

ONLINE BANKING DISCLOSURE STATEMENT AND AGREEMENT

Welcome to BankUnited. This Online Banking Disclosure Statement and Agreement (this “Agreement”), together with the Application, Enrollment and Set-Up Form (the “Application”) that has been executed on behalf of the Company reflected in the Application contains the terms and conditions governing certain online banking services that the Bank may provide to the Company.

By signing the Application, or by using or continuing to use any of the Services referenced herein, you acknowledge that you have read and agree to be bound by the terms of this Agreement, as well as any other applicable disclosure statement and agreement, including, without limitation, our Depositor’s Agreement, Schedule of Fees and Funds Availability Disclosure (copies of which have been previously provided to you).

When used in this Agreement, the terms the “Bank”, “we”, “us” or “our” refer to BankUnited, N.A. ; the “Company”, “you”, or “your” refer to the Company reflected in the Application, and any authorized user of the Company; “Account” or “Accounts” mean the accounts maintained by the Company with the Bank that will be accessed through the Services including, without limitation, checking accounts, savings accounts, money market accounts, and linked loan accounts or line of credits the Company maintains with the Bank (loan accounts and line of credits collectively referred to as “Credit Accounts”); “Site” or “Sites” mean the web site(s) owned or operated by Bank, including, without limitation, <http://www.bankunited.com>; and <http://www.bankunitedbusinessonlinebanking.com>; and “business day” means Monday through Friday, excluding federal reserve holidays and other days the Bank is not opened for business.

By clicking on the I AGREE button, you acknowledge that you received, read, understand and agree to the terms of this Agreement.

SERVICES

The Bank will provide the Company with the selected services as set forth in the Application (the “Services”). All Services are covered by this Agreement. The Services may be changed by the Bank on thirty (30) days notice to the Company and will be binding upon the expiration of such period. The Bank reserves the right to modify, terminate or suspend any and all Services in the event that the Company fails to pay any amounts when and as due, or otherwise fails to abide by the terms of this Agreement or any other agreement applicable to the Account(s).

ACCOUNTS

All Accounts linked within the Services must contain an authorized signatory that is common to all Accounts. The Account(s) designated by the Company in the Application may be changed, revised or updated by the Company on thirty (30) days notice to the

Bank. Except as expressly agreed to by the Bank, personal accounts may not be designated for use with the Services.

COMPANY ADMINISTRATOR

The Company will be required to appoint at least one individual (“Company Administrator”) with the authority to determine who will be authorized to use the Services on behalf of the Company. The Company Administrator can access and conduct transactions on all Accounts enrolled in the Services, add, modify or delete users (including themselves), set limits on each user’s authority to conduct transactions and access account information, and reset user IDs and passwords. The Company Administrator shall be responsible for performing any maintenance with respect to any user designated to use the Services on behalf of the Company. The Company assumes sole responsibility for the actions of the Company Administrator, including, without limitation, the authority given to other users to act on behalf of the Company, and the actions of such users. If the Company Administrator loses or forgets their user ID or password, the Company Administrator should contact the Bank.

Each user designated by the Company Administrator is authorized on behalf of the Company to issue requests, directions or instructions, including, without limitation, Payment Orders (as hereinafter defined), with respect to any Service including the Internal Transfer Services (as hereinafter defined). An authorized signatory of the Company as reflected in the Bank’s records shall be responsible for notifying the Bank, in writing, when the authority of an authorized user has been withdrawn, revoked or terminated. The Bank is authorized to rely upon any document that indicates that a user is authorized to act on behalf of the Company with respect to the Services, until the Bank has received, and has had a reasonable opportunity to act, on such notice.

The Company understands and agrees that by designating an individual as a user with the authority to access the Services, that individual may have the ability to conduct transactions on Accounts for which the individual may not otherwise be authorized. The Company has reviewed the risks associated with designating such individuals as users and agrees to assume such risks and to be liable for any and all loss that may result from the authority given to any such users by or on behalf of the Company and the action of such individuals, whether authorized or unauthorized.

ACCESS

To access the Services, the Company must have access to a computer or approved mobile device and an internet browser that supports a minimum 128 bit encryption and Secure Sockets Layer 3 or higher. We may change these requirements from time to time. To the extent that the Company is able to access the Services using a browser with lower than 128 bit encryption, such use shall be at the Company’s sole risk, and the Company, and not the Bank, shall be liable for any losses resulting from such use. The Company is responsible for obtaining, installing, maintaining and operating all software, hardware or other equipment necessary to access and use the Services. The Company shall be responsible for any and all fees imposed by any internet service provider or communications service provider.

The Company is hereby granted a non-exclusive, non-transferable limited and revocable right to access and use the Services as well as any technology in object code. The Company agrees that the Bank and its suppliers or servicers retain all intellectual property rights in any hardware, software, documentation, systems or other technology or intellectual property (“Technology”) that may be made available to the Company in connection with the Services. The Company further agrees (i) to read and comply with any license terms with respect to any Technology made available to the Company; (ii) to use the Technology solely for purposes of accessing the Services; (iii) to maintain the confidentiality of the Technology and not copy, transfer or disclose the Technology; (iv) not to attempt to circumvent any use or access limitations contained in the Technology; (v) not to translate, reverse engineer, disassemble or decompile any Technology; (vi) to use the Technology in accordance with its documentation and all relevant security policies and procedures; and (vii) to return any and all copies of the Technology to us upon request. All Technology is provided to the Company on an “AS IS” and “AS AVAILABLE” basis.

The Company acknowledges that there are certain security, corruption, transmission error and access availability risks associated with using open networks such as the internet and hereby expressly assumes such risks. The Company further acknowledges that it is responsible for the data security of the systems used by Company to access the Services, and for the transmission and receipt of information using such systems. The Company shall implement antivirus, anti-spyware and internet security software available and shall scan any equipment used by the Company in connection with the Services on a regular basis in order to detect and remove computer viruses. The Company agrees that the Bank is not responsible for any errors or problems that may arise from the malfunction or failure of the Company’s computer, the internet or other Company systems, or for any virus, disabling device or other computer problem related to the use of the Services. The Company further agrees that the Bank is not responsible for notifying the Company of any upgrades, fixes or enhancements to, or for providing technical support or other support for, the Company’s systems.

HYPERLINKS

In connection with the Services, the Bank may provide the Company with a link (“Hyperlink”) to a third party site. Such Hyperlinks are used at the Company’s own risk. The Bank is not responsible for, nor do we control, the content, products or services provided through these sites. The Bank does not endorse or guarantee the products, information or recommendations provided by any such linked sites and is not liable for any failure of any products or services advertised on such sites. The Bank further makes no representations or warranties of any kind, express or implied, as to the operations conducted at such other third party sites, or the accuracy or completeness of any information, content, materials or products included thereat, including, but not limited to, the warranties of non-infringement of third party rights, title, merchantability and fitness for a particular purpose.

CODES AND PASSWORDS

If the Company is approved to use the Services, the Bank will provide the Company with

certain information, including, but not limited to, access codes, passwords and user identifications (“Access Information”). The Company acknowledges that it is solely responsible for securing and maintaining the confidentiality of the Access Information. In furtherance of the foregoing, Company is required to develop and put in place internal procedures to limit such risks, including, but not limited to (a) changing the password of each user at least once every sixty (60) calendar days; (b) not permitting users to share their identification codes or passwords; (c) deleting the identification codes of users who no longer have access to the Services; and (d) keeping all Access Information under secure conditions. The Company agrees to comply with any additional access or identification procedures the Bank may establish. The Company further agrees to immediately notify the Bank by telephone (and confirm such oral notification in writing) if it has reason to believe that any Access Information has been stolen, compromised, misused or has, or may, become known by an unauthorized person (whether or not employed by the Company).

These responsibilities may not be waived or modified by agreement or authorization by any Bank employee, agent or representative. The Company acknowledges that such Access Information is appropriate and reasonable to afford protection against unauthorized use and agrees that use of Access Information in connection with the Services shall give rise to a conclusive presumption that the use is authorized. The Company shall be liable for, and shall indemnify and hold the Bank harmless from any and all claims, losses, damages, liabilities and expenses including, without limitation attorney’s fees, court costs and related litigation costs and expenses, arising from use of the Services, whether authorized or unauthorized, by any person who utilizes the Access Information or who gains access by any other means. In furtherance of the foregoing, in the event an employee, agent or representative of the Company or anyone accessing the system by utilizing the Access Information, willfully or through negligence, damages or causes disruption of the systems of the Bank, the Company shall be liable for all claims, losses and/or damages resulting therefrom.

FEES

The Company agrees to pay any and all fees that the Bank establishes for each of the Services. Please refer to the most recent Schedule of Fees applicable to your Company Account(s) for the current amount of the Bank’s fees. Fees may be changed by the Bank on thirty (30) days notice to the Company and will be binding upon the expiration of such period. Any services in addition to those selected by the Company and reflected in the Application will be charged in accordance with the Bank’s then current Schedule of Fees. The Company shall maintain sufficient collected and available balances, as determined in accordance with the Bank’s then current Funds Availability Disclosure (“Available Funds”) to pay all fees and charges. The Company authorizes Bank to deduct such fees and charges from the Account(s) designated by the Company in the Application. In the event the Company does not maintain sufficient Available Funds in its designated Account(s) to pay all fees and charges when due, Company shall, upon demand, immediately pay all outstanding fees and charges. Notwithstanding the foregoing, the Bank may, without notice, set off against any other accounts maintained by the Company with the Bank, or any of Company’s affiliates or subsidiaries, for all amounts due hereunder. In addition, all Account(s) shall be subject to the Bank’s customary fees and charges, as disclosed in its Schedule of Fees.

ELECTRONIC MESSAGES AND OTHER COMMUNICATIONS

The Company agrees that all notices and other communications directly related to its use of the Services or to its Accounts may be sent electronically to any e-mail address we have on record or, at our option, any other manner permitted by applicable law. As e-mail is not a secure method of communication over the internet, the Bank recommends that the Company does not send confidential information, such as account numbers and financial information, to the Bank by e-mail. Please be advised that the Bank will not immediately receive an electronic message sent, and no action will be taken on any electronic message until the Bank actually receives the Company's message and has had a reasonable opportunity to act on it. If the Company needs to contact the Bank immediately, please call our Client Care Center at 877-779-BANK (2265).

ALERTS

Enrollment in the Services may include access to mobile text messaging related services and alerts ("Alerts."). By using the Services, the Company agrees that the Bank may send messages through the Company's communication service provider for delivery to the Company and that the communication service provider is acting as the Company's agent in this capacity. The Bank may use a telephone number or e-mail address on file in its records for the Company, or such other contact information as the Company may provide to the Bank, for sending these Alerts.

These Alerts are provided for the Company's convenience and do not replace your monthly account statements, which are the official record of the Company's Account. The Company understands and agrees that the information sent through an Alert may not be encrypted and may include personal or confidential information about the Company such as your account activity or account status, and anyone with access to the Company's e-mail or mobile device may be able to access the Alert. Additionally, Alerts sent via telephone may be delivered to voice mail or answering machines if no one answers the telephone. It is the Company's responsibility to secure its mobile device, protect its Access Information and provide timely information about changes to its telephone number, e-mail address or other method of delivery in order to protect the confidentiality of this information.

The Bank endeavors to provide Alerts to you in a timely manner, however it does not guarantee the delivery or accuracy of any information sent through an Alert. Messages may be delayed or impacted by factors pertaining to the Company's communication service provider, internet service provider or other third parties. The Bank will not be liable for any losses or damages arising from the disclosure of account information to third parties, non-delivery, delayed delivery, misdirected delivery or mishandling of or inaccurate content in information sent through an Alert.

HOURS OF ACCESS

The Company can use the Services seven (7) days a week, twenty-four (24) hours a day, although some or all of the Services may not be available during regularly scheduled maintenance periods or during system/network interruptions.

STATEMENT REVIEW

The Company shall be notified of transactions performed in connection with the Services through periodic account statements. The Company shall have the obligation to promptly review all activity pertaining to the Account(s), and promptly, but in no event exceeding thirty (30) days from the Bank's issuance of a statement reflecting such activity, notify the Bank of any unauthorized access. Failure by the Company to so review and advise shall release the Bank of any and all liability (if any) for any activity taken by any unauthorized party. Without regard to care or lack of care, the Company's failure to discover and report any suspected error, discrepancy or unauthorized transaction in connection with the Services within such thirty (30) day period, will bar any claim against Bank with respect to any such error, discrepancy or unauthorized transaction or any subsequent error, discrepancy or unauthorized transaction by any unauthorized person. Notwithstanding anything to the contrary contained herein, in no event shall the Bank be liable for any activity in the Company's Account(s) undertaken by unauthorized person(s) if the activity was initiated by use of the Access Information.

Additionally, the Company shall notify the Bank of any other errors, omissions or interruptions in, or delay or unavailability of, any of the Services as promptly as practicable, and in any event, within one (1) business day after the earlier discovery thereof, or the date discovery should have occurred through the exercise of reasonable care. Failure by the Company to so notify the Bank within the time periods set forth herein shall relieve the Bank of any liability for such error, omission or discrepancy.

WAIVER OF REQUIREMENT FOR MULTIPLE SIGNATURES

By using the Services, the Company agrees that any requirement of verifying multiple signatures on checks, if such a requirement exists, does not apply to any transfers made using the Services. The Company agrees to release the Bank from any liability when making such transfers.

SECURITY PROCEDURES

The Company agrees to comply with the Bank's security procedures, including the use of Access Information, one-time passcodes and other security or authentication devices ("Security Procedures") in connection with the use of the Services. The Company acknowledges and agrees that the Bank's Security Procedures are designed to verify the origination of instructions, orders or other communications (each a "Communication") sent in connection with the use of the Services and not for the detection of errors in transmission or content (i.e. duplicate payments or errors in funds transfer instructions).

The Bank shall have no duty to discover, and shall not be liable for errors or omissions by the Company. Each time a transaction is made through the Services, the Company warrants that these Security Procedures are commercially reasonable and adequate for the purposes intended. The Bank reserves the right to issue new Security Procedures and/or to modify or change any Security Procedures from time to time.

The Company shall implement such safeguards as are reasonably necessary to ensure the

confidentiality and integrity of any Security Procedures and shall immediately notify the Bank if the Company believes or has reason to believe that the confidentiality or integrity of any Security Procedure has been breached, threatened or become known to an unauthorized person (whether or not such person is employed by the Company). Additionally, if the Company fails to follow any Security Procedure, the Company shall be liable for any unauthorized disclosure or unauthorized access to the Company's information or data. The Company shall be liable for any instructions and other communications initiated before the Bank has received such notice and has had a reasonable opportunity to act on such notice. The Bank shall not be liable for any loss or damage resulting from fraudulent, unauthorized or otherwise improper use of any Security Procedures.

The Company acknowledges and agrees that Bank shall be entitled to deem any individual having knowledge of any Security Procedures (as hereinafter defined) or Access Information (as hereinafter defined) to be a user. The Bank shall be entitled to act on any Communication received in accordance with the Security Procedures without being obligated to verify the content of such Communication, or establish the identity of the person giving the Communication. The Company acknowledges and agrees that the Bank may, without liability, refuse to act on a Communication that is not transmitted in accordance with the Security Procedures. The Company further acknowledges and agrees that the Bank may, without liability, refuse to act on any Communication if the Bank reasonably doubts its authorization, contents, or origination or compliance with the Security Procedures. The Company assumes full responsibility for any transaction, whether or not authorized, issued in the Company's name and accepted by the Bank in accordance with the Security Procedures.

BANK'S RESPONSIBILITY

In the performance of the Services, the Bank will be entitled to rely solely on the information, representations and warranties provided by the Company pursuant to the Application and this Agreement, and will not be responsible for the accuracy or completeness thereof. The Bank shall have no duty or obligation to inquire as to the appropriateness, correctness or authenticity of any entry, instruction, transaction or order in connection with the Services, whether or not it will result in payment to any officer, employee, or agent of the Company, or is otherwise tendered in payment of such person's individual obligations. The Bank has no obligation to verify the availability of funds in any account at the time of any transfer request, even if honoring such a request will result in an overdraft. In the event such a request is honored, the Company shall immediately pay such overdraft and shall be responsible for payment of all applicable overdraft charges. Further, the Bank is not obligated to honor, either in whole in part, any transaction or instruction which (a) is not in accordance with any terms or conditions applicable to the relevant Service, (b) the Bank has reason to believe may not be authorized by Company, (c) involves funds subject to a hold, dispute or legal process preventing their withdrawal; or (d) would violate any applicable federal or state law, rule or regulation.

Notwithstanding any other provision of the Application or this Agreement, the Bank shall have no liability for any damage, loss, expense or liability of any nature that the

Company may suffer or incur, except to the extent of direct losses attributable solely to the Bank's own gross negligence or willful misconduct, and only to the extent set forth herein. In furtherance of, and without limiting the foregoing, the Bank will not otherwise be responsible for any action taken, allowed or omitted or for any liability, loss, claim or damage arising from an act of God, loss or delay occasioned in transit of data or processed work, labor disputes, material or labor shortages, accident or damage to facilities, inaccuracy of information, computer viruses, malicious code or other defects in the Services, incompatibility between the Services and the Company's browser or from other causes or events beyond the control of the Bank. The time, if any, required for the Bank's performance under this Agreement shall be automatically extended during the period of such delay or interruption. In no event shall the Bank be liable for any indirect, special, consequential or punitive loss or damage of any kind (including, without limitation lost profits) whether or not foreseeable, even if the Bank has been advised of the likelihood of such loss or damage, and regardless of whether the claim for loss or damage is made in negligence, gross negligence, breach of contract or otherwise.

SPECIFIC SERVICES

A. ACH ORIGINATION SERVICES

Through the Bank's Automated Clearing House origination services ("ACH Services"), the Company will be permitted to initiate credit and/or debit Entries as an Originator by means of the Automated Clearing House Network ("ACH") pursuant to the terms of this Agreement and the operating rules and guidelines of the National Automated Clearing House Association ("NACHA") including, any exhibits or appendices thereto, as same may be amended from time to time (collectively, the "Rules"), which Rules are incorporated herein and made a part of this Agreement. Terms not defined herein shall have the meanings ascribed to them in the Rules. **PLEASE NOTE THAT COMPANIES THAT INITIALLY ENROLLED IN BANKUNITED'S BUSINESS ONLINE BANKING PLUS MAY ONLY USE ACH SERVICES FOR TAX PAYMENTS AND PAYROLL PAYMENTS.**

To be eligible to enroll in and use the ACH Services, the Company must be approved by the Bank. The Company agrees to provide the Bank with such financial, business and operating information as the Bank may reasonably request in connection with the Bank's approval process.

The Company acknowledges that it has a copy of, or has access to a copy of, the Rules. The Company agrees to comply with and be bound by the Rules. The Company represents and warrants to Bank that Company's actions with respect to Company's use of the ACH Services including, without limitation, the preparation, transmittal and settlement of Entries, shall comply with the Rules and all applicable federal and state laws, rules and regulations. The Company acknowledges that Bank will charge the Company for any fines or penalties imposed by NACHA or any other organization which are incurred as a result of Company's actions or inactions and Company agrees to fully reimburse and/or indemnify Bank for such charges or fines.

It is the Customer's responsibility to deliver all credit and debit Entries to the Bank with all information necessary to complete the Customer's requested transactions in

compliance with formatting and other requirements set forth in the Rules or as otherwise specified by the Bank. The Bank may reject or delay processing transactions if information and/or instructions are not complete or are inaccurate, do not comply with the terms of this Agreement or the Rules, or otherwise do not meet the criteria specified by the Bank for acceptance.

The Company shall obtain authorization as required by the Rules from the person or entity whose account will be debited or credited as a result of a debit or credit Entry initiated by the Company. The Company shall retain the original or a copy of each authorization and other documentation required under the Rules for a period of not less than two (2) years after termination or revocation of such authorization or such longer period as is provided in the Rules, and shall, upon request of the Bank, furnish an original or copy to the Bank of any such document.

The Company may elect to send pre-notification that it intends to initiate an Entry or Entries to a third party account within the time limits prescribed by the Rules. Pre-notification shall be provided to the Bank in the format and on the media prescribed by the Rules, unless otherwise specified by the Bank. In the event that the Company has received notice that a pre-notification has been rejected within the prescribed period by a RDFI, the Company will not initiate any Entry of such third party's account until the cause for rejection has been corrected and another pre-notification has been submitted and accepted by the RDFI within the time limits prescribed by the Rules.

When submitting Entries to the Bank, the Company shall comply with the Bank's Security Procedures. The Company acknowledges and agrees that the Bank only acts as the Company's agent for transmission of the Entries and assumes no responsibility for said Entries, except that the Bank will endeavor to exercise due care in the transmission. All Entries must be submitted to the Bank by 8:00 p.m. ET two (2) business days prior to the Effective Date. Any Entry that is incomplete or that is received after the relevant cutoff time will be deemed to have been received by the Bank on the next business day the Bank processes ACH transactions, provided that the Bank has received all required information with respect to the Entry. All transactions are subject to acceptance by the Bank. The Bank has no obligation to accept any Entries and therefore may reject any Entry issued by or on behalf of the Company. The Bank will endeavor to notify the Company if the Bank deems it necessary to reject a submitted Entry. The Bank shall have no liability to the Company for rejection of any Entry. The Company agrees that it shall not initiate or transmit any Entry that violates the Rules.

The Company shall have no right to cancel or amend any Entry after its receipt by the Bank. Notwithstanding the foregoing, the Bank, may, at its option, act on a request by the Company for cancellation or amendment of an Entry prior to transmitting it to the ACH or crediting/debiting a Receiver's account. Please note, however, that any request to cancel an Entry that has been submitted as part of a batch may require that the entire batch be cancelled. The Company agrees to pay any and all fees and charges as set forth in the applicable Schedule of Fees in connection with such request. The Bank shall have no liability if any such cancellation or amendment is not effected. If the Bank accepts a cancellation or amendment of an Entry, the Company hereby agrees to indemnify, defend and hold Bank harmless from and against any and all claims, losses,

demands, damages, fees, charges, costs and expenses including, without limitation, attorney's fees, incurred by the Bank as a result of its acceptance of the cancellation or amendment. This indemnification obligation shall survive termination of the Company's relationship with the Bank.

In the event any Entries are rejected or returned from the ACH Operator, the Bank shall make reasonable efforts to notify the Company no later than one (1) business day after the business day of such receipt. Except for an Entry retransmitted by the Company in accordance with the requirements provided for herein, the Bank shall have no obligation to retransmit a returned Entry if the Bank complied with the terms of this Agreement with respect to the original Entry. If the Company wants to resubmit any returned or rejected entry, it is the Company's responsibility to correct the entry and resubmit it, or otherwise resolve the rejection or return in accordance with the Rules. The Bank shall have no liability to the Company due to the rejection or return of any such entry or due to the fact that Bank may not have not timely notified the Company about the rejection or return. The Company shall retain data on file adequate to permit remaking of entries for five (5) business days following the date of their transmittal by the Bank as provided herein, and shall provide such data to the Bank upon its request. Bank may monitor the Company's return activity and may request proof of authorization of any Entry. If the Bank, in its sole discretion, deems that the Company has excessive returns or rejections, the Bank may immediately terminate the Company's ability to submit debit Entries. The Company shall indemnify, hold harmless and defend the Bank, at the Company's sole cost and expense, against all suits, claims, demands, loss, liability and expenses, including but not limited to attorney's fees, court costs and related litigation costs and expenses, arising out of any rejected or returned entry except to the extent that such rejection or return was solely due to the Bank's gross negligence or willful misconduct. This indemnification obligation shall survive termination of the Company's relationship with the Bank.

Except with respect to Entries rejected by the Bank, if an Entry submitted by the Company is an On-Us Entry (received for credit or debit to an account maintained at the Bank), the Bank shall credit or debit the Receiver's account in the amount of such Entry on the Effective Entry Date contained in such Entry, provided that the Entry has been submitted to the Bank in accordance with the applicable time limits set forth herein. If any of the applicable time limits have not been met, the Bank shall use reasonable efforts to credit the Receiver's account in the amount of such Entry no later than the next business day following such Effective Entry Date.

The Bank shall provide the Company with all information, as required by the Rules, with respect to each Notification of Change ("NOC") Entry or Corrected Notification of Change ("Corrected NOC") Entry received by the Bank relating to Entries transmitted by the Company within two (2) business days of the Settlement Date of each NOC or Corrected NOC. The Company shall ensure that changes requested by the NOC or Corrected NOC are made within six (6) business days of the Company's receipt of the NOC information from the Bank or prior to initiating another Entry to the Receiver's account, whichever is later. If a NOC or Corrected NOC is incorrect or refused by the Company, the Company will promptly deliver a refused Notification of Change to Bank stating the applicable reason code as specified in the Rules. If the Company does not

comply with the requirements to make changes requested by a NOC or Corrected NOC, the Bank may charge the Company for any and all NACHA rule violation fines resulting from such rule infraction or cease processing Entries for the Company until the changes are made.

The Company acknowledges and agrees that if an Entry describes the Receiver inconsistently by name and account number, payment of the Entry may be made on the basis of the account number even if it identifies a person differently from the named Receiver, and Company's obligation to pay the amount of the Entry to the Bank shall not be excused in such circumstances.

The Company shall designate a settlement account at the Bank for the purpose of funding the Company's Entries ("Settlement Account"). The Company agrees to maintain sufficient Available Funds to offset any Entries submitted and against which any rejected or returned Entries, and applicable fees and charges in accordance with the applicable Schedule of Fees then in effect, may be credited or debited. The Bank will either charge or credit the Settlement Account(s) for any credit or debit Entry originated by the Company on the Settlement Date. Even though the Bank debits or credits the Settlement Account, such debit and/or credit is provisional until the Bank receives final settlement. In the event any provisional credit and/or debit or any final credit and/or debit is reversed for any reason, then the Bank will charge the Settlement Account for such item and impose a fee in accordance with the Schedule of Fees then in effect. The Company is responsible for reimbursing the Bank for any and all temporary or final credit reversals. If there are not sufficient Available Funds in the Settlement Account, the Company agrees that the Bank may charge any other Account maintained by the Company with the Bank to cover the Company's obligations hereunder. Notwithstanding the foregoing, the Bank reserves the right to require the Company to pre-fund the Settlement Account prior to the Settlement Date of an ACH credit file. The Bank shall determine whether pre-funding is required based upon criteria established by the Bank from time to time. When pre-funding, the Company shall maintain sufficient Available Funds in the Settlement Account. With respect to the origination of debit Entries or Reversals of credit Entries, the Company acknowledges and agrees that the Bank need not make any deposit to the Account available for withdrawal or transfer unless and until the Bank has a reasonable belief that such Entry has been paid.

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

The Company acknowledges that due to the "next day" settlement procedures used by the ACH, there is the possibility of loss to the Bank in the event that the Company does not have Available Funds at the time of settlement. Accordingly, the Bank may from time to time establish or revise maximum dollar limits for the total value of all Entries the Bank will release on the Company's behalf in any 24 hour period. Any instructions

exceeding this aggregate limit need not be honored, but may, at the Bank's discretion, be honored. Notwithstanding the foregoing, the Company shall remain liable for all Entries that exceed the foregoing amount, to the extent honored by the Bank. The Bank may change or cancel the limits at any time without prior notice to the Company, although the Bank will try to notify the Company before the Bank does so. The Bank has no obligation to discover and shall not be liable to the Company for any errors made by the Company including, without limitation, errors made in identifying the Receiver or RDFI or for errors in the amount of an Entry or for errors in Settlement Dates. Bank shall likewise have no duty to discover and shall not be liable for duplicate Entries issued by the Company. Notwithstanding the foregoing, if the Company discovers that any Entry it has initiated was in error, it may notify the Bank of the error and the Bank will make reasonable efforts on behalf of the Company, consistent with the Rules, to correct the Entry. In all such cases, it is the responsibility of the Company to notify its affected customers that an Entry has been made which is at variance with the customer's authorization or is otherwise erroneous. The Bank shall not be liable for such Entries or the Bank's failure to correct the Entry. The Company is responsible for all expenses incurred as a result of the error and shall indemnify, hold harmless and defend the Bank at the Company's sole cost and expense against all suits, claims, demands, loss, liability and expenses, including but not limited to attorney's fees, court costs and related litigation costs and expenses, resulting directly or indirectly from such errors whether in an action between the Bank and the Company or between the Bank and a third party or otherwise. This indemnification obligation shall survive termination of the Company's relationship with the Bank.

The Company will be deemed to make the same warranties to the Bank as the Bank makes pursuant to the Rules. Additionally, with respect to each and every Entry transmitted by the Company, the Company represents and warrants to the Bank and agrees that: (i) each person or entity shown as the Receiver on an Entry received by the Bank from the Company has authorized the initiation of such Entry and the crediting or debiting of its account in the amount and on the Effective Entry Date shown on such Entry, (ii) such authorization is operative at the time of transmittal or crediting or debiting by the Bank as provided herein, (iii) Entries transmitted to the Bank by the Company are limited to those types of credit and debit Entries permitted pursuant to this Agreement. Without limiting the foregoing, the Company acknowledges that International ACH Transactions ("IATs") are not permitted under the terms of this Agreement and the Company represents and warrants to the Bank that no such Entry transmitted by the Company shall be an IAT, (iv) the Company shall perform its obligations under this Agreement in accordance with all applicable laws, regulations and orders including, without limitation, the sanctions laws, regulations and orders administered by the United States Treasury Office of Foreign Assets Control ("OFAC"), laws, regulations and orders administered by FinCEN, and any state, laws, regulations or applicable to the providers of ACH payment services. Without limiting the foregoing, the Company agrees that it will not initiate any transactions in violation of the requirements or sanctions of OFAC or act on behalf of, or transmit funds to or from, any party subject to OFAC sanctions, and (v) the Company shall be bound by and comply with the provision of the Rules making payment of an Entry by the RDFI to the Receiver provisional until receipt by the RDFI of final settlement of such Entry. The Company shall indemnify, hold harmless and defend the Bank at the Company's sole cost and

expense against all suits, claims, demands, loss, liability and expenses, including but not limited to attorney's fees, court costs and related litigation costs and expenses, resulting directly or indirectly from any breach of any of the representations or warranties of the Company set forth herein. This indemnification obligation shall survive termination of the Company's relationship with the Bank.

From time to time, the Bank may request information from the Company with respect to the Company's ACH Services activity for the purposes of evaluating a continuation of the ACH Services and/or adjustments of any limits. The Company agrees to provide the requested information promptly upon request. In connection with these evaluations, the Bank reserves the right to require the Company to establish reserves with the Bank, in amounts calculated by the Bank in its discretion, to cover the Company's obligations to the Bank arising from the Company's use of the ACH Services. Reserves may be expressed as fixed dollar amount or as a "rolling reserve" calculated based on "rolling" averages as determined in accordance with the Bank's periodic evaluations. The amount of the reserves required by the Bank, if any, will be communicated directly to the Company from time to time. The Company agrees to establish reserves as required by the Bank within seven (7) days after being notified by the Bank. The Company acknowledges and agrees that the Bank may suspend the Company's ACH Services if the Company fails to establish the required reserves within such seven (7) day period.

When the Company is acting in the capacity as a Third-Party Sender, the Company represents and warrants to the Bank as follows:

1. The Company shall perform all of the duties to verify the identity of any Originator prior to transmission of any ACH Entry. The Company shall be responsible to provide the Bank with any information that the Bank considers reasonably necessary to identify each Originator for which the Bank, as ODFI, transmits Entries. Upon the receipt of a request from the Bank for such information, the Company shall provide the information within two (2) business days of such request.

2. The Company has agreed to assume the responsibilities of an Originator, as required by the Rules. In any case in which the Company fails to perform its obligations as an Originator under the Rules, the Company agrees to indemnify the Bank, hold harmless and defend the Bank at the Company's sole cost and expense against all suits, claims, demands, loss, liability and expenses, including but not limited to attorney's fees, court costs and related litigation costs and expenses, resulting directly or indirectly, from the failure of the Company to perform its obligations as an Originator. This indemnification obligation shall survive termination of the Company's relationship with the Bank.

3. If the Company performs any obligations of the Bank as ODFI under the Rules, the Company agrees it shall also perform the requirements of an ODFI under the Rules, and warrants that it has the legal ability to do so.

4. The Company is obligated to make payment to the Bank for all credit Entries and all debit Entries that are returned by the RDFI. In the event that the Bank does not receive payment from the Company, the Originator of the Entry agrees to pay

the Bank.

5. The Company shall ensure that its Originators agree to the responsibilities outlined herein for the retention and delivery of any records, documentation and data related to copies of items, copies of source documents or records of authorization.

6. The Company shall conduct an annual audit of its compliance with the Rules and upon request, to provide documentation supporting such audit within five (5) business days of such request.

B. ACH ALERT SERVICES

Through ACH Alert Services (“ACH Alerts”) the Company can receive notifications via e-mail or text messaging regarding ACH Debit Transactions (as hereinafter defined) presented for payment against its Accounts. For purposes of ACH Alerts, “ACH Debit Transaction” shall refer to certain electronic funds transfers which settle within a bank or between banks according to specified rules and procedures governed by the Federal Reserve Bank and NACHA and which have the intended result of debiting funds from the Company’s Accounts.

To activate ACH Alerts, the Company shall complete the Bank’s enrollment form (“Enrollment Form”) designating which Accounts are to be enrolled (“Designated Account”). The Company shall also provide a valid telephone number and/or e-mail address where alert notifications (“Alert Notification”) are to be sent. Bank shall be allowed a reasonable period of time in which to process the Enrollment Form following its receipt from the Company. Bank shall not be obligated to process any Enrollment Form that is missing any information or is otherwise incomplete.

Company acknowledges and agrees that each Alert Notification may not be encrypted and may include the name of the company attempting to debit (the “Sender”), and certain information pertaining to, the Designated Account. Receipt of an Alert Notification may be delayed or prevented by factors affecting the Company’s internet or telecommunications service providers. Bank neither guarantees the delivery or the accuracy of the contents of any Alert Notification.

In the event that any ACH Debit Transaction is presented for payment against a Designated Account, an Alert Notification will be sent to the telephone number or e-mail address provided during enrollment. Company must provide Bank with instructions to pay or return the ACH Debit Transaction on the day of receipt of the Alert Notification prior to the cut-off time established by Bank. If Company does not provide Bank with instructions to pay or return an ACH Debit Transaction on or before the established cut-off time, the transaction shall be paid. Company acknowledges and agrees that if paid an ACH Debit Transaction may not be returned and shall remain paid.

If Company has specified a list of originating company names and identification numbers who the Company has authorized to originate ACH Debit Transactions against the Designated Accounts (“Approved List”), Bank will match ACH Debit Transactions that are presented for payment to the Approved List. If an ACH Debit Transaction does not

match the Approved List, an Alert Notification shall be provided to Company. If Company does not provide Bank with instructions to pay or return the ACH Debit Transaction by the established cut-off time, then such transaction shall be paid. Company acknowledges and agrees that Company is responsible for making any revisions, amendments, updates, deletions or any other changes to the Approved List.

Company acknowledges and agrees that ACH Alerts is only applicable for ACH transactions identified with Standard Entry Class (SEC) Codes of CCD, CTX, PPD, ARC, BOC, RCK, POP, WEB, and TEL.

Company may not use ACH Alerts to reverse any ACH Debit Transaction for any reason other than that a transaction is “unauthorized” or “improper” (as designated by the Company). ACH Alerts may not be used to reverse transactions in the event there are insufficient funds in the Company’s Accounts or to reverse an otherwise authorized transaction.

Company acknowledges that the return of an ACH Debit Transaction is subject to dispute on the part of the Sender. In the event of such a dispute the Company acknowledges and agrees that the Bank must act in accordance with the NACHA Rules. Without limiting any of its indemnification obligations to Bank, Company hereby agrees to accept liability for and hold Bank harmless from and against any and all, damages, losses, fines, fees, taxes, liabilities, costs and expenses including, without limitation, reasonable attorney’s fees, arising out of or related in any way to the return of any ACH Debit Transaction in accordance with the Company’s instructions.

Any ACH Debit Transaction that is paid in accordance with ACH Alerts shall be considered properly payable and Company agrees that Bank shall have no liability to Company for paying any ACH Debit Transaction in accordance herewith. Notwithstanding anything to the contrary contained herein, Bank may, but shall not be obligated to, pay any ACH Debit Transaction if there are not Available Funds on deposit in the Account.

C. ZERO BALANCE ACCOUNT TRANSFER SERVICES

With the Bank’s Zero Balance Account Transfer Services, the Company can eliminate excess balances in separate accounts and maintain greater control over disbursements. The Company will designate one master funding account (“Master Account”) from which Available Funds will be transferred to and from each zero balance account (“Subsidiary Account”) at the close of each business day such that the balance in such Subsidiary Account shall be the target balance set by the Company (the “Target Balance”). If the Company fails to specify a Target Balance for a Subsidiary Account, the Target Balance for such account shall be zero dollars. If a Subsidiary Account does not have sufficient Available Funds to cover any checks paid or debits made (collectively “Debits”) from such account, the Bank will automatically transfer Available Funds from the Master Account in an amount sufficient to pay such Debits and bring the Subsidiary Account to its Target Balance; provided, however, if more than one Subsidiary Account is linked to a Master Account, the Bank will transfer Available Funds from the Master Account to cover Debits from all Subsidiary Accounts prior to making transfers from such Master

Account to restore the Target Balance in any Subsidiary Account. If there are insufficient Available Funds in the Master Account to cover all Debits from all Subsidiary Accounts, the Bank reserves the right, in its sole discretion, to pay or return any such Debits. The Bank is hereby authorized to add or remove Subsidiary Accounts from time to time upon receipt of written notice from an authorized signer on the Master Account.

The Company acknowledges and agrees that, in the event that the Bank receives any levy, garnishment, restraint, or other legal process freezing or otherwise restricting access to funds on deposit in the Master Account or a Subsidiary Account, the Bank may, at its option and without liability, refuse to honor orders to pay, transfer or withdraw funds from any and all Accounts to the extent permitted by applicable law.

PLEASE NOTE THAT ZERO BALANCE ACCOUNT TRANSFER SERVICES ARE ONLY AVAILABLE TO COMPANIES ENROLLED IN BANKUNITED'S ONLINE TREASURY MANAGEMENT SERVICES.

D. ACCOUNT RECONCILIATION SERVICES

Through the Bank's Account Reconciliation Services, on any day that the Company issues a check or other item payable on its Account(s), the Company shall electronically transmit to the Bank no later than 10:00 p.m. ET the following information accurately identifying such check or other item in such format as the Bank may require from time to time: the check number, date, amount and account number (the "Check Information"). The Bank will compare such information against each check or other item presented for payment through customary interbank clearings. The Company acknowledges that customary interbank clearings do not include items presented for payment at a teller window, through an ATM or by mail. The Bank may, at its sole discretion, attempt to compare the Check Information against such items, however, the Bank will not be liable for its failure or refusal to do so, even if the Bank has done so on previous occasions. The Bank will send a report to the Company in a mutually agreed upon manner within ten (10) days after the close of each month reflecting the checks that remain outstanding. The Company acknowledges that this report is being provided solely as an accommodation to the Company and the Bank makes no representation or warranty regarding the accuracy of this report.

PLEASE NOTE THAT ACCOUNT RECONCILIATION SERVICES ARE ONLY AVAILABLE TO COMPANIES ENROLLED IN BANKUNITED'S ONLINE TREASURY MANAGEMENT SERVICES.

E. POSITIVE PAY SERVICES

Through the Bank's Positive Pay Services ("Positive Pay"), Account Reconciliation customers can instruct the Bank not to pay certain items presented for payment against the Company's Account(s). In order to use the Positive Pay Services, the Company must have enrolled in the Bank's Account Reconciliation Services.

The Company shall submit a check issue report ("Check Issue Report") to the Bank by 10:00 p.m. ET on the banking day on which the Company issues the item that accurately

contains the following information with respect to each check drawn on each Account since the last Check Issue was submitted: (a) account number; (b) check number; and (c) dollar amount of each check (collectively, the "Issuance Information"). For first time users of Positive Pay, a list of all outstanding checks as of that day must be sent to the Bank. The Check Issue Report shall be electronically transmitted to the Bank in a format mutually agreed upon by the parties.

The Bank shall compare the Issuance Information with each check presented for payment ("Presented Check"). If the information on a Presented Check matches the Issuance Information, the Bank is hereby authorized to pay such item. If any Presented Check contains information different from the Issuance Information for that item ("Exception Check"), the Bank will notify the Company by sending an exception report ("Exception Report") specifying the check number and amount of any such Exception Check and the reason why the check is an Exception Check. The Exception Report will be made available to the Company electronically between the hours of 6:00 a.m. and 10:30 a.m. ET on the business day following the business day the check is presented for payment. The Company shall advise the Bank electronically by 11:00 a.m. ET on the same business day the Exception Report is made available to the Company whether or not any Exception Check is authorized for payment. In the event that the Company fails to timely inform the Bank about any check for which a Presentment Decision is requested, the Bank is authorized to return such Exception Check.

The Company agrees that it shall not use the Positive Pay Services to stop payment on a check that has been issued. In such event, the Company shall issue a stop payment request in accordance with the Bank's customary procedures.

The Company acknowledges and agrees that the Bank shall not be obligated to inspect any check for the presence or authenticity of any signature or to determine whether any signature is authorized. The Company further acknowledges and agrees that the Bank's adherence to the procedures set forth herein shall constitute the exercise of good faith and ordinary care by the Bank in handling items presented for payment against the Account(s). The Company understands that the Bank's Positive Pay Services may not identify counterfeit or duplicate checks. The Company agrees to promptly review all statements, returned items, reports and other check and transaction information that is made available to the Company, and to immediately report any identified discrepancies to the Bank.

Nothing herein shall affect the Bank's right to return any check if the Company's Account on which such check was drawn does not contain Available Funds to pay such item or if the Bank in its sole discretion determines that such item is not properly payable. Additionally, the Bank, may, without liability to the Company, refuse to pay any check presented for payment at any of the Bank's branch locations. If the Bank decides to pay an item presented for encashment at the teller line of one of its branch locations, the Company authorizes the Bank to pay such item based upon the Positive Pay information at the teller line. The Bank may charge a person who presents an item drawn on the Company's Account(s) a fee at the time of encashment.

PLEASE NOTE THAT POSITIVE PAY SERVICES ARE ONLY AVAILABLE

TO COMPANIES ENROLLED IN BANKUNITED'S ONLINE TREASURY MANAGEMENT SERVICES.

F. WIRE TRANSFER SERVICES

Through the Bank's Wire Transfer Services, the Company can electronically initiate wire transfers from an Account(s) to a specified deposit account of the Company or a third party at the Bank or other financial institution. **PLEASE NOTE THAT COMPANIES THAT WERE INITIALLY ENROLLED IN BANKUNITED'S BUSINESS ONLINE BANKING PLUS MAY ONLY USE THE WIRE TRANSFER SERVICES TO SEND WIRES DOMESTICALLY.** Upon receipt of a payment order ("Payment Order") from the Company, the Bank is authorized to, and shall, subject to applicable security procedures and the limitations set forth herein, execute such request and charge the appropriate Account for the amount thereof plus any applicable fees and charges. The Bank is further authorized to receive funds transferred to it for credit to the Company's Accounts and to post such funds to the Account(s) specified in the transfer instructions. All Payment Orders sent to the Bank shall be in the format specified by the Bank. The Company represents that all information set forth in a Payment Order shall be accurate and complete. In order to allow the Bank sufficient time to comply with a Payment Order on the business day it is received, the Company shall submit the Payment Order by 4:00 p.m. ET, or such other cut-off time that may be established by the Bank from time to time. Payment Order requests received on a non-business day or after 4:00 p.m. ET on a business day will be treated as being received on, and may be executed on, the next business day.

The confirmation of Payment Orders initiated by the Company through the Services shall be verified and approved by the Company prior to transmission of the Payment Order to the Bank. The Company shall designate one (1) authorized user as the initiator of a Payment Order and at least one (1) authorized user as the approver of a Payment Order. The Bank recommends that an authorized user not act as both an initiator and approver. Notwithstanding the Bank's recommendation, if the Company permits an authorized user to act as both the initiator and the approver, the Company hereby authorizes the Bank to process a wire initiated and approved by such authorized user. The Company acknowledges that not using a dual validation approval process substantially increases the Company's risk of liability for an unauthorized transaction. The Company hereby releases the Bank from and against any and all claims, losses and/or damages including, without limitation, attorney's fees, court costs and related litigation expenses, arising from or related in any way to the Company's waiver of the dual validation approval process recommended by the Bank.

The Bank, in its sole discretion, may execute Payment Orders in any order it determines. All incoming transactions including, but not limited to, FEDWIRE, Clearing House Interbank Payment System (CHIPS) and the Society for Worldwide Interbank Financial Telecommunications (SWIFT), are conditional upon settlement. The Bank reserves the right to reverse any such funds transfer if the sending party fails to settle. The Company agrees to be bound by all rules of FEDWIRE, CHIPS, SWIFT and any other funds transfer system that affect any transfers under the Wire Transfer Services.

All Payment Orders will be paid in United States Dollars. The Bank will not execute foreign currency transfers through the Wire Transfer Services.

All Payment Orders are subject to verification. The Bank, without any liability to the Bank, may elect not to act upon a Payment Order if (i) it is unable to obtain proper and satisfactory verification of such Payment Order; (ii) there is any inconsistency between a Payment Order and information previously supplied to the Bank; or (iii) a Payment Order is not initiated in accordance with the Bank's Security Procedures. Notwithstanding the foregoing, in the event that the Bank receives a Payment Order that contains inconsistencies between name and account number of the beneficiary, the Bank may, in good faith and without liability to the Company or any third party, rely on the account number rather than the name. The Company shall indemnify the Bank for any losses (including, attorney's fees, court costs and related litigation costs and expenses) resulting from such reliance. In no event shall the Bank be obligated to detect errors in any Payment Order. The Company acknowledges and agrees that a Payment Order received by a beneficiary's financial institution which inconsistently describes a beneficiary name and account number, the receiving beneficiary's financial institution may rely solely on the account number and such reliance shall be binding upon the Company. The Bank will comply with regulations issued by OFAC. If any Payment Order is to an entity listed on OFAC's list of Specially Designated Nationals and Blocked Persons, the Bank shall not complete the transfer and shall "block" the funds until such time as OFAC issues a written release to the Bank. In addition, if a transfer into the Company's Account is from a person listed on OFAC's list of Specially Designated Nationals and Blocked Persons, by law the Bank shall not accept the transfer. The Bank shall have no liability to the Company as a result of the Bank's rejection of any Payment Order pursuant to the terms hereof. The Bank may reject any Payment Order that does not conform to the limitations, Security Procedures and/or other requirements set forth herein. The Bank, in its sole discretion, except when prohibited by applicable law, may reject any Payment Order it receives from the Company for any reason.

If the Bank receives notice that a Payment Order transmitted by the Bank has been rejected, the Bank shall notify the Company of such rejection including the reason given for rejection. The Bank shall have no further obligation to transmit the rejected Payment Order if it complied with the terms hereof with respect to the original Payment Order

The Bank shall make a reasonable effort to act on Company's request to cancel or amend a Payment Order prior to the time the Bank executes such Payment Order; provided, however, the Bank shall have no liability if such cancellation or amendment is not effected for any reason.

In the event that any Payment Order exceeds the amount of Available Funds in the Account, the Bank, may, but is not obligated to, execute such Payment Order. If the Bank elects to perform such a transaction, the Company shall remain liable for all amounts transferred including, without limitation, funds transferred in excess of Available Funds in the Account. In such event, the Bank may charge the Account or any other account the Company maintains with the Bank at any time for payment of the overdraft and applicable costs and expenses

The Company directs and authorizes the Bank, subject to the terms of this Agreement, to debit the Account in the amount of orders issued by, or in the name of the Company and to transmit or receive such amounts in accordance with such orders.

G. REMOTE DEPOSIT CAPTURE SERVICES

Through the Bank's Remote Deposit Capture Services, the Company may, from time to time, capture an electronic image of a check and transmit that image to the Bank over the internet through a web-based interface for deposit to a Company Account (the "RDC Services").

To be eligible to enroll in and use the RDC Services, the Company must be approved by the Bank. The Company agrees to provide the Bank with such financial, business and operating information as the Bank may reasonably request in connection with the Bank's approval process. If approved, the Company shall be responsible, at the Company's sole cost and expense, for acquiring and installing any hardware, including, but not limited to, a personal computer and an image scanner (the "Equipment") required to access the RDC Services. The Company must use Equipment that meets the Bank's technical requirements. The Company acknowledges and agrees that it is solely responsible, at the Company's cost and expense, for the use, operation, performance and maintenance of all Equipment. The Company further acknowledges and agrees that it will perform or cause to be performed all vendor recommended maintenance, repairs, upgrades and replacements by properly trained personnel. The Bank shall not be liable to the Company for any malfunction, non-function, inaccuracy or other failure of the Equipment used by the Company to access the RDC Services, regardless of whether the Bank approved such equipment.

The Company agrees to use the Equipment in a manner consistent with the terms of this Agreement and for no other purpose. The Company shall be responsible for installing and implementing any changes and upgrades to the Equipment that may be required by the Bank within five (5) days of notification thereof to ensure compliance with regulatory changes or developments, or to protect the integrity and security of the RDC Services. The Company shall be responsible for training its own employees on how to use the Equipment and RDC Services.

The Company agrees that it will only submit checks for processing through the RDC Services that meet the definition of a "check" set forth in Federal Reserve Board Regulation CC, as amended from time to time ("Regulation CC"). The Company further agrees that it shall not process any Non-Qualifying Items through the RDC Services. For purposes of this Agreement the term "Non-Qualifying Items" shall be deemed to be any check that (a) is payable to any person or entity other than the person or entity that owns the account that the check is being deposited into, (b) contains an alteration on the front of the check or the Company knows or suspects, or should have known or suspected, is fraudulent or otherwise not authorized by the owner of the account on which the check is drawn, (c) is payable jointly, unless deposited into an account in the name of all payees, (d) is a "substitute check", including previously truncated and reconverted substitute checks, or is a "remotely created check" as such terms are defined by Regulation CC, (e) is drawn on a financial institution located outside of the United States, (f) is not payable

in United States currency, (g) is dated more than 6 months prior to the date of deposit and (h) is payable on sight or payable through drafts, as defined in Regulation CC . In the event that a Non-Qualifying Item is processed through the RDC Services, such processing shall not constitute a waiver by the Bank or obligate the Bank to process any other Non-Qualifying Items through the RDC Services in the future. If the Company deposits a Non-Qualifying Item, the Company agrees to reimburse the Bank for any losses, costs and expenses, including, without limitation, reasonable attorney's fees, court costs and related litigation fees and expenses, the Bank may incur in connection with any warranty or indemnity claims.

The Company shall restrictively endorse each check as follows: FOR DEPOSIT ONLY AT BANKUNITED, N.A., ACCOUNT NUMBER [NUMBER]. The Company shall scan and capture the image of the front and back of each check as well as the MICR (Magnetic Ink Character Recognition) encoding line on each check ("Image"). The Company shall ensure that all Images meet the American National Standards Institute ("ANSI") standards for image quality required by Regulation CC, or any other regulatory agency, clearing house or association. Each Image shall be of such quality that the following information can be clearly read:

1. the amount of the check;
2. the payee of the check;
3. the signature of the drawer of the check;
4. the date of the check;
5. the check number;
6. the information identifying the drawer and the paying institution that is preprinted on the check, including the MICR line, the routing transit number, and the account number on which the check is drawn; and
7. all other information placed on the check prior to the time an image of the check is captured, such as any required identification written on the front of the check and any endorsements applied to the back of the check.

The Company shall inspect and verify the quality of Images and ensure that the digitized images are legible for all posting and clearing purposes. The Company agrees that it shall be responsible for depositing any checks that do not meet image quality standards directly at the Company's branch of account. After capturing the Images, the Company shall transmit one or more files containing such Images and all required information ("Batch") to the Bank in accordance with the reference materials (a copy of which have been provided to the Company) as same may be amended from time to time. Together with each Batch, the Company shall also transmit a control total reflecting the aggregate amount of the checks in the Batch for deposit. The Company shall be solely liable for any Batch or Images that are not received by Bank or are intercepted or altered by an unauthorized third party.

Batch file transmissions will be deemed to have been deposited only when the file is actually received and accepted for processing by the Bank. Files received by the Bank prior to 7:30 p.m. ET on a business day shall be deemed to have been received on that day. Files received after the 7:30 p.m. ET cutoff time on a business day, or at any time on a day that is not a business day shall be deemed to have been received on the

following business day.

A Batch will be deemed to have been received and accepted by the Bank for deposit when all of the following have occurred: (i) the Bank has preliminarily verified that the image quality of the checks is acceptable to the Bank in its sole discretion; (ii) all information is complete and the deposit totals balance to the information provided for the Batch. Subject to the provisions of this Agreement, the Bank shall provisionally credit the appropriate Company Account based upon the information provided by the Company. All items submitted through the RDC Services, however, shall be subject to the Bank's verification and final inspection and may be rejected by the Bank in its sole discretion without liability. The Company shall be responsible for verifying the Bank's receipt of a Batch by confirming that deposits have been posted to the appropriate Account. The Bank shall have no obligation to notify Company of the rejection of a Batch or any Image in a Batch but will make reasonable efforts to do so. Funds from items processed pursuant to this Agreement will be made available for withdrawal in accordance with Bank's Funds Availability Disclosure, as same may be amended from time to time.

The Bank in its sole discretion shall determine the manner in which items shall be presented for payment to the financial institution on which the original check is drawn or through which it is payable (the "Drawee Bank"). If the Bank converts a digitized image to a substitute check, that substitute check will be presented to the Drawee Bank through the check collection channels that the Bank would otherwise use to present a check to the Drawee Bank. If the Bank elects to process the item as an image exchange item, the Bank will forward the item for presentment to the Drawee Bank through the electronic item collection channels that the Bank would otherwise use to present an electronic item to the Drawee Bank. All such processing and presentment shall be done in accordance with timelines established by the Bank from time to time.

The Bank may from time to time establish exposure limits, including per deposit limits and daily deposit limits for the total value of Images that may be deposited through the RDC Services on the Company's behalf in any 24-hour period. Any Batches exceeding this aggregate limit need not be honored, but may, at the Bank's sole discretion, be honored. The Bank may change or cancel these deposit limits at any time without prior notice to Company, although the Bank will endeavor to notify the Company before the Bank does so.

If any item previously deposited by the Company is dishonored and/or returned unpaid for any reason, the Company acknowledges and agrees that the original item will not be returned, and the Company shall only be entitled to receive back a copy of a substitute check representing the returned deposited item. In the event that the Company requests that a returned item be re-presented, the Company may only redeposit the substitute check and not the original check, regardless of whether such original check has not yet been destroyed by the Company, at a bank branch location. Company acknowledges and agrees that any items for redeposit shall not be processed through the RDC Services.

The Bank may, but is not obligated to, act on any request by the Company to cancel a Batch transmitted to the Bank. The Company agrees to pay any and all fees and charges as set forth in the applicable Schedule of Fees in connection with such request. The Bank

shall have no liability if such cancellation is not effected. The Company hereby agrees to indemnify, defend and hold Bank harmless from and against any and all claims, losses, demands, damages, fees, charges, costs and expenses including, without limitation, attorney's fees, incurred by the Bank as a result of its acceptance of the cancellation. This indemnification obligation shall survive termination of the Company's relationship with the Bank.

With respect to each and every item presented electronically for deposit through the RDC Services, the Company represents and warrants to the Bank as follows: (a) the Image accurately represents all of the information on the front and back of the check as of the time the Company converted the check to an Image including, without limitation the data contained in the MICR line of the check; (b) the Image contains all necessary endorsements; (c) neither the checks nor the Images contain any alterations; (d) all signatures on items transmitted are authentic and authorized; (e) there will be no duplicate presentment of a check in any form, including an Image; (f) the Company makes all encoding, transfer, presentment and other warranties that the Bank is deemed to make under applicable law, including, without limitation, those made under the Uniform Commercial Code, Regulation CC, and the rules of any image exchange network or clearinghouse; (g) each drawer of a check that has been converted to an Image was properly notified that the check may be converted; (h) no subsequent transferees of the item(s) including, but not limited to, the Bank, a collecting or returning bank, drawer, drawee, payee or endorser, shall sustain a loss as a result of the fact that the Image was presented for payment or returned instead of the original item; (i) all information provided by the Company to the Bank is true, accurate and complete and properly reflects the business, financial conditions and principal partners, owners or officers of the Company; (j) the Company is not engaged or affiliated with any businesses, products or methods of selling other than those disclosed by the Company to the Bank; (k) the Company is authorized to enter into and perform its obligations under this Agreement; (l) all checks and business transactions of the Company are, and will be, bona fide, and the Company is a person authorized to collect each item transmitted; (m) the Company will not deposit or otherwise endorse the original item, and no person will receive a transfer, presentment or return of, or otherwise be charged for, the item (either the original item or a paper or electronic representation of the original item) such that the person will be asked to make payment based on an item it has already paid; (n) there is no action, suit or proceeding pending or to the Company's knowledge threatened which, if decided adversely would impair the Company's ability to carry on its business substantially as now conducted or which would adversely affect the Company's financial condition or operations; (o) the Company conducts its business and submits checks and files in strict compliance with this Agreement and with all applicable laws, rules and regulations; and (p) no checks and files contain any computer viruses or other harmful, intrusive or invasive codes.

The Company shall retain the original of each check submitted through the RDC Services in a safe and secure environment for a period of at least sixty (60) days after such item has been transmitted. The Company shall take appropriate security measures to ensure that only authorized personnel shall have access to the checks and that the information contained on such checks are not disclosed to third parties. During such period, the Company shall promptly (but in any event within five (5) business days) upon request,

provide any retained original check to the Bank to aid in the clearing and collection process, to resolve claims by third parties with respect to any item or as the Bank may otherwise reasonably require. The Company shall use a commercially reasonable method consistent with Regulation CC to permanently destroy each original check after the expiration of the sixty (60) day retention period.

The Company acknowledges that it is responsible for establishing a contingency plan in the event of system failure or other interruption in the RDC Services. Such plan may, for example, include the manual deposit of checks directly at one of the Bank's branch office locations. The Bank shall have no liability of any kind related to or as a result of the Company's failure to establish a commercially reasonable contingency plan.

Within five (5) days of any termination of the RDC Services or this Agreement, Company will, at Company's expense, promptly return to the Bank any Equipment provided or owned by the Bank, together with any materials relating to the RDC Services in its possession or under its control.

PLEASE NOTE THAT REMOTE DEPOSIT CAPTURE SERVICES ARE ONLY AVAILABLE TO COMPANIES ENROLLED IN BANKUNITED'S ONLINE TREASURY MANAGEMENT SERVICES.

H. BALANCE REPORTING SERVICES

Through the Bank's Balance Reporting Services, the Company can obtain electronic access to account information, reports and data with respect to the Accounts designated in the Application. The Bank reserves the right to modify the information and detail available through the Account Reporting Services at any time. The Bank will provide notice to the Company of any such changes or modification to the extent such notice is required by applicable law.

I. CONTROLLED DISBURSEMENT SERVICES

Through the Bank's Controlled Disbursement Services, on each business day, the Bank shall electronically provide the Company with a report of the total dollar amount of checks which are presented daily for payment against the Company's Accounts ("Clearings Report"). Subject to the limitations set forth herein, the Bank agrees to provide the Clearings Report to Company no later than 12:00 p.m. ET on each business day. Company acknowledges, however, that the clearings reported on the Clearing Report may not be the entire amount actually presented on such day due to late presentments by the Federal Reserve Bank, or any third parties. The Bank makes no representation or warranty and has no liability for the accuracy or completeness of such information. The Company shall designate a checking account ("Disbursement Account") and a primary funding account ("Funding Account") at the Bank. The Company agrees to maintain sufficient Available Funds in the Funding Account to fund the total clearings. The Bank is hereby authorized to debit the Funding Account in an amount equal to the amount of total clearings and to transfer such funds for credit to the Disbursement Account.

The Bank may, from time to time, establish or revise maximum daily dollar limits for the total value of all checks and other items that the Bank will pay on the Company's behalf in any 24-hour period. Any items exceeding this limit need not be honored, but may, at the Bank's sole discretion, be honored. Notwithstanding the foregoing, the Company remains liable for all checks that exceed the foregoing amount, to the extent honored by the Bank. The Bank may change or cancel the limits at any time without prior notice to the Company, although the Bank will attempt to notify the Company before the Bank does so.

The Company acknowledges that the Bank may, due to circumstances beyond its control, be unable to provide a Clearing Report early enough for the Company to make a complete and acceptable funding of the Accounts. In such event, the Company agrees to fund the Funding Account by using an estimate of the total clearings.

The Company acknowledges and agrees that, in the event that the Bank receives any levy, garnishment, restraint, or other legal process freezing or otherwise restricting access to funds on deposit in the Funding Account or the Disbursement Account, the Bank may, at its option and without liability, refuse to honor orders to pay, transfer or withdraw funds from any and all Accounts to the extent permitted by applicable law.

PLEASE NOTE THAT CONTROLLED DISBURSEMENT SERVICES ARE ONLY AVAILABLE TO COMPANIES ENROLLED IN BANKUNITED'S ONLINE TREASURY MANAGEMENT SERVICES.

J. INTERNAL TRANSFER SERVICES

Through the Services, the Company may initiate internal transfers of funds to or from its Accounts at the Bank. The Company authorizes the Bank to charge its designated Accounts for all transfers that the Company initiates through the Internal Transfer Services. A transfer request submitted and accepted by the Bank by 6:00 p.m. ET on a business day that we are open will be processed that same business day. A transfer request received on a non-business day or after 6:00 p.m. ET on a business day will be treated as being received on the next business day the Bank is open for business.

The Bank shall not be obligated to make any transfer the Company may request unless there are sufficient Available Funds or available credit in the Company's Account to cover the transfer. If a transfer is rejected due to insufficient Available Funds or available credit in the Company's Account, an electronic notice will be sent to the Company through the secure message center. If the Company desires to retry the transfer, the Company must submit a new request. The Bank shall not, and shall not be obligated to, automatically retry any rejected transfer.

The following additional terms shall apply with respect to transfers to or from a Credit Account made through the Internal Transfer Services:

(i) Only current regularly scheduled loan payments, principal reduction payments and advances in an amount equal to or less than the amount available for disbursement may be made to or from a Credit Account. PAST DUE OR FUTURE PAYMENTS

TO A CREDIT ACCOUNT MAY NOT BE MADE THROUGH THE INTERNAL TRANSFER SERVICES.

(ii) Transfers to a Credit Account may be made in amounts up to the available balance in the Account from which the funds are to be transferred.

(iii) Transfers from a Credit Account, including, without limitation, the minimum or maximum amount available for withdrawal, are subject to the terms of the Company's existing credit agreements with the Bank.

(iv) Transfers may not be immediately available for viewing online.

K. STOP PAYMENT SERVICES

Through the Services, the Company may request a stop payment on any checks written on the Accounts which have not yet been paid by the Bank. All stop payment requests entered through the Services shall be deemed a written stop payment within the meaning of the Uniform Commercial Code and shall be valid for a period of six (6) months from the date entered, unless otherwise renewed by the Company. All such renewals must be in writing and shall be in the form and substance required by the Bank. A fee in accordance with the Bank's Schedule of Fees will be assessed to the Account for each stop payment request. No stop payment request will be effective against a check that has been paid prior to the time that the Bank has both received the request and has had a reasonable period of time to act upon the request. The Company agrees to indemnify and hold the Bank harmless from and against any and all costs and expenses including, without limitation, attorney's fees, court costs and related litigation costs and expenses, incurred by the Bank for refusing payment on all items upon which a stop payment Request is placed and further agrees not to hold the Bank liable for payment contrary to any such request if the same occurs through inadvertence, accident or oversight.

L. ONLINE BILL PAY SERVICES

Please refer to our Online Bill Payment Terms and Conditions for Business Accounts for the terms and conditions which govern these services.

UNLAWFUL TRANSACTIONS

The Company agrees not to use the Services for any illegal or unlawful purpose. The Company further acknowledges and agrees that the Bank has no obligation to monitor or review the Company's transactions for legality and that the Bank may presume that all of the Company's transactions are legal in all applicable jurisdictions. The Bank reserves the right however, to decline any transaction that it believes is an illegal transaction or a high-risk transaction in any applicable jurisdiction. The Bank is not responsible for the recovery or reimbursement to the Company of any funds transferred in connection with any authorized transaction that is determined to be illegal.

The Company further agrees not to use any Account(s) or any of the Services to engage in any internet or online gambling transaction, including, without limitation, those

activities prohibited by the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. Section 5361 et seq. The Bank reserves the right to decline any transaction that it believes is an internet or online gambling transaction.

The Services are solely offered to citizens and residents of the United States of America. The Company is prohibited from accessing the Services or downloading any information available through the Services while outside the United States.

REPRESENTATIONS AND WARRANTIES

THE COMPANY EXPRESSLY UNDERSTANDS AND AGREES THAT USE OF THE SERVICES IS AT COMPANY'S SOLE RISK. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. THE REPRESENTATIONS, WARRANTIES, OBLIGATIONS AND LIABILITIES OF THE BANK AND ITS THIRD PARTY SERVICE PROVIDERS, AND THE COMPANY'S RIGHTS AND REMEDIES SET FORTH HEREIN, ARE EXCLUSIVE. THE BANK AND ITS THIRD PARTY SERVICE PROVIDERS HEREBY EXPRESSLY DISCLAIM, AND THE COMPANY HEREBY WAIVES AND RELEASES THE BANK, ITS THIRD PARTY SERVICE PROVIDERS AND THEIR RESPECTIVE OWNERS, SHAREHOLDERS, OFFICERS, DIRECTORS, EMPLOYEES, PARENTS, SUBSIDIARIES, AFFILIATES AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS FROM ALL OTHER REPRESENTATIONS, WARRANTIES OF ANY KIND, OBLIGATIONS AND LIABILITIES, RELATING TO THE SERVICES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, QUALITY, ACCURACY, SUITABILITY, AND ANY IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE, OR COURSE OF PERFORMANCE.

THE BANK MAKES NO REPRESENTATION OR WARRANTY THAT THE SERVICES WILL MEET THE COMPANY'S REQUIREMENTS OR EXPECTATIONS, OR THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE. THE BANK FURTHER DISCLAIMS ANY REPRESENTATION OR WARRANTY THAT ANY ERRORS IN TECHNOLOGY WILL BE CORRECTED. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS OBTAINED AT COMPANY'S OWN DISCRETION AND RISK, AND THE BANK IS NOT RESPONSIBLE FOR ANY DAMAGE TO THE COMPANY'S COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL, WHETHER DUE TO COMPUTER VIRUS OR OTHERWISE. THE BANK MAKES NO REPRESENTATION OR WARRANTY AS TO THE COMPLETENESS, ACCURACY OR RELIABILITY OF ANY THIRD PARTY INFORMATION OR DATA THAT THE COMPANY OBTAINS THROUGH THE USE OF THE SERVICES.

THE BANK MAY PERIODICALLY AMEND, ADD, DELETE, UPDATE OR ALTER THE SERVICES INCLUDING, WITHOUT LIMITATION, THESE TERMS AND CONDITIONS. EXCEPT AS OTHERWISE REQUIRED BY APPLICABLE LAW,

THE BANK ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY ERRORS OR OMISSIONS IN THE CONTENT OF THE SITE AND SPECIFICALLY DISCLAIMS ANY DUTY TO UPDATE THE INFORMATION ON THE SITE.

THIS SECTION SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

INDEMNIFICATION BY COMPANY

In consideration of the Services to be provided hereunder, the Company agrees to indemnify and hold the Bank, its officers, directors, employees, parent, subsidiaries, affiliates, representatives, agents, and each of their respective successors and assigns harmless from and against all liability, claims, damages, costs and expenses, including, without limitation, reasonable attorney's fees, court costs and related litigation costs and expenses, incurred by the Bank in connection with the provision of the Services by the Bank, or in any action between the Bank and the Company or any action between the Bank and any third party, arising out of or concerning the Services, the Application or this Agreement, except if such liability or expense results solely out of the Bank's gross negligence or willful misconduct. The Company's indemnification obligation shall survive termination of this Agreement.

INTERRUPTIONS IN SERVICE

The Bank may, at any time and from time to time, revise, update, modify or discontinue, in whole or in part, the Services. The Bank will endeavor to provide the Company with prior notice of such changes (by posting a notice of such changes on the Site) but we cannot guarantee that such notice will be provided.

SECURITY INTEREST

To secure all obligations of the Company to the Bank arising from this Agreement, the Company grants to the Bank a security interest in all Accounts of the Company at the Bank, whether now or hereafter established by or for the benefit of the Company, and all funds in those Accounts. This security interest shall survive termination of this Agreement. This security interest is supplemental to and not in lieu of any security interest granted by the Company to the Bank pursuant to any other agreement.

COMPLIANCE WITH LAW

The Company shall comply with all laws, rules and regulations applicable to the Company's use of the Services including, without limitation, Regulation CC, Federal Reserve Board Regulation J, the Uniform Commercial Code, the Unlawful Internet Gambling Enforcement Act, any rules established by an image exchange network through which items are processed pursuant to this Agreement and any data protection requirements imposed under applicable federal, state and local laws, rules and regulations. The Company shall be responsible for fulfilling any compliance requirement or obligation that the Bank and/or Company may have with respect to the Services under all applicable U.S. federal and state laws, rules and regulations including, without limitation sanction laws administered by OFAC and other requirements relating to anti-

money laundering including, without limitation the federal Bank Secrecy Act, the USA Patriot Act and any regulations of the U.S. Treasury Department to implement such acts, as each may be amended from time to time.

UPDATES

The Company shall provide written notice to the Bank of any changes to the information provided by the Company to the Bank including, without limitation, additional locations, any change in business, any new business, any change to the identity or principals and/or owners, any change to the form of business organization, type of goods and services provided and method of conducting sales. Such notice must be received by the Bank within five (5) business days of the change. The Company shall provide any additional information requested by the Bank within five (5) days of such request. The Bank retains the right to (i) review the Company's files and business activities from time to time to confirm the Company is conducting business as stated by the Company when entering into this Agreement and (ii) re-price or terminate the Services based on changes to information previously provided by the Company to the Bank.

TERMINATION

Either the Bank or the Company may terminate this Agreement upon thirty (30) days prior written notice. Additionally the Company acknowledges and agrees that the Bank may immediately terminate or suspend the Services without notice to the Company if any of the following occurs: (a) the Company becomes insolvent, files or has filed against it, any bankruptcy or other insolvency, reorganization, liquidation or dissolution proceeding of any kind; (b) a material adverse change occurs in the Company's business or financial conditions; (c) the Bank has reason to believe that the Company has engaged in fraudulent or illegal activity; (d) the Company violates the terms of this Agreement or any other Agreement with the Bank; (e) the Company fails to provide financial information reasonably requested by the Bank; (f) the Bank determines, in its sole discretion, that it is impractical or illegal for the Bank to continue to provide the Services because of changes in laws, rules or regulations; (g) the Bank determines, in its sole discretion, that the Company' use of the Services presents unacceptable financial risk to the Bank; or (h) the Bank is required by governmental authority. Notwithstanding anything to the contrary contained herein, upon the closing of an Account, all Services linked to such Account shall be simultaneously terminated. Notwithstanding any termination, the terms of this Agreement shall apply to all transactions which have been initiated prior to such termination. All sections of this Agreement which are intended by their terms to survive termination of this Agreement, will survive any such termination.

BANK'S PROPERTY

All materials produced by the Bank, and all documentation, programs and magnetic tapes and files are, and shall remain the property of, the Bank, free of any claim by the Company, and same shall not be used by the Company for any purpose other than as set forth herein. Upon termination of the Services by either party, the Bank may deactivate or delete any Access Information and all related information and/or bar the Company further access to the Services.

CONFIDENTIAL INFORMATION

The Company acknowledges that all information or data provided through or related to the Services including, without limitation, this Agreement, the Software, system documentation, and processes, constitute trade secrets and proprietary data of Bank and its applicable licensors or suppliers. The Company further acknowledges and agrees that the Company has no ownership interest in such information and agrees that such information shall not be used or disclosed, in whole or in part, to any person, firm, corporation, association or other entity, other than its employees requiring such knowledge in the performance of their duties or as required by law.

INTERNET DELIVERED SERVICES

The Company acknowledges that the Services involve use of the internet for the delivery of files and other information and for obtaining files and other information. The Company represents that it is aware of the processes implemented by the Bank with respect to the use of the internet in connection with the delivery of the Services and the Company agrees that such processes are commercially reasonable and acceptable to the Company even if such processes do not consist of the most recently developed technologies for such activities. The Company further acknowledges that the Bank does not and cannot control the flow of data to or from the Bank's network and other portions of the internet and that the Bank is not responsible or liable for any delays, malfunctions or inconveniences resulting therefrom.

INTERMEDIARIES

The Bank may engage third parties to provide some or all of the Services. The Bank shall have no obligation to disclose arrangements with third parties to the Company or obtain the Company's consent thereto. The Company authorizes the transfer of information relating to the Company to agents of the Bank for use in connection with the Services or as required by law.

AMENDMENT

The Bank may amend, revise or modify this Agreement at any time and from time to time in its sole discretion. The Bank will post the amended Agreement on the site used to access the Services, together with a notice that this Agreement has been amended. Any use of the Services following such notice will constitute the Company's agreement to such changes. Further, the Bank may, from time to time, revise or update the applications, services, and/or related material, which may render all such prior versions obsolete. Consequently, the Bank reserves the right to terminate this Agreement as to all such prior versions of the applications, services, and/or related material and limit access to only the Service's more recent revisions and updates.

ASSIGNMENT

The Company may not assign its rights hereunder. The Bank may assign its rights and liabilities hereunder with no further liability.

ACCOUNT AGREEMENTS

The terms and conditions of all account disclosure statements and agreements with the Bank are hereby incorporated herein by reference. If any inconsistency exists between such account disclosure statements and agreements and the terms herein, the terms herein shall control, but only to the extent necessary. Additionally, if there is a conflict between what an employee of the Bank says and these Terms and Conditions, these Terms and Conditions will prevail.

AUDIT

Upon notice from the Bank, the Company shall provide the Bank's employees, regulatory examiners, and auditors access, at reasonable times, to the Company's facilities, data and records relating to the Services. The Company agrees to allow the Bank to review available reports of independent audits performed at the Company's location related to information technology, the Services and any associated operational processes. If the Company refuses to give the Bank or its regulators or auditors access to the Company's facilities, data or records, the Bank may terminate the Company's use of the Services and this Agreement.

NOTICES

Unless expressly stated otherwise, any notice, request, demand or other communication to be given in connection with this Agreement shall be in writing and shall be either personally delivered against a written receipt, delivered by recognized overnight courier or by first class mail, postage prepaid, registered or certified, return receipt requested to the then current address of record. Any notice, request, demand or other communication shall be deemed validly and effectively given on the date of such delivery.

GOVERNING LAW/VENUE

This Agreement shall be governed and interpreted in accordance with federal law and by applicable state law to the extent not superseded by federal law. Any action or proceeding arising out of or concerning this Agreement or the Services shall be brought exclusively in the State Court of the State of Florida, County of Miami-Dade. The Company hereby waives and agrees not to assert in any action or proceeding that the Company is not personally subject to the jurisdiction of such courts or that the action or proceeding is brought in an inconvenient or improper forum.

JURY TRIAL WAIVER

THE COMPANY HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT TO ANY LEGAL PROCEEDING RELATING TO THE SERVICES OR THIS AGREEMENT.

RISK OF LOSS

In the event of a system failure or interruption, Company's data may be lost or destroyed.

Any transactions that the Company was in the process of completing or completed shortly before a system failure or interruption should be verified by the Company through means other than the Services to ensure the accuracy and completeness of such transactions. The Company assumes the risk of loss of its data during any system failure or interruption and the responsibility to verify the accuracy and completeness of any transactions so affected.

MISCELLANEOUS

No failure of the Bank to enforce any right or remedy shall act as a waiver thereof. No waiver shall be valid unless in writing. In the event any part of the Application or these terms and conditions is deemed unenforceable or void, the remainder shall, at the option of the Bank, continue in full force and effect or be canceled immediately. Headings and captions contained in this Agreement are inserted for convenience purposes only and shall not be construed in the interpretation thereof. No person or entity not a party to this Agreement will be deemed to be a third party beneficiary of this Agreement or any provision hereof, intended or otherwise.

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