – Deposit Processing

- 12 1. Provide a map or table showing the location of the bank's branches located within the
- 13 City of Concord.
- 14 2. Please provide the address and distance of the two (2) closest branches to 1950
- 15 Parkside Drive, Concord, Ca. 94519. Please provide the name and telephone number
- 16 of the branch managers at these two locations.
- 17 3. For deposits collected and transported by armored car, what bank location do you
- 18 propose for the City's armored car to deposit funds for processing?
- 19 4. Can a unique deposit identification number be used on deposit tickets to identify the
- 20 deposit location for reconciliation purposes? Can the bank identify deposit tickets on
- 21 summary reports?
- 22 5. What is the cutoff time for deposits at the bank's local branch and at the bank's
- 23 operations center to ensure same day credit?
- 24 6. What is the cutoff time for Check 21 deposits to ensure same day credit?
- 25 7. Please describe the bank's cash deposit requirements. How should the cash deposits be
- 26 bundled? The Police Department, on occasion, collects contaminated money. What
- 27 special procedures would be necessary?
- 28 8. What type of deposit bags does the bank allow/require? Does the bank provide these
- bags? Does the bank charge a fee for these bags? Are there any restrictions on deposit
- bags provided by the customer?
9. Can checks, currency, and coin be included in the same deposit?

EXHIBIT A–Scope of Services (Page 5 of 14)

10. The City employs dual custody in preparing deposits.

e. How are deposits credited?

f. Are items immediately verified?

g. If provisional credit is given, when does verification take place?

h. How does the bank handle any deposit discrepancies?

i. If the bank corrects a deposit, how will the City be informed of this change?

j. Is there a threshold for deposit discrepancies before notifying the City?

k. Does the bank use videotaping and dual custody for all deposits at the branch and operations center?

l. How does the bank substantiate its decisions in the case of discrepancies?

11. Please describe the bank's change order procedures.

a. Can separate location codes be used so that the City can track who ordered money?

Tab G – Check 21

1. The City is currently using a Digital Check Teller Scanner TS240 with Image Software for Check 21 processing. Describe the bank's ability to process checks via Check 21, including any accommodations the bank would need to make related to the City's existing hardware/software. Identify additional costs associated with this accommodation, if any.

Tab H – Returned Item Processing

1. Please describe the bank's returned item handling procedures and notification options.

2. Can returned items be automatically re-deposited? If so, how many times?

3. Does the bank offer any options that may increase the collection of NSF checks?

4. Can the bank provide a detailed return item transmission to the City? Can this report identify the payer's name, depositing location, deposit date, and the type of item being returned?

5. Can the bank provide online access to electronic images (front and back) of returned items to the City? How soon after an item is returned can these images be accessed?

EXHIBIT A–Scope of Services (Page 6 of 14)

Tab I – Electronic Business Payments to the City

1. Do you offer any specialized solution that enables the City to receive e-transactions with supporting remittance information to update the City’s accounting system for corporate and government customers? Please describe.
2. Is this a proprietary bank product or an industry clearing mechanism? If it is proprietary, how are businesses making payments to the City enrolled?
3. What remittance detail is available for payments made to the City?
4. If the City’s bank account information changes, how will payments be redirected to the new account? Will individual businesses have to be notified of the account change?

Tab J – Availability of Deposits

1. How does the bank determine and calculate availability of deposited items?
2. Does the bank give immediate availability for on-us items?
3. Does the bank calculate availability by item or by formula?
4. Provide a copy of the availability schedules the bank proposes to use for the City. Is this the best schedule offered to any customer? If not, quantify the difference and explain how the City may obtain the bank’s best availability schedule. Describe the extra charge, if any, for obtaining the bank’s best availability schedule.

Tab K – Positive Pay

1. Please describe the bank’s Positive Pay and Payee Positive Pay services and what is recommended for the City’s consideration. Please provide copies of sample reports.
2. Describe any specified transmission methods required by the bank?
3. What is the deadline for the transmission of check data or issuance information to the bank?
4. How frequently can transmission files be uploaded to the bank for the issuance of additional checks, and/or recently voided items? Is there a limit to the number of files per day?
5. Does the bank offer the ability to manually enter single check disbursements used during the day? Please describe.
6. How will the City be notified of exceptions or rejected items? What is the procedure and timeline for paying or returning exception items?

EXHIBIT A—Scope of Services (Page 7 of 14)

7. Does the bank provide online check imaging so that the City could review exception items electronically?
8. Will stale-dated checks be reported as exception items?
9. Is Teller Positive Pay available? How long does it take for check data and issuance information to be available to tellers?

Tab L – Stop Payments

1. How are stop payment orders placed? Can stop payments be placed online?
2. Are stop payment requests effective immediately? If not, how long does it take for a stop payment request to be effective?
3. How long will the stop payment remain in effect? Are there different term options?
4. Can stop payments be automatically renewed? If so, for how long? Is there an associated fee for each renewal?

Tab M – Wire Transfer Processing

1. Describe the process of initiating wire transfers.
2. Can wire transfers be initiated online? If so, please describe the system's security features. Can varying degrees of authorization be set, such as multiple authorizers, maximum dollar amounts, etc.?
3. Does the bank offer its customers dual control release options (secondary approval levels) for electronically initiated transfers? If so, please describe.
4. What is the cut-off time for same-day wire transfers?

Tab N – ACH Processing

1. Describe the process for initiating ACH payments.
2. What ACH file transmission options are available?
3. Can 2 separate files be transferred on the same day?
4. What are the transmission deadlines for ACH files?
5. What is the earliest day and time that the files can be transmitted? Do you warehouse early file transmissions?

EXHIBIT A—Scope of Services (Page 8 of 14)

6. Can ACH payments be initiated online? If so, please describe the system's security features.
7. What are the cut-off deadlines for ACH payments initiated online?
8. How and by what method are customers notified that a transmission was successful in order to validate the credit totals transmitted? How soon is this provided after transmission?
9. What type of security measures are in place to ensure a secured website for direct deposit transmissions? Would this require special software?
10. How are returned and rejected ACH transactions handled? What information does the bank provide to assist in identifying returned and rejected ACH transmission? When is this information available?
11. Is your bank planning to opt-in and participate in processing same-day ACH debits?
12. Please describe your bank's ability to block unauthorized ACH debits.
13. If the bank provides ACH debit blocking, what level of filtering can be applied?
14. Does the bank offer ACH Positive Pay (ability to make pay / no pay decisions on unidentified ACH transactions)?
15. Does the bank offer Universal Payment Identification Codes (ability to mask visible account numbers to reduce the risk of unauthorized direct debits)?
16. Does the bank offer any disaster recovery solutions that can aid in processing payroll if the City is unable to transmit data to the bank?

Tab O – Intra-Bank Account Transfers

1. Describe the process of initiating an intra-bank account transfer.
2. Does the bank offer its customers dual control release options (secondary approval levels) for electronically initiated transfers? If so, please describe.
3. What is the cut-off time for same-day intra-bank account transfers?

Tab P – State Activity / LAIF

The City, the Successor Agency for the former Concord Redevelopment Agency, a Sewer enterprise fund, and a retirement fund transact State of California Local Agency Investment Fund (LAIF) transfers periodically, and receive State electronic payments.

EXHIBIT A—Scope of Services (Page 9 of 14)

1. Is the bank an approved State of California depository?
2. Please describe the LAIF transfer process. Can transfers be done by telephone, e-mail/fax, wire transfer, etc.?
3. What is the charge per transfer to LAIF? From LAIF?
4. Does the bank have an office in Sacramento that maintains a direct DDA banking relationship with the State Treasurer's Office and the State Controller's Office?

Tab Q – Implementation Plan and Costs

The City requires a smooth and low-cost transition to a new bank or to enhanced services with its existing bank.

1. Please describe the bank's plan to implement the proposed services and to ensure a smooth, error-free conversion.
2. Please detail all costs associated with the conversion of all the new services.
3. What size conversion allowance will the bank provide to the City? Please state a specific dollar amount. Separate check stock, with unique numbering sequences, is used by each of the five (5) accounts that write checks (accounts payable, payroll, workers compensation, liability insurance and the revolving account). Separate check stock is utilized for the flexible spending account.
4. Indicate the bank's plans for educating and training City employees in the use of your firm's systems. Will the bank provide on-site training for City personnel for all of the services needed?
5. Please provide a contact list of local government clients (preferably in California) that have transitioned from another bank to your bank.

Contact Name: _____

Title: _____

Name of Customer: _____

Address: _____

Telephone Number: _____

Fax Number: _____

Date of Transition/Implementation _____

Services Utilized: _____

EXHIBIT A—Scope of Services (Page 10 of 14)

Tab R – Statements, Documents and Reconciliations

1. How soon after the cut-off date are the following items ready?

	Online	By Mail
Bank Statements		
Partial Reconciliation Information		
Full Reconciliation Information		
Positive Pay Information		

2. Describe the process of locating a cancelled check on CD-ROMs. What types of indexing capabilities are available to locate checks from prior months?
3. Are electronic images stored on the bank's online reporting system? If so, how does the bank charge for these services (per item viewed / per item loaded)? Is there a difference in price for deposited items versus disbursement items?
4. How long are electronic images for deposited and disbursement items stored on the reporting system and available for customer access?
5. Please describe how reconciliation data is transmitted to the City.

Tab S– Balance Reporting

The City currently accesses daily balance reporting information through Windows-based personal computers, both in the office and at our homes.

1. Please describe the bank's online information reporting system and the types of reports that are available. Include sample reports that would be the best example of the system's capabilities.
2. How will the City access the reporting system? Is this available through the internet?
3. Can the bank limit access to the bank's online system to known City and selected other IP addresses?
4. Are there any limits on the number of the City users that could have access to the bank's online website? What levels of authorization (i.e. accounts viewed, transaction capabilities, etc.) can be permitted or turned off for individual users?
5. What current day (intra-day) information is available through the reporting system?

EXHIBIT A—Scope of Services (Page 11 of 14)

6. Are there differences in information available for current day and previous day reporting? If yes, please describe.
7. Does the bank's deposit reporting system report electronic transactions (i.e. ACH, wire, etc.) as well as paper documents?
8. What time (assuming Controlled Disbursement is not used) will the bank be able to report the total amount of the day's check disbursements to the City?
9. Can electronic reports be custom-tailored for the end user? Is there an additional charge?
10. How many business days of balance history are stored on the reporting system for previous day reporting? If there are differences in information available for current day and previous day reporting, how many business days of balance history are stored on the reporting system for current day reporting?

Tab T – Earnings Credit Rates

1. Does the City have the option of compensating the bank on either a fee or balance basis? Is the price the same for either option? If not, what is the difference?
2. How is your bank's earnings credit determined, adjusted, and applied? Please include in the explanation the impact of the bank's reserve requirement, the formula for converting service charges to balance requirements.
3. What time frame does your bank use when reviewing balances for deficiency or excess (e.g. rolling 12-month average, calendar quarter, calendar year, monthly, etc.)?
4. Can excess earnings credit be carried over to a subsequent billing period? If so, how many periods?

Tab U – Account Analysis Statements

1. Please provide a sample analysis statement. How soon after month-end is the analysis statement mailed? Can the account analysis be obtained in Excel format? Can the Association for Financial Professionals (AFP) Service Codes be included on the analysis statement?
2. Will the bank pass on the FDIC or FICO charges to the City? If so, what is the current charge for an entire year on a \$1,000,000 balance? How is this charge computed?

Tab V – End-of-Day Overdrafts

EXHIBIT A - Scope of Services (Page 12 of 14)

1. What are the fees and interest charges associated with overdrafts? How are these charges calculated?
2. Is there a fee per check or per occurrence when there is an overdraft?
3. Is there a daily cap on fees?

Tab W – Daylight Overdrafts

1. Describe the bank’s policies concerning daylight balance overdrafts. Indicate whether this is applied to each individual account or across all accounts of a client relationship.
2. Does the bank establish an intra-day limit per account or per customer? How flexible can the bank be in setting a limit appropriate for the City?
3. Is wire transfer processing stopped when the intra-day limit is reached? Please explain the procedures.
4. Please explain any charges associated with daylight overdrafts? If the bank incurs a daylight overdraft charge from the Fed, will it pass this charge on to its customers? If so, how (e.g. intra-day loan, daylight overdraft facility fees, etc.)? How is the charge allocated among customers?

Tab X – Employee Banking

1. Will the bank cash the City’s payroll checks without charge to either the City or check payee? If not, what is the charge? Is a check cashing agreement required? If yes, please include a copy.
2. Please describe in detail any banking services you might propose to provide to the City’s employees. Would employees have to enroll in direct-deposit in order to receive these services? Please include any marketing literature you would provide to new or existing employees about your services.

Tab Y – Business Continuity and Control

1. Describe your bank’s business continuity plan as it applies to:
 - a. Local bank/branch access failure
 - b. Regional bank resources for reporting, access to accounts, and access to funds
 - c. National (if applicable) bank resources for reporting, access to accounts, and access to funds

EXHIBIT A—Scope of Services (Page 13 of 14)

2. Describe the electronic and/or manual system used to provide the proposed services along with backup and recovery capabilities. Who would the City contract to initiate day-to-day banking transactions if online capabilities and functionality are temporarily unavailable?
3. Describe the bank's security procedures for its information reporting system, both for access and information protection.
4. Describe the types of insurance and bonding carried.
5. Describe any current or prior professional or personal relations between your firm and any member of the City Council or City staff, or with a company owned or affiliated with any of those individuals during the past five years that might represent an actual or perceived conflict of interest.
6. Can the bank provide on-site support to City staff if the City experiences a failure at Concord City Hall (1950 Parkside Drive, Concord, CA 94519)?
 - a. What physical site can the bank provide in the event that Concord City Hall might be inaccessible?
 - b. Please describe the resources (i.e. physical work areas, access to telephones, internet, fax, wire transfers, etc.) that could be made available to City staff in the event that Concord City Hall might be inaccessible?

Tab AA – Service Enhancements

Based on the information provided in the RFP and your firm's knowledge of the public sector, please describe any services or technological enhancements, not previously mentioned, that should be considered for further improving the efficiency of the City's treasury management operations.

Tab AB – Sample Contract

1. Provide a sample of the proposed contract for your bank's services. Please also provide samples of all other documents which will need to be signed/entered into related to the provision of the services requested in this RFP including any documents referenced or incorporated into the contracts/agreements.
2. Would you be willing to agree to sign a contract amendment that incorporates the City's Request for Proposal and your firm's proposal response as part of the overall contract?

EXHIBIT A—Scope of Services (Page 14 of 14)

Tab AC – Indemnity and Insurance

These provisions are set forth in Appendices B and C. Indicate in your proposal your ability to comply with these provisions. If a proposer has any concerns regarding any of the City’s insurance or indemnity language or requirements that would render the proposer unable or unwilling to enter into an Agreement, the proposer shall identify these concerns. Deviations from the City’s standard language may be considered in its evaluation of the responsiveness of a proposal.

Tab AD – Non-Collusion Affidavit

Insert the completed affidavit as set forth in Appendix D.

Tab AE – Pricing and Account Analysis

1. Please provide a complete fee schedule for all of the services described in your financial institution’s proposal using Association of Finance Professionals (AFP) Service Codes. A template, of services currently used with volume levels, is provided in Appendix H.

Fees related to all services described in the proposal must be listed, even if the service is not shown on the template. Also, include any one-time or set-up charges, research fees, minimum fees, or all other fees that will be charged. Include any incentives or price breaks offered based on volume or other measures.

2. Is the bank willing to guarantee the proposed fees for the entire term of the contract up to five (5) years? If not, for how long are the fees guaranteed?

Can fees be billed to the City rather than debited directly from the City’s accounts with a hard copy sent mailed or e-mailed to Finance Department?

3. Are you willing to offer any transition or retention incentives?

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EXHIBIT A

**Technical Proposal
Submitted by Bank of America
(539 Pages)**

**Due to huge volume of this document,
please contact Purchasing Division for a copy upon request.**

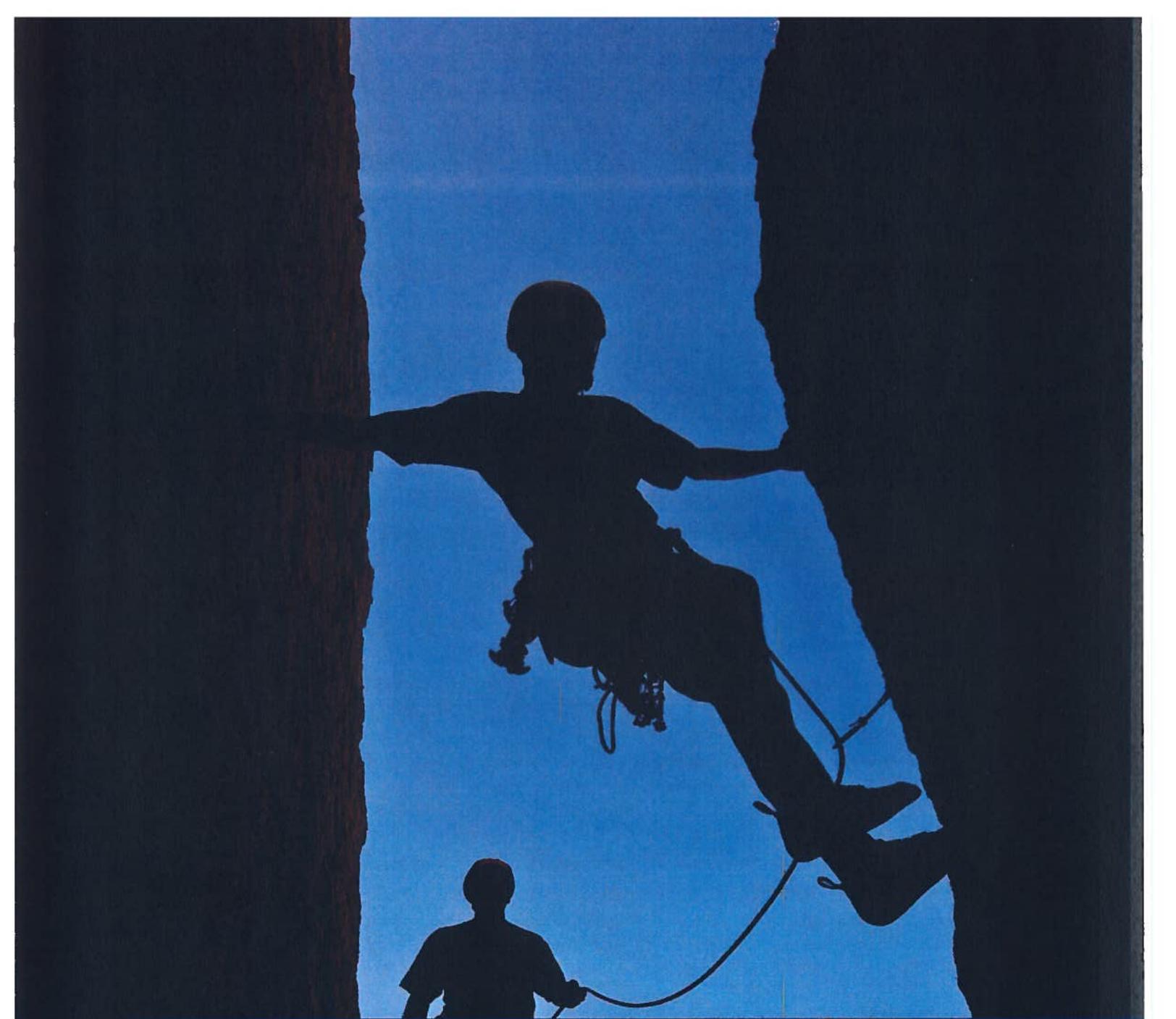
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EXHIBIT B

**Total Cost Proposal
Submitted by Bank of America**

(without proprietary section)

(18 Pages)



Cost Response to the City of Concord RFP No. 2299 for Banking Services

We're better when we're connected

Submitted by:
Jared Ines
VP, Client Manager
415.913.2830
jared.ines@baml.com

Susan V. Siefkas
Director, Sr. Treasury Solutions Officer
415.913.2878
susan.siefkas@baml.com

December 1, 2014

Bank of America
Merrill Lynch



December 1, 2014

Debbie Wellnitz
Finance Department c/o Purchasing Division
City of Concord Civic Center
1950 Parkside Drive, MS/07
Concord, CA 94519

Dear Ms. Wellnitz:

Thank you for the opportunity to present the City of Concord (the City) with our Cost Proposal in response to your Request for Proposal No. 2299 for Banking Services. We acknowledge all addenda related to RFP No. 2299. Our response is valid for 90 days.

The City and Bank of America Merrill Lynch have enjoyed a long and mutually beneficial banking relationship that spans many years. With this Cost Proposal, we hope to convey our strong desire to be selected as your financial partner by providing a thoughtful, strategic and competitive pricing package for the City's banking and cash management services.

Here is a summary of key financial components of our compelling package:

- We propose very **competitive pricing** at unit prices **fixed for five years** (the initial term of the contract). The City will save approximately **\$3,000** per annum. We will negotiate pricing for each of the five optional one-year renewal periods.
- We offer a **bank-managed gross rate** (Earnings Allowance Rate/Earnings Credit Rate) which provides the City with value for operating balances at the level maintained over the last year. The City receives a "soft-dollar" earnings to offset service charges. Upon execution of the new contract, we will **fix the gross rate at 0.25% per annum (25 basis points) through June 30, 2015** to facilitate cash planning for the City.
- For balances in excess of those needed for operations, we offer a **competitive rate** on our overnight **sweep, currently 0.01% per annum (1 basis point)**.
- Recognizing our longstanding relationship, we offer a **loyalty credit** to assist the City in offsetting service charges on the account analysis. *Should the City **move its accounts-payable-vendor-virtual-card-payment program, currently at another bank, to Bank of America during the first year of the contract***, we will offer the City:
 - **\$10,000** in the first year to offset service charges and
 - An **additional \$5,000** in the second year to offset service charges.

The additional revenue share (rebate) we anticipate the City to realize by working with our bank and our dynamic **ePayables** optimization program may also help offset any cash outlay for banking services.

If the City opts not to make a change to our ePayables program, we still want to recognize the City as a valued relationship and we offer the City a loyalty credit to offset service charges of \$3,000 in the first year of the contract, and \$1,500 in the second year.

- Although we anticipate the City to maintain its balance at the level it has over the past 12 months, **with the City's ePayables** program at Bank of America Merrill Lynch, the City would have **more flexibility** related to compensating balances. The City could increase compensating balances to \$10 million if preferred.

- We invite the City to join our **California Public Sector Group card cooperative (CAPSG)** for the **purchasing card** and **ePayables** solution. The City will benefit from a potentially higher revenue share with the ability to **aggregate spend** on its purchasing cards with the amount of vendor payments in its ePayables program. The City will also benefit from a higher revenue share potential from a higher basis point tier, derived in part by the aggregate spend of the municipal entities participating in our CAPSG program.
- We will offer CashPro Remote Deposit **scanners at no cost for the initial purchase** for implementations completed by June 30, 2015.
- We have included information in our proposal about merchant services that will be provided through Bank of America **Merchant Services (BAMS)**, your incumbent processor. By remaining with BAMS as your processor and Bank of America as your banking services provider, the City will continue to profit from **accelerated, next-day funding** of card transactions.

As we stated in our cover letter to the technical proposal, the City will also experience the following advantages by selecting Bank of America:

- **Power of Bank of America** – The power of Bank of America is our resources and people. We are a strong financial institution, and we heavily invest in technology so we can offer our clients cutting-edge products and services. We are proud to offer all solutions for the requirements in this RFP, assuring the City access to the most advanced capabilities in core treasury services. Your client team has over 30+ years combined experience in banking to the public sector and lives and works in California.
- **Exceptional service you can rely on** – We commit to provide the highest quality of service to the City. Your Dedicated Service Director Dora Ferenczy is available to continue handling promptly and thoroughly your day-to-day banking service inquiries.
- **Convenient access** – With an expansive footprint that includes three banking centers in Concord and 29 banking centers in Contra Costa County, you are never far away from responsive, knowledgeable service for the City and its employees.
- **Sophisticated operational enhancements** – In our proposal, we introduce ways we can help the City create efficiencies, make improvements where possible, and take advantage of new technologies. Particularly, we offer various sophisticated solutions to help the City continue to move from paper checks to electronic transactions. We welcome the opportunity to assist the City in expanding the use of card for accounts payable vendor payments, travel, and online purchasing with our ePayables and Purchasing Card programs.
- **Commitment to the City of Concord** – We hold an innate responsibility to invest in and support local neighborhoods, institutions, not-for-profit organizations, schools and businesses. Martin Richards, the East Bay Market President, oversees our philanthropic efforts in your community. We're one of the largest employers in Concord, and our numerous Concord associates provide thousands of volunteer hours each year. We highlight details of our commitments to the City in our Executive Summary.

Thank you again for the opportunity to showcase our full-spectrum of capabilities, and please contact me with any questions.

Sincerely,



Susan V. Siefkas
 Director, Sr. Treasury Solutions Officer
 Bank of America Merrill Lynch
 315 Montgomery Street
 San Francisco, CA 94104
 415.913.2878
 susan.siefkas@baml.com

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Total Cost Proposal Form

EXHIBIT B TOTAL COST PROPOSAL FORM

(This serves as the 'Cover Page' to your Total Cost Proposal)

TO THE CITY OF CONCORD: In compliance with the notice inviting sealed proposals, the undersigned hereby proposes to furnish all necessary tools and equipment, materials, labor, and supervision (including cost of Workers' Compensation Insurance and all payroll taxes on such labor) to complete services above, in accordance with this RFP therefore, and further agrees to enter into a Contract therefore, at the prices listed in the accompanying proposal. Prices are F.O.B. Destination, California.

1. TOTAL COST PROPOSAL: Please indicate the total cost here and attach any cost breakdown and applicable, required documents to follow.

TOTAL COST: \$ \$1,920 estimated per month based on deposit level and transaction volume provided by the City in Addendum #1 and Cost Breakdown in Attachment 3
(Inclusive of all costs – See Cost Breakdown to follow if applicable)

One thousand nine hundred twenty dollars estimated per month based on deposit level and transaction volume provided by the City in Addendum #1 and Cost Breakdown in Attachment 3 (written amount)

This bid will be awarded based upon the total bid amount as written in words. Where there is a discrepancy between words and figures, WORDS WILL GOVERN.

Submitted by:

PROPOSER/COMPANY NAME: Bank of America, N.A.

ADDRESS (Not a P.O. Box): 315 Montgomery Street

CITY: San Francisco **STATE, ZIP CODE:** CA 94104-1866

PHONE NO.: 415.913.2878 **FAX NO.:** 415.844.2813

EMAIL ADDRESS: susan.siefkas@baml.com

YOUR NAME & TITLE: Susan V. Siefkas, director

YOUR SIGNATURE:  **DATE:** December 1, 2014

PROJECT MANAGER for this RFP if selected (if different from above):

YOUR NAME & TITLE: _____

ADDRESS (Not a P.O. Box): _____

PHONE NO.: _____ **FAX NO.:** _____

EMAIL ADDRESS: _____

2. COST BREAKDOWN

The proposer is to submit a detailed cost proposal for all services and materials including the firm's direct and indirect rate (with overhead). Personnel hours and extended billing rates per classification of personnel shall be indicated for each task and/or sub task defined therein. The consultant shall determine a not-to-exceed allowance for reimbursements included within the cost proposal.

Attach the above breakdown to this Exhibit A in your 'Total Cost Proposal'

Since the City requires the Total Cost Proposal to be submitted in a separate sealed envelope/box, we have separated the Technical Proposal, including Exhibit A, from the Cost Proposal, Exhibit B.

Cost Proposal pricing is provided in the Appendix.

Disclosures

Please note that the quoted terms, conditions, and pricing are valid for 90 days from the proposal due date, unless expressly reaffirmed in writing.

Some services offered to City of Concord within this proposal response are subject to the initial and subsequent satisfactory review of the financial statements of the City of Concord, approval by Bank of America, N.A. and satisfactory completion of any necessary bank documentation.

Bank of America continually evaluates, adapts and modifies our banking center retail network, operations centers and platforms to fit the evolving needs of our customers and our business. Therefore, the banking center, vault and/or processing center hours of operation, locations and platforms, while current as of this proposal, are subject to change in the future. Any changes will be communicated in a timely and comprehensive manner.

Bank of America, N.A. offers a wide array of services to its clients. Each service has many features and options. In the course of providing these services we may employ agents, employees or subcontractors (vendors) to service all of our clients utilizing a service in general rather than to service a particular client. In general, we will disclose in a proposal response any agents, employees or subcontractors (vendors) retained by us exclusively for, and which are dedicated solely to, the provision of services to a specific client and/or contract.

"Bank of America Merrill Lynch" is the marketing name for the global banking and global markets businesses of Bank of America Corporation. Lending, derivatives, and other commercial banking activities are performed globally by banking affiliates of Bank of America Corporation, including Bank of America, N.A., member FDIC. Securities, strategic advisory, and other investment banking activities are performed globally by investment banking affiliates of Bank of America Corporation ("Investment Banking Affiliates"), including, in the United States, Merrill Lynch, Pierce, Fenner & Smith Incorporated and Merrill Lynch Professional Clearing Corp., both of which are registered broker-dealers and members of SIPC, and, in other jurisdictions, by locally registered entities. Merrill Lynch, Pierce, Fenner & Smith Incorporated and Merrill Lynch Professional Clearing Corp. are registered as futures commission merchants with the CFTC and are members of the NFA. Investment products offered by Investment Banking Affiliates: Are Not FDIC Insured * May Lose Value * Are Not Bank Guaranteed

Appendix

1. Cost proposal – Attachment 3 pricing
2. California Public Sector Group Schedule of Fees and Charges – Purchasing Card and ePayables
3. CashPay Prepaid card schedule of fees
4. SafeConnect Plus vault options
5. Bank of America Merchant Services pricing

**CALIFORNIA PUBLIC SECTOR GROUP
SCHEDULE OF FEES AND CHARGES**

Program Overview:

California Public Sector Group (CAPSG). CAPSG is an association of Bank of America's Purchase Card, Travel Card and ePayables public sector clients. The purpose of the California Public Sector Group is to help state and local government agencies, public schools and municipalities to grow their card programs and earn rebates on their annual Transaction Volume. To help all members maximize their earning potential, the CAPSG program aggregates all members annual spend volume and pay's each member based on their individual contribution.

I. GENERAL PRODUCT FEES AND CHARGES

Corporate Billed – LCNAC498	Fee
Annual Card Fee	Waived
Late Fee <i>(An account is assessed a late fee three (3) days after cycle. The fee will be assessed as a % of the past due amount for the current month's charges and any unpaid balances when the account is past due 01-30 days)</i>	2.5% of total due (minimum \$250; maximum \$3500)
Late Fee Assessment	➤ Assessed 3 days after CYCLE date
Periodic Finance Charge Fee <i>(Finance charges accrue on all balances that are 31-60 days past due)</i>	➤ Prime Rate + 1%
Over limit Fee <i>(Assessed when aggregate charge limit is exceeded)</i>	➤ No Fee
Cash Advance Fee	➤ 2.5% of transaction amt (\$5 min/no max) ➤ N/A for ePayables
Logo Fee <i>(Choose one color from the following six colors: 1) black; 2) white; 3) blue; 4) red; 5) green; 6) burgundy).</i>	➤ Waived ➤ N/A for ePayables
Unique Custom Design Fee	➤ As quoted ➤ N/A for ePayables
Return Check Fee	➤ \$29.00
International Transaction Fee <i>(Fee cannot be waived)</i>	Up to 1% of USD amount

If you make a Transaction in currency other than U.S. dollars, Visa or MasterCard will convert the charge or credit into a U.S. dollar amount. The conversion rate on the processing date may differ from the rate on the date of your Transaction. The exchange rate used by Visa will either be (i) a rate selected by Visa from a range of rates available in wholesale currency markets for the applicable central processing date, which rate may differ from the rate Visa receives, or (ii) the government-mandated rate in effect for the central processing date. MasterCard will use an exchange rate of either (i) a wholesale market rate or (ii) a government-mandated rate. We may add a 1% fee to the U.S. dollar amount of any Transaction that is made in foreign currency or that is made outside the United States even if you pay in U.S. dollars (the "International Transaction Fee"). The International Transaction Fee will be shown in the Activity section on your billing statement. The International Transaction Fee will be aggregated in the Other Fees category on the Summary section of your statement.

1. GENERAL PRODUCT FEES AND CHARGES

ePayables – LCNAC495	Fee
Annual Card Fee	Waived
Late Fee <i>(An account is assessed a late fee three (3) days after cycle. The fee will be assessed as a % of the past due amount for the current month's charges and any unpaid balances when the account is past due 01-30 days)</i>	2.5% of total due (minimum \$250; maximum \$3500)
Late Fee Assessment	➤ Assessed 3 days after CYCLE date
Periodic Finance Charge Fee <i>(Finance charges accrue on all balances that are 31-60 days past due)</i>	➤ Prime Rate + 1%
Return Payment Fee (NSF)	➤ \$29.00
International Transaction Fee <i>(Fee cannot be waived)</i>	Up to 1% of USD amount

If you make a Transaction in currency other than U.S. dollars, Visa or MasterCard will convert the charge or credit into a U.S. dollar amount. The conversion rate on the processing date may differ from the rate on the date of your Transaction.

The exchange rate used by Visa will either be (i) a rate selected by Visa from a range of rates available in wholesale currency markets for the applicable central processing date, which rate may differ from the rate Visa receives, or (ii) the government-mandated rate in effect for the central processing date. MasterCard will use an exchange rate of either (i) a wholesale market rate or (ii) a government-mandated rate. We may add a 1% fee to the U.S. dollar amount of any Transaction that is made in foreign currency or that is made outside the United States even if you pay in U.S. dollars (the "International Transaction Fee"). The International Transaction Fee will be shown in the Activity section on your billing statement.

The International Transaction Fee will be aggregated in the Other Fees category on the Summary section of your statement.

II. ELECTRONIC PRODUCTS SCHEDULE OF FEES AND CHARGES

Visa:	
Works	➤ Fee Waived

MasterCard:	
Works	➤ Fee waived

Custom Requests for development outside of the Works application normal implementation:	
Custom Development	➤ \$150.00 per hour
Custom Maintenance	➤ \$150.00 per hour

Works Receipts Imaging OPTIONAL

➤ Free

END OF SCHEDULES I AND II

C. AMENDED SCHEDULE OF REBATES (Cycle and Grace Days)

REBATE DEFINITIONS:

Capitalized terms, which are not defined in this Schedule, have the meanings ascribed in the applicable Card Agreement.

"Calculation Period" means each subsequent three month period after the Initial Calculation Period. The Initial Calculation Period will commence on July 01 – September 30 2012 as the first quarter.

"Credit Losses" means any balances which remain unpaid by Company, Participant or a Cardholder six (6) billing periods after the closing date on the Billing Statement in which the Transactions, fees and charges appeared for the reporting period.

"Cycle Days" means the number of days from the start of the billing period to the Billing Statement date.

"Grace Days" means the number of days after the Billing Statement closing date within which payment is due.

"Large Ticket Interchange Transactions" means certain transactions which, based upon the type of merchant and/or transaction dollar amount, are subject to a Visa or MasterCard large ticket interchange program, as determined by and amended by Visa and MasterCard from time to time.

"Rebate Multiplier" means the multiplier corresponding to the Standard Transaction Volume and Cycle and Grace Days as set forth in the Standard Transactions Rebate Multiplier Table, and the multiplier corresponding to the Large Ticket Interchange Transaction Volume and Cycle and Grace Days set forth in the Large Ticket Interchange Transactions Rebate Multiplier Table below.

"Standard Transactions" means the Transaction Volume not meeting the criteria for Large Ticket Interchange Transactions.

"Total Credit Losses" means, for any Calculation Period, the sum of (i) Bank of America's Credit Losses on the Card Accounts for the Calculation Period and (ii) Bank of America's Credit Losses on the Card Accounts for any previous Calculation Period which have not been applied against any rebate payable under the Agreement.

"Transaction Volume" means, for any Calculation Period, the total dollar amount of purchase Transactions made with the Cards during the Calculation Period, less the total dollar amount of: returned purchases, credit adjustments, Transactions resulting from Unauthorized Use, and disputed charges. Cash advances and Convenience Checks are not included in Transaction Volume.

REBATE CONDITIONS:

During the Calculation Period, the program must meet all of the following conditions in order to qualify for a rebate:

- i. Local Public Body pays Bank of America the total amount of the new balance shown as due on each Billing Statement on or before the Payment Due Date; and
- ii. Local Public Body has not breached any obligation, covenant, representation or warranty contained in this Agreement; and
- iii. Calculation Period Transaction Volume meets the minimum volume requirement as set out in the Standard Transactions Rebate Multiplier Table; and

REBATE CALCULATION AND PAYMENT:

In the event that all of the above Rebate Conditions are met with respect to the Calculation Period, Bank of America will pay a rebate to Local Public Body, which shall be calculated at the end of the Calculation Period. The rebate multiplier will be determined based on (1) The combined transaction volume from all participating political subdivisions, and (2) The transaction volume from the individual Local Public Body and (3) the cycle and grace period for the individual Local Public Body.

The rebate multiplier will be determined based on the quarterly transaction volume times four.

The rebate multiplier will be applied to the quarterly transaction volume.

((Quarterly Transaction Volume for Standard Transactions x applicable Rebate Multiplier as determined above) + (Quarterly Transaction Volume for Large Ticket Interchange Transactions x Ticket Interchange Transaction Rebate Multiplier) – Total Credit Losses

Within 90 days after the end of each agreement year, Bank of America will “true up” and pay the annualized rebate based on the following equation:

((Annual Transaction Volume for Standard Transactions x Standard Transaction Rebate Multiplier) + (Annual Transaction Volume for Large Ticket Interchange Transactions x Large Ticket Interchange Transaction Rebate Multiplier) – Rebate paid for Quarters 1, 2 and 3 of the Agreement year) – Fourth Calculation period Credit Losses

After the end of each agreement year, Bank of America will calculate the annualized rebate amount due Company based upon the formula above. Any adjustment between the rebate amount due for the agreement year and rebates previously paid for that period will be made to the last quarterly rebate payment for the agreement year. Bank of America will pay Company any amount due within 90 days following the end of each agreement year. Should Company owe Bank of America more than the rebate amount due for the last quarter of the agreement year, Company shall pay Bank of America any amount due within 90 days following the end of each agreement year.

((Transaction Volume for Standard Transactions x Rebate Multiplier) + (Transaction Volume for Large Ticket Interchange Transactions x Large Ticket Interchange Transaction Rebate Multiplier)) – Total Credit Losses

The Standard Transactions rebate multiplier will be determined based on the Calculation Period cumulative total of all Standard Transactions volume, including Standard Transactions volume from travel rewards participants, however, Standard Transactions volume that is applied to travel rewards points will not be included in the rebate payout calculation. *This paragraph is applicable for products with Travel Rewards only.*

Payment of any rebate will be made by ACH credit or other means determined by Bank of America, within ninety (90) days following the end of the Calculation Period.

Should one or more of the above Rebate Conditions not be met, Bank of America will be under no obligation to pay any rebate, although Bank of America may, in its sole discretion, determine to pay a rebate in an amount determined by Bank of America. Bank of America's payment of a rebate in such circumstance will in no way obligate Bank of America to pay a rebate with respect to any subsequent Calculation Period.

STANDARD TRANSACTIONS REBATE MULTIPLIER TABLE*

California Public Sector Group Volume 30/25 cycle grace period Annual Transaction Volume Tier Excludes Large Ticket Transactions (1)		Political Subdivision Volume (2) 3 rd item is below in next grid						
		500,000	1,000,000	2,000,000	3,000,000	7,000,000	13,000,000	20,000,000
		999,999	1,999,999	2,999,999	6,999,999	12,999,999	19,999,999	+
		Rebate Basis Points						
\$0	\$4,999,999	28	113	120	127	134	141	142
\$5,000,000	\$9,999,999	29	114	121	128	135	142	143
\$10,000,000	\$24,999,999	30	119	126	133	140	147	148
\$25,000,000	\$34,999,999	31	121	128	135	142	149	150
\$35,000,000	\$49,999,999	32	123	130	137	144	151	152
\$50,000,000	\$59,999,999	33	126	133	140	147	154	155
\$60,000,000	\$69,999,999	34	128	135	142	149	156	157
\$70,000,000	\$79,999,999	35	130	137	144	151	158	159
\$80,000,000	\$89,999,999	36	132	139	146	153	160	161
\$90,000,000	\$99,999,999	37	133	140	147	154	161	162
\$100,000,000	\$114,999,999	38	134	141	148	155	162	163
\$115,000,000	\$129,999,999	39	135	142	149	156	163	164
\$130,000,000	\$149,999,999	40	136	143	150	157	164	165
\$150,000,000	\$174,999,999	41	137	144	151	158	165	166
\$175,000,000	\$199,999,999	42	138	145	152	159	166	167
\$200,000,000	+	43	139	146	153	160	167	168

Each Local Public Body must have a minimum annual card Transaction Volume total of \$500,000.00 before that Local Public Body will be eligible to receive an individual rebate payment. The Calculation Period cumulative Transaction Volume from all Local Public Body members Transaction Volume will determine the rebate volume tier for each rebate-qualified consortium member.

CYCLE DAYS AND GRACE DAYS REBATE MULTIPLIER ADJUSTMENT

Increase Standard Transaction Rebate Multiplier based on Cycle and Grace Days (3)	Cycle Days	7	14	14	30	30	30	30	30
	Grace Days	3	3	7	3	7	14	20	25
	Rebate Basis Point Increase	23	21	18	15	13	8	4	0

LARGE TICKET INTERCHANGE TRANSACTION REBATE MULTIPLIER

Large Ticket Interchange Qualified Transactions Annual Volume	Cycle Days Grace Days	7	14	14	30	30	30	30	30
		3	3	7	3	7	14	20	25
		REBATE BASIS POINTS							
\$0	+	88	86	83	80	78	73	69	65

Note: The Rebate Multiplier is stated in basis points. One (1) basis point is equal to 0.01% or .0001 stated as a decimal. Ninety (90) basis points are therefore 0.90% or .0090.

* Rebates for Transaction Volume from individual liability cardholders will be five basis points (0.05%) less than the Standard Transactions Rebate Multiplier for the applicable volume tier during the Calculation Period.

Nothing in this Schedule of Fees and Charges is intended to state a term for the Agreement. For the avoidance of doubt, any period of time set forth in the Schedule of Fees and Charges applies solely to pricing terms, but only to the extent the Agreement has not been terminated as set forth in the Agreement.

Notwithstanding anything to the contrary in the Agreement or this Schedule of Fees and Charges, all fees and charges are subject to change upon 30 days prior written notice to you if an event external to Bank of America increases the cost or decreases the revenue to Bank of America (e.g., decreases to interchange revenue paid to Bank of America by a card association, increases to funding costs due to interest rate changes or deterioration in your financial condition) in connection with providing this card program to you.

Payment of any incentive will be made by ACH credit or other means determined by Bank of America, within ninety (90) days following the end of the applicable Calculation Period. No incentive will be paid to any Participant.

Nothing in the Schedule of Fees and Charges or Addendum is intended to state a term for the Agreement. For the avoidance of doubt, any period of time set forth in the Schedule of Fees and Charges applies solely to pricing terms, but only to the extent the Agreement has not been terminated as set forth in the Agreement.

Notwithstanding anything to the contrary in the Agreement or this Schedule of Fees and Charges, all fees and charges are subject to change upon 30 days prior written notice to you if an event external to Bank of America increases the cost or decreases the revenue to Bank of America (e.g., decreases to interchange revenue paid to Bank of America by a card association, increases to funding costs due to interest rate changes or deterioration in your financial condition) in connection with providing this card program to you.

**END OF SCHEDULE IV
END OF AMENDED SCHEDULE OF REBATES
ACKNOWLEDGEMENT**

By signature of an authorized representative(s), you agree to the terms and conditions of this Schedule of Fees and Charges presented herein. This form must be signed in ink by an authorized representative(s) and submitted with the original signature to your Bank of America representative.

COMPANY

FIA Card Services, N.A., a Bank of America company

[COMPANY NAME]

By: _____
(Signature)

By: _____
(Signature)

Name: _____
(Print or Type)

Name: _____
(Print or Type)

Title: _____
(Print or Type)

Title: _____
(Print or Type)

Date: _____

Date: _____

CARDHOLDER FEE SCHEDULE

Effective September 1, 2014

COMPANY FEES

Enrollment

Account owner electronic enrollment	No Fee
Web application monthly access fee	No Fee

Funding

ACH funding	No card program fee – Standard ACH per-item fee
Web exception funding (optional)	No Fee

CARDHOLDER / ACCOUNT OWNER – COMPLETE FEE SCHEDULE

Monthly fees

Monthly maintenance	No Fee
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ATM and purchase transaction fees

Bank of America ATM withdrawal domestic*	No Fee
Non-Bank of America ATM withdrawal domestic*	\$1.50 each
ATM withdrawal international	\$3.50 each
ATM balance inquiries**	Two waived each month, \$0.50 thereafter
ATM transaction decline	No Fee
Signature-based purchase at Visa merchants	No Fee
Pinned POS purchase	No Fee

Other service fees

Automated customer service inquiry	No Fee
Live customer service inquiry domestic	No Fee
PIN changes	No Fee
Emergency cash transfer for remaining account balance (under \$20.00)	One waived per year
Emergency cash transfer domestic	\$15.00
Cash access (limited to available balance only)	No Fee
Online Funds Transfer	No Fee
Card replacement domestic	One waived per year, \$5.00 thereafter
Card replacement – Express delivery (additional charge)	\$15.00
Card replacement international	\$15.00
International transaction fee	2% of U.S. dollar amount of transaction
Account closure fee (check issued)	\$5.00
Legal Process Fee	\$100.00 (or such amount as may be set by law)

Most cardholder / account-owner fees may be paid by the employer.

Note: All cardholder / account-owner fees are subject to review and change.

* ATM owners may choose to charge an additional convenience fee or surcharge (a sign should be posted at the ATM to indicate additional fees); however, ATMs displaying Bank of America signs will not charge any additional surcharge to CashPay cardholders.

**Balance inquiries may not be available at all ATMs outside the United States.

City of Concord CA RFP 2299

Bank of America Merchant Services Pricing Proposal

Assumptions:

- \$688,938 sales volume
- 2220 transaction volume

Price Schedule

Processing Fees	Fee Amount
MasterCard/Visa/Discover authorization fee	\$0.10
MasterCard/Visa/Discover interchange rate and fee	2.00% and \$0.00, Signature DB 1.89% and \$0.00, Surcharge 2.30%
Non-bankcard transaction fee (Includes all third-party cards authorized and/or settled—American Express, JCB, Diners etc.)	Amex Auth Fee \$0.10
Application fee	\$0.00
PIN Debit transaction fee	N/A
Debit Network interchange fee	N/A
Service Fees	Fee Amount
Monthly service fee	\$15.00
Monthly minimum fee	\$0.00
Chargeback fee	\$15.00
Batch settlement fee	\$0.15
Voice authorization and IVR authorization fee	\$0.00
Early termination fee	\$500.00
AVS transaction fee	\$0.00
ACH reject fee	\$0.00
ClientLine fee	\$0.00

Transaction pricing consists of Card Organizations' interchange and assessments plus the processing transaction fee(s) quoted above. All other third-party discount rates and fees are the responsibility of the City.

ATTACHMENT 1

Exceptions to Specifications/Requirements

B. Exhibit C –Exceptions to Specifications/Requirements

EXHIBIT C

Exceptions to Specifications/Requirements

PLEASE CHECK THIS BOX IF YOU HAVE NO EXCEPTIONS TO OUR REQUIREMENTS

List below requests for clarifications, exceptions and amendments, if any, to the RFP and its exhibits, and submit with your proposal response.

The City is under no obligation to accept any exceptions and such exceptions may be a basis for proposal disqualification.

City of Concord Added Column in Blue for Contract purposes:

***PO T&C (Purchase Order Terms & Conditions) is provided following this document.**

Item No.	Reference To BID:		Reference To:	Description
	Page No.	Paragraph No.	CONTRACT OR PO T&C*	
1	9 43	D. Subcontractors 8.	<u>Contract p. 4, 8. Performance by Consultant (regarding subconsultants)</u>	See <u>Attachment 1A-Bank of America's Treasury Services Terms & Conditions</u> And <u>Attachment 1B-Suspension and Termination Clause in B of A's Treasury Services T&C</u> as referenced. By entering into a treasury management services agreement with you, the bank is assuming responsibility for providing the covered services, regardless of any agents, employees or subcontractors (vendors) which the bank may employ in providing the services. In the performance of treasury management services it is the bank's general practice to retain employees, agents or subcontractors to service any or all of its clients in general rather than to service a particular client. Because the bank has many thousands of clients it is not practical for the bank to require one or more client's approval of general subcontractor (vendor) agreements. Bank of America cannot agree to limit ourselves to not subcontract out work, or require the consent of a client that in the future we may deem to be in the best interest of the bank.
2	13 47	K. Conflict of Interest 16.	<u>Contract p. 8, 16. Conflict of Interest</u>	Given the magnitude and size of Bank of America it is unfeasible to commit that during the life of this contract that the bank will not acquire or employ any interest, directly or indirectly, that might conflict with the City. However, it is our endeavor that no such relationship will impact the quality or level of services and/or products offered under this contract.
3	13 46	L. Term of Contract 13., 14.	<u>Contract p. 1, 1. Term of Contract & 14. Termination</u>	Bank of America suggests, in accordance with the Termination provision in our Treasury Management Terms and Conditions booklet, a 30-day termination notification period (60 in the case of Corporate Card Services) from either party. Based on the scope of services and time needed to fully terminate, the 30-day period is considered appropriate for both parties. Further, the bank must retain its right to immediately terminate service under the circumstances described in the booklet.
4	32 49	Tab AB 21	<u>Contract p. 10, 21. Integration</u>	Bank of America recommends continuing to utilize our Treasury Services Terms and Conditions Booklet (the "T&C") as the main contract document between you and us. The T&C covers, in specific detail, most of our treasury products and services that we offer and as such you are at a great advantage, from a product and service perspective, by entering into the T&C with us. We realize there may be certain required terms and conditions, including the RFP, you will have to have in any agreement you have with a service provider and we would be willing to work with you, in good faith, to incorporate and integrate these terms into the final agreement.
5	38 42	6. Warranty 7.	<u>PO T&C, 6. Warranty</u>	Bank of America requests that the products and services offered in our proposal response be governed by the warranties detailed in our " Treasury Services Terms and Conditions " booklet.

Item No.	Reference To BID:		Reference To:	Description
	Page No.	Paragraph No.	CONTRACT OR PO T&C*	
6	38	8. Infringement	<u>PO T&C</u> , 8. Infringement	Bank of America requests that Infringement Indemnity be governed by the Software License section of our "Treasury Services Terms and Conditions" booklet.
7	38 44	Indemnification 10.	<u>PO T&C</u> , 11. Indemnification & <u>Contract</u> , p. 5, #10	We are generally unable to give indemnities with respect to third-party claims growing out of treasury management services we provide to our clients. Such claims relate to the relationship, including contractual relationships, which the third parties have with our clients, not with us. We are unable to anticipate and control those relationships. However, we are pleased to offer mutual non-indemnification, whereby neither party indemnifies the other. Our liability remains actual, direct damages for failure to exercise reasonable care when providing services.
8	39	17. Default	<u>PO T&C</u> , 17. Default	Bank of America requests that the bank's liability be governed in accordance with the Limitation of Liabilities section of our "Treasury Services Terms and Conditions" booklet.
9	39 49	21. Assignment 22.	<u>PO T&C</u> , 21. Assignment	Bank of America does not anticipate assigning, transferring or conveying any rights, obligations or interest under this contract. However, should it become necessary, Bank of America reserves the right to make these business decisions in the best interest of our clients, and reserves the right to do so without a client's written consent. Further, the bank generally reserves the right to assign to a Bank of America affiliate without consent. While the bank would certainly discuss with the Client Name any potential assignment of the contract to an affiliate and would stipulate that any affiliate to which the contract is assigned would conform to the terms, conditions and requirements of the contract, the bank would propose the bank have the ability to assign the contract to another Bank of America affiliate. Further, as a federally chartered national banking association, any successor institution must by law assume our rights and responsibilities. This is not dependent upon a client's agreement.
10	43	9. Ownership	<u>Contract p. 4</u> , 9. Ownership	Only documentation prepared by the bank and provided to the City will become the City's property. Bank of America's manuals, user guides, software, etc. will remain the property of the bank.
5	17	a. Insurance requirements	<u>Contract p. 5</u> , 11. Insurance Requirements	<p>Insurance</p> <p>Bank of America will furnish certificates of insurance evidencing the coverage referenced herein the Appendix.</p> <p>Due to the size of Bank of America, we cannot provide individual additional insured endorsements or riders. The Certificate of Insurance will evidence the City of Concord, CA as additional insured as required by written contract.</p> <p>Bank of America cannot guarantee the requested insurance is maintained throughout the length of the contract, but intends to continue to purchase as long as it is commercially available and economically attractive. Although it is Bank of America's intent to renew all coverages as required in this contract, the Bank reserves the right to self insure any lines of coverage.</p> <p>Bank of America does not provide copies of its insurance policies to third parties as this information is proprietary and confidential.</p>
Tab Y	31	4	<u>Contract, Exhibit A</u> p. 24, Tab Y	Bank of America maintains a Financial Institution (Fidelity) Bond which protects Bank of America and its subsidiaries against financial loss arising from fraudulent and dishonest acts of employees, servicing contractors and certain others as well as loss from a variety of other crimes including theft and fraud with a primary limit of \$15,000,000.

Item No.	Reference To BID:		Reference To:	Description
	Page No.	Paragraph No.	CONTRACT OR PO T&C*	
1 1	44	F-2, 11 Insurance	<u>Contract p. 5, 11. Insurance</u>	<p>See <u>Attachment 1A-Bank of America's Treasury Services Terms & Conditions</u> And <u>Attachment 1B-Suspension and Termination Clause in B of A's Treasury Services T&C as referenced.</u></p> <p>A. Bank of America maintains Commercial General Liability coverage including Bodily Injury & Property Damage, Personal Injury, with limits of \$2,000,000 per occurrence/\$2,000,000 aggregate.</p> <p>B. Bank of America maintains Automobile Liability insurance with a limit of \$2,000,000 per accident.</p> <p>C. Bank of America maintains Professional Liability (Errors & Omissions) insurance on a claims-made basis providing coverage for loss or damage due to an act, error, omission, or negligence of Bank of America employees. Bank of America can comply with the limits request for Professional Liability.</p> <p>D. Bank of America maintains Workers' Compensation coverage in compliance with all statutory requirements. Bank of America maintains Employer's Liability Coverage with limits of \$1,000,000 per occurrence/\$1,000,000 each accident or disease/\$1,000,000 aggregate.</p> <p>E. Other Insurance Provisions</p> <ol style="list-style-type: none"> 1. Due to the size of Bank of America, we cannot provide individual additional insured endorsements or riders. The Certificate of Insurance will evidence the City of Concord, CA and its officers as additional insured as required by written contract. 2. Bank of America's insurance policies are primary and non contributory to the City of Concord, CA. insurance policies only as it relates to the bank's own negligence arising out of the bank's performance of services and rights and obligations under this agreement. <p>Due to the volume of Bank of America's business and the structure of its corporate policies, Bank of America will endeavor to provide written notice upon termination or modification of coverage. Failure to provide notice of cancellation of coverage shall impose no obligation or liability of any kind upon Bank of America, its agents or representatives.</p> <ol style="list-style-type: none"> 3. Bank of America acknowledges this statement 4. COI's and Endorsements -- refer to the response in pg. 17 5a. All of Bank of America's insurers have an A.M. Best rating of A- Class VII or better.
K 1 6	13 47	Conflict of Interest	<u>Contract p. 8, 16. Conflict of Interest</u>	<p>Workforce Compliance</p> <p>Bank of America is committed to the highest standards of ethical and professional conduct. The Bank's Code of Ethics provides guidelines of business practice, and professional and personal conduct that all associates must adopt and uphold. In part, the Code of Ethics requires Bank associates to avoid conflicts or the appearance of conflicts, between personal interests and the interests of the Bank, its shareholders, and our customers, to avoid misuse of material, nonpublic information relating to securities or other financial instruments, and to promptly report any knowledge or information about Bank of America associates or agents they suspect of committing crimes. In addition, any contracts or commitments must be based on objective business standards to avoid any real or perceived favoritism or conflicts of interest.</p>
O 2 4	17 39	Equal Opportunity	<u>PO T&C, 24. Equal Opportunity</u>	<p>Bank of America takes its obligations under Federal and State laws seriously and complies with applicable federal and state regulations concerning fair employment practices and working conditions. As a federal contractor, Bank of America has an Affirmative Action Program that is developed and maintained in accordance with Executive Order 11246, Title 41, CFR 60.2 and complies with the Equal Employment Opportunity Clause set forth in 41 CFR Sec. 60-1.4.</p>

Item No.	Reference To BID:		Reference To:	Description
	Page No.	Paragraph No.	CONTRACT OR PO T&C*	
1 5	39	Prevailing Wage	<u>PO T&C</u> , 15. Labor Compliance Requirements N/A – Not applicable	Attached, in the Appendix, is a copy of Bank of America’s Equal Employment Opportunity/Affirmative Action Policy. Our policies are written for all of our associates located throughout the U.S. and based on the federal regulations. Bank of America is committed to maintaining a workplace free of unlawful harassment and discrimination based on race, color, religion, sex (including pregnancy), sexual orientation, national origin, ancestry, age, gender identity, disability, veteran status or any other factors prohibited by law (“prohibited behavior”). The company considers such behavior unacceptable and contrary to our core values in that it undermines our goal of providing an inclusive environment. The company does not tolerate any violation of this policy. Note that this provision is applicable to subcontracts, if any. To the best of the Bank’s knowledge, the Davis-Bacon Act is not applicable as this is not a construction project. The Bank pays all associates competitively based on market rates at relevant locations and in all instances pays in accordance with the federal Fair Labor Standards Act and applicable state laws.
A- B	47	Equal Opportunity/ Non-Discrimination	<u>PO T&C</u> , 24. Equal Opportunity	Attached is a copy of Bank of America’s Equal Employment Opportunity/Affirmative Action Policy. Our policies are written for all of our associates located throughout the U.S. and based on the federal regulations. Bank of America is committed to maintaining a workplace free of unlawful harassment and discrimination based on race, color, religion, sex (including pregnancy), sexual orientation, national origin, ancestry, age, gender identity, disability, veteran status or any other factors prohibited by law (“prohibited behavior”). The company considers such behavior unacceptable and contrary to our core values in that it undermines our goal of providing an inclusive environment. The company does not tolerate any violation of this policy.
1 5 C	47	Solicitations for Subcontractors	<u>Contract p. 8</u> , 15. Solicitations for Subcontractors	Note this provision may be inapplicable if the bank doesn’t intend to use any subcontractors to fulfill this contract. If the bank does intend to use subcontractors for this agreement, the bank is in compliance with the provision. Because the bank is a federal contractor, the bank already notifies subcontractors of its affirmative action obligations to comply with federal requirements.
D	9	D. Subcontractors	<u>Contract p. 4</u> , 8. Performance by Consultant (regarding subconsultants)	Bank of America Merchant Services As the City’s incumbent merchant services provider, we look forward to continuing our relationship with you. Based on the requirement to register with the City, our exceptions to the registration terms and conditions are included below. We hope that the City will consider discussing our exceptions prior to Bank of America Merchant Services completing the registration process. We have also included our recommended changes to the insurance requirements as Attachment C. We may subcontract with others to provide Services pursuant to the Agreement; however, we will remain liable to you for the performance of any such subcontracted or third parties.
4	14	L. Term of Contract, 4.	<u>Contract p. 1</u> , 1. Term of Contract	We are providing pricing information for you in documents attached hereto, and the basic processing fee will be a fixed rate for the term of the Agreement. However, we reserve the right to adjust our discount fees and transaction fees if your annual volume or average transaction size set forth on the Fee Schedule are not as expected or if you significantly alter your method of doing business.

Item No.	Reference To BID:		Reference To:	Description
	Page No.	Paragraph No.	<u>CONTRACT OR PO T&C*</u>	
5	38	F-1, 5. Warranty and Quality Inspection	<u>PO T&C</u> , 6. Warranty and Quality Inspection	Our warranties are set forth in the Agreement, including our warranty to perform our obligations under the Agreement in accordance with applicable law. In addition, we warrant that we are validly existing, in good standing and free to enter into the Agreement. If you purchase or lease equipment through us, we will provide to you any applicable warranties offered by the original manufacturer.
10	38	F-1, 10. Compensation	<u>PO T&C</u> , 10. Compensation	Pursuant to the Agreement, we cannot agree to be liable for incidental or consequential damages.
11	38	F-1, 11. Indemnification	<u>PO T&C</u> , 11. Indemnification	We require the mutual indemnity provisions set forth in the Agreement.
17	39	F-1, 17. Default	<u>PO T&C</u> , 17. Default	If awarded the RFP, we can discuss appropriate default provisions. Pursuant to the Agreement, we cannot agree to be liable for incidental or consequential damages.
21	39	F-1, 21. Assignment	<u>PO T&C</u> , 21. Assignment	Generally, we may assign any or all of our rights or delegate our obligations under the Agreement to an affiliate or an entity acquiring all or substantially all of our assets as further described in the Agreement or as otherwise permitted by the Card Organization Rules.
3	40	F-2, 3. Payment	<u>Contract p. 2</u> , 3. Payment	We may debit the Settlement Account for, or withhold from funds we owe you under this Agreement regarding all amounts you owe us under this Agreement. The Agreement will provide for the timing of payment all amounts due.
8	43	F-2, 8. Performance by Consultant	<u>Contract p. 4</u> , 8. Performance by Consultant	We may subcontract with others to provide Services pursuant to the Agreement; however, we will remain liable to you for the performance of any such subcontracted or third parties.
10	44	F-2, 10. Indemnification	<u>Contract p. 5</u> , 10. Indemnification	We require the mutual indemnity provisions set forth in the Agreement.
14	46	F-2, 14. Termination	<u>Contract p. 7</u> , 14. Termination	Based upon the Card Organizations' Rules and our policies, we must have the termination rights as set out in our Agreement. By entering into a term Agreement we are providing better overall pricing; therefore, any premature termination by you would result in an early termination fee as further described in the Agreement. Upon expiration of initial term of the Agreement, you will have the opportunity to terminate the Agreement upon proper notice as described in the Agreement. If awarded this RFP, we will negotiate appropriate termination for cause provisions.
Exhibit F-2		23. Financial Records	<u>Contract p. 10</u> , 23. Financial Records	We provide you with information and tools necessary to review and reconcile transactions processed by us on your behalf. Generally, due to confidentiality and operational reasons, we do not permit our customers to audit our records.

Susan V. Siefkas <hr style="width: 80%; margin: 0 auto;"/> Proposer Name	 <hr style="width: 80%; margin: 0 auto;"/> Proposer Signature	December 1, 2014 <hr style="width: 80%; margin: 0 auto;"/> Date
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City of Concord – Terms and Conditions (T&C)

(This T&C page and any referenced document can be found on the Purchasing website at http://www.cityofconcord.org/pdf/business/purchasing/po_terms.pdf or upon request.)

(This document and all referenced documents are incorporated by reference as though fully restated herein.)

1. **Invoice each Purchase Order separately.** Items on this Purchase Order must not be billed with those on other Purchase Orders.
 2. **All Shipments are F.O.B. Delivered** unless otherwise specified. When freight is authorized to be prepaid and added to invoice, a copy of the receipted freight bill must accompany invoice. (FOB destination shall mean that the Vendor pays all shipping costs, and title shall transfer to the City only upon receipt and acceptance by an authorized representative of the City of Concord.)
 3. **Substitutions, Changes, and Prices** other than specified must be authorized in writing by the Purchasing Agent.
 4. **Acceptance of this Purchase Order** implies the acceptance of all items and conditions contained herein, and all specifications, drawings, and additional items and conditions referred to herein and/or attached hereto. **Read them carefully.** No substitutions or changes will be effective without written approval of City.
 5. **Contract.** The contract may be in a form of a purchase order, a separate agreement, or both. Final contract terms and conditions may be negotiated with the selected Contractor, and will include but are not limited to all of the terms and conditions herein and any referenced attachments. Such contract, when accepted by the Contractor either in writing or shipment of all or any portion of the material or the commencement of performance of any portion of the work covered hereunder, will constitute the entire contract between Contractor and City concerning its subject matter; and neither any contrary or additional conditions specified by Contractor nor any subsequent amendment or supplement shall have any effect without City's written approval.
 6. **Warranty and Quality Inspection.** Contractor warrants that all articles, materials and work furnished shall be good quality and free from defects, shall conform to drawings and/or specifications and shall be merchantable quality and fit for the purpose for which purchased, and shall be at all times subject to City's inspection; but neither City's inspection nor failure to inspect shall relieve Contractor of any obligation hereunder. If, in City's opinion, any article material, work fails to conform to specifications or is otherwise defective, Contractor shall promptly replace same at Contractor's expense. No acceptance or payment by City shall constitute a waiver of the forgoing, and nothing herein shall exclude or limit any warranties implied by law.
 7. **Title.** Contractor warrants that any article, material or work is free and clear of all liens and encumbrances whatsoever, and that Contractor has a good and marketable title to same, and Contractor agrees to hold City free and harmless of any patent, copyright or trademark resulting from or arising in connection with the manufacture, sale, or other normal disposition of any article or material furnished hereunder.
 8. **Infringement.** Contractor shall indemnify and defend City against all claims, suits, liability and expense on account of alleged infringement of any patent, copyright or trademark resulting from or arising in connection with the manufacture, sale normal use or other normal disposition of any article or material furnished hereunder.
 9. **Invoice Discount.** Contractor shall state its payment and discount terms on invoices. Discount period shall begin from date City received invoices or merchandise whichever arrives last. Delay caused by correction of errors and omissions shall extend the discount period and shall be just cause for withholding settlement without loss of cash discount by City.
 10. **Compensation.** Contractor agrees to receive and accept the prices shown as full compensation for furnishing all materials and for all work contemplated and embraced in this order; also for all loss or damage arising out of the nature of the work aforesaid, or from the action of all elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of work until its acceptance by City, and for all risks of every description connected with the work; also for all expenses incurred by or in consequence of the suspension or discontinuance of work and for well and faithful completing the work, and the whole thereof, in the manner according to the requirements of the City's inspection.
 11. **Indemnification.** Contractor agrees to defend, indemnify and hold harmless the City, its officers, officials, employees, agents and volunteers from and against any and all claims, demands, actions, losses, damages, injuries, and liability (including all attorney's fees and other litigation expenses) arising out of the Contractor's performance under the terms of this Agreement. This indemnification obligation on Contractor's part shall not apply to demands, actions, losses, damages, injuries, and liability arising out of sole negligence or willful misconduct on the part of City.
 12. **Laws to be Observed.** All activities regarding this order shall be governed by the laws of the State of California. Any action to enforce this agreement shall be brought within the Superior Court of California, Contra Costa County. Contractor shall keep fully informed of and shall comply with all existing and future State and National laws and all municipal ordinances and regulations of the City of Concord which in any manner affect those engaged, or employed in the work, or which in any way affect the conduct of the work and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same.
 13. **Contractor Licensing Laws.** Attention is directed to the provisions of the California Business and Professions Code concerning the licensing of Contractors. All bidders and Contractors shall be licensed in accordance with the laws of the State of California and any bidder or Contractor not so licensed is subject to the penalties imposed by such laws.
 14. **Permits or Licenses.** Contractor shall procure all permits and licenses, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work.
 15. **Labor Compliance Requirements (Prevailing Wage, SB854 Etc).** Contractor/Vendor must comply with all labor compliance requirements including but not limited to prevailing wage requirements, SB 854, Labor Code sections 1771.1(a) & 1725.5, Public Works Contractor Registration Program, Electronic Certified Payroll Records to Labor Commissioner, and other requirements described on the direct links provided in the document **'Labor Compliance Requirements (Prevailing Wages, SB 854 Etc.'**, posted on the City Purchasing's website.
 16. **Excuses for Non-Performance.** Either party shall be absolved from its obligations under this contract when and to the extent that performance is delayed or prevented (and in the City of Concord's case when and to the extent that its need for the articles, materials or work to be supplied hereunder is reduced or eliminated) by reason of acts of God, fire explosion, war riots, strikes, labor disputes, or governmental laws, orders or regulations.
 17. **Default.** If Contractor or Subcontractor shall breach any provision hereof or shall become insolvent, enter voluntary or involuntary bankruptcy or receivership proceedings or make an assignment to the benefit of creditors, City of Concord shall have the right (without limiting any other rights or remedies which it may have hereunder or by operation of law) to terminate this contract by written notice to Contractor whereupon City of Concord shall be relieved or all further obligation hereunder except the obligation to pay the reasonable value of Contractor's prior performance (at not exceeding the contract rate), and Contractor shall be liable to City of Concord for all costs incurred by City of Concord in completing or procuring the completion of performance in excess of the contract price herein specified. The City of Concord's right to require strict performance of any obligation hereunder shall not be affected by any previous waiver, forbearance or course of dealing. Time is of the essence hereof.
 18. **Taxes.** Unless otherwise provided herein or required by law, Contractor assumes exclusive liability for, and shall pay before delinquency, all sales, use, excise and other taxes, charges or contributions of any kind now or hereafter imposed on or with respect to, or measured by the articles sold or material or work furnished hereunder on the wages, salaries or other remunerations paid to persons employed in connection with the performance of this contract, and Contractor shall indemnify and hold harmless the City of Concord from any liability and expense by reason of Contractor's failure to pay such taxes or contributions.
 19. **Independent Contractor.** Both parties understand and acknowledge that Contractor, its agents, employers and subcontractors are and shall at all times remain as to the City wholly independent contractors. Neither the City nor any of its officers or employees shall have any control over the manner by which the Contractor performs this Agreement and shall only dictate the results of the performance. Contractor shall not represent that Contractor or its agents, employees or subcontractors are agents or employees of the City, and Contractor shall have no authority, express or implied, to act on behalf of the City in any capacity whatsoever as an agent, and shall have no authority, express or implied, to bind the City to any obligation whatsoever, unless otherwise provided in this Agreement.

As an independent contractor, Contractor shall not be eligible for any benefits, which the City may provide to its employees and all persons, if any, hired by Contractor shall be employees or subcontractors of Contractor and shall not be construed as employees or agents of the City in any respect. Contractor shall receive no premium or enhanced pay for work normally understood as overtime, i.e., hours that exceed forty (40) hours per work week, or work performed during non-standard business hours, such as in the evenings or on weekends. Contractor shall not receive a premium or enhanced pay for work performed on a recognized holiday. Contractor shall not receive paid time off for days not worked, whether it be in the form of sick leave, administrative leave, or for any other form of absence. Contractor shall pay all taxes, assessments and premiums under the federal Social Security Act, any applicable unemployment insurance contributions, Workers Compensation insurance premiums, sales taxes, use taxes, personal property taxes, or other taxes or assessments now or hereafter in effect and payable by reason of or in connection with the services to be performed by Contractor.
20. **Safety.** All equipment and materials shall comply with all Federal, State, and local safety rules and regulations including OSHA.
 21. **Assignment.** City is entering into this agreement in consideration of the rendition of the services required herein by Contractor. Contractor shall not assign any of the duties, responsibilities, or obligations of this agreement to any other firm, company, entity, or individual, except with the express written consent of City. Nothing set in this paragraph shall preclude Contractor from assigning any of the money due and owing to it from City.
 22. **Insurance.** Contractor shall, at its own expense, procure and maintain in full force at all times the City's Insurance Requirements during the term of the PO and/or any applicable contract/agreement. (Please refer to the **'Insurance Requirements'** document posted on the City's Purchasing website.)
 23. **Reservation of Rights.** The City reserves the right to reject any or all quotes/bids, to waive any informalities, or to terminate the solicitation process at any time, if deemed by the City to be in the best interest of the City.
 24. **Equal Opportunity.** Please refer to the **'Equal Opportunity Clause of Executive Order 11246'** document posted on the City's Purchasing website at <http://www.cityofconcord.org/pdf/business/purchasing/ee.pdf>.
 25. **Debarment/Suspension Policy.** Contractors/vendors and subcontractors must not be debarred, suspended or otherwise excluded by the United States Government in compliance with the requirements of 7 Code of Federal Regulations (CFR) 3016.35, 28 CFR 66.35, 29 CFR 97.35, 34 CFR 80.35, 45 CFR 92.35, Executive Order 12549, and Public Contract Code (PCC) Section 6109. (The City will verify bidder, its principal and their named subcontractors are not on the Federal debarred, suspended or otherwise excluded list of vendors located at www.sam.gov.) Contract and/or Purchase Order will be terminated upon verification that vendor is on the excluded list of vendors. Please also refer to the **'Debarment and Suspension Certification'** document, posted on the City's Purchasing website.

ATTACHMENT 1A

Bank of America Treasury Services Terms and Conditions



Introduction

Thank you for choosing the Bank of America Corporation group of financial institutions for your worldwide treasury management business needs. We appreciate the opportunity to serve you. If you have any questions about our extensive array of treasury services (including the locations where each service is available) or about this Booklet, please contact your treasury services representative.

Capitalized terms used in this Booklet are defined in the Glossary. The terms “we,” “us” and “our” refer to each of the Bank of America Corporation subsidiary banks which provide you a particular Service under the terms of this Booklet. The terms “you” and “your” refer to each Client identified on the Authorization and Agreement for Treasury Services.

This Booklet contains the terms and conditions under which we provide you worldwide treasury services. It is used in conjunction with the Account Agreement which covers account terms and conditions. Please read this Booklet carefully and keep it for your records.

By signing and returning the Authorization and Agreement form in the front of this Booklet, you agree to the General Provisions section of this Booklet (which contains terms and conditions applicable to all Services), except that you agree to the Software License section of the General Provisions only to the extent we provide you Software in connection with one or more Services. You also agree to those portions of the Treasury Services and Electronic Trade Services sections of this Booklet which contain the specific terms and conditions that relate to the Services we provide to you. If you would like an additional Service, it will be covered by the terms and conditions of this Booklet once we have approved your use of the Service. You may begin using the Service when we have received all required and properly executed forms and you have successfully completed any testing or training requirements. To assist in our establishment or maintenance of overdraft limits or other processing arrangements, or to assist in our compliance with applicable laws, rules and regulations, you shall provide us with such financial and/or other information as we reasonably request.

Whenever you use any of the Services covered by this Booklet, you agree to be bound by these terms and conditions, as amended from time to time, and to follow the procedures in the applicable Materials.

THE ENTIRETY OF THE GENERAL PROVISIONS SECTION OF THIS BOOKLET TOGETHER WITH THE APPLICABLE SERVICE SECTIONS HEREIN FORMS THE AGREEMENT BETWEEN YOU AND US WITH RESPECT TO THE SERVICES DEFINED THROUGHOUT THIS BOOKLET.

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TREASURY SERVICES

We offer a wide variety of treasury services. Each Service has many features and options. Your treasury services representative will be happy to describe these to you and to recommend those that will best meet your needs.

A List of Banks and Services is enclosed with this Booklet. This list includes the names of each Bank of America Corporation subsidiary bank offering Services under this Booklet and the names under which we currently offer those Services. Please contact your treasury services representative at any time if you wish to receive an updated list.

ACCOUNT RECONCILEMENT

Our Account Reconciliation Services will help you reconcile and manage the credit and debit activity in your accounts. Detailed information regarding the features offered for such Services is available in the applicable User Documentation.

Your use of an Account Reconciliation Service does not affect any of your obligations, which are described in the applicable Account Agreement, to discover and report with respect to your accounts (including joint accounts where permitted): (i) unauthorized signatures, alterations or endorsements on checks and (ii) unauthorized Requests and other discrepancies. Your use of this Service or our receipt of information associated with this Service does not increase our duty with respect to accounts or the payment of checks.

AUTOMATED CLEARING HOUSE (ACH)

This section applies only to ACH Services processed within the United States of America and its territories. This section together with the entirety of the General Provisions section of this Booklet, including without limitation the terms related to Security Procedures, forms the agreement between you and us with respect to the Services defined herein.

Our ACH Services allow you to transfer funds to or from your accounts by initiating Entries which may be sent through the ACH system or processed directly to accounts with us.

We may send Entries to any ACH processor selected by us or directly to another bank or processor. Each ACH Service is described in the applicable User Documentation. You authorize us to issue paper instruments or items, such as drafts, or remotely created checks, (collectively, "RCCs"), as instructed by you or as reasonably determined by us to be appropriate. The capitalized ACH terms appearing in italics below are defined in the NACHA Rules.

COMPLIANCE WITH NACHA RULES; LAWS; AND ADDITIONAL REQUIREMENTS

You agree to comply with the NACHA Rules for all Entries, whether or not an Entry is sent through a processor or the ACH network. You act as *Originator* and we act as *Originating Depository Financial Institution (ODFI)* with respect to Entries. You will utilize the ACH service to us as provided in the User Documentation and the NACHA Rules, including, but not limited to, the delivery of Entries. The NACHA Rules govern if they conflict with this Booklet, except that the file specification requirements in the User Documentation govern if they conflict with the NACHA Rules. For Entries that may be processed directly to accounts with us or other processor, debits and returns may be reported on next day information reporting. The User Documentation will govern if such timing conflicts with the NACHA Rules.

You agree to comply with applicable laws and regulations. You may not use this Service for any illegal transaction or activity, including under the regulations and laws of the receiver of your transaction. Your compliance includes adherence to applicable laws and regulations, including United States economic sanctions laws and regulations, regulations issued by the Office of Foreign Assets Control of the U.S. Department of the Treasury and Executive Orders issued by the President of the United States.

You agree to cooperate with us fully to facilitate our adherence to guidance provided by any regulatory body, including, but not limited to, the Office of the Comptroller of the Currency ("OCC"), including guidance concerning risk management of ACH or any other Service. For this purpose, you agree that we may mandate specific internal controls at your locations, audit your operations and/or request additional information. We may restrict either your initiation or re-initiation, or apply certain risk management rules at our discretion. We may monitor, assess and enforce limitations on initiation and return activity.

If you originate on behalf of any other party, you also represent and warrant that you will monitor, assess and enforce limitations in accordance with the NACHA Rules.

If you originate on behalf of any other entity, we may require information regarding such entity to verify your customer and the nature of their business. If you are acting as a third party payment processor or a third party sender as defined by NACHA Rules, we may request that you furnish us with additional information. Such information may include, without limitation, data: (i) regarding your financial condition; (ii) verifying your customers and the nature of their businesses; and (iii) sufficient for us to determine whether you are working with additional *ODFIs*. You agree to comply with all audit requirements under the NACHA rules, and agree to provide proof of compliance upon our request.

Where a preauthorized debit Entry from a consumer's account varies in amount from the previous debit Entry, you will comply with the notice requirements set forth in the NACHA Rules, the Electronic Funds Transfer Act and Regulation E of the Board of Governors of the Federal Reserve System, as applicable.

If you make International ACH Transactions ("IAT") using the Service such transactions are subject to the terms of this section for the portions of the transaction that occur and are processed within the United States of America and its territories.

AUTHORIZED PERSONS

Before using an ACH Service, you give us a written list, in a form acceptable to us, of the persons authorized by you to verify the authenticity of Entries and Reversal/Deletion Requests in accordance with the Security Procedure and to perform certain other duties in connection with such Service.

WARRANTIES

Each time you use an ACH Service, (i) you warrant that you have obtained appropriate authorization from each *Receiver* and that Entries conform to such authorization and comply with the NACHA Rules, and (ii) you make the same warranties to us as we make under the applicable section(s) of the NACHA Rules.

PAYMENT WITH RESPECT TO ENTRIES

We generally debit your account on the settlement date for credit Entries (including debit Reversals), unless you are prefunding your Entries. Prefunding means that you are required to pay for all credit Entries before the settlement date as we may specify, using a Standalone Account. If your account is not a Standalone Account, we may at any time convert it to a Standalone Account for prefunding. We may, at our discretion, without prior notice to you, require prefunding before we process your credit Entries. We are not obligated to process any credit Entries, even if we have done so in the past, without having first been paid by you, but, if we do, the amount is immediately due and payable without notice or demand.

We generally credit your account on the settlement date for debit Entries (including credit Reversals), unless such Entries are subject to ACH Managed Processing which will delay settlement for the Entries as further described in the User Documentation for the ACH Service being used.

You will pay us for the amount of any returned debit Entries (including rejected debit Entries), any adjustment Entries or any returned RCCs, which we have previously credited to your account. Such amounts shall be immediately due and payable. You agree that we do not need to send a separate notice of debit Entries or RCCs which have been returned unpaid. You may request reports containing information regarding returned debit Entries and RCCs.

ACTING ON ENTRIES

We send Entries to the ACH processor or other bank or processor for settlement on the Effective Entry Date shown on the Entries or a delayed settlement date if such Entries are subject to ACH Managed Processing, if we receive the Entries by the applicable processing deadlines specified in the User Documentation for the ACH Service being used. We may treat Entries that we receive for processing after a deadline as if received on the next Business Day. Entries will be deemed received by us when we receive the complete file at the location specified in the User Documentation.

REJECTION OF ENTRIES

We may reject any Entry that does not comply with the requirements of the Booklet or the applicable User Documentation, including any ACH processing and/or exposure limits described in the User Documentation, or that we are unable to verify through use of the Security Procedure. We may also reject any Entry that may be returned for any reason under the NACHA Rules or if you have breached your payment obligations for any ACH Service we provide to you or may require your Entries to be subject to ACH Managed Processing. We will give notices of rejection and/or

Entries becoming subject to ACH Managed Processing. We may also, without prior notice to you, no longer accept or process your debit Entries or may require your Entries to be subject to ACH Managed Processing.

Notice of rejection and/or Entries becoming subject to ACH Managed Processing will be given to you by telephone, by electronic means, by facsimile or by mail within the time period specified in the User Documentation and will be effective when given. We are not liable for the rejection or ACH Managed Processing requirement of any Entry and are not obligated to pay you interest for the period before you receive the notice of rejection or ACH Managed Processing requirement. If an Entry is rejected for any reason, it is your responsibility to correct the Entry you intend to resubmit.

REVERSAL OR DELETION

We have no obligation to cancel or amend any Entry after we have received it. If you send us a Reversal/Deletion Request and we are able to verify the authenticity of the Reversal/Deletion Request using the Security Procedure, we will make a reasonable effort to act on your Reversal/Deletion Request. We will not be liable to you if such Reversal/Deletion Request is not effected (for example, but not limited to, if it is returned for non-sufficient funds). You agree to indemnify us in connection with any such Reversal/Deletion Request as provided in UCC 4A. Your obligations under this provision will survive the termination of any ACH Service.

PROVISIONAL PAYMENTS

You agree to be bound by the provision of the NACHA Rules and UPIC Rules providing that payment of a credit Entry by the *Receiving Depository Financial Institution (RDFI)* to the *Receiver* is provisional until the *RDFI* receives final settlement for the Entry. If final settlement is not received, the *RDFI* is entitled to a refund from the *Receiver* of the amount credited. This means that the *Receiver* will not have been paid.

Our payment of any debit Entry, returned credit Entry or credit Reversal is provisional until we receive final settlement for the Entry or Reversal. If final settlement is not received, we are entitled to a refund and we may charge your account for the amount previously credited. We may delay the availability of any amount credited (i) for a debit Entry subject to ACH Managed Processing, or (ii) for a debit Entry or credit Reversal if we believe that there may not be sufficient funds in your account to cover any chargeback or return of the Entry or Reversal. Our rights under this subsection shall survive termination of the Service and/or the Booklet.

INCONSISTENCY OF NAME AND NUMBER

An *RDFI* can make payment to a *Receiver* based solely on the account number, even if the name in the Entry differs from the name on the account. We will send an Entry to an *RDFI* based solely on the bank identifying number you provide, even if you provide us with a different *RDFI* name.

SUPPLEMENTAL TERMINATION

This subsection supplements the Suspension and Termination section. If you originate on behalf of any other entity, and we determine, in our sole discretion, that we no longer wish to process transactions for such entity, Services may be suspended, modified or amended.

AUTOMATED CLEARING HOUSE (ACH) AUTHORIZATION TO RECEIVE

This section applies only to ACH Authorization to Receive Services for Entries received in the United States of America.

With the ACH Authorization to Receive Services, you provide us with the authorization criteria for Entries you desire to receive for debit or credit to your account. We will automatically return any Entry which does not meet your authorization criteria.

We may also return an Entry that would be returned for any reason under the NACHA Rules. The ACH Authorization to Receive Services do not apply to transactions between you and us, and we may pay Entries which you have authorized us to originate against your account (e.g., loan or credit card payments), whether or not you have included these in your authorization criteria. We may also pay any Entries, Reversals or adjustments which we are required to accept under the NACHA Rules EPN Rules, operating circulars or any other applicable rule, guideline or regulation.

You are responsible for providing authorization criteria in a manner and form acceptable to us. In your authorization criteria you may specify a maximum amount for authorized Entries, in which case you must specify the amount in dollars and cents.

You agree to comply with the NACHA Rules for all Entries. Under the NACHA Rules, credit Entries are provisional and may be revoked prior to final settlement. If the credit Entry is revoked before final settlement and final settlement is not received, we may charge your account for any amount previously credited to your account. In this instance, the person who originated the credit Entry is considered not to have paid you and we do not send a separate notice regarding such failed payment.

If an ACH Authorization to Receive Service is terminated for any reason, we will no longer be obligated to monitor Entries against your authorization criteria and will receive and accept or return Entries to your account in accordance with our normal procedures. You still have the right to return Entries in accordance with the NACHA Rules.

If you also subscribe to our ACH Positive Pay Services as described in this Booklet, you will still need to make your pay or return decisions under your ACH Positive Pay Services. Such decisions will supersede the terms contained in your ACH Authorization to Receive Services.

SUPPLEMENTAL TERMINATION

This subsection supplements the Suspension and Termination section, if we have assisted you in obtaining a UPIC. We may terminate this Service immediately and send you notice of the termination if we, in our sole discretion, no longer wish to provide this Service.

ACH POSITIVE PAY

Our ACH Positive Pay Services allow you to identify exception items, and to instruct us whether to pay or return those items. An exception item is an ACH Entry not previously authorized by you.

On each Business Day, we notify you of ACH debit and credit Entries presented to us for settlement on that Business Day and which we have identified as exceptions based on authorization information you have provided to us (as more fully described in the applicable User Documentation). Exceptions are determined by comparing ACH Entries presented to us (including by other depository institutions, ACH operators or by us) with the authorization instructions you have provided. Alternatively, you may choose not to authorize any ACH Entries, in which case we will treat all such ACH Entries as exception items.

On the same day we report exception items to you, you must notify us, by the deadline specified in the applicable User Documentation, which ACH Entries you want us to pay/accept or which to return. If you fail to notify us by the deadline, we will handle the exception items in accordance with the prescribed default procedure as outlined in the User Documentation. Where required, you will indicate which ACH Entries you want us to return, having been deemed by you to be unauthorized. Our deadlines, return procedures and procedures for authorizing ACH Entries are described in the applicable User Documentation. In order to assist you in making your decision whether we should pay or return exception items, you may wish to contact your trading partner or ACH customer support for further information. This will not however extend your deadlines to pay or return.

Before using the ACH Positive Pay Services, you must entitle, in a form or manner acceptable to us, the persons authorized by you to perform certain duties in connection with such ACH Positive Pay Services.

You must access the daily reports of exception items via one of our Websites. Using such Website, you must then notify us which exception items to pay/accept or which to return. If you fail to notify us by the deadline, we will handle the exception items in accordance with the prescribed default procedure as outlined in the User Documentation.

Where available, we provide you a report of exception items. You must then notify us which items to pay/accept or which to return. If you fail to notify us by the deadline, we will handle the exception items in accordance with the prescribed default procedure as outlined in the User Documentation.

Where available you may request to receive certain types of notifications of your exception items. These notifications are further described in the applicable User Documentation.

By using the ACH Positive Pay Services, you authorize us to return ACH Entries or to pay/accept ACH Entries in accordance with your authorization instructions and the return procedure in the applicable User Documentation. We will have no liability for payment of an ACH Entry which is unauthorized if (i) the ACH Entry is included in a report of exception items; and (ii) you do not give us timely instructions to return the ACH Entry.

You acknowledge that our ACH Positive Pay Services do not preclude our standard ACH processing procedures, which may cause an ACH Entry to be dishonored even if your instructions do not otherwise require us to return such ACH Entry.

You acknowledge that if we receive an ACH Entry after the deadline, which is identified as an exception item, the exception item will be handled as more fully described in the applicable User Documentation.

You acknowledge that our ACH Positive Pay Services are intended to be used to identify and return ACH Entries which you suspect in good faith are unauthorized. They are not intended to be used as a substitute for authorization instructions or to delay your pay/accept return decisions on exception items, including and not limited to stop payment orders on ACH Entries which are not suspected in good faith to be unauthorized. If we suspect or deem, in our sole discretion, that you are using the ACH Positive Pay Services contrary to those intentions, we may require you to provide evidence that ACH Entries we return pursuant to your instructions were in fact unauthorized. In addition, we may hold you liable for losses we sustain on ACH Entries which we are requested to return under such ACH Positive Pay Services and which you do not reasonably establish as unauthorized ACH Entries.

ACH Positive Pay Services do not apply to transactions between you and us. We may pay Entries which you have authorized us to originate against your account (e.g., loan or credit card payments), whether or not you have included these in your authorization criteria. We may also pay any Entries, Reversals or adjustments which we are required to accept under the NACHA Rules, operating circulars or any other applicable rule, guideline or regulation.

If you also subscribe to our ACH Block and Authorization Services, you will still need to make your pay or return decisions under your ACH Positive Pay Services. Such decisions will supersede the terms contained in your ACH Block and Authorization Services.

BANK-PRINTED DRAFTS

Using the Bank-Printed Drafts Service you may request us to issue a bank draft by submitting a Payment Advice using your computer (using Software we provide or by accessing a Website) or sending us a data file transmission, to print drafts (which may include drafts denominated in a currency other than the currency in which the relevant account is denominated) drawn on accounts designated and owned by us. In processing your Payment Advice we will apply the exchange rate that you obtained from one of our trading centers, online or assigned by us, as more fully described in the User Documentation. We will print the draft and mail it to the address that you provide with your Payment Advice. We will debit your account for the amount of any Payment Advice that you send to us.

For drafts issued by us on your behalf, we reserve the right to place a stop payment on drafts that remain uncleared beyond timelines as defined by us in the User Documentation. If we place a stop payment on a draft for this reason then we will return funds to you according to our returns process, as defined in the User Documentation.

AUTHORIZED PERSONS

Before using a Bank-Printed Drafts Service, you give us a written list, in a form acceptable to us, of the persons authorized by you to perform certain duties in connection with such Service.

STOP PAYMENT REQUESTS

Generally, you may send us a request to stop payment with respect to a draft drawn on an account designated and owned by us only if the draft is lost, stolen or destroyed. In such case, you must first complete and provide us with a declaration of loss and indemnity agreement reasonably acceptable to us. A stop payment will not be effective until we first receive your completed declaration of loss and indemnity agreement; have had a reasonable amount of time to review and approve it; and then have reviewed our records to determine that the draft has not already been paid.

YOUR RESPONSIBILITIES

You must create and transmit to us a Payment Advice for each draft you issue using the Service. You must make certain that each draft, Payment Advice and electronically transmitted Stop Payment Request conforms in form and substance to the requirements, including cutoff times on a Business Day, described in the applicable User Documentation.

You must retransmit any Payment Advice, electronically transmitted Stop Payment Request or other message initially transmitted to us through the Service if you have not received an acknowledgment message from us within the time period specified in the applicable User Documentation.

OUR RESPONSIBILITIES

When we receive the Payment Advice, we will transfer funds from your account with us to the bank account on which the draft is drawn.

We will print drafts as requested by you in your Payment Advice.

PAYMENT WITH RESPECT TO DRAFTS

You agree you will not issue any drafts using a Service which would cause your applicable account balance, according to your records, to be exceeded. If your records and ours disagree regarding the account balance, our records will control for purposes of these Services. You must ensure that Collected and Available Funds sufficient to cover the total of all drafts issued, are on deposit in your account each Business Day at the time stated in the applicable User Documentation.

BILLPAY AND INVOICE MANAGEMENT

You may use the Bill Payment Feature, the Invoice Management Feature and other related services, provided through our designated Website, and explained in the applicable User Documentation. This section together with the entirety of the General Provisions section of this Booklet, including without limitation the terms related to Security Procedures, forms the agreement between you and us with respect to the Services defined herein. You may only access the Service through the Bank's designated Website and use the Service to request us to make bill payments on your behalf to Vendors in payment of invoices and bills that you received from such Vendors. We will process your bill payment request by means of an ACH credit entry to the bank account of the Vendor, by mailing a check on your behalf to the Vendor, or by other electronic payment means. You may use the Service to receive invoices sent to you from Vendors that choose to deliver invoices to you via the Service. You also may upload through the Service images of invoices that you receive directly from Vendors. You may view and manage these invoices through the Service.

INVOICE MANAGEMENT FEATURE

The Service includes an online Inbox where you can upload, store, index and manage your Bills and Documents. You may upload Bills and Documents to your Service Inbox directly through the Service Website or by email using the email address assigned to your Service Inbox. You also may authorize Vendors to send Bills and Documents to the Service Inbox using the email assigned to it. We are not responsible for Bills that are misdirected or not received in your Inbox. You should regularly review your Inbox to confirm that expected Bills from Vendors are received there. You will resolve disputes regarding invoices from Vendors directly with such Vendors and we have no responsibility with respect to such disputes.

You also may submit and store other remittance information to the Service, including address and bank account and routing information for a Vendor. You are responsible for verifying the accuracy of the Vendor information prior to scheduling a Payment Transaction, and we will have no liability for losses or damages due to you or your Vendor's actions or inactions. If you input a Vendor's bank routing number and bank account number, you represent and warrant that (i) this information is accurate and correct, and (ii) you have obtained from the Vendor any required authorizations, including the authorization to disclose the Vendor's account information and to request us to initiate ACH debit or credit entries, as applicable, to the Vendor's bank account in accordance with your Payment Transaction Request and, if necessary, the initiation of adjustments for any transactions debited or credited in error.

By providing us with the name and bank account information of a Vendor to whom you wish to direct bill payments, you authorize us to use and follow this information when processing your Payment Transaction Requests to that Vendor. In order to process Payment Transactions more efficiently and effectively, we may submit payments to the best known Vendor address based on information in the Vendor Database. When necessary, we may alter payment data or data formats or change or reformat your Vendor's bank account number and routing information to match the account number or format and/or routing information required by your Vendor for electronic payment processing or as set forth in the Vendor Database.

BILL PAYMENT FEATURE

Scheduling Bill Payment. To make a payment to a Vendor for a Bill, you may use the Service to schedule a Payment Transaction and select the Process Date on which we will debit the Payment Account to originate the Payment Transaction. The Service will indicate the earliest possible Process Date for each Payment Transaction Request and will calculate an estimated Arrives By Date. We will use commercially reasonable efforts to issue the Payment Transaction within two business days following the Process Date, depending on the size of the payment and subject to our own review of the Payment Transaction Request. We will determine the payment method for each scheduled Payment Transaction Request. You are solely responsible for scheduling Payment Transactions and selecting a Process Date for each payment that allows sufficient time for the payment to be delivered on or prior to the due date on the Bill. We make no representation or warranty to you that a Payment Transaction will be received by the Vendor or credited to the Vendor's bank account on or before the Arrives By Date. Regardless of the Process Date selected by you, we shall have no liability to you or your Vendor in the event that you incur a late fee or other financial liability to a Vendor arising from a delayed, undelivered, or late payment.

Payment Method and Transaction Limits. You may, through the Service, request that we process a Payment Transaction Request as a check payment or as an ACH credit entry payment or other electronic payment; provided, however, that we reserve the right to select the method by which to process a Payment Transaction Request. ACH credit entry payments and other electronic payments may only be made to U.S. domestic bank accounts. All other payments made through the Service must be made by issuance and mailing of a check to a U.S. address. We may, in our sole discretion, impose limits on the amount of money sent through the Service, on a per-transaction or a cumulative basis, and change those limits at any time without prior notice to you. You may not submit a Payment Transaction Request that would require the processing of an international ACH transaction (IAT).

Processing Bill Payments. You hereby authorize us to debit your Payment Account for the amount of each Payment Transaction Request and remit funds in accordance with your Payment Transaction Request through the ACH network or other electronic funds network or by paper check, as determined by us in our sole discretion. We may debit your Payment Account by means of an ACH debit or direct posting/book transfer. You are responsible for maintaining collected and available funds in the Payment Account in an amount sufficient to pay for all debits to fund the Payment Transaction Requests on or before the Process Date. We are not obligated to process any Payment Transaction Requests, even if we have done so in the past, without having first been paid by you, but, if we do, the amount is immediately due and payable without notice or demand. We may post these debits to your Payment Account even if the debits cause your Account to have a negative intraday balance or to be in an overdraft position. After the Process Date and prior to origination of the ACH credit entry or payment of the issued check, funds deducted from your Payment Account will be held in a master bank account or general liability account at the Bank. You acknowledge and agree that you have no ownership interest or right to the funds in this bank account. This bank account arrangement does not create a trust or other fiduciary obligations on the part of us to you.

Issuance of Check Payments. You hereby authorize us to print and issue a paper check drawn by you, and to indicate on such check that you are the drawer and/or that you have authorized the drawing of the check. We may be identified on the check as the drawee bank. You agree that we shall not have any liability to you or any other person on the check as an endorser, a drawer or a co-signer or in any other capacity. You acknowledge and agree that in the event of a returned check or other non-payment of an issued check, you may be subject to claims from third parties under law in your capacity as drawer of the check. In addition to any other indemnification provided herein, you further agree to indemnify us for any loss, damage or claim arising from our issuance of a check in accordance with your Payment Transaction Request.

Returned Transactions. A Vendor, a Vendor's bank or the United States Postal Service may return a Payment Transaction for various reasons such as, but not limited to, Vendor's forwarding address expired, invalid bank routing number, invalid bank account number, Vendor remittance address is not correct, Vendor is unable to identify an account, or a Vendor account is paid in full. In addition, a Vendor may refuse to accept a Payment Transaction. We will use commercially reasonable efforts to provide you with notice of a returned Payment Transaction. You agree that we shall not have any liability for any returned Payment Transaction or any resulting loss or damage that you may incur.

Unless otherwise directed, we will void such returned Payment Transaction and credit the returned Payment Transaction to your Payment Account.

Payment Cancellation Requests. You may cancel, reschedule or modify a Scheduled Payment Transaction prior to the time that we begin processing it, subject to any restrictions set forth in the User Documentation. You may only cancel, reschedule or modify a Scheduled Payment Transaction through the Service Website. Once we have begun processing a Payment Transaction, it cannot be cancelled, rescheduled or modified by you. In addition, we reserve the right in our sole discretion to suspend or cancel any Scheduled Payment Transaction if your Payment Account or your use of the Service is not in good standing, as determined by us in our sole discretion. We will credit back to the Payment Account any debits previously made to fund a cancelled Scheduled Payment Transaction.

Stop Payment Requests. You may use the Service to place a stop payment on a Payment Transaction that is processed by means of a check payment. There is no stop payment option for a Payment Transaction that is processed by ACH credit or other electronic payment. Our ability to process a stop payment request on a check payment depends on whether or not a check has cleared. We must have a reasonable opportunity to act on any stop payment request after we receive the request from you. In some cases, we may pay a check even if a stop payment request is in effect. For example, if one of our branches (or banking centers) or affiliates becomes a "holder in due course" of the check that you asked us to stop, we may still pay the check. Although we will use commercially reasonable efforts to accommodate stop payment requests, we will not have any liability to you for failing to do so. If we do honor a stop payment request, you agree to indemnify us (and our service provider) for any liability or claim that we incur arising from a person that seeks payment from us on the check based on such person's status as a holder of the check and/or otherwise based on our role in the issuance of the check on your behalf. You further authorize us to settle and pay any such claim from a holder or a payee of the check without prior notice to you and you further authorize us to debit your Payment Account for the amount of such paid claim.

Prohibited Payments. You are prohibited from using the Service to make the following types of payments: (i) tax payments, (ii) payments to settle securities transactions, and (iii) court ordered payments. In no event shall we be liable for any claims for damages resulting from your scheduling of these types of payments. You shall comply with all applicable state and federal laws in initiating any Payment Transaction.

Payment Review. In our discretion, we may place a hold on a Payment Transaction Request for as long as reasonably required to conduct an appropriate inquiry regarding you, the Vendor, a Bill, payment history, and other relevant circumstances and factors. Depending on the results of this review, we may process the Payment Transaction Request, reverse or cancel the Payment Transaction Request, or hold the Payment Transaction Request and related funds pending instructions from a government agency. At any time, a Payment Transaction Request or a Payment Transaction may be reversed or canceled by us in our sole discretion and without prior notice to you.

Compliance with Service Documentation. You are responsible for ensuring that each Payment Transaction Request conforms in form and substance to the requirements, including cutoff times on a Business Day, described in the applicable User Documentation for the Service.

REGISTERED VENDOR DATABASE

We use a third party company that operates an online database containing payment routing and other information regarding Registered Vendors. We do not operate or control the Vendor Database and we are not responsible for the accuracy of information that is stored in the Vendor Database. The Vendor Database is not part of the Service. When making a Payment Request, you may look-up your Vendors in the Vendor Database to see if they are Registered Vendors. You also may ask your Vendor to register with the Vendor Database and provide information regarding its preferred bank account number and routing information for bill payments processed through the Service to the Vendor. If your Vendor registers with the Vendor Database, your Vendor will be required to agree to the terms and conditions provided by the third party company that govern the use and operation of the Vendor Database.

The Service may obtain payment routing information and mailing address information for your Registered Vendors from the Vendor Database. We may at our option process a Payment Transaction to the Registered Vendor based upon the account and routing number information and/or mailing address information provided by the Registered Vendor

without further investigation or confirmation by us. You are responsible for any Payment Transaction that is processed by the Service using the Registered Vendor data contained in the Vendor Database.

PROVISIONAL PAYMENTS

For Payment Transactions processed through the ACH credit entry, you agree to be bound by the provision of the NACHA Rules providing that payment of a credit Entry by the Receiving Depository Financial Institution (RDFI) to the Receiver (the Vendor) is provisional until the RDFI receives final settlement for the Entry. If final settlement is not received, the RDFI is entitled to a refund from the Vendor of the amount credited. This means that the Vendor will not have been paid.

SUPPLEMENTAL LIMITED WARRANTY/DISCLAIMER

You acknowledge and agree that (i) we are making no representations or warranties of any kind regarding the content of Bills, Documents or the Vendor Database, and (ii) you and your Vendors are transmitting and receiving Bills through the Service at your own risk. We disclaim any and all warranties of any kind (whether express or implied) including but not limited to any warranties of merchantability or fitness for a particular purpose with respect the Service, the Vendor Database, and the content and timely delivery of the Bills and any related information. We will have no liability or responsibility for any losses, costs, expenses or damages incurred by you or your Vendors with respect to the use of the Vendor Database or any Bills transmitted or received through the Service.

CASHPAY®

Our CashPay® Service allows you to pay your employees and other payees by directly depositing payments to their CashPay accounts. Your payees can immediately access their money through ATMs, point-of-sale (POS) terminals and over-the-counter cash access transactions at offices of financial institutions that accept Visa® cards.

CASHPAY FUNDING OPTIONS

You may fund the CashPay accounts in one of two ways: by initiating Entries through the Automated Clearing House (ACH) system or, upon our approval, by instructing us to transfer funds from a deposit account you maintain with us. (ACH Services are governed by the ACH section of this Booklet.)

If you choose to pay by the transfer of funds from your account with us, we will debit your account following receipt of your payment instructions in a mutually agreed-upon format and method. You must have sufficient Collected and Available Funds in your account to cover the transfer amount. In the event that sufficient funds are not available at the time of settlement, you agree that we may take steps to protect ourselves, including refusing to fund CashPay accounts and terminating the CashPay Service (which will not affect funds previously transferred to CashPay accounts), without incurring any liability to you or your payees.

CERTIFICATION OF ENROLLMENT INFORMATION

You must provide us information for each payee who wishes to open a CashPay account. Each time you provide us with such information or initiate a transfer of funds to a CashPay account, you certify that the following statements are true and accurate as of such date:

- The payee is entitled to receive payments issued by you, and is otherwise qualified to participate in the CashPay program.
- All information provided by you about the payee is correct, including but not limited to the payee's name, date of birth, physical address, social security number or other identifying information contained in another form of identification issued by a governmental entity, employment/occupation, method of verification, country of citizenship, country of residence and source of income.
- If the payee is to receive wage payments through a CashPay account, the payee is legally employable in the United States of America.
- You have provided the payee the explanatory CashPay Service information that we have provided to you for that purpose, including the USA PATRIOT Act disclosure, and the payee has authorized the transfer of wages to the CashPay account.
- The payee has not cancelled the authorization to transfer the wages to the CashPay account.

You agree to notify us promptly of any changes to the payee enrollment information you have provided to us for this Service or if any employee who has a CashPay Account is no longer employed by you. Upon our request, you will promptly provide us any additional information for each payee to allow us, among other things, to verify enrollment information.

ADDITIONAL LIMITATION OF LIABILITY

As a general rule, ATMs cannot dispense cash in increments other than \$5, \$10 or \$20. This means that your payees may not be able to withdraw at an ATM all funds paid by you to the payees' CashPay accounts. We will wire the difference to any payee who requests such payment; however, we will not be responsible if your payees or others assert a claim against us due to this inability to withdraw all funds at an ATM.

PROMOTIONAL MATERIALS

We will provide you with explanatory documentation for you to give your payees. We will provide to each payee the CashPay agreement, which discloses the terms and conditions of each payee's CashPay account. Such payees are not entitled to any rights or benefits we give to our other deposit account holders or debit card holders unless such rights or benefits are contained in the CashPay agreement.

You must obtain our prior written consent if you elect to promote the CashPay Service using materials (in any format) other than the documentation we provide to you for that purpose.

CHECK ISSUANCE AND DOCUMENT PRINTING

With our Check Issuance and Document Printing Services, you may request us to (1) create checks on your behalf that are drawn on either (i) accounts owned and maintained by you with us or another bank or (ii) accounts designated and owned by us, and/or (2) print and mail on your behalf statements, invoices and other documents. This section together with the entirety of the General Provisions section of this Booklet, including without limitation the terms related to Security Procedures, forms the agreement between you and us with respect to the Services defined herein.

AUTHORIZED PERSONS

Before using a Check Issuance and Document Printing Service, you give us a written list, in a form acceptable to us, of the persons authorized by you to perform certain duties in connection with such Service. If you use a third party to perform certain duties, you will provide such authorization in a form acceptable to us.

STOP PAYMENT REQUESTS

You must submit Stop Payment Requests in accordance with the applicable User Documentation or Account Agreement, as appropriate. Generally, you may send us or our third party processor a Stop Payment Request with respect to a check drawn on an account designated and owned by us only if the check is lost, stolen or destroyed. In such case, you must complete and provide us with a declaration of loss and indemnity agreement reasonably acceptable to us. If you wish to stop payment on a check drawn on an account you maintain with us, you must make your request as provided in the applicable Account Agreement.

YOUR RESPONSIBILITIES

You must create and transmit to us or our third party processor a Check Issuance Request for each check you want us to issue on your behalf and a Document Printing Request for each document you want us to print and mail on your behalf. You must make certain that each Check Issuance Request and Document Printing Request conforms in form and substance to the requirements, including cutoff times on a Business Day, described in the applicable User Documentation.

If you have not received an acknowledgment message from us or our third party processor within the time period specified in the applicable User Documentation, then you must contact customer support for instructions before resubmitting any Check Issuance Request, Document Printing Request or other message initially transmitted to us or our third party processor through a Service.

In the case of checks drawn on accounts designated and owned by us, you must ensure that Collected and Available Funds, sufficient to cover the total of all checks issued, are on deposit in your accounts. We will debit your account to cover such checks when we receive your Check Issuance Request. In the case of checks drawn on accounts designated and owned by you, you will be governed by the applicable Account Agreement. In the case of checks drawn on accounts

designated and owned by you and maintained at another financial institution, the processing of those checks may be governed by additional terms between you and that financial institution.

COIN AND CURRENCY ORDERS

Our Coin and Currency Order Services allow you to place orders for coin and currency (as used in this section, "change orders") with our cash vaults or the vaults of various armored carriers at which we maintain a cash inventory. Some of these armored carrier vaults have been designated by us as our extended vaults.

Before using a Coin and Currency Order Service, you will provide us with the names and locations of the person(s) authorized by you to receive the access IDs and PINs required to use the Service. We will provide such persons with access IDs and PINs so that change orders can be placed via a voice response system or electronically via a transmission, in accordance with the applicable User Documentation.

In order to use the Coin and Currency Order Service, you must contract separately with an armored carrier service that is acceptable to us to provide for the transportation of the coin and currency, which you have ordered, from one of our cash vaults, one of our armored carrier vaults and/or another location designated by us. Such armored carriers are your agents. Your armored carriers must continue to meet our requirements. In the event that they do not, we may not allow them to pick up your orders until they meet our requirements.

You authorize us to act upon any request for coin or currency made in accordance with this Booklet and the procedures described in the applicable User Documentation. In connection with any coin and currency you order from our cash vaults or our armored carrier vaults, you authorize us to debit your account (i) on the day that such coin and currency are available for release from such vault to your armored carrier, or (ii) on the day that we deliver such coin and currency to another location for pickup by your armored carrier, as applicable. Each time you use a Coin and Currency Order Service, you represent and warrant that you have sufficient Collected and Available Funds in your account for each change order requested by you. We have no obligation to release any coin and currency ordered by you unless there are sufficient Collected and Available Funds in the designated account or sufficient funds under a line of credit to pay for such order at the time scheduled for release of the coin and currency to the armored carrier.

COLLECTION LETTERS

Our Collection Letter Services allow you to forward us drafts, checks and travelers checks (as used in this section, "items") drawn on banks outside of the United States and (i) denominated in U.S. dollars or (ii) drawn in specified foreign currencies (as described in the applicable fee schedules or User Documentation) for collection.

You must prepare and forward a transmittal letter, in a form acceptable to us, along with those items you want us to process for collection in accordance with the applicable User Documentation. You agree that you will only request collection on items which are drawn on banks outside of the United States (i) in U.S. dollars or (ii) in specified foreign currencies (as described in the applicable fee schedules or User Documentation) for collection.

We will send each item you forward to us for collection to the bank on which such item was drawn or to an appropriate correspondent bank. We will generally credit your account for each item on the first Business Day following the day on which we receive payment for each such item at our then-prevailing buy rate for the applicable currency. We will deduct all service fees and charges, plus any correspondent bank fees and charges, from the amount of any payment credited to your account for such items. Special handling or services other than collection of the items will be charged in accordance with our special handling fees (as described in the applicable fee schedules or User Documentation).

We will send you a written advice showing the applicable buying rate and fees and charges for each item we process as a collection item through use of a Collection Letter Service.

Any credit given for the items received for collection is provisional only, and is subject to our actual receipt of cash proceeds. We may charge back any items at any time, whether the item is returned or not. You bear all risk of return, including without limitation the risk of late returns and fraudulent items. If we take an item payable in foreign currency for collection, you will bear all exchange rate risk.

Clearance of foreign items is subject to the regulations of the foreign country, and such regulations are different from U.S. Federal Reserve regulations. We will contact you when information is received. If you request and we agree, we

will determine the status of any collection item and you agree to pay phone or wire charges incurred for such a request.

We will use our discretion regarding the method of transmitting items for collection. Notwithstanding the Limitation of Liabilities section in this Booklet, the measure of damages for such failure shall be limited to the reasonable expenses of obtaining duplicate items should the originals be misdirected, lost or destroyed, or such other damages as are expressly provided for under applicable law.

COMMERCIAL DEPOSITS

With our Commercial Deposit Services, (i) you may make deposits of coin and currency, checks and other payment instruments at one of our designated banking centers with pre-approval, depository facilities (which may include a night depository facility), processing centers, ATMs or cash vaults; (ii) you or, if applicable, a third party acting as your agent, may make deposits of checks using our Image Cash Letter Service or our Remote Deposit Service; and/or (iii) you may obtain credit for Safe Deposits through the Safe Connect Service further described herein. If these deposits are delivered by you or your agent before the cutoff time specified at the deposit location or in the applicable User Documentation, we will give you same-day provisional credit for such deposits, subject to later verification by us and our availability schedule. Banking center deposits that are immediately verified are covered under your Account Agreement.

The Image Cash Letter Service allows you, or a third party acting as your agent, to transmit an image cash letter (ICL) to us. We may create, on your behalf, a paper substitute check or image replacement document (IRD) from such electronic image transmission, as described in the applicable User Documentation.

The Remote Deposit Service allows you to create or have created on your behalf a paper substitute check or IRD from an electronic image or an original paper check, as described in the applicable User Documentation.

YOUR RESPONSIBILITIES

You agree to follow all requirements set out in the User Documentation, and to meet all specifications for returns contained in the User Documentation; provided, however, in the event that a relevant provision of the User Documentation conflicts with applicable regulatory requirements, you agree to follow such applicable regulatory requirements.

You agree to prepare all deposits accurately and in good faith and to follow the procedures for preparation, packaging and delivery of deposits as provided in the applicable User Documentation. In order to receive a receipt of deposit at banking centers, depository facilities (which may include a night depository facility), or processing centers, and except as otherwise set forth with respect to the Safe Deposit service further described below, we may require you to provide a duplicate deposit slip. This is in addition to the number of original deposit slips required by us to process the deposit or to use other procedures as set forth in the User Documentation. If we require you to provide a duplicate deposit slip, we will stamp this duplicate deposit slip and return it to you. In all cases, deposits are subject to later verification by us.

For deposits made to one of our cash vaults, you must contract separately with an armored carrier service that is acceptable to us to transport your deposits. Armored carriers are your agents unless otherwise agreed in writing between us.

If you use our Image Cash Letter Service or our Remote Deposit Service, then prior to sending us an electronic image transmission, you and we must agree on image and transmission standards as more fully described in the applicable User Documentation.

You warrant that all ICL file transmissions you send us comply with the specifications outlined in the User Documentation, and you agree to indemnify us for any loss or expense incurred by us (including attorneys' fees and expenses of litigation) as a result of your breach of this warranty. You must provide us with the reason for return of a check by such means as we may specify from time to time in our User Documentation. For example, we may require you to provide us with the reason for return of a check in the unqualified returns ICL cash letter file transmission or through stamping the front of the check with the reason for return. We will use our best efforts to notify you promptly when we cannot determine the bank of first deposit on a check in the amount of \$2,500 or greater, or such other

amount as may be set forth in the User Documentation from time to time. You will respond to our notice by secure email promptly upon receipt.

If you use our Image Cash Letter Service or our Remote Deposit Service, then except as provided herein, for any IRD or Image created under this Service, you are deemed to be the warrantor of certain warranties under Check 21, and for each and every day an IRD is created, you accept all responsibilities as warrantor for those warranties under Check 21 regarding creation of the IRDs. You understand that you are responsible for capturing and sending fully legible copies of the original paper check or Electronic Image which will be cleared as a Paper Image or IRD.

If you use our Image Cash Letter Service or our Remote Deposit Service, then you give the same warranties and indemnities to us that we, as reconverting bank, give under 12 CFR Parts 229.52 and 229.53 of Check 21 regulations or any successor legislation. With respect to any Image forward presented by us after your deposit, in paper check or Image form, in your account, you give the same representations, warranties and indemnities to us that we, as sending bank, give pursuant to the image exchange rules, including any applicable clearing house rules and/or regulations, that govern us. With respect to Images sent by you to us under this Service, your warranties include warranties that the Image accurately represents all the information on the front and back of the original check as of the time the original check was truncated, the MICR-line information contains all information needed for a substitute check or draft, and any transmission to us from you complies with the specifications described in the applicable User Documentation. You agree to indemnify us and any receiving parties that suffer losses as a result of receiving the substitute check instead of the original, or receiving duplicate items, whether in paper or Image form. You are responsible for capturing and sending fully legible copies of the item which may be created as an IRD. Notwithstanding the foregoing, provided you comply with the agreed upon image and transmission standards and we accept your transmission, and as more fully described in the applicable User Documentation, we will not hold you responsible for any breach of warranty or indemnity either under Check 21 based on image quality for IRDs, or under applicable image exchange rules, including any applicable clearing house rules and/or regulations, based on image quality for any Images, that we produce from your image transmission. If, in connection with your use of our Remote Deposit Service, we provide you with Software and such Software provided by us operates in a manner which causes you to breach any warranties under Check 21, in spite of your exercise of reasonable care, you shall report such Software issues to us as soon as reasonably practicable, and as more fully described in the applicable User Documentation, and we will not hold you responsible for such breach of warranty.

If you use our Image Cash Letter Service or our Remote Deposit Service, then you shall pay us for the amount of any returned Images or IRDs (including rejected images or rejected IRDs) or any claims for adjustments accepted by us, for any IRD or Image which we have previously credited to your account. Such amounts shall be charged as returns or adjustments to your account and are immediately due and payable by you. Such amounts appear on your reports to the extent agreed between us. Certain returned IRDs and/or returned Images may be redeposited, if you have a separate reclear service agreement or arrangement with us. Any IRD created and deposited to your account must comply with all requirements mandated by Check 21. If you intend to include reclears along with other items in a forward ICL file sent to us for processing, you must identify the reclear items on the ICL file in accordance with our instructions set forth in our User Documentation.

If you use our Image Cash Letter Service or our Remote Deposit Service, you agree that you provide the same warranties and indemnities that we are required to provide under applicable statutes, rules, clearinghouse arrangements, operating circulars and other applicable laws, rules or regulations. Without limiting the foregoing, you warrant and guarantee that, if you deposit a demand draft or remotely created check (an unsigned draft or a preauthorized draft) using the Image Cash Letter Service or Remote Deposit Service, the draft or remotely created check was created from paper (or from a paper item) and is authorized according to the terms on its face by the person identified as drawer. You agree to indemnify us from all loss, expense and liability related to a claim that such draft or check was not created from a paper item and/or was not authorized by the person on whose account it was drawn.

If, upon our review of your deposit account activity, we determine that abuse or unauthorized activity is or may be occurring with respect to deposited demand drafts, we may require you to provide collateral to cover the return of and/or claims against deposited demand drafts. In addition, we may require you to maintain such collateral coverage

with us beyond termination your use of any deposit service, such as our Image Cash Letter Service and/or of your relationship with us as a bank customer.

In the event you use our Image Cash Letter Service or our Remote Deposit Service to redeposit any returned item as an IRD or Image, you agree to follow our procedures, set forth in the User Documentation, concerning your provision of the reason for return.

If you use our Remote Deposit Service, then it is your responsibility to use check imaging equipment acceptable to us as specified from time to time (as used in this section, "hardware") to be installed at your site in order to use any such Remote Deposit Service. The terms and conditions pursuant to which the hardware is obtained, installed and maintained shall be as agreed between you and the vendor and/or lessor of such hardware and we assume no responsibility therefore.

If you will be utilizing ACH components of our Remote Deposit Service, you must execute an agreement concerning such usage, as we may specify.

If you have captured Images from checks, you agree that you will securely store, safeguard and securely destroy the items as set forth in the User Documentation. Imaged documents (or original documents, if available) must be provided to us promptly, at our request, to facilitate investigations related to unusual transactions or poor quality transmissions, or to resolve disputes.

You agree to cooperate with us fully to facilitate our adherence to guidance provided by the Federal Financial Institutions Examination Council, including guidance concerning risk management of remote deposit capture. For this purpose, you agree that we may mandate specific internal controls at your locations, audit your operations and/or request additional information.

ADDITIONAL RESPONSIBILITIES UNDER ECCHO

In the event you are a financial institution and thereby eligible for ECCHO membership, you may use our Image Cash Letter Service or our Remote Deposit Service only if you are a member of ECCHO.

RETURN OF ON-YOU ITEMS BY ICL

In the event you are a financial institution to whom we may send, via ICL, On-You items pursuant to ECCHO rules, you agree that such ICL transmissions by us to you shall be governed by, and be in accordance with, the applicable provisions hereof and of ECCHO rules.

UNQUALIFIED RETURNS ICLs

In the event that you use the Image Cash Letter Service to send us unqualified returns ICLs, you additionally agree as follows:

You agree to send us return items only if you return the items within the requirements of the UCC and Regulation CC. You warrant that all returned checks sent to us comply with the deadlines of Regulation CC and the UCC and you agree to indemnify us for any loss or expense incurred by us (including attorneys' fees and expenses of litigation) as a result of your breach of this warranty.

You agree to provide to us the same warranties that we provide to any receiver of a returned item that you send us using this Service, whether such warranty is made under Regulation J, Federal Reserve Operating Circular 3, clearinghouse rules, including ECCHO rules, or other applicable regulations or rules. These warranties include, but are not limited to, a warranty that the image of the return item is an accurate representation of the front and the back of the related check; the electronic image return accurately corresponds to the electronically returned item being returned; and the electronic image return is not a duplicate of another electronic image return.

When you return an item using the Image Cash Letter Service, you agree that you provide the same warranties and indemnities that we are required to provide under applicable statutes, rules, clearinghouse arrangements, operating circulars and other applicable laws, rules or regulations.

REDEPOSITING RETURNED ITEMS

When you redeposit a returned item using the Image Cash Letter Service, you agree to redeposit the image of the returned check or IRD, which was physically returned to you, which shall include all endorsements and return item stamps. You agree that you provide the same warranties and indemnities that we are required to provide under

applicable statutes, rules, clearinghouse arrangements, operating circulars and other applicable laws, rules or regulations and you agree to indemnify us for any loss or expense incurred by us (including attorneys' fees and expenses of litigation) as a result of your breach of these warranties.

USE OF IMAGE CASH LETTER SERVICE WITH RESPECT TO SAVINGS BONDS

If you are a financial institution, you may use this Image Cash Letter Service to accept, transmit, deposit, exchange and/or otherwise process Savings Bonds only in accordance with those Savings Bonds Provisions applicable to you, which include the regulations and operating guidelines of the U.S. Treasury Department.

Under all circumstances, each and every time you use this Image Cash Letter Service to accept, transmit, deposit, exchange and/or otherwise process Savings Bonds, in addition to the representations, warranties and undertakings otherwise provided in the Booklet, as amended hereby, you represent and warrant that you are an authorized Paying Agent, and that the Savings Bonds which you accept, transmit, deposit, exchange and/or otherwise process will be eligible for transmission by transmission of images thereof in accordance with the Savings Bonds Provisions as applicable. You further agree that, by your usage of this Image Cash Letter Service, you are deemed to provide such other representations, warranties, undertakings and indemnities as are applicable to you as a Paying Agent or otherwise under the Savings Bonds Provisions. In addition, you agree that we shall have no liability with respect to any Savings Bonds accepted, transmitted, deposited, exchanged and/or otherwise processed by you, except such liabilities as may be imposed by operation of law or except where the relevant loss is caused solely by our gross negligence or willful misconduct.

You agree that in the event of a conflict between the provisions of this section and any other provisions in this Booklet, the provisions of this section shall govern insofar as the same concern Savings bonds.

OUR RESPONSIBILITIES

We receive your deposit and issue provisional credit to your account for the amount you declare on the deposit slip. The declared amount is subject to later verification by us.

If we find an error when we verify your deposit, we will debit or credit the amount of the error to the deposit account listed on the deposit slip, unless you and we have agreed otherwise in writing; provided, however, we reserve the right to set a standard adjustment amount (which we may change from time to time), in which case we will not make a correction to a deposit when the error is less than our current adjustment amount.

We give you same-day provisional credit for deposits delivered before the cutoff time on a Business Day. For deposits delivered after the cutoff time or on a non-Business Day, we give you provisional credit on the next Business Day.

We will apply and be responsible for (i) the appropriate endorsement of the bank of first deposit, if applicable, as more fully described in the applicable User Documentation on the back of each printed IRD; (ii) the appropriate legend of legal equivalency on the front of the printed IRD; and (iii) appropriate language identifying the reconverting bank if we do not clear your electronic image transmission through image exchange.

SAFE CONNECT SERVICE

You may use the Safe Connect Service for the purpose of obtaining credit, which credit may be provisional, for Safe Deposits as described herein and in Bank's User Documentation. You agree that the Safe to be utilized in connection with the Safe Connect Service must be installed at a Safe Location. Subject to cutoff times and other provisions contained in the User Documentation, we shall provide you with credit for Safe Deposits; depending upon the applicable procedures used by you, such credit may be subject to later verification and/or adjustment by us and/or the Transportation Provider designated to transport Safe Deposits from the Safe to the Vault Location. Your Safe Deposits shall be governed by the terms of this Booklet, except as otherwise provided herein.

Your Responsibilities Concerning Safe and Transportation Provider. Your responsibilities with regard to the Safe Connect Service include the following. You shall be solely responsible for the procurement of the Safe, whether by lease, sale or otherwise, and for the installation and removal of the Safe in accordance with any agreements that you may have with any third party providing the Safe. You shall not be required to prepare deposit and/or duplicate deposit slips with respect to Safe Deposits, as deposit information regarding such Deposits will be set forth in the Safe Feed. You shall be responsible for engaging a Transportation Provider to remove Safe Deposits from the Safe and to transport the Safe Deposits to Vault Locations. You agree to select the Transportation Provider you engage from a list

of approved armored carriers provided by us from time to time. Such Transportation Provider shall be your agent, not ours, except as otherwise provided herein.

Settlement. Settlement terms may vary depending upon applicable procedures used by you; such procedures may be dependent, in part, upon the terms set forth in the applicable agreement between you and the Transportation Provider. Upon receipt of the Safe Deposits at the Vault Location, we or the Transportation Provider shall verify such Deposits, for which credit, which may have been provisional, has been given by us. In such instance, solely when conducting verification, the Transportation Provider shall be acting as our agent, not yours. In the event of a discrepancy between deposit amounts set forth in a Safe Feed, addressing a Safe Deposit, and deposit amounts verified at the Vault Location with respect to such Safe Deposit, any adjustments made shall be in accordance with our User Documentation. Information concerning such adjustments will be reflected in your account statements and, in some cases, in written or electronic advices and reports produced through one of our Information Reporting services.

No Warranties; Limitation of Liability. The following is in addition to the Limitation of Liabilities section under this Booklet.

YOU ACKNOWLEDGE THAT WE DO NOT PROVIDE, NOR DO WE MAKE, ANY RECOMMENDATIONS REGARDING THE SAFE. WE HAVE NOT MADE AND DO NOT MAKE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, DIRECTLY OR INDIRECTLY, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING THE SUITABILITY OF THE SAFE, ITS DURABILITY, ITS CONDITION, ITS QUALITY AND/OR ITS RELIABILITY. ACCORDINGLY, WE ALSO DISCLAIM ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR USE OR PARTICULAR PURPOSE WHETHER ARISING BY OPERATION OF LAW OR OTHERWISE. WE SHALL NOT BE LIABLE TO YOU OR OTHERS FOR ANY LOSS, DAMAGE OR EXPENSE OF ANY KIND OR NATURE CAUSED DIRECTLY OR INDIRECTLY BY THE SAFE OR ANY SAFE FEED, HOWEVER ARISING, OR THE USES THEREOF OR THE FAILURE OF ANY OPERATION THEREOF. NO REPRESENTATION OR WARRANTY AS TO THE SAFE OR ANY OTHER MATTERS BY OTHERS SHALL BE BINDING UPON US OR IMPOSE ANY LIABILITY UPON US NOR SHALL THE BREACH OF SUCH RELIEVE YOU OR IN ANY WAY AFFECT ANY OF YOUR OBLIGATIONS TO US HEREIN.

IF THE SAFE IS NOT SATISFACTORY FOR ANY REASON, YOU SHALL NOT MAKE ANY CLAIM ON ACCOUNT THEREOF AGAINST US. REGARDLESS OF CAUSE, YOU WILL NOT ASSERT ANY CLAIM WHATSOEVER AGAINST US FOR LOSS OF ANTICIPATORY PROFITS OR ANY OTHER INDIRECT SPECIAL OR CONSEQUENTIAL DAMAGES.

Supplemental Representations and Warranties. In addition to the representations and warranties set forth in this Booklet, you represent and warrant to us that (a) you have given or procured, as the case may be, all necessary consents and approvals for our accessing of your information and/or information of the Transportation Provider, as we deem appropriate, for purposes of this Agreement; and (b) you and/or the Transportation Provider as your agent shall safeguard all Safe Deposits until delivery of such Deposits at the Vault Location and commencement of verification. In the event that the security of Safe Deposits is breached prior to such delivery and commencement of verification, and/or if the delivery of the Safe Deposits to the Vault Location is delayed, we may reverse any credit, provisional or otherwise, provided with respect to such Safe Deposits as set forth in the User Documentation. You agree to notify us promptly in the event of any such security breach or delay.

You agree that you shall be deemed to make and renew each representation and warranty set forth in this Booklet on and as of each day on which the Safe Connect Service is provided.

Supplemental Termination Provisions. Notwithstanding anything to the contrary in this Booklet, the Safe Connect Service may be terminated at any time as set forth below.

In addition to the events listed in the Termination section of the Booklet which allow us to terminate any Service immediately, each of the following events will also give us the right to immediately terminate the Safe Connect Service at any time:

- a) You breach, or permit the breach of, the security of the Safe.
- b) We determine that you have failed to maintain a financial condition that we deem to be reasonably satisfactory to minimize any credit or other risks to us in providing the Safe Connect Service or we deem immediate termination to be necessary or appropriate to prevent a financial loss to us.

c) We, in our sole discretion, determine that the Safe Connect Service is no longer feasible or desirous for us to pursue.

ADDITIONAL PROVISIONS FOR YOUR ARMORED CARRIER

In order to make commercial deposits to or pick up coin and currency orders from one of our cash vaults, one of our armored carrier vaults and/or other locations designated by us, you must contract separately with an armored carrier service that is acceptable to us. Any subcontractors of your armored carriers who enter such cash vaults must also be acceptable to us. Your armored carriers and their subcontractors must meet and continue to meet our requirements as they may be in effect from time to time. Such armored carriers and their subcontractors are your agents and you are liable to us for their failure to comply with our requirements. In addition, if they do not meet our requirements, they may be refused entry to our cash vaults, our armored carrier vaults, and/or other locations, as applicable.

Our requirements include representations and warranties, minimum insurance coverages and other obligations applicable to your armored carriers and their subcontractors, as set forth in our Armored Carrier Requirements document, as in effect from time to time. You will instruct your armored carriers to comply with such requirements, including, without limitation, providing us with such information as we may request from them or their subcontractors in support of these requirements.

Changes In Delivery Locations. If at any time you would like to add or delete those locations of yours that will deliver commercial deposits to us or order coin and currency from us, you must notify us of such change in advance, by the deadline specified in the applicable User Documentation, or we may decline to accept such deposits and/or process such additional orders. With respect to commercial deposits, in the event we take receipt and open bag(s) of, or otherwise access, coin and currency delivered to our cash vault(s) from an added or deleted location, regarding which you have failed to provide the requisite advance notice as set forth herein, we shall not by such actions be deemed to have accepted such coin and currency for deposit, and we shall use commercially reasonable efforts to facilitate the return to you of such coin and currency, with such facilitation to be initiated within a reasonable period of time from the date the coin and currency was delivered to our cash vault(s) without the appropriate advance notice.

Supplemental Suspension And Termination Provisions. If at any time we believe (i) that our provision of the Service to you may create a risk of financial loss for us or result in an unacceptable credit exposure to us, (ii) that an account associated with the Service may be subject to irregular, unauthorized, fraudulent or illegal activity, or (iii) that your armored carrier and/or their subcontractors create an unacceptable risk exposure to us, we may, in our sole discretion, immediately, without prior notice to you, suspend or modify our provision of the Service, or deny your armored carrier and/or their subcontractors access to our cash vaults, armored carrier vaults and/or other locations until such time that such risk, exposure, or activity is eliminated or otherwise resolved to our satisfaction. Additionally, we may suspend our provision of the Service if you do not use it for such period of time as we may establish from time to time. We may terminate any the Service effective immediately, without prior notice to you, if the account necessary to provide the Service is closed. These suspension and termination rights are in addition to any such rights that we may otherwise have under our agreements with you.

COMMERCIAL PREPAID CARD

Our Commercial Prepaid Card Services enable you to distribute Commercial Prepaid Cards to your employees and others that permit them access to a predetermined amount of funds. Commercial Prepaid Cards may be used at ATMs, point-of-sale (POS) terminals, and for over-the-counter cash access Transactions at offices of financial institutions that accept Visa® cards. Detailed information regarding such services is available in the applicable User Documentation.

OUR OBLIGATIONS

We will issue Commercial Prepaid Cards to you on your request after you have provided us such information regarding the Commercial Prepaid Card as we may require at that time. Before we issue each Commercial Prepaid Card, we will debit funds from a deposit account you maintain with us for the value amount of the Commercial Prepaid Card issued.

We will mail the Commercial Prepaid Cards to the address or addresses you provide us, together with a copy of the agreement between us and the Cardholder, our privacy policy for consumers (if applicable) and instructions for activating the Commercial Prepaid Card.

We will deduct the amount of each Transaction, which may include fees added by the ATM owner or the applicable network, from the value amount with respect to the Commercial Prepaid Card. We will also deduct applicable Cardholder fees.

You may request us to add value to previously issued Commercial Prepaid Cards by providing such information as we may require at that time. Upon receipt of your request and the required information, we will debit your deposit account with us for the amount to be added to the existing Commercial Prepaid Cards.

You acknowledge and agree that the Commercial Prepaid Card is for use only for business purposes and is not for use for personal family or household purposes. Cardholders will not pay any money or anything of value to receive the Commercial Prepaid Cards. Commercial Prepaid Cards will not be re-sold or distributed by you.

If there are insufficient Collected and Available Funds in your account, we have no obligation to issue or activate any Commercial Prepaid Card or to add value to any existing Commercial Prepaid Card and we may suspend or reverse any completed value load.

Upon your request, and with our approval, we may provide a Commercial Prepaid Card that is not reloadable.

COMMERCIAL PREPAID CARD CREATION

All Commercial Prepaid Cards shall identify us as the issuer and shall include such other names and trademarks as we require. If you elect to customize the Commercial Prepaid Cards, you will be responsible for any additional costs in the design or production of the Commercial Prepaid Cards. You will provide graphics, promotional material and wording to us for review and approval and you must comply with all the rules of Visa® USA, Inc. and other systems or organizations, as applicable. You will allow us to use your artwork on the Commercial Prepaid Cards, provided that you shall have first reviewed and approved such use. You will indemnify and hold us harmless from any and all liabilities, claims, costs, expenses and damages of any nature (including Legal Expenses) arising from any claim that the artwork you supplied infringes the intellectual property rights of any third party.

COMMERCIAL PREPAID CARD ACTIVATION

Each Cardholder will be instructed to call a toll-free (in the U.S.A.) number and use an interactive voice response system to authenticate the Cardholder by using a number unique to the Cardholder in order to activate the Commercial Prepaid Card. During this call, the Cardholder will receive their PIN, if applicable. The Cardholder can change the PIN at that time to any four digit number. Once the call is successfully completed, the Commercial Prepaid Card will be activated. You will be responsible for informing each Cardholder of any other restrictions you may impose on the use of the Commercial Prepaid Card, and we will not have any responsibility for enforcing those restrictions.

COMMERCIAL PREPAID CARD USAGE

We may refuse to issue or add value to any Commercial Prepaid Card if we believe the Commercial Prepaid Card will or may be used in violation, or may cause us to be in violation, of any law or regulation, or any rule of any payment system.

We will use reasonable efforts to prevent any overdraft with respect to a Commercial Prepaid Card or any unauthorized use of a Commercial Prepaid Card, but cannot ensure we will be able to do so.

CONTROLLED BALANCE ACCOUNTS

Our Controlled Balance Account Services let you control the transfer of funds between accounts with us. These Services may be restricted to certain account types.

Transfers you make from a U.S.-domiciled money market account using these Services are considered preauthorized transfers, are counted toward the number of transactions you are legally permitted each month, and may not be made to a checking account with an overdraft credit facility.

You may instruct us to make either date-related (where available) or balance-related (where available) transfers as described below. Once you instruct us to transfer funds between accounts, transfers begin on a mutually agreeable date or, for accounts domiciled in the United States of America, either immediately or on the date you specify.

With a date-related transfer, funds can be transferred in either direction between certain types of accounts on the date and in the amount you specify. Both interstate and intrastate funds transfers are permitted as long as you meet the

requirements for the account type(s), transfer date and account location(s). If the transfer date you specify is a non-Business Day, we make the transfer on the next Business Day.

With a balance-related transfer, you may have funds transferred to an account when the balance falls below a certain amount, or from an account, when the balance rises above a certain amount, or both. We transfer the amount required to meet the account balance you specify.

Unless you and we have otherwise agreed in writing, you may elect to have funds transferred to or from accounts of a U.S. Subsidiary; provided that (i) the U.S. Subsidiary's accounts are domiciled in the United States of America, (ii) you represent and warrant that such U.S. Subsidiary has authorized us to transfer funds between its accounts and your accounts and between its accounts and other accounts in the Service relationship via transfers through your account, and (iii) you provide us with such documentation as we may request in connection with such transfers.

CONTROLLED DISBURSEMENT

Our Controlled Disbursement Services provide information to you each Business Day so that you can fund the net total amount of (i) controlled disbursement checks presented that Business Day, (ii) certain controlled disbursement ACH transactions received prior to the time stated in the applicable User Documentation and (iii) any other check-related electronic adjustments to which we agree and which are posted that Business Day.

ACCOUNTS

We make the Controlled Disbursement Services available through multiple Controlled Disbursement Points in different parts of the United States of America. These points are identified on the List of Banks and Services. Subject to our approval in each case, you may use such Service through one or more of those points. For each Controlled Disbursement Point you use, you shall maintain one or more Controlled Disbursement Accounts with us.

For each Controlled Disbursement Point, as more fully described in the applicable User Documentation, you may (i) draw checks bearing the respective point's routing numbers directly on your Controlled Disbursement Accounts, (ii) initiate or authorize third parties to initiate ACH debits pursuant to the section of this Booklet regarding ACH Services and (iii) subject to the applicable funds transfer Service agreement, initiate other electronic debits to your Controlled Disbursement Accounts. (For electronic debits to your Controlled Disbursement Accounts, you must use the appropriate funds transfer Service approved by us.)

CHECKS

You shall only use checks which conform to the form and specifications described in the applicable User Documentation, and which have been satisfactorily tested by us. If we determine that checks used by you do not comply with such requirements, we may take the actions described in the applicable User Documentation.

NOTIFICATION AND FUNDING

On each Business Day, we will inform you by the time specified in the applicable User Documentation of the total amount of debits presented for payment that day at or through a Controlled Disbursement Point and any other amounts required to be deposited in your corresponding Controlled Disbursement Accounts to cover such debits. On each such Business Day, prior to the time stated in the applicable User Documentation, you must ensure that sufficient Collected and Available Funds are on deposit in your Controlled Disbursement Account(s) to cover such amounts. If we attempt to post a debit to a Controlled Disbursement Account for the amount due and determine there are insufficient funds in the Controlled Disbursement Account, we may dishonor some or all of the checks then pending payment and/or, as appropriate, return or reject any electronic debit pending settlement. We may, however, in our sole discretion, allow an overdraft so some or all of such checks or electronic debits will be paid or settled. If we do so, we are not obligated to allow any such overdraft in the future.

If we allow an overdraft to occur in your Controlled Disbursement Account, repayment is immediately due and payable, and you will repay us, on or before the next Business Day, the amount of such overdraft along with interest on such amount as specified in our schedule of charges for business account services or as otherwise agreed. Additional terms and conditions contained in your Account Agreement may also apply. If you do not repay us as specified herein, we may dishonor some or all of the checks then pending final payment and/or, as appropriate, return or reject any electronic

debit pending settlement even if the Controlled Disbursement Account has sufficient Collected and Available Funds to cover such debits.

You will select the funding methods for your Controlled Disbursement Accounts from the options described in the applicable User Documentation. However, in certain circumstances, we may require a change in the funding methods used for your Controlled Disbursement Accounts, and may require such accounts to be funded via wire transfer or account transfer.

DATA AGGREGATION AND USAGE SERVICE

Our Data Aggregation and Usage Service is a data aggregation, information reporting and data manipulation service which provides you with on-line access to information reporting services. These services include not only data collection and manipulation but also information reporting, cash forecasting, and automated general ledger downloading, as applicable. The availability of one or more of the foregoing services may be dependent upon various factors, including the on-line channel(s) pursuant to which the Service may be accessed, and not all functionalities of the Service may be available for your use. Subject to the foregoing limitations concerning availability, upon your registration for the Service and completion of any other requirements, including identification of those accounts which you wish to be included for use with the Service, you may use your on-line access to retrieve, analyze, manipulate data from your accounts with us and with third parties. Detailed information regarding our Service, including information concerning the availability of the various functionalities, is set forth in the User Documentation.

You agree to use the security procedures we may designate from time to time with regard to access to the Service, verification of the authenticity of actions taken in connection with the Service, and safeguarding of correct user identification codes and passwords, as set forth in our User Documentation.

DATA AGGREGATION

You must identify for us those accounts which you wish to be included for use with the Service. You must be the legal owner of, or have the legal right to access, such accounts. With regard to the accounts you identify, you must obtain and provide to us any applicable third party consents and comply with all other requirements, including data feed requirements, that we may specify from time to time as necessary or appropriate for our receipt or retrieval of this account information. With regard to the foregoing, you agree to the following:

- You represent that you are a legal owner of, or have the legal right to access, the accounts at third party web sites which you designate to us for information aggregation, information reporting or other purposes in connection with our provision of the Service. You further represent that you have the authority to designate us and our service provider(s), if applicable, as your agent and attorney-in-fact as set forth below.
- You authorize us, as your agent and attorney-in-fact, to access third party web sites, retrieve or receive account information, and use your account information for the purposes of providing the Service, and you further authorize us to take any action we deem necessary and appropriate to facilitate the foregoing with respect to your accounts at third parties.
- Third party account providers shall be entitled to rely upon the above authorization and power of attorney granted by you.
- You agree and acknowledge that, when we access and retrieve or receive information from third party web sites, we act as your agents, and not the agents of the third party.
- We do not have any responsibility or liability for transactions and/or inquiries you make with respect to any accounts you have, or may legally access, with third parties, and all fees charged by any third parties with regard to actions involving your accounts with such parties are your sole responsibility. You agree to abide by the terms and conditions governing your accounts with third parties, and to resolve any dispute you may have regarding such accounts with the relevant third party according to the relevant terms and conditions binding upon you and the third party, without any involvement or liability on our part.
- Subject to any constraints of third parties with whom you have accounts, in providing our services we will make reasonable efforts to comply with your instructions, given in accordance with our designated procedures, regarding the timing and frequency of account data pulling activities. However, account information reflected via your use

of the Service will constitute the most recent refresh successfully completed, but may not be accurate or current. We are not liable for any errors or delays in the content of such account information or for any action, and/or its consequences, which you may take in reliance upon such information. We do not endorse or recommend the services of any unaffiliated third party whom you select for purposes of using the Service's capabilities, including information aggregation capabilities, and from whom we collect your account information pursuant to your authorization.

DATA MANIPULATION

Using the Service's data manipulation capabilities, you may use various tools to populate and make other use of spreadsheet(s) as set forth in the User Documentation. With regard to the foregoing, you agree as follows:

- You agree and acknowledge that we are not responsible for any results associated with your use of any spreadsheet and/or similar representation, and/or your reliance thereupon; the appropriateness of the calculations performed in connection with your use of any spreadsheet or similar representation; the timeliness of any data populated the any spreadsheet or similar representation, as such data may not reflect true "real time" figures; the accuracy of any data provided by third parties, regardless of whether such data is populated by us or otherwise; and any data input by you.

CASH FORECASTING

Using the Service's cash forecasting capabilities, you may obtain estimates, analyses and other information based upon automated cash flow calculations. For these cash flow calculations, you may select relevant factors, such as actual account and user history, historical patterns of check clearing times and seasonality trends. You may use data from cash forecasting to take such steps (e.g. funds transfer) as you designate via certain other services for cash management purposes. You may also use the Service to obtain and implement recommended actions for managing liquidity. With regard to the foregoing, you agree as follows:

- You agree and acknowledge that, in connection with the Service's cash forecasting, we do not provide you with any guaranty or warranty regarding future payments, collections, cash requirements, funds availability or other circumstance, and you agree that you will take such steps as you deem reasonable to assess, verify, test and otherwise evaluate any forecasts or recommended actions provided pursuant to the Service.
- In providing you with various options, calculations and recommended actions to assist you with cash forecasting, we do not represent that any such options, calculations and/or recommended actions are advisable, suitable or reliable for your use. You expressly agree and acknowledge that there are inherent risks in utilizing cash forecasting tools and you assume all liability in connection with such utilization.

AUTOMATED GENERAL LEDGER INTERFACE

You may use the Service to access a capability which allows you to automatically download file(s) from your general ledger. In the event you elect to download general ledger information, you are solely responsible for verifying the accuracy, scope, completeness and timeliness of this information. You agree and acknowledge that neither we nor our service provider(s) undertake to reconcile such general ledger information in any manner or for any purpose, prior to, during or after downloading of this information to the Service. You also agree and acknowledge that our provision of this capability does not create any duty of ours either with regard to discrepancies or unauthorized actions or events or with regard to your responsibilities regarding accurate record keeping.

DISCLAIMER

We are not responsible for the accuracy, timeliness, scope, reconciliation and/or use of account and other information accessed or utilized in connection with the Service. You agree and acknowledge that all services and features utilized, and all actions taken, by you in connection with the Service are taken in your sole discretion and under your sole responsibility.

Without limiting the foregoing, you agree that the foreign exchange rates provided in connection with the Service are indicative only and are not live dealing rates. These indicative rates are provided by us solely as a courtesy. We do not accept any responsibility or liability for the accuracy or completeness of any indicative rates or for any reliance by or any other person on such rates. The indicative rates are derived from sources and models that we believe provide a

reasonable approximation of market rates at the time of calculation. Rates based on other models or differing assumptions or for different purposes may be materially different. With respect to your receipt of indicative rates in connection with the Service, you have full responsibility for all valuations of transactions for your own financial and regulatory reporting. Prices or valuations derived from use of indicative rates provided in connection with the Service do not necessarily represent or reflect prices or amounts at which any transaction could or would be entered into at this time or any other time, with us or with any other party.

In addition, we are not responsible for any data that is lost or destroyed in connection with your use of the Service. Without limiting the foregoing, we will not be responsible for any mechanical hard drive failure or other system failure, or if the Software is disabled (or "locked-up") as a result of your installation of other computer software on the personal computer, workstation or network on which Software is installed. We strongly recommend that you take the necessary measures to ensure that you perform daily back-ups of your data and the hard drives of the personal computers and/or services used in connection with the Software.

DIGITAL DISBURSEMENT SERVICE

Through the Digital Disbursement Service, you may request us to initiate disbursement payments to individual recipients using the bank account and bank routing information associated with the mobile telephone number or email address of the recipients, as registered with clearXchange or banks that participate in clearXchange. This section together with the entirety of the General Provisions section of this Booklet, including without limitation the terms related to Security Procedures, forms the agreement between you and us with respect to the Services defined herein. We will process the disbursement payment directly if the recipient's registered account is held by Bank of America or through one or more electronic payment networks if the recipient's account is held at a different US-based bank or credit union. If the recipient is not a registered recipient with clearXchange or a bank that participates in clearXchange, we will notify the recipient on your behalf and request that the recipient register with clearXchange or with a bank that participates in clearXchange to receive disbursement payments. You may only access the Digital Disbursement Service through a Bank Approved Channel, and may rely on the applicable User Documentation for further detail.

Before using the Digital Disbursement Service, you will provide us with a written list, in a form acceptable to us, of persons authorized by you to verify the authenticity of Digital Disbursement transactions and Approval/Deletion requests in accordance with the Security Procedure and to perform certain other duties in connection with a Digital Disbursement Service. You shall update such list from time to time as necessary to reflect any changes in authorized persons.

Registration of Recipients. The Digital Disbursement Service can only complete a payment to a Recipient if the Recipient registers with clearXchange or a bank that participates in clearXchange and provides the bank deposit account and routing information to be associated with his/her Alias Based Identifier. If you send us a Payment Transaction Request for a Recipient that is not a Registered Recipient, we, acting on your behalf, will send the Recipient a message to the Recipient's Alias Based Identifier requesting that the Recipient register his/her payment credentials for receipt of payments sent through the Digital Disbursement Service. We will not be able to complete processing of a Payment Transaction until the Recipient completes registration and qualifies as a Registered Recipient. You authorize us to send one or more messages to a Recipient's email address and/or mobile phone number informing the Recipient that a payment transaction is pending and that the Recipient needs to register in order to receive the payment. If the Recipient fails to register within fourteen (14) calendar days, or such other time frame that we may establish in our sole discretion from time to time, the Payment Transaction Request will be cancelled. You represent that you have all requisite authority under applicable law to authorize us to contact the Recipient in this manner and for this purpose.

Initiating a Digital Disbursement Payment. To initiate a Digital Disbursement payment through the Digital Disbursement Service, you shall provide a Payment Transaction Request to us through a Bank Approved Channel in the required format and containing the required data elements as established under the User Documentation and the Materials. For each Payment Transaction Request, you shall include, without limitation: (i) the dollar amount of the disbursement payment, (ii) the Alias Based Identifier for the Recipient, (iii) the Process Date, and other required fields as established in the User Documentation and the materials. You represent and warrant that all information in a

Payment Transaction Request, including the Alias Based Identifier of the Recipient, is accurate, correct and complete. We will use commercially reasonable efforts to initiate the Payment Transaction on the Process Date. We make no representation or warranty to you that a Payment Transaction will be received by the Recipient or credited to the Recipient's bank account on the Process Date or any other date. Payments may be delayed if the Recipient has not registered as a Registered Recipient. We shall have no liability to you in the event that you incur financial liability to a Recipient or other person arising from a delayed, undelivered, or late payment.

Processing and Payment of Digital Disbursements. You hereby authorize us to debit your designated Settlement Account for the amount of each Payment Transaction Request and remit funds in accordance with your Payment Transaction Request through the ACH network, book transfer, or other electronic funds network, as determined by us or clearXchange. We may debit your Settlement Account by direct posting/book transfer for payment for your Payment Transaction Requests. You are responsible for maintaining collected and available funds in the Settlement Account in an amount sufficient to pay for all debits to fund the Payment Transaction Requests. Debits to the Settlement Account can occur on or after the Process Date that you submit to the Bank. We are not obligated to process any Payment Transaction Requests, even if we have done so in the past, without having first been paid by you, but, if we do, the amount is immediately due and payable without notice or demand. We may post these debits to your Settlement Account even if the debits cause your Account to have a negative intraday balance or to be in an overdraft position. After the Process Date and prior to settlement of the funds to the Recipient, funds deducted from your Settlement Account may be held in an omnibus account or general liability account at the Bank. You acknowledge and agree that you have no ownership interest or right to the funds in this bank account, or to any compensation (including but not limited to interest or earnings credit) for funds held in such account. This bank account arrangement does not create a trust or other fiduciary obligations on the part of us to you.

Our Reliance on Alias Based Identifiers and Related Bank Account Information. You acknowledge that we, clearXchange and other processing banks will process the Payment Transaction to the Recipient based on the bank deposit account and routing information that is associated with the Alias Based Identifier that you include in the Payment Transaction Request. We shall have no responsibility to you or any other person, and we make no warranty or representation to you, that the bank deposit account associated with the Alias Based Identifier of the Recipient is in fact a bank account owned by or controlled by the Recipient. We have no responsibility for the accuracy of the bank account information associated with a Recipient's Alias Based Identifier. If you sent us an erroneous transaction and complete an unintended payment, you may submit a claim request and we will make a reasonable effort to act on your request. We will not be liable to you if such claim request is not effected. You agree to indemnify us in connection with any such claim request and/or reversal.

Returned Transactions. A Payment Transaction may be returned or rejected for various reasons such as, but not limited to, (i) the Recipient's bank account information associated with the Alias Based Identifier is expired or invalid, (ii) the Payment Transaction is rejected or returned by the Recipient, his/her financial institution or a payment network, or (iii) the Recipient has failed to register as a Registered Recipient. We will use commercially reasonable efforts to provide you with notice of a returned/rejected Payment Transaction. You agree that we shall not have any liability for any returned/rejected Payment Transaction or any resulting loss or damage that you may incur. Returned/rejected Payment Transactions will be credited to your Settlement Account.

Payment Cancellation Requests. You may request that we attempt to cancel a Payment Transaction that is pending (unknown Recipient), pending acceptance by the Recipient, or future dated for which we have not yet begun processing. We are not obligated to act on such a cancellation request. You may only request the cancellation of a Payment Transaction through a Bank Approved Channel. We will credit back to the Settlement Account any debits previously made to fund a successfully cancelled Payment Transaction.

Transaction Limits. We may, in our sole discretion, impose limits on the amount of funds sent through the Digital Disbursement Service, on a per-transaction or a cumulative basis, and change those limits at any time without prior notice to you. We may also, in our sole discretion, impose frequency limits on the number of transactions to an individual Recipient or to all Recipients in the aggregate, as well as daily or monthly limits as we deem appropriate.

Permissible Customers and Payments. You represent and warrant to us that all Recipient bank accounts are domiciled in the United States. You may not submit a Payment Transaction Request that would require the processing

of an international ACH transaction (IAT) or any other type of cross border payment. You shall comply with all applicable state and federal laws when making a Payment Transaction Request and using the Digital Disbursement Service . The Digital Disbursement Service is designed for your own proprietary payments only. You are prohibited from using the Digital Disbursement Service to make payments on behalf of a customer or other third party or any other unlawful payment. In no event shall we be liable for any claims for damages resulting from your requesting, or our processing, of these types of impermissible disbursement payments.

Payment Review. In our discretion, we may place a hold on a Payment Transaction Request for as long as reasonably required to conduct an appropriate inquiry regarding you, the Recipient, the requested disbursement payment and other relevant circumstances and factors. In addition, we reserve the right in our sole discretion to suspend or cancel any Payment Transaction if your Settlement Account or your use of the Digital Disbursement Service is not in good standing, as determined by us in our sole discretion.

Compliance with Service Documentation. You are responsible for ensuring that your use of the Digital Disbursement Service and each Payment Transaction Request conforms in form and substance to the requirements, including cutoff times on a Business Day, described in the applicable User Documentation and the Materials for the Digital Disbursement Service .

RECIPIENT AUTHORIZATION FOR PAYMENT

You shall only initiate a Payment Transaction Request to a Recipient using a mobile phone number if that recipient has expressly consented to you to receive text messages from you and us relating to the disbursement payment. You may document these consents in writing or by a recorded oral conversation. You also are responsible for obtaining any other consent from your customers, as required by your privacy policy or applicable law, for the sharing of customer information with us as necessary to make the disbursement payment to the Recipient. Upon our request, you will share documentation evidencing these consents with us.

CONFIDENTIALITY AND SECURITY OF DATA IN PAYMENT TRANSACTION MEMO FIELD

You shall not enter any confidential or proprietary information into the payment transaction memo field of your Payment Transaction Request (including full bank account numbers or social security number) as information from this field will be displayed in the Digital Disbursement Service email/text message communications to recipients and other persons. This payment transaction memo field information will not be encrypted within the Digital Disbursement Service or in various communications sent to recipient and other persons in connection with the Digital Disbursement Service , and this information may be subject to inadvertent disclosure. You bear sole responsibility for compliance with any federal or state laws relating to information security or privacy with respect to information you place in the memo field.

ELECTRONIC BILL PAYMENT CONSOLIDATION

Our Electronic Bill Payment Consolidation Services consolidate, reformat and deliver remittance information and other data related to payments received from Bill Payment Service Providers for credit to your account. Detailed information regarding the Services is available in the applicable User Documentation.

You agree that you will authorize Bill Payment Service Providers to deliver payments, remittance information and other related data to us for us to provide these Services to you. We will credit payments received from Bill Payment Service Providers to your account. If you elect to receive Reversals, we will debit your account for the amount of the Reversal and send such funds to the Bill Payment Service Provider.

You may also elect to have information of another company/organization reported through these Services. If you do so, you agree that you and the other company/organization will authorize the Bill Payment Service Providers to deliver payments, remittance information and other related data to us for us to provide these Services to you.

Remittance information and other data related to payments will be delivered to you in a mutually acceptable form and manner.

If you are unable to post any payments to your customers' accounts, you must promptly return such payments to us. You shall pay us immediately for the amount of any returned payments which we previously credited to your account.

ELECTRONIC DATA INTERCHANGE (EDI)

Our EDI Services allow you to disburse funds and/or deliver payment-related information to your receivers, electronically or by paper, by sending payment requests or payment-related information to us as described in the applicable User Documentation. These Services also allow you to access payments-related and remittance-related information in mutually acceptable formats received from your receivers and, where available, to match specified receivables and payables against payments. This section together with the entirety of the General Provisions section of this Booklet, including without limitation the terms related to Security Procedures, forms the agreement between you and us with respect to the Services defined herein.

For the web-based remittance advice delivery service, you are responsible for enrollment of your receivers on the service. During enrollment you will review and verify the accuracy of all enrollment information provided by your receivers on the specified Website. Upon completion of enrollment, you authorize us to deliver the confidential passwords and identifiers to your enrolled receiver to access the specified Website. Your receiver must keep such passwords and identifiers confidential. We will be fully protected in relying on the correct user identification codes and passwords.

SENDING PAYMENTS AND RELATED INFORMATION

When you wish to pay your receivers, you transmit a data file to us, containing instructions for your payments, in the format and by the cutoff times specified in the applicable User Documentation. When we receive a file from you under an EDI Service, we perform certain edits on the data, translate it into the appropriate format and/or medium and send the data to the payment system specified by you, except that we may use any means of transmission, funds transfer system, clearing house or intermediary bank we reasonably select. On the specified dates, we issue your payments in the required formats.

You control the content of any payment-related information you send to us and are solely responsible for the accuracy of such information. You are solely responsible for secure storage of all data relating to such information so that it can be made available to individual receivers upon request. You should reference the User Documentation for the applicable payment service to determine specific requirements for the duration of time required for data storage.

For the web-based remittance advice delivery service, we act as an intermediary to make data and information available to or from you or your enrolled receivers reasonably promptly after receipt of such information. We make the information available to your enrolled receivers on the specified Website within one Business Day of receipt. The information will be available on the specified Website for the time periods specified in the applicable User Documentation. We will not alter the content of any information that we receive from you or the receivers. We are not responsible for the accuracy of any of the information that we receive.

Payment requests originated via the EDI Services will be subject to the terms and conditions for the underlying payment services (Check Issuance and Document Printing, ACH and/or Wire Transfer and International Electronic Funds Transfer) as described in their respective sections of this Booklet.

RECEIVING REMITTANCE INFORMATION

Remittance information can be delivered to you in a mutually acceptable form and manner and will be covered under the Information Reporting section of this Booklet.

ELECTRONIC FOREIGN EXCHANGE

Our Electronic Foreign Exchange Services allow you to initiate FX Requests over the internet or by telephone. By accessing our Website, you can request that we provide an FX Transaction quotation, and by accepting our quotation you can electronically enter into FX Transactions, all in accordance with the instructions provided in the applicable User Documentation. This section together with the entirety of the General Provisions section of this Booklet, including without limitation the terms related to Security Procedures, forms the agreement between you and us with respect to the Services defined herein.

AUTHORIZED PERSONS

Before using an Electronic Foreign Exchange Service, you give us, by completing the applicable application, a written list of the persons authorized by you, including the security administrators, to perform certain duties in connection with the Electronic Foreign Exchange Service.

EFFECTIVENESS OF FX TRANSACTIONS

You deliver FX Requests to us through the Service and we send you a quotation that you can accept electronically. You must follow all system instructions, procedures and warnings delivered to you on the Website provided for the Service. Once we receive your acceptance of our quote, we send you our deal acknowledgment in accordance with the applicable User Documentation, and the FX Transaction will be binding and effective. The FX Transaction is not completed until we send this acknowledgment. You are responsible for contacting us outside the Service if you have not received our electronic acknowledgment within the time specified in the applicable User Documentation (or in the absence of such specification within a reasonable time). We will book FX Transactions at our New York office. Notwithstanding anything to the contrary in this Booklet, we reserve the right to withdraw the Service or terminate your access to the Service at any time without notice.

ACCOUNT DEBITS

You must have Collected and Available Funds in your account which, when added to funds which may be made available under a line of credit, are sufficient to cover your FX Requests. You may initiate an FX Request only if the offsetting debit to your account, including the available line of credit, will not cause you to exceed the account balance according to your records. If your records and ours disagree regarding the account balance, our records will control for purposes of our processing the FX Request.

Unless you have available funds under a line of credit with us, you are obligated to pay us the amount of any FX Request once we receive your FX Request. We will debit the account you specify for the amount of your payment before we process your FX Request. If, for any Business Day, we receive more than one FX Request and/or other items payable from your account, we may debit your account for such FX Requests and items in any sequence we determine in our sole discretion.

If you have available funds under a line of credit with us, we will debit your specified account for the amount of your payment on the settlement date of the FX Transaction. Prior to the settlement date, you can request a change to the specified settlement account for the FX Transaction by using the Website for the Service. We will not be obligated to implement such a change, and the change will not be effective until we have had a reasonable opportunity to review and act upon your request.

REJECTION OF FX REQUESTS

We may reject any FX Request which does not comply with the requirements of this Booklet or the applicable User Documentation, including any processing limits described in such User Documentation, or which we have been unable to verify through use of the Security Procedure. We also may reject any FX Request which exceeds the Collected and Available Funds (including funds made available under a line of credit) on deposit with us in the applicable account. Notice of rejection is given to you by telephone, by electronic means, by facsimile or, in event such notice cannot be given by any of those means, by mail. Notices of rejection will be effective when given.

CONFIRMATIONS AND SETTLEMENTS

You agree that FX Transactions effected through the Service are automatically confirmed and do not require any further confirmation. Foreign exchange transactions effected by a method other than the Service may also be confirmed on the Website for the Service in accordance with the User Documentation. Your electronic confirmation of each such foreign exchange transaction shall have the same effect as if you had received a written confirmation from us and had reviewed, manually signed and returned the signed confirmation to us.

INTERRUPTION OF COMMUNICATIONS

In the event of a service interruption involving the Service, you may effect FX Transactions, confirm FX Transactions, and specify settlement instructions by contacting one of our trading rooms or operations centers by telephone as designated in the applicable User Documentation.

ELECTRONIC STOP PAYMENT

Our Electronic Stop Payment Services allow you to electronically place or cancel a Stop Payment Request. This is in addition to your ability to make stop payment requests in person, by telephone or in writing as described in your Account Agreement.

A Stop Payment Request will not be effective until we review our records for the time period specified in the applicable User Documentation, determine that the check has not been paid during that period and respond to you with an online status of your request of “accepted” (rather than “rejected” or “pending”).

A Stop Payment Request terminates at the end of the period designated in the applicable User Documentation, unless the Stop Payment Request is renewed or canceled earlier. A Stop Payment Request is canceled automatically when the account on which the check is drawn is closed or transferred.

REQUESTING STOP PAYMENTS

You will include in each Stop Payment Request the Magnetic Ink Character Recognition (MICR) serial number and exact amount (dollars and cents) of the check for which payment is being stopped and the account number on which the check is drawn. You understand and agree that we can only stop a check that shows exactly the same MICR serial number and amount as that included in the related Stop Payment Request since our computer system identifies a check on the basis of the MICR serial number and the exact amount of the check.

You will review your account statements prior to transmitting any Stop Payment Request. You will not transmit any Stop Payment Request relating to a check that has been shown to be paid on such statements. If a check does not appear as paid on a statement with the correct check serial number due to defective or damaged MICR information on the check, we are not liable for processing the check.

In some cases, we may pay a check even if a Stop Payment Request is in effect. For example, if one of our branches (or banking centers) or affiliates becomes a “holder in due course” of the check that you asked us to stop, we may still pay the check.

The procedures for placing and acknowledging Stop Payment Requests are described in the applicable User Documentation.

IMAGE SERVICES

Our Image Services will make available to you digital images of checks, drafts, deposited items, returned items, notices of debit adjustments (with respect to this section, “debits”) and/or notices of credit adjustments and deposit slips (with respect to this section “credits”) with respect to specified accounts established with us. (Such Services do not include Image Lockbox Services, which are provided in connection with our Lockbox Services.) Digital images will be made available to you at such times as may be set forth in the applicable User Documentation or as otherwise established by us.

Images may be made available to you by Website, file transmission or by CD-ROM/DVDs. Images available via Website include checks, drafts, deposited items, returned items, debits and credits. Images available via file transmission include checks, drafts, returned items, debits and credits. Digital images made available via CD-ROM/DVDs, which may be accessed through the use of CD-ROM/DVD software that we provide to you, include checks, drafts, debits and credits. If you elect to receive Account Reconciliation reports and/or Demand Deposit Account (DDA) statements on a CD-ROM/DVD, images of such reports and/or statements will also be made available to you by CD-ROM/DVD.

If an image of a check or draft is missing or is illegible, we will provide you with a copy upon your request. Your request must include the account number, the check serial number, the exact amount (dollars and cents) of the payment and the date the payment was made. We may assess a fee for copies provided to you. We will not be liable for failure to provide copies by a given time or for failure to provide copies we are not reasonably able to provide.

Notwithstanding the Limitation of Liabilities section of this Booklet, we will not be liable for damages arising under any Image Service in excess of the amount of the check, draft or miscellaneous debit giving rise to your claim. Any such claim must include the account number, the check serial number, the exact amount (dollars and cents) of the payment, the date the payment was made, the name of the payee, a detailed explanation of how the claimed loss occurred and the name, address and phone number of the payee.

Notwithstanding the Suspension and Termination section of this Booklet, in the case of an Image Service using CD-ROM/DVDs, termination of such service upon 30 days notice may not be effective earlier than the first day of the statement period immediately following the statement period during which such notice is given.

INFORMATION REPORTING

Our Information Reporting Services make certain account, transaction and related information available to help you control and manage your accounts. This may include information generated from other Services you use. You may have information reported directly to you or, with certain of our Information Reporting Services, reported at your direction to another financial institution or other entity. Information reported on a current day basis is subject to updating and, therefore, at any point in time may not reflect the information on our records at such time. In addition, such information may be subject to adjustment upon final posting. Detailed information regarding an Information Reporting Service is available in the applicable User Documentation.

ACCOUNTS OF OTHER COMPANIES/ORGANIZATIONS

You may elect to have accounts of another company/organization reported to you with any of our Information Reporting Services. You agree that, for each such account, the company/organization will provide us with its written authorization, in a form acceptable to us, for us to make its account information available to you. However, you do not need to provide us such written authorization if the other company/organization is a U.S. Subsidiary and its accounts are domiciled in the United States of America. In that case, you represent and warrant that such other company/organization is a U.S. Subsidiary and that it has authorized us to make its account information available to you.

ACCOUNTS AT OTHER BANKS

You may also elect to have your accounts, or accounts of another company/organization, that are maintained at another financial institution reported through certain of our Information Reporting Services. If you do so, you agree that you and the other company/organization will authorize such other financial institution to make the reporting information available to us and to take all other actions necessary for us to provide Information Reporting Services to you. We shall not be responsible for the accuracy or timeliness of any information provided to us by any such financial institution.

THIRD-PARTY INFORMATION

If you gain, through your use of one or more Services, access to any information relating to any person other than us, you or any of your Subsidiaries which have authorized your receipt of such information, you agree that you will treat such third-party information as strictly confidential and you shall not disclose it to any person outside your company or to any persons within your company except those who have a need to know. Further, you shall ensure that adequate measures have been taken to prevent the unauthorized use of any such third-party information. You agree that you will not use any such third-party information for your own purposes other than in a communication to us relating to the Service.

LOCKBOX

Our Lockbox Services involve the processing of checks and other payment instruments, such as drafts, that are received at a Lockbox Address or by special arrangement with us, excluding without limitation the processing of cash, stock certificates and tangible valuables. With a Lockbox Service, you instruct your customers to mail checks and other payment instruments you want to have processed under a Service to the Lockbox Address. We are not liable to you for losses you suffer if anything other than checks or other payment instruments are sent to the Lockbox Address. We and/or our agents will have unrestricted and exclusive access to the mail (which may be accessed in image form) sent to the Lockbox Address.

If we receive any mail containing your lockbox number at our lockbox operations location (instead of the Lockbox Address), we may handle the mail and reserve the right to deposit the items as if they had been received at the Lockbox Address.

PROCESSING

We will handle checks received at the Lockbox Address according to the applicable Account Agreement, applicable User Documentation and our availability schedule, as if the checks were delivered by you to us for deposit to your designated account, except as modified by this Booklet.

All envelopes will be opened and scanned once received at our lockbox processing site. Images will then be used to identify your lockbox address and to process each transaction for deposit using your predetermined lockbox processing

instructions. We capture and report information related to the lockbox processing, where available, if you have specified this option in the set-up documents. As appropriate, we will endorse all checks we process on your behalf and deposit them in the account you designate for the applicable Service.

If we process an unsigned check as instructed in the set-up documents, and the check is paid, but the account owner does not authorize payment, you agree to indemnify us, the drawee bank (which may include us) and any intervening collecting bank for any liability or expense incurred by us or such other bank due to the payment and collection of the check.

If this option is available and if you instruct us not to process a check bearing a handwritten or typed notation "Payment in Full" or words of similar import on the face of the check, you understand that we have adopted procedures designed to detect checks bearing such notations; however, we will not be liable to you for losses you suffer if we fail to detect checks bearing such notations.

Unless we agree otherwise, each Business Day we will prepare and send remittance materials (images via internet, electronic file and/or paper packages) relating to the Lockbox Address to you at the address you specify for that Lockbox Address. For the wholesale Lockbox Service, the return of paper documents may include, but is not limited to, any checks (which checks may be in the form of Image Replacement Documents) not processed in accordance with the set-up documents along with requested remittance materials in the form of copies, versus the originals.

If you subscribe to the Image Lockbox Service, unless we agree otherwise, we will retain images of processed lockbox checks, remittance documents and correspondence as well as original remittance documents for an archive period as we communicate to you from time to time. The images will be sent to you via an encrypted CD-ROM or other encrypted medium as specified in the User Documentation. Upon receipt, you must promptly notify us if such CD-ROM contains a media defect or is unreadable in its entirety. Subject to the terms herein regarding the retention of lockbox images, we will use reasonable efforts to replace the CD-ROM, which shall be our sole obligation and your sole remedy with respect to defects in the CD-ROM. If you elect to not receive an encrypted CD-ROM of the lockbox images, we will have no obligation to provide copies of such items, other than a copy of the check image.

ACCEPTABLE PAYEES

For the Lockbox Address, you will provide to us the names of Acceptable Payees in writing. We will process a check only if it is made payable to an Acceptable Payee and if the check is otherwise processable. In some jurisdictions outside the United States, an Acceptable Payee is limited to you and limited variations of your name. In all other jurisdictions, including the United States, you warrant that each Acceptable Payee is either you or your affiliate. If an Acceptable Payee is your affiliate, then you also warrant that such Acceptable Payee has authorized checks payable to it to be credited to the account you designate for a Lockbox Service. We may require written authorization from any such Acceptable Payee. We may treat as an Acceptable Payee any variation of any Acceptable Payee's name that we deem to be reasonable.

NOTIFICATION SERVICE

Our Notification Services, where available, allow you to receive certain types of Notices. The types of Notices relating to a particular Service are further described in the User Documentation.

You agree Notices are in addition to and not a replacement of or substitution for the Services received by you under this Booklet or any other agreement between you and us. As set forth in the User Documentation, your system administrator(s) shall instruct us with respect to your use of the Notification Services.

You acknowledge and agree that Notices are provided as a convenience and as such you (a) acknowledge and agree that you may not rely on the receipt or expected receipt of a Notice, or the contents (or lack thereof) of any Notice, to relieve you of any of your obligations or duties under the terms of this Booklet or otherwise, and (b) must continue to use the Services in compliance with the applicable terms of this Booklet or such other agreement between you and us. Notwithstanding any terms to the contrary, you agree that we shall not be liable in any case: (i) for any failure to provide, or any delay in providing, any Notice, (ii) if any Notice is intercepted or received by an unauthorized person or entity, and (iii) if any Notice is inaccurate or incorrect in any way.

PAYMENT PROCESSING SERVICE

When you enroll to use the Payment Processing Services, you will choose to enroll as a Disburser. With our Payment Service, if you are a Disburser you may request us to originate on your behalf payments to Collectors. The capitalized ACH terms appearing in italics below are defined in the NACHA Rules. This section together with the entirety of the General Provisions section of this Booklet, including without limitation the terms related to Security Procedures, forms the agreement between you and us with respect to the Services defined herein.

YOUR RESPONSIBILITIES

If you are a Disburser:

- You must create and transmit to us or our third party processor a Transaction Request for each Entry you want us to originate on your behalf. You must make certain that each Transaction Request conforms in form and substance to the requirements, including cutoff times on a Business Day, described in the applicable User Documentation.
- You must retransmit any Transaction Request or other message initially transmitted to us or our third party processor through the Payment Service if you have not received an acknowledgment message from us or our third party processor within the time period specified in the applicable User Documentation.
- You authorize us or our third party processor to originate credits and debits to your Transaction Account through the ACH network in accordance with this Booklet and the NACHA Rules.
- You must comply with the NACHA Rules for all Transaction Requests and Entries, whether or not a Transaction Request or Entry is sent through the ACH network. We act as the *Originator*, on your behalf, and *Originating Depository Financial Institution (ODFI)* with respect to Entries. You will deliver Transaction Requests to us as provided in the User Documentation and the NACHA Rules. The NACHA Rules govern if they conflict with this Booklet or User Documentation, except that the file specification requirements in the User Documentation govern if they conflict with the NACHA Rules.
- Before using the Payment Service, you must give us a written list, in a form acceptable to us, of the persons authorized by you to verify the authenticity of Transaction Requests, Entries and Reversal/Deletion Requests in accordance with the Security Procedure and to perform certain other duties in connection with such Service.
- You must pay us with Collected and Available Funds for all Transaction Requests and credit Entries before the settlement date. If you pay us using one of our Wire Transfer Services, the terms and conditions of the Wire Transfers and International Electronic Funds Transfers section of this Booklet will apply. If you pay us using one of our Automated Clearing House (ACH) Services, the terms and conditions of the Automated Clearing House (ACH) section of this Booklet will apply.

When you enroll to use the Payment Processing Services, you will become a member of the Network. If you are a Disburser you must comply with the Network operating rules. The operating rules are available for your review at <https://secure.paymode.com/policies/operatingrules.htm>.

OUR RESPONSIBILITIES

If you are a Disburser:

- We will send Entries on your behalf and in accordance with your Transaction Request through the ACH system or processed directly to Transaction Accounts with us, all in accordance with the User Documentation. We may send Entries to any ACH processor selected by us or directly to another bank.
- We will send an Entry to the ACH processor for settlement on the date you select in the applicable set-up documentation, if we receive the Transaction Request by the applicable processing deadlines specified in the User Documentation for the Payment Service and, unless we agree in writing otherwise, we have received Collected and Available Funds from you for the Entry. We may treat Transaction Requests we receive from you for processing after a deadline as if received on the next Business Day. Transaction Requests will be deemed received by us when we receive the complete file at the location specified in the User Documentation.
- We will debit your Transaction Account for the amount of the Transaction Request.
- We will make available to your Collectors any remittance information received from you, as set forth below.

- We will give you secure access to the status and history of payments made by you through use of the Payment Service.
- At your request, we will contact those entities you identify to discuss with them enrolling as Collectors, as described in the User Documentation.

PROVISIONAL PAYMENTS

You agree to comply with the NACHA Rules for all Transaction Requests and Entries. You agree to be bound by the provision of the NACHA Rules providing that payment of a credit Entry by the *Receiving Depository Financial Institution (RDFI)* to the *Receiver* is provisional until the *RDFI* receives final settlement for the Entry. If final settlement is not received, the *RDFI* is entitled to a refund from the *Receiver* of the amount credited. This means that the *Receiver* will not have been paid.

Our payment of any debit Entry, returned credit Entry or credit Reversal is provisional until we receive final settlement for the Entry or Reversal. If final settlement is not received, we are entitled to a refund and we may charge your Transaction Account for the amount previously credited. We may delay the availability of any amount credited for a debit Entry or credit Reversal if we believe that there may not be sufficient funds in your Transaction Account to cover any chargeback or return of the Entry or Reversal.

POSITIVE PAY

Our Positive Pay Services allow you to identify exception items, to request photocopies and/or electronic images of exception items and to instruct us whether to pay or return those items. The options and features available for our Positive Pay Services are described in the applicable User Documentation. In many locations, if you send us an issue file, your information may be made available at the teller line. This is called "Teller Positive Pay," which helps identify fraudulent checks that are presented for payment or deposit at many of our banking centers. Where available, you also have the option to include payee names with the information available at the teller line. This service is called "Payee Positive Pay." With Teller Positive Pay, or Payee Positive Pay, where available, the decision whether to pay such an item may be made by us at the teller line. Where available, you can also identify ACH Entries as exception items. Please refer to the terms and conditions specified in the ACH Positive Pay section of this Booklet.

On each Business Day, we provide you a report of checks presented to us for payment on the prior Business Day and which we have identified as exceptions based on information you have provided to us and as more fully described in the applicable User Documentation. Exceptions are determined by comparing checks presented to us (either by other depository institutions or, where applicable, for cashing at one of our banking centers) with lists of checks issued or canceled by you which you transmit electronically to us each Business Day by the time specified in the applicable User Documentation. Alternatively, where available, you may choose an option under which we report all checks presented for payment, in which case we will treat all such checks as exception items.

On the same day we report exception items to you, you must notify us, by the deadline specified in the applicable User Documentation, which checks you want us to pay or which to dishonor and return. If you fail to notify us by the deadline, we will handle the exception items in accordance with the prescribed default procedure (which you may choose where the choice is available). Where required, you will indicate which checks you want us to return, having been deemed by you to be fraudulent. Our deadlines, default procedures and procedures for acknowledging pay and return requests are described in the applicable User Documentation. In order to assist you in making your decision whether we should pay or return exception items, you may request a copy of any exception item.

AUTHORIZED PERSONS

Before using a Positive Pay Service, you give us a written list, in a form acceptable to us, of the persons authorized by you to perform certain duties in connection with such Service.

ONLINE OPTION

You may access the daily reports of exception items via one of our Websites. Using that system, you must then notify us by the appropriate deadlines which exception items to pay or which to return. Notwithstanding any courtesy alerts we may provide to you regarding reports of exception items, you are responsible for checking the applicable Website

for daily reports of exception items and notifying us by the appropriate deadlines which exception items to pay or which to return.

You may request photocopies of exception items, which we will fax to you, as more fully described in the applicable User Documentation. Where available, you may arrange to receive and display electronic images of exception items.

MANUAL OPTION

Where available, we will provide you a report of exception items. You must then notify us by the appropriate deadlines which items to pay or which to return.

ACKNOWLEDGMENTS

You authorize us to return checks or to pay checks in accordance with your instructions and the default procedure in the applicable User Documentation. We will have no liability for payment of a check which is unauthorized or fraudulent if (i) the check is included in a report of exception items, (ii) you have not selected a return default for exception items and (iii) you do not give us timely instructions to return the check.

You acknowledge that our Positive Pay Services do not preclude our standard check processing procedures, which may cause a check to be dishonored even if your instructions or the default procedure do not otherwise require us to return such check.

You acknowledge that, if you have our Teller Positive Pay Service, the decision whether to pay or not pay an item may be made by us at a banking center.

If you decline to use the Teller Positive Pay Service offered by us, or fail to meet the applicable issue file deadlines in the User Documentation, you also acknowledge that, as between you and us, you will bear the full loss on checks which are drawn on your accounts with us and paid or deposited by us in good faith if the checks are counterfeits or bear unauthorized alterations to the amounts or unauthorized maker signatures, even if such checks would otherwise be exception items.

You acknowledge that our Positive Pay Services are intended to be used to identify and return checks which you suspect in good faith are fraudulent. They are not intended to be used as a substitute for stop payment orders on checks which are not suspected in good faith to be fraudulent. If we suspect or deem, in our sole discretion, that you are using these Services contrary to those intentions, we may require you to provide evidence that checks we return pursuant to your instructions or the return default, if applicable, were in fact fraudulent. In addition, we may hold you liable for losses we sustain on checks which we are requested to return under these Services and which you do not reasonably establish as fraudulent checks.

We will use reasonable efforts under the circumstances to respond promptly to proper requests for copies of exception items if image items are unavailable, but you acknowledge that our failure to provide copies does not extend the deadlines by which you must notify us of your pay/no-pay decisions.

You acknowledge that you must fulfill your responsibilities in connection with a Positive Pay Service on each Business Day.

In the event we are required to utilize our business continuity procedures, we will, if feasible, apply the default procedure in the applicable User Documentation. In some cases, we may attempt to contact you.

RECEIVABLES MATCHING

The Receivables Matching Service (the "Service") consolidates and formats receivables information, facilitates your reconciliation of this receivables information with payments received from your payers for credit to your deposit account with us, and provides outputs of electronic data reports regarding your receivables and related payments. The term "receivables information" shall refer to information regarding your outstanding or paid receivables, invoices, remittance data, payment advices or other related data for which you are to receive payment.

Receivables information can be delivered to us by you and your payers through a number of channels, including our Website, by email to a designated email address for the Service, by lockbox, and by other channels described in the User Documentation. The Service will provide you with receivables and payment data in the formats and manner described in the User Documentation, including identification of each incoming payment that matches or relates to previously submitted receivable.

The Service also permits you to access through the Website or other mutually agreed online access channels in order to view information concerning receipt matching which may include payment-related, receivables-related and/or open receivables information delivered to us.

Detailed information regarding the Service is available in the applicable User Documentation.

YOUR RESPONSIBILITIES

Before you submit to us your first request to use the Service, you are required to designate one or more accounts with us as the collection account(s) under the Service (each an "Account").

You agree and acknowledge that you will authorize and instruct your payers to deliver receivables information to us in the formats and manner established by us in the User Documentation or otherwise. It is your sole responsibility to request each of your relevant payers to provide the receivables information that you may require and/or that is necessary for the functioning of the Service. We have no knowledge or control over the process of the delivery of such receivables information. We have no obligation (i) to confirm or verify the accuracy, completeness, authenticity or validity of the receivables information received from you or your payers, and (ii) we have no obligation to confirm or to verify the identity of the sender of receivables information or a related payment.

You also may submit to the Service monthly account statements and other data regarding your accounts that are maintained at another financial institution. If you do so, you are responsible for providing such information or for authorizing such financial institution to submit information to us and to take all other actions necessary for us to provide these Services to you. We shall not be responsible for the accuracy or timeliness of any information provided to us by any such financial institution.

You hereby authorize us to extract data in various formats from the receivables information received from you or the payers, and to translate the data into the appropriate formats for use within the Service. The Service will seek to use the extracted data to match receivables information against the payments credited to your Account. This matching will be done according to the rules and standards as set forth in the applicable User Documentation, rules or standards requested by you within the Service and approved us, or as otherwise established by us for the Service from time to time.

We may establish requirements regarding the channel and format for the sending of receivables information to us, including permissible email channels. We reserve the right to reject and/or not process any receivables information that is sent to us that is not compliant with the formats, standards or other requirements set forth in the User Documentation.

You agree and acknowledge that the receivables information and payment information to be available for matching on a current business day is subject to certain cut-off times and delays in updating and, therefore, at any point in time the information reported in the Service may not reflect all information within our systems, operations, or records at such time.

You may access the extracted data from the receivables information and the matched payments using one of our Websites. You are responsible for taking actions to manage and review the payments and receivables information matching. We are not responsible for any damages as a result of any error made due to the actions taken by you through the use of Service or the Website.

The Service makes available to you certain information regarding your accounts, receivables transaction(s) and related information in order to assist you in managing your reconciliation of incoming funds against outstanding receivables information. You acknowledge that such reporting is not intended to be used as substitute for your review of your bank statement of your Accounts and your obligations herein and/or deposit account agreement to alert us of any errors or discrepancies on your Accounts.

SERVICE INSTRUCTIONS: SINGLE ADMINISTRATOR INDEMNIFICATION

You authorize us to act on any instruction regarding the Service that is provided to us by one of your Users or that is provided by any other person where the instruction is communicated in a session verified with a user name and password issued to one of your User(s). You acknowledge and agree that by using the Service one of your Users may submit an instruction for the Service, and we will act on such instruction, without a review, confirmation or approval by a second (different) User.

You acknowledge that the Service does not offer you an option of dual administration or dual user authorization with respect to all Service related instructions sent to us. You are requesting access to and use of the Service notwithstanding the lack of dual administration and dual user requirements, and we agree to permit such access and use of the Service in this manner in consideration of the following agreements:

- a) You agree that we shall have no responsibility or liability for any use or misuse of the Service, or of services, accounts, or information accessed via the Service, directly or indirectly, that would not have occurred had the Service offered dual administration and dual user requirements. For the avoidance of doubt, you hereby waive any and all claims you may have against us in connection with any loss, theft, misappropriation, cost, expense, damage or liability you may suffer or incur as a result, directly or indirectly, of the lack of dual administration and dual user authorization for your access to the Service.
- b) You agree to indemnify us against and hold us harmless from and defend us against any and all liabilities, claims, costs, expenses and damages of any nature (including legal expenses) arising out of or relating to disputes or legal actions by parties other than you and us, in connection with any use or misuse of the Service, or of services, accounts, or information accessed via the Service, directly or indirectly, in the absence of dual administration and dual user authorization for your access to the Service. This indemnity shall survive any termination of the Service.

RECEIVABLES AND PAYMENT INFORMATION DOWNLOADED BY YOU

You may use the Service to download electronic data file(s) of receivables and payments information. In the event you elect to download receivables and payments information, you are responsible for your use of the data in your accounts receivable, accounting or other internal system. You agree and acknowledge that our provision of this download capability does not create any additional duty of ours either with regard to identifying discrepancies or errors in the downloaded information or with regard to your responsibilities regarding accurate record keeping.

OUR RESPONSIBILITIES

The receipt of payments from your payers and the crediting of funds to the Account are subject to terms and conditions set forth in herein and in the applicable Account Agreement.

We will use reasonable efforts to accept and process the receivable information received from you or your payers, to extract data from the submitted receivables information, match the receivables information against the payments credited to the Account, and provide the receivables information and payment reporting to you. We also will use reasonable efforts to identify exception items within the Service and report those to you. We shall not be responsible for the completeness, accuracy or timeliness of any receivables information provided to us or extracted by us from the submitted receivables. In the event that such receivables information is incomplete, incorrect, vague or ambiguous or provided in a form that is unacceptable to us, we are entitled to reject such information and/or not process it further within the Service.

We will provide you with a Website through which you can (i) view the payments and the receivables information sent to us by you and your payers and (ii) manage certain receivables information and reports. We will use reasonable effort to make data and information available to you as soon as reasonably practicable through the Website.

We shall not be liable for any Damages (as defined below) arising from, or as a result of, any delay or failure on our part to provide the Service or any error, action, or omission on the part of you in using the Service or your payers in providing the receivables information.

We are not responsible for the accuracy, timeliness and reconciliation of the receivables information accessed in connection with the Service. You expressly agree and acknowledge that all features utilized, and all actions taken, by you in connection with the Service are taken in your sole discretion and under your sole responsibility.

SUPPLEMENTAL LIMITATION OF LIABILITIES; INDEMNITIES

Our duty and obligations under these Services will be fully discharged following the reporting of the receivables information to you.

In relation to any receivables information to be sent to us via e-mail by you or one of your payers, you fully agree that we are authorized, but not obliged, to rely upon and act in accordance with any e-mail communication received by us purporting to be a copy of a transmission or communication given or purporting to be given on your behalf or your

payers behalf without inquiring on our part as to the source of the transmission or communication or the identity of the person making or purporting to make such transmission or communication and regardless of the circumstances prevailing at the time of such transmission or communication. We shall be entitled to treat each such transmission or communication as fully authorized by and binding upon your sending the transmissions or communications and we shall be entitled (but not bound) to take such steps in connection with or in reliance upon such transmissions or communications as we may reasonably consider appropriate. In consideration for our acting in accordance with this provision, you agree and undertake to indemnify us and to keep us indemnified against all losses, claims, actions, proceeding, demands, damages, costs and expenses incurred or sustained by us of whatever nature and arising from our reliance on any such e-mail communication, excluding cost or damage attributable to our gross negligence or intentional misconduct.

You acknowledge and agree that (i) we are making no representations or warranties of any kind regarding the content of any reports of receivables information provided through the Service, and (ii) you and your payers are transmitting receivables information through the Service at your own risk. We disclaim any and all warranties of any kind (whether express or implied) including but not limited to any warranties of merchantability or fitness for a particular purpose with respect the Service and the receivables information provided to you through the Service.

RE-PRESENTMENT CHECK (RCK)

Our RCK Services allow you to collect eligible RCK checks that have been returned for insufficient or uncollected funds, using the ACH Services within the United States of America, as described in the applicable User Documentation. The creation of the RCK Entries on your behalf by us using the ACH Services will be subject to the terms and conditions of the ACH section of this Booklet, including but not limited to the Security Procedures requirements described in that section. The capitalized ACH terms appearing in italics below are defined in the NACHA Rules.

YOUR RESPONSIBILITIES

You authorize us to create RCK Entries on your behalf as provided in the User Documentation and the NACHA Rules. You are deemed to be the Originator under the NACHA Rules, and on each day you use a Service, you represent and warrant that (i) you have obtained all necessary authorizations from the Receiver prior to the initiation of any corresponding ACH Entry for a RCK and (ii) you accept as Originator all liability corresponding to the representations and warranties we as ODFI make under the NACHA Rules regarding RCK.

You shall pay us for the amount of any returned debit Entries (including rejected debit Entries) or any adjustment Entries accepted by us and which we have previously credited to your account. Such amounts shall be immediately due and payable by you to us. Returned debit Entries appear on your reports to the extent agreed by you and us, and you agree that we do not need to send a separate notice of debit Entries which are returned unpaid.

COMPLIANCE WITH NACHA RCK RULES AND LAWS

You agree to comply with the NACHA Rules for all Entries whether or not an Entry is sent through the ACH network. You act as an Originator and we act as an ODFI with respect to Entries. The NACHA Rules govern if they conflict with this Booklet, except that the file specification requirements in the User Documentation govern if they conflict with the NACHA Rules.

Each time you use an RCK Service (i) you warrant that you have obtained the appropriate authorization from each *Receiver* and the Entries conform to the authorization and comply with the NACHA Rules and (ii) you make the same warranties to us as we make under Section 2.2 or any successor section of the NACHA Rules.

TAX PAYMENTS

Our Tax Payment Services allow you to instruct us, using a touchtone telephone, our Software on your computer, our Website, and any such method as may be described in the applicable User Documentation, to pay any of your taxes which are reported or filed using the tax forms as more fully described and specified in such applicable User Documentation. Based on your Tax Payment Instructions, we prepare and remit your tax deposits. Each of these Services is described in the applicable User Documentation. This section together with the entirety of the General Provisions section of this Booklet, including without limitation the terms related to Security Procedures, forms the agreement between you and us with respect to the Services defined herein.

CUTOFF TIMES

You must comply with the deadlines specified in the applicable User Documentation for initiation of Tax Payment Instructions. If a Service allows you to send instructions to us after the cutoff time, or on a non-Business Day, we may treat these instructions as if we received them on the next Business Day.

COMMUNICATION EXPENSE AND RISK

Transmission of Tax Payment Instructions to us will be at your expense, except that we may provide a toll-free number telephone service. If that service is disrupted for any reason, you have the responsibility and risk of using alternative means of communicating Tax Payment Instructions to us accurately and in time for us to perform any Tax Payment Service.

REQUIRED INFORMATION

You will furnish us with all required information and authorizations at the times, in the manner and with the content specified in the applicable User Documentation.

TAX FORMS AND REMITTANCES

After we have received complete Tax Payment Instructions from you, we prepare the related tax forms (which may be on a magnetic tape or by electronic transmission as authorized by the Internal Revenue Service or other tax authority, as applicable) for submission to the appropriate tax authority.

If permitted by the input method, you may specify a settlement date in accordance with the User Documentation. If you use a touchtone phone as your input method, you may request a specified settlement date by calling the designated customer representative for the applicable Tax Payment Service.

For purposes of these Services, settlement date means the date you specify that the taxing authority's account is to be credited. If you do not specify a settlement date, we will pay the amount you specify on or before the tax due date. If you specify the settlement date, payment will be made on the settlement date.

ACCOUNT DEBITS

If you do not specify a settlement date, we debit your account for any tax payment on the Business Day of transmission. If you specify a settlement date, we generally debit your account on the settlement date unless you are prefunding your tax payments. Prefunding means that you pay for all tax payments by such time before the settlement date as we may specify. At our discretion, we may at any time without notice debit your account on the Business Day that Tax Payment Instructions are transmitted to us (or on any other later date). If we debit the funds on the transmission date (or any other date before the payment date), we hold the funds as a deposit liability to you, and not as trust funds, until the date when we remit the funds to the appropriate tax authority. We will not pay you interest on the funds.

We reserve the right to debit your account and to make a tax payment on your behalf earlier than the tax due date if the information in your Tax Payment Instruction is unclear or inadequate to permit us to determine the later due date under the applicable Tax Payment Service or if we otherwise reasonably decide that any delay in the payment of the tax may expose you to liability for a tax penalty. In such case we will not be liable to you for any lost use of funds.

REJECTION OF INSTRUCTIONS

We may reject your instructions during or immediately after transmission to us if they do not comply with the requirements of this Booklet or the applicable User Documentation or which we have been unable to verify through use of the Security Procedure. You will be informed of any such rejection only as specified in the applicable User Documentation, and no other notice of rejection will be provided.

In addition, we may decline to perform any Tax Payment Service or to report any tax, file any tax form, or pay any related tax for you, even if we have received instructions to do so, if the tax payment and our related service fees and charges exceed the Collected and Available Funds on deposit in your account or your ACH processing limit. If we reject a Tax Payment Instruction for that reason, we will promptly notify you by telephone or facsimile transmission in which case we will not be liable to you for the tax payment, any interest on the amount of your tax liability, or for any tax penalty imposed on you in connection with the tax liability. You agree these means of communication are a reasonable means of notifying you.

CANCELLATION

Subject to the provisions in the User Documentation, you may cancel a Tax Payment Instruction prior to disconnection of the telephone call in the case of an instruction initiated by touchtone telephone or prior to transmission to us of an instruction initiated through your computer or our Website.

Thereafter, a Tax Payment Instruction may be canceled only if:

- The tax payment has not been remitted, credited or otherwise made available to a tax authority
- A request to cancel provides sufficient information for us to effect the request
- The request is received by us by telephone or, at the option of either you or us, in writing (including facsimile transmissions) in time (but in no event later than the deadline specified in the applicable User Documentation) to afford us a reasonable opportunity to effect the request

OVERPAYMENTS

If we make an overpayment of your tax liability due to our error, we will recredit your account for the amount of the overpayment, and you agree to take such actions as we reasonably request to obtain a refund of the overpayment and to arrange for payment of such refund to us. In any event, you agree to repay us for any overpayment upon the earlier of (i) your recovery of such overpayment or (ii) the application of the related tax credit to another of your tax payment obligations.

RECORDS AND NOTICE OF ERRORS

We will provide you with statements and confirmations containing information about your tax payments in accordance with and subject to the applicable User Documentation.

Nothing in this Booklet relieves you of any duty imposed by law or contract regarding the maintaining of records or from employing adequate audit, account and review practices customarily followed by similar businesses. You will promptly review for accuracy all records, information and statements delivered from time to time to you by us.

You must send us written notice, with a statement of relevant facts, within 14 days after you receive the first notice or statement indicating a discrepancy between our records and yours. If you fail to give the required notice, we will not be liable for any loss of interest or for any compensation for any other loss or cost relating to an unauthorized or erroneous debit to your account or because of any other discrepancy in the notice or account statement. You must notify us promptly by telephone, confirmed in writing, if you learn or discover from any source other than a notice or statement from us of information concerning an unauthorized or erroneous debit to your account.

SUPPLEMENTAL LIMITATION OF LIABILITIES

For each Tax Payment Service, this section supplements the Limitation of Liabilities section of this Booklet.

If any Tax Payment Service is interrupted for any reason and you are unable to complete transmission of your Tax Payment Instruction to us, you will not be relieved of your obligation to make any tax payment otherwise contemplated to be made by such Service. We will not incur any liability if you fail to make any required tax payment by other means in the event of such interruption.

Notwithstanding anything to the contrary, if you initiate a Tax Payment Instruction using an "expedited payment request", as specified in the applicable User Documentation, such "expedited payment request" is subject to our prior approval, at our sole discretion. If we do approve your use of such an "expedited payment request", and you comply with the specific instructions and procedures set forth in the applicable User Documentation, we will make a reasonable effort to act on the Tax Payment Instruction initiated using such "expedited payment request," but we will have no liability if it is not effected.

TAXPAY AND BILLPAY

With this Service, you may initiate payments of certain bills and taxes provided through our designated Website, as described herein or in the applicable User Documentation. This section together with the entirety of the General Provisions section of this Booklet, including without limitation the terms related to Security Procedures, forms the agreement between you and us with respect to the Services defined herein. You may only access the Service through the our designated Website and use the Service to request us to make bill payments and tax payments on your behalf

to Registered Payees that are eligible to receive such payments as determined by their inclusion in the Payee Database. Bill and tax payments will be processed by electronic payment means only.

TAX AND BILL PAYMENTS

Scheduling Payment Request. To make a payment to a Registered Payee, you may use the Service to schedule a Payment Request and select the Settlement Date. We begin processing your Payment Request on the business day before the Settlement Date, but we debit your Payment Account on the Settlement Date. You must enter the Payment Request on or before the Business Day before the Settlement Date. You are solely responsible for scheduling Payment Requests and selecting a Settlement Date for each payment that allows sufficient time for the payment to be delivered on or prior to the date on which the payment is due to the Registered Payee. We make no representation or warranty to you that a Payment Request will be received by the Registered Payee or credited to the Registered Payee's bank account on any specific date or within any specific delivery time. Regardless of the Settlement Date selected by you, we shall have no liability to you or your Registered Payee in the event that you incur a late fee or other financial liability to a Registered Payee arising from a delayed, undelivered, or late payment.

Payment Method and Transaction Limits. You may, through the Service, request that we process a Payment Request as electronic funds transfer payment. We may, in our sole discretion, impose limits on the amount of money sent through the Service, on a per-transaction and/or a cumulative basis, and change those limits at any time without prior notice to you.

Processing Payment Requests. You hereby authorize us to debit your Payment Account for the amount of each Payment Request and remit funds in accordance with your Payment Request through electronic funds transfer. You are responsible for maintaining collected and available funds in the Payment Account in an amount sufficient to pay for all debits to fund the Payment Requests on or before the Settlement Date. We are not obligated to process any Payment Request, even if we have done so in the past, without having first been paid by you, but, if we do, the amount is immediately due and payable without notice or demand. We may post these debits to your Payment Account even if the debits cause your Payment Account to have a negative intraday balance or to be in an overdraft position. On or before the Settlement Date funds deducted from your Payment Account will be held in a master bank account or general liability account belonging to us. You acknowledge and agree that you have no ownership interest or right to the funds in this bank account. This bank account arrangement does not create a trust or other fiduciary obligations on the part of us to you.

Returned Transactions. If a Registered Payee or the Registered Payee's bank returns a Payment Request for any reason then we will credit the returned Payment Request to your Payment Account. You agree that we shall not have any liability for any returned Payment Request or any resulting loss or damage that you may incur.

Payment Cancellation Requests. You may cancel, reschedule or modify a Scheduled Payment Request prior to the time that we begin processing it as described in the User Documentation. You may only cancel, reschedule or modify a Scheduled Payment Request through the Service Website. Once we have begun processing a Payment Request, it cannot be cancelled, rescheduled or modified by you. In addition, we reserve the right in our sole discretion to suspend or cancel any Scheduled Payment Request including if your Payment Account or your use of the Service is not in good standing, as determined by us in our sole discretion. We will credit back to the Payment Account any debits previously made to fund a cancelled Scheduled Payment Request.

Payment Review. In our discretion, we may place a hold on a Payment Request for as long as reasonably required to conduct an appropriate inquiry regarding you, the Registered Payee, payment history, and other relevant circumstances and factors. Depending on the results of this review, we may process the Payment Request, reverse or cancel the Payment Request, or hold the Payment Request and related funds pending instructions from a government agency. At any time, a Payment Request may be reversed or canceled by us in our sole discretion and without prior notice to you.

Compliance with Laws, Rules and Regulations: You shall comply with all applicable laws, payment system rules and other regulations with respect to your use of the Service.

Compliance with Service Documentation. You are responsible for ensuring that each Payment Request conforms in form and substance to the requirements, including cutoff times on a Business Day, described in the applicable User

Documentation for the Service. If the Service allows you to send instructions to us after the cutoff time, or on a non-Business Day, we may treat these instructions as if we received them on the next Business Day

REGISTERED PAYEE DATABASE

A third party company operates an online database containing payment routing and other information regarding Registered Payees. We do not operate, monitor, audit, or control the Payee Database and we are not responsible for the accuracy of information that is stored in the Payee Database. The Payee Database is not part of the Service. When making a Payment Transaction, you may look-up your payees for bill payments and tax payments in the Payee Database to see if they are Registered Payee.

The Service may obtain payment routing information for your Registered Payees from the Payee Database. We may at our option process a Payment Request to the Registered Payee based upon the account and routing number information provided by the Registered Payee without further investigation or confirmation by us. You are solely responsible for any Payment Request that is processed by the Service using the Registered Payee data contained in the Payee Database.

SINGLE USER INDEMNIFICATION

We very strongly recommend that you implement and use a segregation-of-duties model, implementing dual controls, ("Dual Payment Controls") in connection with all authorizations to initiate and approve / release Payment Requests via the Service. This recommendation serves to help protect you from loss, theft, misappropriation or other unauthorized use of the Service and/or information or funds accessed via the Service, directly or indirectly. This recommendation also reflects industry best practices. When you setup the Service, your authorized administrators on the Service have authority, acting together, to setup or modify users on the Service. During the user setup process, your administrators have the option to allow a single user, acting alone, to enter, approve and release Payment Requests or your administrators may require two users, acting together, to enter, approve and release Payment Requests. You are in sole control of the setup of your users and you bear all responsibilities and risk if you elect to set up a single user with permissions to act alone when entering, approving and releasing a Payment Request.

You agree to indemnify us against and hold us harmless from and defend us against any and all liabilities, claims, costs, expenses and damages of any nature (including legal expenses) arising out of or relating to or in connection with any use or misuse of the Service or of information or funds accessed via the Service, directly or indirectly, in the absence of your full implementation and use at all times of Dual Payment Controls.

SUPPLEMENTAL LIMITED WARRANTY/DISCLAIMER

YOU ACKNOWLEDGE AND AGREE THAT WE ARE MAKING NO REPRESENTATIONS OR WARRANTIES OF ANY KIND REGARDING THE COMPLETENESS OR ACCURACY OF THE CONTENT OF THE PAYEE DATABASE. WE DISCLAIM ANY AND ALL WARRANTIES OF ANY KIND (WHETHER EXPRESS OR IMPLIED) INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT THE SERVICE AND THE PAYEE DATABASE. WE WILL HAVE NO LIABILITY OR RESPONSIBILITY FOR ANY LOSSES, COSTS, EXPENSES OR DAMAGES INCURRED BY YOU OR YOUR REGISTERED PAYEES WITH RESPECT TO THE USE OF THE PAYEE DATABASE AS MADE AVAILABLE THROUGH THE SERVICE.

WIRE TRANSFERS AND INTERNATIONAL ELECTRONIC FUNDS TRANSFERS

This section applies to our U.S. domestic and worldwide wire and internal funds transfer services and to our International Electronic Funds Transfer Services outside the United States of America. It does not apply to ACH Services within the United States of America, which are covered in the Automated Clearing House (ACH) section of this Booklet. This section together with the entirety of the General Provisions section of this Booklet, including without limitation the terms related to Security Procedures, forms the agreement between you and us with respect to the Services defined herein.

Wire Transfer and International Electronic Funds Transfer Services permit you to transfer funds electronically and, as appropriate, to transmit related messages as more fully described in the applicable User Documentation. These transfers are typically from your accounts with us to other accounts at our bank, at our affiliated banks or at other eligible banks. These transfers may also include transfers to your accounts with us from your accounts at other banks. These transfers may be made according to a specific request from you or according to your standing instructions

(which may include daily sweeps from your accounts at our affiliated banks to your account with us). They also may be low-value batch payments made according to multiple requests within a single electronic data file for transfers to or from your accounts.

MULTIBANK

The Multibank Service permits you to relay through us your instructions to another bank to wire transfer funds from one of your accounts held at that other bank (as used in this section, "multibank instructions"). Before using the Multibank Service, you must provide us with the account number and bank name for each account to be debited using this Service. You also must provide the bank holding the debit account with express, written authorization (with a copy to us where requested) to act on instructions we send to it under this Service. You agree that we may rely on that authorization until we have had a reasonable opportunity to act on notice that it has been revoked.

Multibank instructions are not payment orders to us, and we have no obligation to execute, transmit or accept any payment orders made to us under the Multibank Service.

If we receive any multibank instruction via SWIFT, we will relay your instructions to the receiving bank, subject to business day schedules for us, SWIFT, and the receiving bank. We will have no liability arising out of or relating to our forwarding, or any rejection by the other bank of, any such instruction which is not in the SWIFT format required by the other bank for such instruction. Your multibank instructions to us via SWIFT must be sent to the SWIFT address specified by us to you from time to time.

If we receive any multibank instructions other than via SWIFT, we will either, (i) where feasible, create a SWIFT formatted message from your instruction and relay it by SWIFT to the other bank, or (ii) use whatever means or medium we deem appropriate, including use of third-party facilities, to reformat and transmit your payment order to another bank, and we have no duty to do so if your request is defective, incomplete, erroneous or inconsistent with the terms of this Booklet. We may act on your multibank instructions as we reasonably consider appropriate notwithstanding any error, omission, defect or lack of clarity in its terms and even if the instructions appear to duplicate other multibank requests. You agree that your indemnity of us, as set forth in the Protection From Third Parties section of this Booklet, applies to any claims by another bank based on our sending a multibank instruction containing any error, omission, defect or lack of clarity.

If you wish to cancel or amend a payment order set forth in a multibank instruction, you must contact the bank to which the payment order is directed and act in accordance with its procedures.

Reports on multibank instructions which we have processed may be included in an Information Reporting Service if you have arranged such reports from the bank that is subject to such instructions.

COMPLIANCE WITH RULES AND LAWS

You agree to comply with all applicable payment system rules, including the national payment system rules and any other applicable laws and regulations of the receiving country of your transaction. You also agree to comply with the authorization and notice requirements applicable to any Request to debit another person's account.

AUTHORIZED PERSONS

Before using a Wire Transfer Service or an International Electronic Funds Transfer Service, you give us a written list, in a form acceptable to us, of the persons authorized by you to perform certain duties in connection with such Service.

ACCOUNT DEBITS

You must have Collected and Available Funds in your account which, when added to funds which may be made available under a line of credit, are sufficient to cover your Requests. You may initiate a Request only if the offsetting debit to your account, including the available line of credit, will not cause you to exceed the account balance according to your records. If your records and ours disagree regarding the account balance, our records will control for purposes of our processing the Request.

You are obligated to pay us the amount of any Request once we act on, other than to reject, your Request. At our discretion, we may at any time without notice require payment before we process your Request. Even if we have done so in the past, we are not obligated to process any Request without having first been paid by you, but, if we do, the amount is immediately due and payable without notice or demand.

Prior to initiating any Wire Transfer Service Request to debit an account of a third party, you must provide us with documents, in a form acceptable to us, evidencing the third party's authorization.

You will pay us for the amount of any returned or rejected debit transactions, or any adjustments, which we previously credited to your account.

If, for any Business Day, we receive more than one Request and/or other items payable from your account, we may debit your account for such Requests and items in any sequence we determine in our sole discretion.

ACTING ON REQUESTS

We will use any means of transmission, funds transfer system, clearing house or intermediary bank we reasonably select to transfer funds.

After we receive a Request by the applicable processing deadline (as specified in the applicable User Documentation), but no later than the value date stated in your Request (if such date is not earlier than the day such Request is received), we will act upon such Request by making applicable accounting entries or by transmitting payment instructions to the applicable bank or other party. If applicable, our acting on your Request will also be subject to the business day schedule of any of our banking centers or affiliates holding an account to be debited or credited under a Service. We may treat Requests we receive after a deadline as if we received them on the next Business Day. International Electronic Funds Transfer Services Requests will be deemed received by us when we receive the complete electronic data file at the location specified in the applicable User Documentation.

REJECTION OF REQUESTS

We may reject any Request which does not comply with the requirements of this Booklet or the applicable User Documentation, including any processing limits described in such User Documentation, or which we have been unable to verify through use of the Security Procedure. We also may reject any Request which exceeds the Collected and Available Funds (including funds made available under a line of credit) on deposit with us in the applicable account. We may also reject any Request if it may be returned for any reason under the applicable national payment system rules of the receiving country of your transaction. Notice of rejection may be given to you by telephone, by electronic means, by facsimile or by mail, depending upon the method of origination. Notices of rejection will be effective when given.

CANCELLATION OR AMENDMENT

We have no obligation to cancel or amend Requests after we receive them or to cancel or amend any particular funds transfer requested by a standing instruction which is in effect, however, if you send us a Request instructing us to cancel or amend a prior Request and we are able to verify the authenticity of the cancellation or amendment Request using the Security Procedure, we will make a reasonable effort to act on that Request, but we will not be liable if it is not effected. You agree to indemnify us against and hold us harmless from any and all liabilities, claims, costs, expenses and damages of any nature, including Legal Expenses, we incur in connection with your Request to cancel or amend. Your obligations under this provision will survive termination of these Wire Transfer and International Electronic Funds Transfer Services.

PROVISIONAL PAYMENTS

Payment by us for any transaction we credit to your account is provisional until we receive final settlement for the transaction. If final settlement is not received, we are entitled to a refund and we may charge your account for the amount credited. We may delay the availability of any amount credited for a transaction if we believe that there may not be sufficient funds in your account to cover chargeback or return of the transaction.

INCONSISTENCY OF NAME AND NUMBER

A beneficiary's bank (including us when we are the beneficiary's bank) may make payment to a beneficiary based solely on the account or other identifying number. We or an intermediary bank may send a Request to an intermediary bank or beneficiary's bank based solely on the bank identifying number. We, any intermediary bank and any beneficiary's banks may do so even if the Requests include names inconsistent with the account or other identifying number as long as the inconsistency is not known by us or such other bank. Neither we nor any other bank has a duty to determine whether a Request contains an inconsistent name and number.

Electronic Trade Services

Our Electronic Trade Services includes, but is not limited to, allowing you to:

- Initiate collections
- Instruct us to issue standby and commercial letters of credit and guarantees
- Instruct us to issue bank payment obligations
- Initiate open account transactions
- Receive advice of our receipt of purchase orders naming you as the supplier
- Receive advice of our receipt, confirmation, or payment, of commercial letters of credit advised and standby letters of credit advised naming you as beneficiary
- Request full or partial transfers of your commercial letters of credit or full transfers of your standby letters of credit
- Prepare documents in connection with your commercial letters of credit
- Access reports on letter of credit transactions, open account transactions, collections and bankers' acceptances
- Access images of your relevant documents as they relate to your letter of credit transactions, collections and open account transactions
- Request supply chain financing transactions in the roles of either a buyer or a seller

Detailed information regarding each Service is found in the applicable User Documentation.

COLLECTIONS

OUTGOING COLLECTIONS

Over the Counter Collections. Reports concerning your over the counter collections are made available under the Information Reporting section of Electronic Trade Services in this Booklet.

Direct Collections. Our Electronic Trade Services Direct Collections Service includes, but is not limited to, allowing you to initiate a collection (as that term is defined in the Uniform Rules for Collections) by delivering an instruction to a collecting bank.

The instruction will be on a form prescribed by us, but we will not have any responsibility or liability for the terms and conditions of any instruction; you accept all such responsibility and liability. Each direct collection will be governed by the Uniform Rules for Collections. You will promptly transmit to us a copy of the completed direct collection form and, upon our request, will provide to us copies of the underlying documentation or other information.

You represent and warrant to us as of the date you transmit the instruction form to us that the direct collection is not prohibited under the foreign asset control or other regulations of the United States of America or the applicable laws of any other jurisdictions.

Upon our receipt of any payment of a direct collection, the amounts received (less related charges, disbursements and/or expenses) will be paid to you, except that if we are required to return any such payment received upon the insolvency, bankruptcy or reorganization of the presenting bank or collecting bank or other third party or for any other reason, you will repay to us the amount paid to you together with interest thereon from the date we returned the payment and so notified you at the rate specified by us in our schedule of charges. Unpaid items and related documents received by us may be returned to you by regular mail at the address specified in the Authorization and Agreement Certification form which accompanied this Booklet or such other address as may be notified by you in writing.

INCOMING COLLECTIONS

Our Electronic Trade Services Incoming Collections Service includes, but is not limited to, allowing you to (i) request us to receive documentary time drafts, sight drafts or bills of exchange drawn on your appropriate account as part of your trade transactions and (ii) authorize us to make such payments. Such drafts are payable at sight or at a future date. All

such drafts received by us shall either be in the customary form of such drafts, or contain on the face of the instrument the words "draft" or "bill of exchange." Each draft must designate us as collecting and/or presenting bank to make presentation to you for acceptance.

You appoint us as your true and lawful attorney-in fact to act in your name, place and stead, solely for the purpose of signing your acceptance on drafts in accordance with the procedures outlined below. You hereby grant to us all powers necessary for us to sign your acceptance and thereby bind you to such acceptance. We will date your acceptance, specifying your name, and will sign as your agent and attorney-in-fact. We are also authorized to sign your name on your behalf without stating your name or our capacity hereunder. This appointment and grant is deemed coupled with an interest and may be revoked only by written notice of termination.

You will indemnify us against and hold us harmless from and defend us against any and all liabilities, claims, costs, expenses and damages of any nature (including Legal Expenses) that may directly or indirectly result or arise from or be incurred in connection with:

- Any acceptance or other actions performed by us as attorney-in-fact, except to the extent directly caused by our gross negligence or willful misconduct
- Any dishonor of a draft by you; and/or
- Any breach of or default under this Incoming Collections Service by you

We shall, within a reasonable time after receipt of your authorization to accept the draft, accept such draft on your behalf by signing your acceptance on such draft. Within a reasonable time thereafter, we will send an electronic notification to you. Such notification will include your name, address and reference number, the amount of the draft, its payment tenor, the maturity date, the drawer's name and the presenter's name. You authorize us to accept, pay or reject incoming collections on your behalf.

All drafts which we accept on your behalf, in the capacity as your attorney-in-fact, shall conclusively be deemed to have been accepted in fact by you fully and for all purposes, as if your had signed or executed the acceptance and such draft.

You authorize us to debit your appropriate account for authorized payments.

STANDBY AND COMMERCIAL LETTERS OF CREDIT AND GUARANTEES ISSUED

Our Electronic Trade Services Standby, Commercial Letters of Credit and Guarantees Issued Service includes, but is not limited to, allowing you to request us, by electronic transmission, to issue a commercial or standby letter of credit or a guarantee. If electronic transmission is unavailable, you may request us to issue such letters of credit or guarantees by fax transmission. Each letter of credit or guarantee which we agree to issue will be for your account or the account of another entity you designate. Each commercial letter of credit we issue will be subject to the UCP and, when applicable, the eUCP, each standby letter of credit we issue will be subject to the ISP98 and each guarantee will be subject to URDG758 and/or such governing law as may be approved from time to time. A letter of credit may be issued by any of our authorized offices or affiliates within or outside the United States of America. A guarantee may be issued by any of our authorized offices or affiliates outside the United States of America.

More detailed terms and conditions concerning the Electronic Trade Services Standby, Commercial Letters of Credit and Guarantees Issued Service can be found in the Master Standby Letter of Credit Agreement and/or the Master Commercial Letter of Credit Agreement and/or the Master Guarantee Issuance Agreement (collectively, the Master Agreements). Prior to using the Electronic Trade Services Standby, Commercial Letters of Credit and Guarantees Issued Service you will have to execute the applicable Master Agreement. To the extent a discrepancy occurs between this Booklet and your executed Master Agreement(s) , such discrepancy will be resolved by giving precedence to the respective Master Agreement.

YOUR RESPONSIBILITIES

You represent and warrant to us as of the date of your issuance request of each commercial letter of credit and each drawing that you or the importer has obtained all applicable and/or required licenses and other governmental approvals required for the import, export, shipping, storage of, financing of or payment for the goods and documents described in the letter of credit. You further represent and warrant to us, for each commercial and standby letter of credit issued,

that you have the authority to enter into such letter of credit and that the letter of credit will not violate or conflict with any of the provisions of the applicable constituent documents or any other agreement or undertaking to which you are a party. The transactions underlying the letter of credit are not prohibited under the foreign asset control or other regulations or laws of the United States of America or the applicable regulations or laws of any other jurisdiction. You will obtain, or cause to be obtained, insurance covering fire and other usual risks on all goods described in each commercial letter of credit issued by us.

You will reimburse us upon demand all monies paid by us under or in respect of each such letter of credit or guarantee, including payments on any draft, acceptance, order, instrument or demand drawn or presented under the letter of credit or guarantee. You will pay us on demand interest on all amounts paid by us or any other nominated bank under each letter of credit or guarantee from the date of such payment until we receive reimbursement at a rate per annum specified in the applicable User Documentation. You will reimburse us in the currency in which the letter of credit or guarantee is denominated (or, at our option, the equivalent of the denominated currency amount in U.S. Dollars or the currency of the country in which the letter of credit or guarantee was issued at the rate of exchange quoted by us in the city in which the letter of credit or guarantee was issued for the sale of the denominated currency against U.S. Dollars or such other currency on the date on which the denominated currency amount is paid by us). Regardless of the expiration of the letter of credit or guarantee, you will remain liable for all such amounts until we are released from liability to all persons entitled to draw or demand payment under the letter of credit or guarantee.

As a condition to our agreement to issue a letter of credit or guarantee, we may require you at any time to make with us a cash deposit, which may not accrue interest or earnings credit, and to grant us a security interest in the underlying goods and documents of title and/or any other property or accounts as we reasonably determine as security for your obligations to us.

You will pay us Legal Expenses incurred by us in connection with each letter of credit or guarantee including without limitation our defense of any proceeding initiated by you to enjoin payment or negotiation by us of a letter of credit or guarantee even if you are awarded such relief, provided only that we have acted in good faith in defending such action.

If you request the issuance of a letter of credit or guarantee listing one of your Subsidiaries or another entity as the account party, each such request will be considered a request by you for the issuance of a letter of credit or guarantee, and you will assume all liabilities and obligations with respect to such letter of credit or guarantee. You represent and warrant to us that you will derive substantial economic benefit from each underlying transaction relating to each request for the issuance of a letter of credit or guarantee listing your Subsidiary or another person as the account party. Your obligations under each letter of credit or guarantee will not be released or discharged if:

- We fail to collect any payment under such letter of credit or guarantee directly from the Subsidiary or such other entity.
- Any bankruptcy, reorganization, insolvency, receivership, moratorium or other such action effecting creditors generally is filed by or against the Subsidiary or such other entity.
- We receive payment from the Subsidiary or such other entity, but it is subsequently rescinded or must be returned by us.

OUR RESPONSIBILITIES

If we accept your request, we will issue the commercial or standby letter of credit or guarantee as described in your electronic or fax (if electronic is unavailable) transmission and pursuant to this Booklet and the UCP (with regard to commercial letters of credit), ISP98 (with regard to standby letters of credit) and URDG758 and/or such governing law as may be approved from time to time (with regard to guarantees). We will pay each commercial letter of credit pursuant to its terms, this Booklet and the UCP. We will pay each standby letter of credit pursuant to its terms, this Booklet and the ISP98. We will pay each guarantee pursuant to its terms and this Booklet and URDG758 and/or such governing law as may be approved from time to time.

CHANGE OF LAW OR REGULATION

If, subsequent to the issuance date of a letter of credit or guarantee, we determine that the introduction of or any change in the interpretation of any law, rule, regulation or guideline or the request of a central bank or other

governmental authority will increase our costs relative to our providing the Electronic Trade Services Standby, Commercial Letters of Credit and Guarantees Issued Service, as set forth below, then, on demand, you will pay us additional amounts sufficient (as determined by us) to compensate us for such increased cost. Such increased costs could include: (i) reserve, deposit, assessment or similar requirements or (ii) increases in capital adequacy requirements.

DEPOSIT ON TERMINATION EVENT

If there occurs an event which permits us, under the Suspension and Termination section of this Booklet, to terminate this Service immediately, you will deposit with us, on demand and as cash security for your obligations to us, an amount equal to the aggregate undrawn amount of the letters of credit and guarantees issued by us in the same currency as the letter of credit or guarantee, or, at our option, its equivalent in U.S. Dollars or the currency of the country in which the letter of credit or guarantee was issued. You will not withdraw any amount so deposited except to the extent such amount exceeds the undrawn and unreimbursed amount of the letter(s) of credit and guarantees. If the amount deposited by you under this Booklet for a letter of credit or guarantee is in a currency different than the currency in which such letter of credit or guarantee is payable and the amount so deposited becomes less than the value of the undrawn amount of the letter of credit or guarantee because of any variation in rates of exchange, you will deposit with us additional amounts in such other currency so that the total amount deposited by you under this Booklet is not less than the equivalent value of the undrawn amount of the letter of credit or guarantee, determined by using the rate of exchange quoted by us on the date of our latest demand.

BANK PAYMENT OBLIGATION - BUYER

Our Bank Payment Obligation ("BPO") Service provides you with the processing, handling, submission, receiving, reporting and comparison of data in connection with BPOs and related underlying trade transactions. The BPO is communicated in an ISO20022 certified BPO XML message exchanged between banks via SWIFTNet. In addition to delivering process efficiencies, the Service offers you and your seller opportunities for payment assurance, financing, sovereign, economic, and obligor bank risk mitigation, as the situation warrants. The BPO may be on immediate or deferred payment terms.

All BPOs (and all transactions thereunder) must be subject to the URBPBPO. Capitalized terms used in this BPO Service description but not otherwise defined have the meanings ascribed to them in the URBPBPO. While not all-inclusive, the following summarizes our BPO Services:

Establishing a Baseline. You will electronically transmit to us, in accordance with applicable User Documentation, purchase order data and data for the BPO conditions, either concurrently, or first purchase order data and then data for the BPO conditions. When we receive the required data, at our discretion, we will submit them to a Transaction Matching Application ("TMA"). The seller will also be confirming the purchase order data and the data for the BPO conditions to the Recipient Bank for submission to the TMA. If the submitted data matches on the TMA, the Baseline is an Established Baseline. At this point in time the BPO is effective and irrevocable but conditional and Client will receive from us, via electronic transmission, a notification of BPO issuance and a Baseline Match Report establishing a Baseline.

Matching. After seller arranges for the relevant Data Set to be submitted to Recipient Bank, and in turn Recipient Bank submits them to TMA for matching, you may receive from us at our option, via electronic transmission, a BPO Data Set Match Notification attaching a Data Set Match Report. The Notification, among other things, will ask for your instructions on accepting any Data Mismatches and commensurate deductions or increases in submission value or alternatively, whether you wish to reject the submission. We will then submit your instructions to the TMA. Notwithstanding the foregoing, we reserve all rights to review Data Mismatches and reject or accept them in our sole discretion. Upon a successful TMA Data Set match or upon our acceptance of Data Mismatches, the BPO will become a direct payment obligation which is due and payable, and we will honor according to the agreed payment terms.

Settlement. If the terms of the BPO call for immediate, at sight payment, we will debit your account or settle with you as per your instructions for the BPO amount and remit the funds to Recipient Bank. In the case of a deferred payment BPO, we will notify you via electronic transmission that the BPO has been honored, the BPO amount, and the

date upon which the BPO will mature. We will then settle with you at maturity by debiting your account with us or per your instructions.

With regard to the Bank Payment Obligation Service, more detailed terms and conditions can be found in the applicable Bank Payment Obligation documentation to be entered into by you and us. To the extent a conflict exists between this Amendment and the applicable Bank Payment Obligation documentation the terms and conditions in the Bank Payment Obligation documentation will govern.

OPEN ACCOUNT

Our Electronic Trade Services Open Account Service permits you electronically to (i) inform us of your purchase order details, instruct us on examining required documents for compliance with your purchase orders and instruct us to pay the presenting party and (ii) provide notification to your vendors of open account transactions initiated through electronic means.

Purchase Orders. You will electronically transmit to us, in accordance with applicable User Documentation, files of purchase orders you have sent to your vendors with instructions to present documents to us. The electronic files will be in such format(s) and transmitted through such channel(s) as you have selected and we have approved. If you are not requesting us to issue a commercial letter of credit, each transaction will be flagged as an "open account" payment type.

When we receive required documents, we will review them according to your purchase order terms. If and as provided by the open account payment type selected by you, we will match the documents against the pertinent purchase orders housed on our electronic database in accordance with the parameters established by you and accepted by us. If you have sufficient Collected and Available Funds in the account you have designated, we will pay the presenting vendors as provided under the open account payment type selected by you from the following three types:

- **Importer matching** – you match the documents against your copy of the pertinent purchase order and instruct us how much to pay to the presenter and when to pay.
- **Bank matching** – we match the documents against our electronic file of the pertinent purchase order, following the parameters established by you; we then electronically inform you, indicating whether they are compliant or non-compliant, and await your payment instructions.
- **Auto-pay** – we match the documents as described above, and, if we determine they are compliant, make payment to the presenter; if we determine that the documents are non-compliant, we make payment only upon your express instructions.

Notification of Open Account Transactions. With respect to open account notification letters, we will notify, by Electronic Trade Services, fax, courier or mail as instructed by you, your vendors of (i) our receipt of such notices naming them as vendor and (ii) any payments made pursuant to drawings under such open account transactions.

STANDBY LETTERS OF CREDIT-ADVISED (CONFIRMED/UNCONFIRMED)

Our Electronic Trade Services Standby Letter of Credit-Advised Service includes, but is not limited to, allowing you to receive advice, by electronic transmission, of (i) our receipt of any standby letter of credit naming you as beneficiary; (ii) our confirmation of any such letter of credit; (iii) the status of any documents or payments with regard to any Standby Letter of Credit-Advised; and (iv) any payment made pursuant to a drawing under any such letter of credit.

You may elect to have Standby Letters of Credit-Advised of a Subsidiary or other entity reported to you with our Electronic Trade Services Standby Letter of Credit-Advised Service. You agree that the Subsidiary or other entity will provide us with a written authorization, in a form acceptable to us, for us to make that Subsidiary or other entity's information available to you.

General. The Standby Letter of Credit-Advised and the Full Transfer (as described below) must be subject to UCP or ISP98, and our rights hereunder are in addition to rights we have under UCP or ISP98, as applicable.

Full Transfer. You may request the transfer of all of your rights as beneficiary of a Standby Letter of Credit-Advised by submitting to us, for each transfer, a request providing the following information:

- Standby Letter of Credit number

- Name of issuing bank
- Our advice number
- Name and address of second beneficiary's advising bank
- Name and address of second beneficiary
- Date of application

If we approve the transfer, we will place the appropriate endorsement on the Standby Letter of Credit-Advised and send it to the second beneficiary or send the second beneficiary a transferred letter of credit document prepared by us. The second beneficiary will have sole rights as beneficiary, whether existing now or in the future, including sole rights to agree to any amendments, including increases or extensions or other changes. You must provide us the original Standby Letter of Credit-Advised and any existing amendments. You understand that we may, at our sole discretion, refuse to approve any Full Transfer to a second beneficiary. You acknowledge that due to conditions of the original Standby Letter of Credit-Advised, certain proprietary information may be disclosed to the second beneficiary and/or to the applicant under the original Standby Letter of Credit-Advised. We will have no liability to you in the event of such disclosure and, in such event, you will indemnify and hold us harmless from all claims of third parties. You acknowledge that your rights as beneficiary in the original Standby Letter of Credit-Advised are irrevocably transferred to the second beneficiary(ies) who shall have sole rights. In that connection, your approval is not required for us to honor a discrepant presentation made by the second beneficiary.

For our transfer fee, we may debit your account(s) with us, which you may designate subject to our reasonable approval. You also agree to pay us on demand any expenses which may be incurred by us in connection with this transfer.

Partial Transfers. We do not permit partial transfers of Standby Letters of Credit-Advised.

COMMERCIAL LETTERS OF CREDIT-ADVISED (CONFIRMED/UNCONFIRMED)

Our Electronic Trade Services Commercial Letter of Credit-Advised Service includes, but is not limited to, allowing you to receive advice, by electronic transmission, of (i) our receipt of any commercial letters of credit naming you as beneficiary; (ii) our confirmation of any such letter of credit; (iii) the status of any presentations or payments with regard to any Commercial Letter of Credit-Advised; and (iv) notification of any payment pursuant to a presentation under any such letter of credit. The Commercial Letter of Credit-Advised Service also facilitates electronic preparation of required documents under such advised letters of credit using electronic data captured through our electronic advising process.

You may elect to have Commercial Letters of Credit-Advised of a Subsidiary or other entity reported to you with our Commercial Letter of Credit-Advised Service. You agree that the Subsidiary or other entity will provide us with a written authorization, in a form acceptable to us, for us to make that Subsidiary or other entity's information available to you.

You may prepare required documents based on your Commercial Letter of Credit-Advised details. You may then edit and locally print those documents and courier them to us for presentation.

General. All Commercial Letters of Credit-Advised (and any transactions thereunder, including transfers) must be subject to the UCP and our rights herein are in addition to rights we have under the UCP.

REQUESTS FOR TRANSFERS

Partial Transfers. You may request the partial transfer of your rights as beneficiary, with or without substitution of invoices, of Commercial Letters of Credit-Advised by submitting to us, for each transfer, a request providing the following information:

- Date of application
- Whether the transfer is with or without substitution of invoices and/or drafts
- Whether you refuse to allow amendments to be passed automatically to the second beneficiary without your consent
- Our Commercial Letter of Credit-Advised reference number

- Name of issuing bank
- Name and address of second beneficiary
- Name and address of second beneficiary's advising bank
- Amount to be transferred
- Description of merchandise subject to the transfer
- Unit price (if any)
- Expiration date for the transferred Commercial Letter of Credit-Advised
- Latest shipment date for the transferred Commercial Letter of Credit-Advised
- Number of days after shipment within which documents must be presented for the transferred Commercial Letter of Credit-Advised
- Insurance percentage (if applicable) for the transferred Commercial Letter of Credit-Advised

If we approve the transfer, we will advise the second beneficiary of the terms and conditions of the transferred credit by full text teletransmission, mail/airmail or courier (as we deem appropriate).

With respect to all partial transfers, whether with or without substitution of invoices, you may refuse to allow us to notify the second beneficiary(ies) of any future amendment(s) received under the original Commercial Letter of Credit-Advised.

If you elect transfer with substitution of invoices, then, on our first demand, you will deliver to us within one (1) Business Day your draft, commercial invoice and any other required documents in compliance with the terms of the original Commercial Letter of Credit-Advised. The draft and documents are in substitution of those presented by the second beneficiary. When (i) the documents of the second beneficiary and the substitution documents from the first beneficiary are determined to comply with the terms of the Commercial Letter of Credit-Advised or, if determined to be discrepant, are taken up by the issuing bank and (ii) we are in receipt of funds, we will pay you in accordance with your instructions for the amount of the difference between your draft and the draft of the second beneficiary, less any fees due and payable to us in connection therewith. If you fail, at our first demand, to deliver to us your drafts, invoices and other required documents as stated above, you acknowledge our right to present invoices and other documents received from the second beneficiary in accordance with the instructions of the original Commercial Letter of Credit-Advised. You also understand that we will not pay you the difference between the amount of the draft of the second beneficiary and the amount authorized to be paid to you under the original Commercial Letter of Credit-Advised.

Full Transfers. You may request the transfer of all of your rights as beneficiary, without substitution of invoices, of Commercial Letters of Credit-Advised by submitting to us, for each transfer, a request providing the following information:

- Date of application
- Our Commercial Letter of Credit-Advised reference number
- Commercial Letter of Credit-Advised number (issuing bank's number)
- Name of issuing bank
- Name and address of second beneficiary
- Name and address of second beneficiary's advising bank
- Amount to be transferred

If we approve the transfer, we will place the appropriate endorsement on the Commercial Letter of Credit-Advised and send it to the second beneficiary or send the second beneficiary a transferred letter of credit document prepared by us. The second beneficiary will have sole rights as beneficiary, whether existing now or in the future, including sole rights to agree to any amendments, including increases or extensions or other changes.

For any transfer, you must provide us the original Commercial Letter of Credit-Advised and any existing amendments. You understand that we may, at our sole discretion, refuse to approve any full or partial transfer to a second

beneficiary. You acknowledge that due to conditions of the original Commercial Letter of Credit-Advised, certain proprietary information may be disclosed to the second beneficiary and/or to the buyer under the original Commercial Letter of Credit-Advised. We will have no liability to you in the event of such disclosure and, in such event, you will indemnify and hold us harmless from all claims of third parties. You acknowledge that your rights as beneficiary in the original Commercial Letter of Credit-Advised (up to the amount shown in your request with respect to partial transfers) are irrevocably transferred to the second beneficiary(ies) who shall have sole rights (but only up to the amount shown in your request in the case of a partial transfer). In that connection, your approval is not required for us to honor a discrepant presentation made by the second beneficiary.

For our transfer fee, we may debit your account(s) with us, which you may designate subject to our reasonable approval. You also agree to pay us on demand any expenses which may be incurred by us in connection with this transfer.

INFORMATION REPORTING AND IMAGE ACCESS

We will make available to you, subject to the terms of the Information Reporting section of this Booklet, reports including, but not necessarily limited to, standby letter of credit transactions issued and/or advised, commercial letter of credit transactions issued and/or advised, bankers' acceptances, collections and open account transactions, as more fully described in the applicable User Documentation.

We will also make available to you images including, but not necessarily limited to, your relevant documents as they relate to your letter of credit transactions, collections and open account transactions, as more fully described in the applicable User Documentation.

SUPPLEMENTAL CD-ROM/ DVDs SOFTWARE LICENSE PROVISIONS

This section supplements the Software License Agreement, entered into between you and us as a supplement to the Software License section of the Booklet, with respect to Software we provide for the Image Services, under which we provide you with CD-ROM/DVDs, and shall control in the event of conflict between it and the balance of the Software License Agreement. This section does not apply to the Image Lockbox Service. If we provide you a CD-ROM/DVD which contains a media defect or is unreadable in its entirety, you must notify us in writing of such defect within 30 days after the CD-ROM/DVD creation date appearing on the CD-ROM/DVD. If you provide us with such notice within such time period, we will use reasonable efforts to replace the CD-ROM/DVD. You acknowledge and agree that this shall be our sole obligation and your sole remedy with respect to any such defects in the CD-ROM/DVD.

Notwithstanding anything to the contrary in the Suspension and Termination section of the Booklet, if an Image Service under which we provide you with CD-ROM/DVDs is terminated for a reason other than your breach of any terms and conditions in this Amendment, you may continue to use the Software and Materials for such Service after termination of such Service for six months, or for such longer period as Bank approves, subject to the terms of this section or such other software license agreement as we, at our election, require you to sign for this purpose. At the end of such six-month or longer period, the license for your use of such Software and Materials will then terminate automatically

SUPPLY CHAIN

SUPPLY CHAIN BUYER

Our Electronic Trade Services Supply Chain Service permits you electronically to (1) upload invoices that you have approved for payment, (2) make these uploaded invoices available to your vendor for early financing, (3) make payments on these uploaded invoices and (4) inquire and report on the status of these uploaded invoices.

Invoice Upload. You will electronically transmit to us, in accordance with applicable User Documentation, files of invoices that you have approved for payment on a future date and which you wish us to make available to your vendors for early financing. The electronic files will be in such format(s) and transmitted through such channel(s) as you have selected and we have approved.

Approval of Uploaded Invoices and Payment. Once invoices have been made available to the vendor, we will, at our discretion, respond to their request for early financing and will pay the vendors accordingly. On the maturity date of

the invoice, we will collect funds from the account you have designated. If your vendor decides not to discount an invoice, you will, at maturity date, make payment to them through us.

Reporting. Information reporting is available to you on the status of each invoice and payment related to each such invoice as further described in the applicable User Documentation.

SUPPLY CHAIN SELLER

Our Electronic Trade Services Supply Chain Service permits you electronically to (1) select invoices that you wish to be considered for early financing and (2) inquire and report on the status of these selected invoices.

Invoice Selection. You will have visibility into approved invoices that are available for discounting which you can group together and electronically request us to finance. On receipt of a request from you, we will discount these invoices at an agreed upon rate from the date of discount until maturity. We are not obligated to discount each invoice, and will treat them on a case by case basis. If you decide not to discount an invoice, you will, at maturity date, receive payment from your buyer through us.

Reporting. Information reporting is available to you on the status of each invoice and payment related to each such invoice as further described in the applicable User Documentation.

With regards to all Services covered by our Electronic Trade Services Supply Chain Service, more detailed terms and conditions can be found in the applicable Supply Chain Service Documentation to be entered into by you, us and your vendor or buyer, as applicable. To the extent a conflict exists between this Booklet and the applicable Supply Chain Service Documentation, the terms and conditions in the Supply Chain Service Documentation will govern.

SUPPLEMENTAL LIMITATION OF LIABILITIES AND INDEMNIFICATION FOR ALL ELECTRONIC TRADE

For each Electronic Trade Service, this section supplements the Limitation of Liability section of this Booklet.

You have sole responsibility for determining the level of security you require and assessing the suitability of the security procedures for these Services. We have no duty to investigate the authenticity of any application, instruction or other communication you provide us using an Electronic Trade Service. Also, we will have no liability to you for acting upon any application, amendment or other communication purportedly transmitted by you, even if such application, amendment or message:

- Contains inaccurate or erroneous information.
- Constitutes unauthorized or fraudulent use of an Electronic Trade Service.
- Includes instructions to pay money or otherwise debit or credit any account.
- Relates to the disposition of any money, securities or documents.
- Purports to bind you to any agreement or other arrangement with us or with other persons or to commit you to any other type of transaction or arrangement.

We are authorized, but not obliged, to rely upon and act in accordance with any application, instruction, consent or other communication by fax or other electronic transmission (including without limitation any transmission by use of our Software or a Website) received by us purporting to be a communication on your behalf without inquiry on our part as to the source of the transmission or the identity of the person purporting to send such communication. We are also authorized, but not obliged, to rely upon and act in accordance with any application, instruction, consent or other communication by telephone, purporting to be a communication on your behalf by an authorized person designated by you.

General Provisions

THE ENTIRETY OF THIS GENERAL PROVISIONS SECTION OF THIS BOOKLET TOGETHER WITH THE APPLICABLE SERVICE SECTIONS HEREIN FORMS THE AGREEMENT BETWEEN YOU AND US WITH RESPECT TO THE SERVICES DEFINED THROUGHOUT THIS BOOKLET.

ACCESSING SERVICES VIA THE INTERNET

We may make certain Services available via one or more Websites. In addition to any other terms and conditions applicable to your use of such Websites, you agree as follows:

We reserve the right to suspend your access to, and use of, a Website upon notice of a violation of any of the terms and conditions applicable to such access and use. In addition, we may suspend your access to, and/or use of, a Website immediately without notice where such action may be required to prevent interference with or disruption to services to other customers, to protect the integrity of our systems, or as may be required by law or regulation.

Websites shall be used only for lawful purposes. Without limiting the foregoing, you agree not to use a Website in any way that would:

- infringe any third party copyright, patent, trademark, service mark, trade secret or other proprietary rights or rights of publicity or privacy
- be fraudulent or involve the use of counterfeit or stolen items
- violate any law, statute, ordinance or regulation (including, without limitation, those governing export control, unfair competition, anti-discrimination, defamation or false advertising)
- violate any contractual provision by which you are bound
- be false, misleading or inaccurate
- create liability for us or any service provider(s) or cause us to lose (in whole or in part) the services of any service provider
- be defamatory, trade libelous, unlawfully threatening or unlawfully harassing
- interfere with or disrupt computer networks connected to the network(s) used by you
- interfere with or disrupt the use by any other customer of the Website and/or of any services accessed via the Website

Violations of system and network security are prohibited, including but not limited to unauthorized access to, or use of, systems or data. You agree not to attempt to probe, scan or test the vulnerability of a system or to breach security or authentication measures or to seek to interfere with any system or network security. We will investigate violations of system and/or network security and may involve law enforcement if criminal conduct is suspected. Indirect or attempted violations of these terms and conditions by you, and any actual or attempted violations by a third party on your behalf, shall be considered violations by you.

You agree to follow all our procedures and requirements with respect to security in accessing and using a Website and not to misrepresent your identity. Where passwords or other access information may be required, you are solely responsible for the security of such access information and will hold us harmless from any unauthorized access to or use of systems that may result from your failure to properly maintain the security of such access information.

You agree to cooperate with us and any service provider(s) with regard to your access to, and use of, a Website, including providing such technical assistance and information as we may reasonably request.

You agree to access and use Websites only for the purpose intended and not for any purpose of commercial exploitation.

CHANGES TO A SERVICE

You may request us at any time to change the processing instructions for any Service. We are not obligated to implement any requested changes until we have had a reasonable opportunity to act upon them. In making changes, we are entitled to rely on requests purporting to be from you. For certain changes, we may require that your requests be in

writing, in a form and manner acceptable to us, or be from an authorized person you designate. In addition, certain requests for changes may be subject to our approval.

We may change, add or delete any of the terms and conditions applicable to any or all Services upon 30 days prior notice to you in writing or by electronic means. Your continued use of or failure to terminate any Service, after the effective date of the change, will indicate your agreement to the change.

COMMUNICATIONS

Any written notice or other written communication to be given under the terms of this Booklet will be addressed to the applicable address specified on the Authorization and Agreement form you return to us, except as you or we specify otherwise in writing in conjunction with your accounts or particular Services. Notices are effective upon receipt, except as otherwise provided in this Booklet or any Materials.

You agree that we may electronically monitor and/or record any telephone communications with you in those countries which permit that practice. If our records about any such communication are different from yours, our records will govern.

If you choose to use unencrypted electronic mail to initiate payment requests or other instructions or otherwise communicate with us, your use of such electronic mail with respect to a Service will be subject to the terms and conditions of this Booklet and will comply with the applicable User Documentation. You further agree to bear the risk that such electronic mail may be corrupted, modified, garbled or hacked or its confidentiality may be breached by a third party and the risk that we will rely on such mail, which appears to be from you but which is unauthorized, and that such reliance will result in a loss. In addition, you agree that we may rely on the integrity of facsimile transmissions that you send us and you agree to bear the risk that the information we receive differs from that sent to us, and that such reliance will result in a loss.

CONFIDENTIALITY

OUR OBLIGATION

We will maintain the confidentiality of information obtained from you in connection with Services we provide under this Booklet in accordance with our normal procedures for safeguarding customer information and the policy reflected in the Bank of America Corporation Code of Ethics, except as otherwise provided herein.

YOUR OBLIGATION

You acknowledge our claim to proprietary rights in the Materials and that the Materials constitute our "trade secrets" or trade secrets of our licensors or vendors. You understand that all Materials are confidential and you will:

- Safeguard the Materials at all times.
- Establish and maintain procedures to assure the confidentiality of the Materials and any password or code subsequently changed by you.
- Use the Materials only for the purposes for which we provide them.
- Notify us promptly by telephone, confirmed in writing, if any Materials are lost or their confidentiality is compromised.
- You will not, nor will you allow anyone else to, do any of the following without our prior consent:
- Disclose any Materials to any person or entity, except to your employees and agents with a need to know the Materials.
- Make any copies, in whole or in part, of any Materials in whatever form or medium (electronic, printed or otherwise) in which they may exist from time to time, except as provided in the Software License section.
- Translate, reverse engineer, disassemble or decompile any Software or security devices.

These confidentiality obligations continue after a Service you are using is terminated.

You have sole responsibility for the custody, control and use of all Materials. You agree that no individual will be allowed to initiate a request or other instruction contemplated in this Booklet or to have access to any Materials without proper supervision and strict security controls. If a Service requires use of user identification codes or

passwords, we will be fully protected in relying on the correct user identification codes and passwords, as described in the relevant User Documentation.

GENERAL

This section does not limit either party's ability to disclose information (i) that the other party has approved by prior writing for disclosure; (ii) that is disclosed to its professional advisors or auditors; (iii) that is or becomes public other than through a breach of these confidentiality obligations, (iv) that was in its possession or available to it from a third party prior to its receipt of it in connection with any Service, (v) which is obtained by it from a third party who is not known by it to be bound by a confidentiality agreement with respect to that information, (vi) as required or requested by any securities exchange or regulatory body to which either party is subject or submits or (vii) as otherwise required to be disclosed by law or by legal or governmental process.

In addition, you agree (i) that we may disclose to our offices, affiliates, officers, employees and agents with a need to know any information we obtain about you and (ii) that those offices, affiliates, officers, employees and agents may disclose such information as permitted under the immediately preceding paragraph.

You acknowledge and agree that data processing related to Services covered by this Booklet and your associated accounts, or the partial or complete delivery of certain Services, may take place in countries other than those where you and your accounts with us are located. You further understand that information concerning your relationship with us may be available on our electronic data system both for information management purposes and in order to enable you to benefit from our electronic banking services. You understand and agree that, as a result, your banking relationship information may be available to some of our offices, affiliates, officers, employees and agents outside the country or countries where you and your accounts are located. You authorize us to transmit your banking relationship information across national borders, notwithstanding the banking secrecy laws of any of the countries involved, as necessary or appropriate to provide any Services.

It is possible that in providing the Services we will transmit Personal Data. We will only transmit Personal Data to our locations, to locations of our affiliates or to others in order to provide the Services. We may contract with others to provide data transmission or storage services to us. In that case, we will require that they treat Personal Data solely in accordance with our instructions. You agree to comply with any directions we may give you from time to time with respect to the Personal Data.

Neither party will use the other's name or refer to the other party directly or indirectly in any solicitation, marketing material, advertisement, news release or other release to any publication without receiving the other party's specific prior written approval for each such use or release, except that we may use your name as a reference in service proposals if we obtain your prior oral approval for such use. In addition, the Bank may develop and use case studies related to and describing completed transactions between Bank and Client (the "Case Study") and use the Case Study in Bank's service proposals, marketing materials and Website. Prior to publishing or distributing the Case Study, Bank will provide a copy of the Case Study to Client for review and consent.

This section also does not limit our ability or that of our affiliates to access and use transaction data related to any Service provided to you in connection with the management of our or their business.

These obligations continue after any Service you are using is terminated.

CURRENCY EXCHANGE RATES

If a transaction does not contain currency exchange rates obtained from our daily rate sheet or from one of our FX Advisors, then your funds will be exchanged for such other currency at a current rate of exchange on or before the transfer or debit date, as the case may be, in accordance with our normal procedures (including applicable User Documentation). If we assign an exchange rate to your transaction, such exchange rate will be determined by us in our sole discretion based upon such factors as we determine relevant, including but not limited to, market conditions, exchange rates charged by other parties, desired rates of return, market risk, credit risk, and other market and economic factors. You acknowledge that exchange rates for retail and commercial transactions, and for transactions effected after regular business hours and on weekends, are different from the exchange rates for large inter-bank transactions effected during the business day, as reported in The Wall Street Journal or elsewhere. Exchange rates offered by other dealers, or shown at other sources (including online sources) may be different from our exchange

rates. You acknowledge that assigned exchange rates may include fees, costs, charges or other mark ups as determined by us in our sole discretion. We do not accept any liability for our exchange rates, Any and all liability for our exchange rates is disclaimed, including without limitation, direct, indirect or consequential loss, and any liability if our exchange rates are different from rates offered or reported by third parties, and/or offered by us at a different time, at a different location, for a different transaction amount, or involving a different payment media (including but not limited to bank-notes, checks, wire transfers, etc.). You should assume we have an economic incentive to be a counterparty to any transaction with you. Currency exchange rates fluctuate over time, and you acknowledge and accept the risks of such fluctuations: (i) in the case of Requests, between the time you initiate a Request and the time the transfer is either completed or is unwound due to a cancellation, amendment, rejection or return, (ii) in the case of checks, between the time you request us to create a check and the time we debit your account to cover such check and/or the time we re-credit your account if the check is stopped in accordance with the applicable stop payment procedures and (iii) in the case of drafts, between the time you print a draft, or request us to print a draft, and the time we transfer funds from your account to cover such draft.

PRE-HEDGING DISCLOSURE:

From time to time in connection with our market making and other activities, we may engage in pre-hedging activities to facilitate customer transactions and hedge the associated market risk. Such trading may include pre-execution hedging transactions. These transactions will be designed to be reasonable in relation to the risks associated with the potential transaction with you. However, no assurance can be given that these transactions will not affect the price of the underlying currency. In each of these instances, our trading activity could affect the market for the relevant currencies and consequently, your cost or proceeds. When our hedging and risk liquidation activity is completed at prices that are superior (or inferior) to the agreed upon execution price or benchmark, we will keep the positive (negative) difference as a profit (loss) in connection with the transactions. You will have no interest in any profits.

NOTICE OF ACCOUNT STATEMENT DISCREPANCIES

Information concerning payments and other transactions on your accounts will be reflected in your account statements and, in some cases, in the form of written or electronic advices or reports that are produced by the Service and/or through the use of other Services provided by us to you. You must send us written notice, with a statement of relevant facts, within 14 days after you receive the first notice or statement indicating a discrepancy between our records and yours. If you fail to give the required notice, we will not be liable for any loss of interest or for compensation for any other loss or cost relating to an unauthorized or erroneous debit to your accounts or any other discrepancy reflected in the notice or account statement. You must notify us promptly by telephone or other electronic means approved by us for such purpose, and promptly confirm such notice in writing, of information concerning an unauthorized or erroneous debit to your accounts if you learn about or discover it from any source other than a statement, advice or report from us.

E-STATEMENTS

If you use a Website, you will receive e-Statements electronically, unless you opt out. If you are not currently receiving e-Statements, we reserve the right to switch you to receipt of e-Statements unless you notify us that you wish to opt out. You may opt out by contacting your treasury services representative. You agree that this Booklet constitutes an agreement under the Uniform Electronic Transactions Act pursuant to applicable state law.

FACSIMILE SIGNATURES

In some countries, businesses use a variety of techniques to produce a facsimile signature manually or by means of a device or machine (each generally called a facsimile signature) as a convenient method for signing checks, documents and other items. If you choose to use a facsimile signature, you must provide us with a specimen of each facsimile signature.

You are responsible for any withdrawal from your deposit account that bears or reasonably appears to us to bear your facsimile signature, regardless of by whom or by what means the signature was placed on the check. If you choose to use a facsimile signature, you are responsible, and we may pay a withdrawal and debit your account for any such withdrawal, even if (i) you have not presented us with a specimen facsimile signature; (ii) the size, color or style of the

check is different from that of the check you use; or (iii) the size, color or style of the facsimile signature is different from that of the facsimile signature you use.

You agree to compensate us for all losses, claims, damages or expenses, including Legal Expenses, that result from our payment of a withdrawal bearing a facsimile that reasonably resembles your facsimile signature.

You are responsible for taking security measures and implementing procedures to prevent the forgery, theft or fraudulent or unauthorized use of your facsimile signature.

THIRD PARTY VENDORS

This section describes the terms and conditions under which you are permitted to utilize any Subsidiary or other person, including a Third Party Vendor, to access any of the Services provided to you by us (which may include the Third Party Vendor's receipt, access to, and/or handling of any related sensitive information) through the use of a remote access software package, a Website, data file transmission, mail delivery service, mobile access or telephone, as applicable.

SUPPLEMENTAL LIMITATION OF LIABILITIES

We will not be responsible for the acts or omissions of you or your officers, employees or agents, including any Third Party Vendors retained by you (including but not limited to the amount, accuracy, timeliness or authorization of any instructions or information) or the acts or omissions of any other person or entity, including but not limited to any clearing house association or processor, any U.S. Federal Reserve Bank or any other country's central bank, any other financial institution or any Supplier, and no such person or entity will be deemed our agent.

If you permit any Subsidiary or other person, including a Third Party Vendor, to access any of the Services provided to you (which may include the Third Party Vendor's receipt, access to, and/or handling of any related sensitive information or PHI) through the use of a remote access software package, a Website, data file transmission, mail delivery service, mobile access or telephone, we will not be responsible or liable for such Subsidiary's, person's or Third Party Vendor's use or misuse of the Services or related accounts or any such party's access to, use, misuse or loss of any PHI or other sensitive information; provided we have complied with any applicable Security Procedure.. We may and will treat all instructions and information received by us through this arrangement as provided by and for the benefit of you and subject to all our rights under this Booklet with respect to the pertinent Services.

THIRD PARTY VENDOR USAGE OF TREASURY SERVICES

YOUR REPRESENTATIONS, WARRANTIES, AND AGREEMENT SURROUNDING THIRD PARTY VENDORS.

You represent and warrant to us that you obtain a business benefit by allowing a Third Party Vendor to use, on your behalf, one or more of the Services provided to you by us (which may include the Vendor's receipt, access to, and / or handling of any related sensitive information or PHI), and that you have made available to each Third Party Vendor the Booklet and all applicable User Documentation.

You will provide and maintain a list of all such Third Party Vendors in a form and in a manner acceptable to us. We may act under the Booklet as a Third Party Vendor instructs us and you agree that such Third Party Vendor will be acting as your agent with respect to the Services. You further agree that you will cause a Third Party Vendor to use the Services on your behalf in accordance with the terms and conditions of the Booklet and all applicable User Documentation and that such Third Party Vendor shall have no other right to use a Service or to derive any benefit under the Booklet. You agree that you are fully responsible for ensuring that all appropriate information protection, privacy, and cross border data movement and similar policies and procedures are implemented and followed by all such Third Party Vendors used by you, and that they comply at all times with applicable law. You shall provide us with information about any such Third Party Vendor as we reasonably request.

You will indemnify us and hold us harmless from and against any and all liabilities, losses, claims, costs, expenses and damages of any nature (including but not limited to the allocated cost of staff counsel, reasonable attorneys' fees and any fees and expenses incurred in enforcing the Booklet) (cumulatively, a "Loss") in any way relating to any action or inaction of a Third Party Vendor, unless such Loss is attributable to our gross negligence or intentional misconduct.

We may, at our sole discretion, either decline to act upon any instruction or communication received from any Third Party Vendor or terminate or suspend your use of the underlying Service, if, in our sole discretion, we determine that a

Third Party Vendor may pose a risk to our operations or a Third Party Vendor or you breach any term herein or the applicable User Documentation. In the event you terminate your relationship with a Third Party Vendor it is your sole responsibility to terminate such Third Party Vendor's access to the Services (including access to any related PHI or other sensitive information).

In the event of a conflict between like terms in another agreement between you and us, then the terms of this section shall prevail, but only to the extent necessary to resolve such conflict.

GENERAL MATTERS

AGREEMENT

Except with respect to terms governing a Website to which you agree when you use a Service through such Website, this Booklet constitutes and represents the entire agreement between you and us regarding the Services we provide you anywhere in the world and supersedes and extinguishes all prior agreements, understandings, representations, warranties and arrangements of any nature (including requests for proposals and other sales material), whether oral or written, between you and us relating to any such Service (including any International Treasury Services Terms and Conditions booklet, but excluding the current Account Agreement). Except as otherwise expressly provided in this Booklet, this Booklet will be controlling in the event of any conflict between it and any relevant User Documentation, any other document or written or oral statement (including but not limited to any Account Agreement, except as applicable law requires otherwise), but excluding terms governing a Website as noted above. Current User Documentation is available upon request.

This Booklet is binding upon each of your and our respective successors and permitted assigns. You may with our prior written consent, assign any of your rights or duties described in this Booklet. This Booklet is not for the benefit of any other person, and no other person has any right under this Booklet against you or us, and nothing contained in this Booklet creates any agency, fiduciary, joint venture or partnership relationship between you and us.

NOTICE OF FINAL AGREEMENT. THIS WRITTEN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

GENERAL OBLIGATIONS

We are responsible only for performing the Services expressly provided for in this Booklet. We may contract with an outside vendor in providing any of these Services.

With respect to any Service, we will provide you with assistance by telephone at the numbers and during the hours specified by us in writing from time to time.

You are responsible for maintaining the security of your data and ensuring that it is adequately backed-up. We are not responsible for your loss of your data.

ORAL INSTRUCTIONS

Except as otherwise provided in this Booklet with respect to compliance with any applicable Security Procedure, we may rely on oral instructions from any person who identifies himself or herself by a name which is included on a written list from you of persons authorized to give such instructions. You will update this list from time to time as necessary to reflect any changes in authorized persons. Except as otherwise expressly stated in this Booklet, we are not required to act on any instruction from any person or to give notices to any person.

SEVERABILITY; NO WAIVER

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

No delay or failure to exercise any right or remedy under this Booklet is deemed to be a waiver of such right or remedy. No waiver of a single breach or default under this Booklet is a waiver of any other breach or default. Any waiver under this Booklet must be in writing.

GOVERNING LAW

Except as otherwise expressly provided in this Booklet for a particular Service, with respect to each Service, this Booklet is governed by and interpreted according to (i) U.S. federal law and (ii) the law of (A) the state in the United States of America in which the account (or the principal account, in the case of multiple accounts) associated with such Service is located or, if there is no such state or no account associated with such Service, (B) the State of New York, without reference to the principles of conflicts of law of the U.S. and of such state.

If you are headquartered, or are using a Service, outside the United States of America, and if requested by us, you must appoint an agent for service of process in England, Hong Kong, Singapore and/or the United States of America, and you irrevocably agree that any writ, summons, order, judgment or other document relating to or in conjunction with any proceeding, suit or action may be served on you in such jurisdiction.

SECURITY PROCEDURE

You agree to use the applicable Security Procedure as described in the Materials in connection with your use of a Service for your data delivery type or Service for the purpose of verifying the authenticity of any (i) electronic funds transfers or payments instructions, including, without limitation, cancellations, amendments or reversals thereto; and (ii) any instructions, data, transactions or other information sent between you and us (collectively "transactions"). The purpose of the Security Procedure is to verify the authenticity of any such transactions between you and us or our third party processor and not to detect any errors in the transmission or content of any such transactions. Each time you use the Service, you represent and warrant that, in view of your requirements, the Security Procedure is a satisfactory method of verifying the authenticity of any such transactions. You agree that we or our third party processor may act on any transactions, the authenticity of which we or our third party processor, as applicable, have verified through use of the Security Procedure.

You agree that we may act on transactions, including, without limitation, electronic funds transfers and payments requests, even if they are unauthorized, if we act in good faith and comply with the applicable Security Procedure and any written agreement with you restricting our action on such transactions. In such cases, we may enforce or retain your payment to us for such transactions; provided, however, we may not enforce or retain payment if you prove that the unauthorized transactions were not caused by a person (i) entrusted at any time to act for you with respect to any such transactions or the applicable Security Procedure, (ii) who obtained access to your premises, computer equipment or transmitting facilities or (iii) who obtained, from a source controlled by you, information (such as keys and passwords) which facilitated breach of the applicable Security Procedure.

LIMITATION OF LIABILITIES

ALL SERVICES OTHER THAN ELECTRONIC FUNDS TRANSFER SERVICES

We are liable to you only for actual damages incurred as a direct result of our failure to exercise reasonable care in providing a Service.

ELECTRONIC FUNDS TRANSFER SERVICES

For Requests and Entries which are subject to UCC 4A, we are liable only for damages required to be paid under UCC 4A or the Fedwire Regulations, as applicable, except as otherwise agreed in this Booklet.

For all Requests and Entries not subject to UCC4A and for all other obligations under the Electronic Funds Transfer Services sections, our liability is limited to actual damages, resulting directly from our willful misconduct or our failure to exercise reasonable care, not exceeding the following, as applicable: (i) in case of an excessive debit to your account, the amount of the excess plus compensation equivalent to interest; (ii) in case of payment to an account not specified by you, the amount of the payment plus compensation equivalent to interest; (iii) in case of any delay in crediting a debit Entry or RCC to your account, the amount of compensation equivalent to interest for the period of delay; or (iv) in all other cases, the actual damages incurred by you. You will use reasonable efforts to assist us in recovering the amount of any overpayment for which we are liable.

If we are obligated to pay interest compensation, we will pay such compensation or credit your account, as we determine, upon your written request. We calculate compensation for the relevant period as specified in the Account Agreement or as advised by your customer services representative.

If you transmit a Request to us by way of a funds-transfer system or other third-party communications system not specifically required by us, the system is deemed to be your agent for that purpose. We are not liable to you for any discrepancy between the terms you transmit to such system and the terms it then transmits to us.

ALL SERVICES

In no event will we be liable for any indirect, consequential or punitive loss, damage, cost or expense of any nature or any economic loss or damage, expense and loss of business, profits or revenue, goodwill and anticipated savings, loss of or corruption to your data, loss of operation time or loss of contracts, even if advised of the possibility of such loss, damage, cost or expense.

We will not be responsible for the acts or omissions of you or your officers, employees or agents (including but not limited to the amount, accuracy, timeliness or authorization of any instructions or information from you) or the acts or omissions of any other person or entity, including but not limited to any clearing house association or processor, any U.S. Federal Reserve Bank or any other country's central bank, any other financial institution or any Supplier, and no such person or entity will be deemed our agent.

If you permit any Subsidiary or other person to access one of our Service installations on your premises through use of a remote access software package, we will not be responsible or liable for such Subsidiary or person's use or misuse of our Services or access to accounts owned by you and for which you did not authorize that Subsidiary or person to have access via your installation. We may and will treat all instructions and information received by us through this arrangement as provided by and for the benefit of you and subject to all our rights under this Booklet with respect to the pertinent Services.

We will not be liable for and will be excused from any failure or delay in performing our obligations for any Service if such failure or delay is caused by circumstances beyond our control, including any natural disaster (such as earthquakes or floods), emergency conditions (such as war, riot, fire, theft or labor dispute), legal constraint or governmental action or inaction, breakdown or failure of equipment (including Internet failure), breakdown of any Supplier, or your act, omission, negligence or fault.

We also will not be liable for any failure to act on our part if we reasonably believed that our action would have violated any law, rule, regulation or court order or decree.

OVERDRAFTS

With respect to a Service, we may, at our sole discretion, allow an overdraft to occur in your account. Except as we agree or advise you otherwise in writing, you must repay us immediately, without demand, the amount of such overdraft plus any overdraft charges. In such cases, the fact that we previously allowed an overdraft to occur does not obligate us to do so in the future. Additional terms and conditions contained in your Account Agreement may apply.

PAYMENT FOR SERVICES

You must maintain and designate account(s) with us which we will use for debiting or crediting with respect to all payments and deposits and related adjustments and charges. Except as otherwise provided, you must have Collected and Available Funds on deposit in your account(s) sufficient to cover such obligations. For purposes of satisfying your payment obligations, we may consider any overdraft line of credit or other arrangement you have with us.

SERVICE CHARGES

You will pay us for each Service you use according to our schedule of charges currently in effect for you, except as we agree otherwise (in writing) from time to time. At your request, we will provide you a copy of the current schedule of charges for the applicable Service. All charges are subject to change upon 30 days prior written notice to you (unless otherwise agreed in writing), except that any increase in charges to offset any increase in fees charged to us by any Supplier for services used in delivering any Service may become effective in less than 30 days.

You will pay us for Software support in excess of that contemplated in the General Provisions sections of this Booklet. The charges for such extra support will be as specified by us before such charges are incurred or as otherwise agreed by you and us from time to time.

We will, on a monthly basis, debit your account with us for payment of charges due, unless you arrange another payment procedure acceptable to us.

TAXES

All Service charges are exclusive of sales, value-added and use taxes, stamp and other duties and other governmental charges imposed on any Service or Materials and not based on our net income. Such taxes, duties and charges are payable by you.

PROTECTION FROM THIRD PARTIES

To the extent permitted by law, you will indemnify us against and hold us harmless from and defend us against any and all liabilities, claims, costs, expenses and damages of any nature (including Legal Expenses) arising out of or relating to disputes or enforcement of laws, fines or rules, legal actions, by parties other than you and us concerning any Service. The obligations contained in the preceding sentence will continue after a Service you are using is terminated. This section does not apply to any cost or damage attributable to our gross negligence or intentional misconduct.

Further, with respect to any Service where we receive payment from a third party on your behalf, the amounts received (less related charges, disbursements and/or expenses) will be paid to you, except that if we are required to return any such payment received upon the insolvency, bankruptcy or reorganization of such third party or for any other reason, you will repay to us the amount paid to you together with interest thereon from the date we returned the payment and so notified you at the rate specified by us in our schedule of charges with regard to the applicable Service.

REPRESENTATIONS AND WARRANTIES

On and as of each day we provide any Service to you, you represent and warrant to us that:

- Your agreement to each provision contained in this Booklet is a duly authorized, legal, valid, binding and enforceable obligation.
 - The debiting of any account as provided in this Booklet is not inconsistent with any restriction on the use of that account.
 - All approvals and authorizations required to permit the execution and delivery of the Agreement and Authorization form and any other necessary documentation, and the performance and consummation by you of the transactions contemplated under each Service, have been obtained, including but not limited to due authorization from each applicable third party to allow you to transfer funds and access information from such party's account.
 - Neither your performance of your obligations nor your use of any Service will facilitate illegal transactions, for example those prohibited by the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. Section 5361 et seq., or otherwise violate any law, rule, regulation, judgment, decree or order applicable to you.
 - The Services you receive pursuant to this Booklet are for business use only and are not primarily for personal, family or household use.
 - There is no lawsuit, tax claim or other dispute pending or threatened against you which, if lost, would impair your financial condition or ability to pay us under the terms of this Booklet.
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RESOLUTION OF DISPUTES

We try to resolve our clients' Service problems or disputes as quickly as possible. In most cases, we can resolve a problem by telephone.

Any dispute or controversy concerning your use of Services described in this Booklet will be decided by binding arbitration conducted in the United States of America (except as you and we expressly agree otherwise) in accordance with the United States Arbitration Act (Title 9, U.S. Code) under the Commercial Arbitration Rules of the American Arbitration Association. Under these procedures, the dispute is submitted to a neutral person for determination in place of a trial before a judge or jury. Judgment upon the award made by the arbitrator may be entered in any court having jurisdiction.

Without regard to the foregoing, any dispute or controversy that arises from an Electronic Funds Transfer Service will be decided by a judge without a jury in a United States of America federal or state court (except as you and we expressly agree otherwise in writing). **This means that in these instances you waive any right to a trial by jury in any action or proceeding and agree that such action or proceeding will be tried before a judge without a jury.**

Either you or we may exercise self-help remedies or obtain provisional or ancillary remedies from a court. You or we may exercise or obtain these remedies at any time, even while the arbitration or trial by a judge is pending. By exercising or obtaining any such remedies, neither you nor we waive the right to request that a dispute or controversy be decided by arbitration or trial by a judge.

SOFTWARE LICENSE

This section applies to all Software we provide to you after you return the Agreement and Authorization form unless we provide you a separate license agreement for specific Software (including a “click-wrap” Software license you may obtain from us by downloading from our Website).

LICENSE

For each Software application we provide to you for one or more Services, we grant you a non-exclusive, revocable, non-transferable license for the use of that Software and any Materials related to the Software that we provide to you. Each license is granted solely for use in object code form only in connection with one or more Services. You may use the Software only in accordance with the applicable User Documentation.

The Software, its source code, the Materials and all copyright, patent, trademark, trade secret and other rights in them are and will remain the exclusive property of us or our licensors. You will secure and protect the Software and Materials (including all copies) in a manner consistent with the maintenance of our rights and those of our licensors. In order to protect those rights, you will reproduce and incorporate copyright notices and all other proprietary legends prescribed by us in any permitted copies. You may not remove, obscure or otherwise tamper with or alter any such notices or legends affixed to or otherwise contained in the Software or Materials (or copies). You will also take appropriate action to instruct and obligate your representatives who are permitted access to the Software and/or Materials (including copies) to comply with your obligations to protect the Software and Materials.

We are obligated to provide you only with those updates, upgrades or new releases of Software which we make generally available to our other customers who license the same Software. Any corrections, updates, upgrades or new releases that we provide to you must be installed by you promptly or by such later time as we specify, and will be deemed part of the Software upon delivery to you. We will provide support only for the most current version of Software we have provided to you.

You will, at your expense, cause a computer to be installed and kept in good condition and working order at your site for use of the Software. The computer and its components must be equipment which is acceptable, as specified by us from time to time.

At our option, we may assist you with the installation of Software on your computer and/or with the training of persons who will use the Software, but we will not bear any responsibility for (i) such training or (ii) the proper installation or use of the Software. Except as you and we may agree otherwise, you will be deemed to have accepted the Software upon its installation.

If we have provided you with Software to be installed on your computer, you may not install the Software on more than one computer or electronically distribute it to any other computer, without our prior written approval and the payment of any fees that we may assess. You may move the Software to another computer replacing the one on which the Software was originally installed or to another site, but only after you give us notice, in writing or by electronic means approved by us for such purpose, specifying the new computer and site. If we have provided you with Software to be installed on your network server, you may not electronically distribute, or allow anyone else to electronically distribute, the Software except from the network server on which it is installed to workstations on that network. You will provide us notice, in writing or by electronic means approved by us for such purpose, each time you install the Software on more than one computer (subject to our prior written approval) or electronically distribute the Software to a workstation on that network, as applicable, in each case indicating the location and the date of such installation or distribution.

You may not (i) sell, assign, transfer, license, sublicense or publish the Software or Materials (including any permitted copies), (ii) disclose, display or otherwise make available the Software or Materials (including any permitted copies) to third parties, or (iii) copy, or allow anyone else to copy, the Software or Materials, without our prior written approval, except that you may make two copies of the Software for backup and/or archival purposes. In the event that we

provide you with our prior written approval to make an additional copy of the Software, you will (i) pay us any fees assessed by us and (ii) provide us notice, in writing or by electronic means approved by us for such purpose, of the location and the date of such copy.

You will provide us with reasonable access to the Software and Materials at your site to provide assistance or to verify the status or location of the Software and Materials. In addition, we may audit your site and have access to the Software and Materials provided to you to confirm compliance with this Software License section. Furthermore, we may audit your site and have access to such Software and Materials if you fail to provide us with any notices or reports, or if we reasonably believe you are using unauthorized copies of the Software and/or Materials, using the Software and/or Materials in an unauthorized manner, and/or otherwise failing to comply with any of the terms and conditions of this Booklet.

You may not alter, repair, modify or adapt any Software or Materials, including, but not limited to, translating, reverse engineering, decompiling, disassembling or creating derivative works from it.

You will inform our client support unit of all errors, difficulties or other problems with the Software of which you become aware. We may make reasonable efforts to fix or provide workarounds for any material errors reported to us and to provide you with support and consultation concerning the Software. Any such efforts, support and consultation will be determined by us, in our sole discretion. You will cooperate with us in the expeditious resolution of such errors, difficulties or other problems by providing us, on request, a listing of input, output and all other data which we may reasonably request in order to reproduce operating conditions similar to those present when such errors, difficulties or other problems were discovered.

Your license to the Software and Materials will terminate automatically if you breach a material term of this Software License section or the license, or if the Services for which you are using the Software are terminated. In addition, in the event of a breach of your confidentiality obligations with respect to the Software, we may seek any remedy provided by law or equity.

LIMITED WARRANTY/DISCLAIMERS

You acknowledge that the Software and Materials have not been produced to meet your specific requirements and have not been tested in every possible combination and operating environment. You are responsible for satisfying yourself that the Software and Materials are satisfactory for your purposes.

You further understand and agree that we make no representation concerning the completeness, accuracy, timeliness, operation or performance of the Software and/or Materials or their compatibility with any hardware. You acknowledge and agree that the operation of the Software may not be uninterrupted or error-free and that the Software and Materials are provided on an "AS IS" basis.

We warrant that the Software will substantially conform to the documentation provided with the Software for a period of 30 days after delivery to you, provided that (i) the Software has been used by you in strict compliance with the terms and conditions of this Booklet and the Materials, (ii) the Software has not been modified in any way by you, and (iii) you promptly notify us and reproduce for us any defects, errors or bugs in the Software which result in the Software not substantially conforming to such documentation. In the event that such warranty is breached, we shall, at our option, (i) use reasonable efforts to correct or work around any such defects, errors or bugs or (ii) accept return of the Software and refund any license fees paid by you for the Software.

You agree that the foregoing is your sole and exclusive remedy for breach of warranty and our sole obligation in connection with the performance or operation of the Software and Materials.

Except as specifically stated above and in the Infringement Indemnity subsection below and notwithstanding any other provision in this Booklet or otherwise, we make no representation or warranty, express or implied, written or oral, and, to the full extent permitted by law, disclaim all other warranties including, but not limited to, the implied warranties of merchantability or fitness for a particular purpose, regarding the Software, the Materials, any CD-ROM/DVDs provided to you, and all other property, services or rights covered by this Booklet.

To the extent permitted by applicable law, and except as otherwise provided in this section, we will not be liable for damages of any kind arising out of the provision of, use of, or inability to use, the Software and/or Materials.

You agree that the United Nations Convention on Contracts for the International Sales of Goods will not apply to our provision to you or your use of any Software and/or Materials.

INFRINGEMENT INDEMNITY

Notwithstanding your indemnity of us in the Protection From Third Parties section of this Booklet and except as otherwise provided in this Booklet, we will defend at our own expense or settle any action brought against you to the extent it is based on a third party claim that your use of the Software and/or Materials provided by us to you pursuant to this Booklet infringe any Berne Convention country copyright or any United States of America or United Kingdom patent, trade secret or trademark of any third party, and we will pay all costs and damages finally awarded in any such action.

Our obligations under this indemnity are subject to (i) prompt notice from you of any such claim or action, (ii) your not having made any admission of liability or agreed to any settlement or compromise, (iii) your providing to us, in a prompt and timely manner, the documents, information and assistance we reasonably request, (iv) our having sole control of defending such claim or action, (v) your having used the current version of the Software and Materials, as provided to you by us, in compliance with the terms and conditions of this Booklet, (vi) your using the Software and Materials only in the manner for which the Software and Materials were designed, (vii) your not modifying the Software and Materials, and (viii) your not incorporating the Software and Materials with products not approved by us. You acknowledge and agree that our obligations under this indemnity are our only obligations to you with respect to any infringement claim in connection with your use of the Software and/or Materials.

EXPORT CONTROLS

You understand and acknowledge that any obligations that we may have to provide Software, any Materials, data, technical assistance, training and related technical data, and any media in which any of the foregoing is contained (all of which shall be collectively referred to as "Data") will be subject in all respects to all applicable laws and regulations as shall from time to time govern the export or diversion of certain products and technology to and from certain countries. You warrant and agree that you will comply in all respects with the export and reexport restrictions applicable to the Data shipped and/or provided to you and that you will comply with all applicable laws and regulations governing the export and diversion of the Data.

IMAGE SERVICES - SUPPLEMENTAL CD-ROM/DVDs SOFTWARE LICENSE PROVISIONS

This subsection supplements this Software License section with respect to Software we provide for the Image Services, under which we provide you with CD-ROM/DVDs, and shall control in the event of conflict between it and the balance of the Software License section. This subsection does not apply to the Image Lockbox Service. If we provide you a CD-ROM/DVD which contains a media defect or is unreadable in its entirety, you must notify us in writing of such defect within 30 days after the CD-ROM/DVD creation date appearing on the CD ROM/DVD. If you provide us with such notice within such time period, we will use reasonable efforts to replace the CD-ROM/DVD. You acknowledge and agree that this shall be our sole obligation and your sole remedy with respect to any such defects in the CD-ROM/DVD.

Notwithstanding anything to the contrary in the Suspension and Termination section of this Booklet, if an Image Service under which we provide you with CD-ROM/DVDs is terminated for a reason other than your breach of any terms and conditions in this Booklet, you may continue to use the Software and Materials for such Service after termination of such Service for six months, or for such longer period as we approve, subject to the terms of this Software License section or such other software license agreement as we, at our election, require you to sign for this purpose. At the end of such six-month or longer period, the license for your use of such Software and Materials will then terminate automatically.

SUSPENSION AND TERMINATION

If at any time we believe (i) that our provision of any Service to you may create a risk of financial loss for us or result in an unacceptable credit exposure to us, or (ii) that an account associated with any Service may be subject to irregular, unauthorized, fraudulent or illegal activity, we may, in our sole discretion, immediately, without prior notice to you, suspend or modify our provision of any such Service until such time that such risk, exposure, or activity is eliminated or otherwise resolved, notwithstanding anything to the contrary in this Booklet. Either you or we may terminate any or all Services upon 30 calendar days prior written notice to the other party. Notwithstanding the foregoing sentence, we

may terminate any or all Services effective immediately, and we will send you notice of the termination, if any of the following occurs:

- You breach any of the terms and conditions in this Booklet or any other agreement with us.
- You terminate, liquidate or dissolve your business or dispose of a substantial portion of your assets.
- You fail generally to pay your debts as they become due.
- You, voluntarily or involuntarily, become the subject of any bankruptcy, insolvency, reorganization or other similar proceeding.
- You initiate any composition with your creditors.
- You experience a material adverse change in your financial condition or your ability to perform your obligations under the terms and conditions in this Booklet.
- Any guaranty of your obligations to us terminates, is revoked or its validity is contested by the guarantor, or any of the events set forth in the above five bullet points attributable to you occur to the guarantor.
- The account necessary to provide any Service is closed.
- If a Service you are using is terminated for any reason, you will do the following:
 - Immediately stop using any Materials relating to the terminated Service.
 - Erase or delete any Software we have provided relating to the terminated Service to the extent it is stored in your computers.
 - At our option, either return to us or destroy all Materials relating to the terminated Service and certify to us that you have done so.

These obligations will continue after a Service you are using has been terminated.

Termination of a Service you use does not affect your payment obligations for services we provide to you before the Service is terminated, and any such termination is in addition to our other rights under applicable law and under the terms of this Booklet. Also, termination of any Service you use does not release you or us from any of our respective obligations which arose or became effective before such termination. Upon termination, all amounts owed by you and outstanding will become immediately due and payable.

Glossary of Terms

The following are some important terms that appear in this Booklet.

Acceptable Payee. Your name and any other payee name you provide to us as an acceptable payee for checks to be processed under the Lockbox Services.

Account Agreement. The current signature card, International Account Agreement or SAOTC and the publication(s), as amended from time to time, we provide you containing terms and conditions applicable to each deposit, savings or current account for which you use a Service.

ACH Managed Processing means that all credit Entries are required to be prefunded and settlement of debit Entries will receive delayed availability as further described in the applicable User Documentation

ACH Services mean those Services, including ACH Managed Processing, that allow you to transfer funds to or from your accounts by initiating Entries which may be sent through the ACH system or processed directly to accounts with us.

Alias Based Identifier. Email address or mobile phone number, or other Bank approved identifier, which we may establish in our sole discretion from time to time, and used to identify a recipient and the associated bank deposit account and routing information for processing Digital Disbursement Payment Transactions to Registered Recipients.

Arrives By Date. An estimated date by which a payment will arrive at the Vendor, as generated by the Service based on information you provide and the Process Date you establish for the Payment Transaction within the Service.

ATM. Automated teller machine.

Bank Approved Channel – Any electronic or other channel approved for use in accessing the Service as described in User Documentation.

Bills. Invoices, bills and other statements of account that you receive from Vendors which you seek to pay using the Service.

Bill Payment Feature. The feature of the Service whereby you request us to make a payment to a designated Vendor. We may make such payment by originating an ACH credit entry to the account of the Vendor, issuing a check drawn by you and payable to the Vendor, or by other electronic method. When we

make a bill payment we will send with the payment any remittance information you provide.

Bill Payment Service Provider. Any entity, which may include us, you authorize to deliver payments, remittance information and other related data from your customers to us for the Electronic Bill Payment Consolidation Services.

Business Day. Each day on which the bank or bank office providing or facilitating a Service is open for business related to that Service.

Cardholder. Your employee or any other person who you designate in writing and who we approve to receive a Commercially Prepaid Card. If you or a Cardholder makes a Commercial Prepaid Card available to another party, that person will also be considered a Cardholder.

Check 21. The Check Clearing Act for the 21st Century Act, 12 CFR 229 or any successor legislation. Any IRD created and deposited to your account must comply with all the requirements mandated by Check 21.

Check Issuance Request. Using the Check Issuance Service, a message transmitted from you to us requesting us to issue a check on your behalf drawn on either accounts you maintain with us or accounts designated and owned by us.

clearXchange™. A payment company that facilitates electronic payments by maintaining a record of the Alias Based Identifier of a Recipient and the bank name and routing number associated with such Alias Based Identifier. The term clearXchange™ as used in this Amendment includes any other payment company that provides similar services and is designated by us in the future as a service provider or payment network for use in connection with the Service.

Collected and Available Funds. Funds in an account equal to the ledger balance minus float which, in our reasonable determination, are not subject to a hold, dispute or legal process preventing their withdrawal.

Collector. A non-consumer that is a member of the Network and receives payments and remittance information from Disbursers.

Commercial Prepaid Card. A pre-paid magnetic strip-based plastic card issued by us for a Cardholder's purchase of goods or services or for cash withdrawals.

Controlled Disbursement Account. One or more demand deposit accounts maintained by you with us and used in connection with our Controlled Disbursement Services.

Controlled Disbursement Point. Each bank office designated by us through which checks issued under the Controlled Disbursement Service will be cleared or routed.

Currency. When used in connection with the Safe Connect Service, U.S. denominated cash and any such other currency as is set forth in the User Documentation.

Disburser. A non-consumer that uses the Payment Service to send Transaction Requests to us and on whose behalf we originate an Entry to a Collector.

Document Printing Request. Using the Document Printing Service, a message transmitted electronically from you to us or our third party processor requesting us to print and mail on your behalf statements, invoices and other documents.

Documents. Documents that are not Bills that you wish to store and manage electronically through the Service.

ECCHO. The Electronic Check Clearing House Organization.

Effective Entry Date. The date specified, in accordance with the NACHA Rules, on the Entry by the Originator on which the Originator intends the Entry to be settled. (Originator is defined in the NACHA Rules.)

Electronic Funds Transfer Services. ACH Services, International Electronic Funds Transfer Services and Wire Transfer Services.

Electronic Image. An image conforming to the applicable industry standards for Images.

Entries. Entries has the meaning provided in the NACHA Rules and also includes any data for Entries and any prenotification.

EPN Rules means the Electronic Payments Network Rules of Membership and the Operating rules, or such later revisions as may be adopted, and includes, but is not limited to, the Rules pertaining to UPICs (EPN UPIC Rules), all collectively referred to as the EPN Rules.

e-Statements. Statements with respect to which you opt for electronic delivery and which are selected by you as outlined in the applicable User Documentation.

eUCP. The rules for electronic presentation of documents under the UCP.

Federal Reserve Operating Circular 3. The Federal Reserve Board's Operating Circular 3, Collection of Cash Items and Returned Checks.

Fedwire Regulations. Subpart B of Regulation J of the Board of Governors of the Federal Reserve System of the United States of America, as amended from time to time.

FX Request. A request by means permitted under the Electronic Foreign Exchange Services to enter into an FX Transaction.

FX Transaction. A transaction between you and us, permitted under the Electronic Foreign Exchange Services, for the purchase of one currency in exchange for the sale of another currency (including without limitation any foreign exchange spot, swap or outright forward transaction or option), including any transaction that effects the pre-delivery, extension, rollover or splitting of such a transaction.

ICL. An image cash letter.

Image. An Electronic Image or a Paper Image. With regard to an Image of an original paper check, the check Image that is deposited with us pursuant to the Commercial Deposits section of this Booklet shall be a "check" and/or an "item" (as applicable) for all purposes under such Booklet section, any Account Agreement between you and us relating to the collection of checks generally, the Uniform Commercial Code, the Expedited Funds Availability Act, Regulation CC, any other federal or state check law, and federal and clearinghouse rules, to the same extent as that original is a "check" or an "item," as applicable.

International Account Agreement. A form of Account Agreement used in some countries.

International Electronic Funds Transfer Services. Electronic payment services for transfers to or from your account outside the United States of America or to or from your account in the United States of America to or from an account in a different country. These services include low-value batch payments made according to multiple requests within a single electronic data file. International Electronic Funds Transfer Services exclude ACH Services within the United States of America and exclude Wire Transfer services.

Invoice Management Feature. The feature of the Service whereby you receive Bills from Vendors via the Service or whereby you upload invoices from Vendors into the Service. You may use the Service to upload and manage these Bills.

IRD. When used in connection with the Commercial Deposits section of this Booklet, an "Image

Replacement Document” or substitute check, as set forth in Check 21, which provides that a properly prepared substitute check that meets the requirements for legal equivalence is the legal equivalent of the original for all purposes.

ISP98. The “International Standby Practices 1998” developed by the Institute of International Banking Law & Practice and endorsed and published by the International Chamber of Commerce or such later revision as may be adopted and be in effect on the date the subject standby letter of credit is issued.

Legal Expenses. Reasonable lawyer’s fees, allocated costs of staff counsel (unless prohibited by applicable law), fees and expenses of litigation and any other fees and expenses incurred in enforcing any provision of this Booklet.

Lockbox Address. The post office address we assign to you or we accept from you for the Lockbox Services.

Materials. The Software, user identification codes, passwords, codes, keys, test keys, security devices, embedded algorithms, digital signatures and certificates, other similar devices and information, User Documentation and related documentation we provide to you.

NACHA Rules. The rules of the National Automated Clearing House Association (including any other clearing house rules applicable to automated clearing house transactions), as amended from time to time.

Network. The third-party owned PayMode® network made up of Disbursers and Payers, using the Payment and Invoice Processing Services, as well as Collectors and Billers.

Notice(s). In connection with the Notification Services, notices provided by us to you that are associated with and related to the Services provided by us to you under the terms of this Booklet or other agreement between you and us.

Paper Image. An image that is a paper reproduction of the related physical check (the original paper item or substitute check created from an image of the original paper item) created with image technology.

Payee Database. A database of contact information and payment routing information for Registered Payees that is operated by a third party provider (other than the Bank).

Paying Agent. An entity as defined in 31 C.F.R. Section 321(i) of the U.S. Treasury Department’s regulations.

Payment Account. One or more demand deposit accounts maintained by you with us and used in connection with the Service.

Payment Advice. Using the Bank-Printed Drafts Services, an electronic message transmitted by you to us advising us to create a draft on your behalf.

Payment Request. A request by you to us to initiate a bill payment or tax payment on your behalf to a Registered Payee by means of an electronic funds transfer payment.

Payment Transaction. A request by you to us to initiate a payment on your behalf to a Recipient using a Service and/or a request by you to us to initiate a bill payment on your behalf to a Vendor by means of an ACH credit entry, other electronic funds transfer, or a check payment.

Payment Transaction Request. A message transmitted electronically from you to us through the Service requesting us to initiate a Payment Transaction.

Personal Data. Information we receive from you in connection with the Services consisting of an individual’s bank accounts or other financial data or identifying a living individual.

PIN. A personal identification number which a Cardholder may receive when activating a Commercial Prepaid Card.

Process Date. The date that you designate in the Payment Transaction Request for the processing of a Payment Transaction. Funds will be deducted from your Settlement Account on or after this date.

RCK. A “Re-Presented Check Entry” as defined in the NACHA Rules.

Recipient. A customer of a U.S. based bank or credit union to whom you seek to make a disbursement payment using the Service.

Regulation CC. The Federal Reserve Board’s Regulation CC, Availability of Funds and Collection of Checks.

Regulation J. The Federal Reserve Board’s Regulation J, Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers through Fedwire.

Registered Payee. Any biller or taxing authority that registers its payment information with the Payee Database, for the purpose of receiving payments, that can be processed through the Service.

Registered Recipient. A Recipient that registers with clearXchange or a bank that participates in clearXchange and provides his/her bank deposit account and routing information to be associated with his/her Alias Based Identifier.

Registered Vendor. A Vendor that registers its payment information with the Vendor Database that can be accessed through the Service.

Request. A request by means permitted under the relevant Wire Transfer Service or International Electronic Funds Transfer Service to transfer funds to or from a specified account or beneficiary (including standing instructions) or to amend or cancel a prior request to transfer funds.

Reversal/Deletion Request. A request for a Reversal or a request to delete a previously delivered Entry.

Reversals. Data for reversing Entries. For the Electronic Bill Payment Consolidation Services, it includes data from a Bill Payment Service Provider for reversing a payment from one of its customers that was delivered to us by the Bill Payment Service Provider.

Safe. When used in connection with the Safe Connect Service, the equipment (and related software and accessories) installed at the Safe Location and used by you for depositing Currency. The Safe counts, records and reports the Currency deposited into and accepted by it.

Safe Connect Service. The service described in the Commercial Deposits section of this Booklet, whereby through your use of a Safe installed at a Safe Location, we receive Safe Feeds concerning your deposits into such Safe, and afford such deposits credit, which may be provisional, as described in this Booklet and in the User Documentation.

Safe Deposits. When used in connection with the Safe Connect Service, deposits of Currency made by you and accepted into the Safe, with respect to which we have received a Safe Feed.

Safe Feed. When used in connection with the Safe Connect Service, an electronic file transmission received by us from the Transportation Provider, which Feed (i) originated from a Safe, (ii) was sent from the Safe to the Transportation Provider, (iii) was then forwarded intact to us and received intact by us, and (iv) reports the purported value of all Currency accepted into the Currency validating portion of such

Safe since the transmission of the last Safe Feed, or the first such Feed, as applicable.

Safe Location. When used in connection with the Safe Connect Service, the location(s), to be mutually agreed by you and us, at which the Safe may be located.

SAOTC. Each form of Standard Account Opening Terms and Conditions used in certain countries as an Account Agreement.

Savings Bonds. U.S. savings bonds that each meet the definitional requirements set forth in the Savings Bonds Provisions.

Savings Bonds Provisions. Relevant regulations and guidelines of the Bureau of Public Debt of the U.S. Department of the Treasury, the Federal Reserve Operating Circular 3, the ECCHO Operating Rules, and such other statutory, regulatory, clearinghouse, association and other requirements and terms (including image exchange rules), as applicable, regarding the acceptance, transmission, deposit, exchange and/or processing of Savings Bonds by way of the transmission of the images of such Savings Bonds.

Security Procedure. Unless we agree otherwise with you, the applicable security procedure described in the Materials for your data delivery type or Service for verifying the authenticity of any (i) electronic funds transfers or payments instructions, including, without limitation, cancellations, amendments or reversals thereto; and (ii) any instructions, data, transactions or other information sent between you and us.

Scheduled Payment Request. A Payment Request that you have scheduled using the Service prior to the Settlement Date.

Scheduled Payment Transaction. A Payment Transaction that you have scheduled through the Bill Payment Feature prior to the Process Date.

Service. With respect to a Bank of America Corporation subsidiary bank, a treasury management service provided in a specific Bank location and covered by this Booklet.

Service Inbox. An electronic mail inbox that is accessible by you only through the Service and which you may use to receive Bills and Documents from Vendors.

Settlement Account. One or more demand deposit accounts maintained by you with us and used in connection with the Service.

Settlement Date. The date that you request that we send payments of bills and taxes initiated by you as Payment Requests. This is the date on which we will debit your Payment Account and initiate the outgoing payment. This is not the date that the payment will be received by the Registered Payee.

Payee Database. A database of contact information and payment routing information for Registered Payees that is operated by a third party provider (other than the Bank).

PHI: Shall have the same meaning as the term "protected health information" under the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and its implementing regulations.

Software. Web-based applications accessed via a Website and/or the programs and data files provided by us for use on a computer in connection with one or more particular Services.

Standalone Account. One or more demand deposit accounts maintained by you with us that is not linked to another account as part of a treasury service relationship or that is not linked as a sub-account to another account in a treasury service relationship.

Statements. Account statements, account analysis, pricing information and other information relating to account activity or services, transactional activity and/or cash management services with us and/or our affiliates.

Stop Payment Request. A message you send us using the Electronic Stop Payment Services, the Check Issuance and Document Printing Services or the Client-Printed Drafts Services to request that payment be stopped on a check or draft which, in the case of the Electronic Stop Payment Services, must be drawn on an eligible account you have with us.

Subsidiary. Any entity in which more than 50% of the ownership interest is owned, directly or indirectly, by you. The term "Subsidiary" does not include affiliates or other entities in which 50% or less of the ownership interest is owned, directly or indirectly, by you.

Supplier. Any private or common carrier communication or transmission facility, any time-sharing supplier or any mail or courier service.

SWIFT. The international electronic message-transfer service known as the Society for Worldwide Interbank Financial Telecommunication.

Tax Payment Instruction. An instruction by means permitted under the relevant Tax Payment Service to pay any taxes using any of the tax forms specified in the applicable User Documentation.

Third Party Vendor: Any third party vendor (including but not limited to, such third party vendor's agent, subcontractor, affiliate, representative and/or assignee) used by you to perform certain actions with respect to the Services.

Transaction. The purchase or reservation of goods or services or a cash advance made or facilitated by use of a Commercial Prepaid Card.

Transaction Account. One or more demand deposit accounts maintained by you with us or another financial institution and used in connection with the Payment and Invoice Processing Services.

Transaction Request. Using the Payment Service, a message transmitted electronically from you as a Disburser to us or our third party processor requesting us to originate an Entry to a Collector on your behalf.

Transportation Provider. When used in connection with Safe Connect Service, the armored carrier which you engage to transport Safe Currency from the Safe to the Vault Location.

UCC. The Uniform Commercial Code.

UCC 4A. Article 4A of the Uniform Commercial Code - Funds Transfers, as adopted by the state in the United States of America whose law applies to a Service, as amended from time to time.

UCP. The Uniform Customs and Practices for Documentary Credits, 2007 Revision, ICC Publication No. 600 or such later revision as may be adopted by the International Chamber of Commerce and be in effect on the date the subject letter of credit is issued; **eUCP.** The Supplement to the Uniform Customs and Practice for Documentary Credits for Electronic Presentation published by the International Chamber of Commerce that is in effect on the date the Letter of Credit is issued.

Unauthorized Use. Use of a Card Account, Card or Convenience Check by a person (i) who is not your Cardholder, employee or agent, (ii) who does not have actual, implied or apparent authority to use the Card Account and (iii) whose use does not benefit you directly or indirectly.

Uniform Rules for Collections. The Uniform Rules for Collections, ICC Publication No. 522, or such later revision as may be adopted by the International

Chamber of Commerce and be applicable to a collection.

Unqualified Return. An Unqualified Return Item Deposit as defined by the Federal Reserve Board.

UPIC means the Universal Payment Identification Code, which is a unique number that identifies both an eligible account at a UPIC Participant, and the UPIC Participant that holds the eligible account. Capitalized terms in this Addendum, not otherwise defined, are defined in the EPN Rules.\

URDG758. The Uniform Rules for Demand Guarantees International Chamber of Commerce (ICC) Publication No. 758, or such later revision as may be adopted by the International Chamber of Commerce and be applicable to any guarantee.

URBPO. The Uniform Rules for Bank Payment Obligations promulgated by the International Chamber of Commerce.

URC. The Uniform Rules for Collections, ICC Publication No. 522, or such later revision as may be adopted by the International Chamber of Commerce and be applicable to a collection.

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User Documentation. Any written information we provide you, including information in electronic format, as amended from time to time, which contains detailed instructions regarding the use of a Service, as provided by a particular banking center or office. User Documentation may vary from one jurisdiction to another. Current User Documentation is available upon your request.

Vault Location. When used in connection with the Safe Connect Service, the vault facility where the vaulting and related cash processing services are performed with respect to Safe Deposits.

Vendor. A non-consumer business that sent you a Bill requesting payment for goods or services provided by the Vendor to you.

Vendor Database. A database of contact information and payment routing information for Registered Vendors that is operated by a third party provider (other than the Bank).

Website. Any internet website and/or online access channel for use in accessing one or more Services..

ATTACHMENT 1B

Suspension and Termination Clause

in the

Bank of America Treasury Services

Terms and Conditions

SUSPENSION AND TERMINATION CLAUSE IN BANK OF AMERICA TREASURY TERMS & CONDITIONS

SUSPENSION AND TERMINATION

If at any time we believe (i) that our provision of any Service to you may create a risk of financial loss for us or result in an unacceptable credit exposure to us, or (ii) that an account associated with any Service may be subject to irregular, unauthorized, fraudulent or illegal activity, we may, in our sole discretion, immediately, without prior notice to you, suspend or modify our provision of any such Service until such time that such risk, exposure, or activity is eliminated or otherwise resolved, notwithstanding anything to the contrary in this Booklet. Either you or we may terminate any or all Services upon 30 calendar days prior written notice to the other party. Notwithstanding the foregoing sentence, we may terminate any or all Services effective immediately, and we will send you notice of the termination, if any of the following occurs:

- You breach any of the terms and conditions in this Booklet or any other agreement with us.
- You terminate, liquidate or dissolve your business or dispose of a substantial portion of your assets.
- You fail generally to pay your debts as they become due.
- You, voluntarily or involuntarily, become the subject of any bankruptcy, insolvency, reorganization or other similar proceeding.
- You initiate any composition with your creditors.
- You experience a material adverse change in your financial condition or your ability to perform your obligations under the terms and conditions in this Booklet.
- Any guaranty of your obligations to us terminates, is revoked or its validity is contested by the guarantor, or any of the events set forth in the above five bullet points attributable to you occur to the guarantor.
- The account necessary to provide any Service is closed.
- If a Service you are using is terminated for any reason, you will do the following:
 - Immediately stop using any Materials relating to the terminated Service.
 - Erase or delete any Software we have provided relating to the terminated Service to the extent it is stored in your computers.
 - At our option, either return to us or destroy all Materials relating to the terminated Service and certify to us that you have done so.

These obligations will continue after a Service you are using has been terminated.

Termination of a Service you use does not affect your payment obligations for services we provide to you before the Service is terminated, and any such termination is in addition to our other rights under applicable law and under the terms of this Booklet. Also, termination of any Service you use does not release you or us from any of our respective obligations which arose or became effective before such termination. Upon termination, all amounts owed by you and outstanding will become immediately due and payable