



THIS AGREEMENT CONTAINS AN ARBITRATION PROVISION AND FORBIDS CLASS ACTIONS ("ARBITRATION" SECTION 9, PAGE 3) REQUIRING ALL CLAIMS TO BE RESOLVED BY WAY OF BINDING ARBITRATION. DO NOT USE THE SERVICES IF YOU DO NOT AGREE TO THE ARBITRATE NOR WAIVE YOUR RIGHT TO A JURY TRIAL.

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The following terms, provisions and service descriptions constitute the Treasury Services Master Agreement (the "Agreement") this day made by and between the entity signing the Master Authorization of this Agreement (the "Company") and MVB Bank, Inc. (the "Bank"). Each reference to the Company in this Agreement shall include any affiliates of the Company. In consideration of the following premises and covenants and intending to be legally bound, the parties agree as follows:

GENERAL TERMS

- SERVICES.** The Attachments and Exhibits attached hereto, as well as any applicable operating, security, and other procedures, are incorporated herein for all purposes by reference, including those which become applicable, by mutual agreement, in the future, and describe the services ("Services") that the Bank will perform for the Company. All provisions herein shall be in addition to and cumulative with the provisions of any applicable Attachments, Exhibits and applicable operating, security, and other procedures.
- FEE AND CHARGE; METHOD OF PAYMENT.** The Company will pay the Bank, with immediately available funds, the fees and charges listed in the Bank's schedule of fees and those fees covered by this Agreement, as modified from time to time, or otherwise chargeable to the Company hereunder. The Bank may increase such fees and charges to the Company from time to time in accordance with Bank-wide increases in such fees and charges imposed by the Bank. Additionally, the transporting or transmitting of data, items, and other materials to or from the Bank is solely the Company's responsibility and will be at the Company's expense. The Company will pay and reimburse the Bank for all governmental and third-party fees and penalties arising out of or related to the Bank's performance hereunder. The Bank will debit the Company on the first Business Day of the month for any such fees, charges, expenses, and penalties incurred during the preceding month, except as otherwise provided in this Agreement. For purposes of this Agreement, a "Business Day" is Monday through Friday, excluding Federal Reserve holidays, unless otherwise specified in an Attachment or Exhibit hereto.
- COMPANY ACCOUNT(S).** The accounts delineated on the Treasury Services Master Agreement Authorization Form, attached hereto, are the depository accounts established by the Company at the Bank, whether a deposit, clearing, investment, special, or general account, and specifically including any custodial accounts established by the Company with funds held by the Bank for the benefit of, or beneficially owned by, third parties. These accounts, together with any other account subsequently established by the Company at the Bank, are referred to herein as the "Company Account(s)" or "Account(s)" and are hereby made subject to this Agreement. The Company will at all times maintain with the Bank, in the Company Accounts, collected balances sufficient to reimburse the Bank for all items, orders for payment and other amounts which the Bank pays on the Company's behalf or are chargeable to the Company hereunder. If a Company Account has insufficient funds to pay charges, orders for payment, or items on the Company's behalf, the Bank will have no obligation to pay such charges, orders or items or to give any notices or to take any remedial or other action, and may refuse to pay such charges or dishonor and return unpaid such orders or items, or the Bank may debit and offset such amount against another Company Account (unless such other Company Account is specifically designated as a "Special Account"). If the Bank pays such amounts, orders or items in the anticipation of the availability of sufficient collected funds, the Company will, upon demand, immediately remit sufficient funds and the Bank may exercise any legal right to collect such funds, including, but not limited to, set-off against any Company assets held by the Bank or funds that the Company has on deposit in trust or otherwise whether represented by an account, certificate or time deposit. The Company acknowledges and agrees that it is liable for and will pay the Bank any fees or charges agreed to with respect to any Company Account as provided herein, as provided in any other agreement between the Company and the Bank, as otherwise charged by the Bank in accordance with its standard practices and procedures, or which result from any services requested by the Company or any account deficit resulting from charges, overdrafts or account activity relating to a Company Account (the "Obligations"). For purposes hereof, an affiliate of the Company includes any person or entity controlling, controlled by or under common control with the Company, including, but not limited to, its parents, subsidiaries, partnerships, joint ventures, affiliates, shareholders, partners, ventures, officers, directors, agents, and Authorized



Persons. The Company acknowledges and agrees that the Obligations may be deducted by the Bank from any Company Account, at the discretion of the Bank.

4. **AUTHORIZED PERSONS.** The person or persons named on Authorization Forms or Delegation Forms, attached as Exhibits hereto, are authorized to receive, and furnish any and all information concerning this Agreement (an "Authorized Person" or "Authorized Persons"). The Bank is authorized and directed; (i) to communicate to any Authorized Person any and all information regarding any service offered hereunder or under any other agreement between the Company and the Bank; (ii) upon the request of any Authorized Person, to transfer funds from or to any Company Account and apply such funds as directed by such Authorized Person; (iii) to make draws from loans which the Company may from time to time have obtained from the Bank for such purpose and to apply the same as the Authorized Person directs; and (iv) to take any other actions requested by an Authorized Person from time to time with regard to this Agreement, any Service offered hereunder (including pursuant to the Attachments and Exhibits), and any business with regard to the Company Accounts or matters related hereto. The Bank is authorized and directed to act on any oral or written directions from a person representing themselves as an Authorized Person, whether delivered or communicated to the Bank in person, by any form of communication believed by the Bank to have been signed, sent, or made by an Authorized Person. The Bank may, but in no event shall be required to, delay any transfer or any other action hereunder until the Bank determines to its satisfaction that the Company has authorized such transfer or action. The Company will give the Bank prior written notice if it adds or removes a person from the list of Authorized Persons. In addition, a Company that does not have an ownership structure (e.g., a non-profit organization or informal group) shall provide the Bank with a complete and updated list of Authorized Persons on an annual basis. The Bank may remove any Authorized Person or restrict the rights of any Authorized Persons in its sole discretion to comply with any applicable domestic (federal, state or local) and foreign Laws, statutes, ordinances, licenses, rules, regulations, regulatory guidance, operating rules of self-regulatory bodies (including, but not limited to, the National Automated Clearing House Association ("NACHA"), and credit and debit card networks) and other industry standards, judgments, demands, writs, injunctions, and orders or decrees (collectively and individually, "Law"). A listing of any Authorized Person's signature exemplar will be collected on a separate form.
5. **STANDARD OF CARE; LIMITATION OF LIABILITY; INDEMNITY.** The Bank agrees to use substantially the same type of procedures and equipment in performing services for the Company as the Bank uses in performing similar services on its own behalf. The above standard of care and the Bank's compliance with any instructions given it by the Company, shall be considered commercially reasonable and meeting the standard of ordinary care. Notwithstanding any other provisions herein, including in any Attachments or Exhibit hereto, or in any other agreement, document or relationship between the Company and the Bank, the Bank is not liable for and the Company releases and waives all claims against the Bank relating to any loss, damages or costs incurred by the Company, or any other person or entity, whether or not the Company's agent or employee, by reason of anything done or not done by the Bank hereunder, including but not limited to, improper calculation or processing, transfer or investment of funds or failure to transfer or invest; dishonor or failure to dishonor; return or failure to return; payment, stop payment, or failure to pay or stop payment; processing of electronic transfer entries; or loss or delay of electronic transfers to or from the Bank. IN NO EVENT WILL THE BANK, OR ITS AFFILIATES, OFFICERS, EMPLOYEES, OR AGENTS, BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF DATA OR LOSS OF BUSINESS) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (HOWEVER ARISING, INCLUDING NEGLIGENCE), AND ANY LIABILITY OF SUCH PERSONS TO THE COMPANY OR ANY THIRD PARTIES IN ANY CIRCUMSTANCE IS LIMITED TO THE ACTUAL AMOUNT OF DIRECT DAMAGES.

If the Bank commits any error whatsoever in performing any service or taking any action, the Company's sole remedy against the Bank is for the Bank to refund its fee relating to the specific action, item, or service to which the error relates, which refund shall in no event exceed the Bank's fee for such service for the month in which the error occurs. The Company will indemnify and hold the Bank, its officers, directors, employees, agents, and contractors harmless from, against and in respect to any liabilities, obligations, claims, losses, penalties, assessments, cost, expenses, damages, including consequential, special, punitive, incidental or similar damages, or disbursements of any kind or nature whatsoever and by whomsoever brought or caused, whether in contract or in tort, including attorney's fees and internal expenses, which may be imposed upon, incurred by, or asserted against the Bank, its officers, directors, employees, agents, and contractors, directly or indirectly, in any way relating to or arising out of this Agreement or the Services (an "Indemnification Event"), including but not limited to, those asserted by third parties for reimbursement or damages, or any applicable state electronic funds transfer Laws. Upon the occurrence of an Indemnification Event, the Bank will provide prompt written notice to the Company except where disclosure is prohibited by Law, or the Bank has been instructed by a governmental authority that disclosure would hamper an ongoing investigation.

Actual receipt by the Bank of proper notice or delivery of any information (e.g., stop payment, return, processing, dishonor, and similar notices required by the Attachments and the Exhibits) from the Company before the deadline required by the Bank in its sole discretion is an express and non-waivable condition precedent to the Bank's related obligation to perform such service or to meet any deadline imposed by Law or any person. The Company bears the burden of proof of the time and manner of the Bank's actual receipt of any notice or transmittal of information.

The provisions of this Section 5 are assignment of risk provisions forming the basis of the arrangement between the Company and the Bank and consideration for this Agreement and shall control all conflicting provisions hereof or in any Exhibit added now or in the future or in any other document or agreement.

The terms of this section will survive the termination of this Agreement and any Attachment or Exhibit hereto. The rights of the Bank under this Section are cumulative of all other rights which it may have by Law or otherwise.



6. **TERM.** Either party to this Agreement may terminate this Agreement with or without cause, upon 30 days written notice. However, notwithstanding the above, the Bank may terminate this Agreement or any Attachment or Exhibit hereto at any time, without notice to any party upon the happening of any of the following events or circumstances; (i) the Company's violation or breach of, or default in the performance or observance of any material provision contained herein or in any other agreement between the Company and the Bank; (ii) default in the payment of any sum due and payable by the Company to the Bank hereunder or under any other agreement between the Company and the Bank; (iii) misrepresentation by the Company of any material fact in any statement, report or representation given or made to the Bank in connection herewith or any other agreement between the Company and the Bank; (iv) the seizure, attachment, garnishment or encumbrance by court order or legal process of any portion of the Company Accounts or related assets or properties; (v) the Company's business failure, insolvency or Bankruptcy; (vi) the Company's default under any agreement between the Company and the Bank; or (vii) if any action be taken, or if there shall be any occurrence, which would or does have the effect of terminating, dissolving or winding up the Company's business. Notwithstanding the foregoing, the Bank may terminate Attachment E – ACH Services, with or without cause, upon 10 Business Days written notice. No delay or failure of the Bank to exercise any option or right herein given or reserved shall constitute a waiver of such option or right to stop the Bank thereafter to exercise the same. Upon termination for any reason, the Bank shall have no obligations or duties hereunder whatsoever.

7. **REPRESENTATIONS AND WARRANTIES.** The Company and the Bank respectively represent, warrant, and covenant that; (i) each is duly organized, validly existing, and in good standing in its state or organization; (ii) the execution, delivery and performance of this Agreement are within their respective powers, have been duly and validly authorized, and do not contravene their respective charters, by-Laws, or any indenture agreement, undertaking, Law or order binding them; (iii) no approval, consent or authorization of any government authority not obtained prior to the date hereof is necessary for execution, delivery or performance of this Agreement; (iv) upon execution and delivery this Agreement will be a valid and binding obligation of the Company and the Bank enforceable with its terms; and (v) the Company will perform its obligations under this Agreement in accordance with all applicable Laws, including, but not limited to, the Laws administered by the Office of Foreign Assets Control ("OFAC") Law and the Financial Crimes Enforcement Network ("FinCEN") Law.

EXCEPT AS PROVIDED HEREIN OR REQUIRED BY LAW, THE BANK MAKES NO REPRESENTATIONS, WARRANTIES, AGREEMENTS, OR GUARANTEES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AS TO ANY ITEMS OR SERVICES HEREUNDER; ANY WARRANTIES UNDER THE WEST VIRGINIA UNIFORM COMMERCIAL CODE; OR ANY STATE ELECTRONIC FUNDS TRANSFER STATUTE OR REGULATION. NO WARRANTIES EXTEND BEYOND THE FACE OF THIS AGREEMENT.

8. **JURISDICTION AND VENUE.** In the event that either party commences legal action seeking injunctive relief or specific performance with respect to enforcement, interpretation, or violation of this Agreement, not subject to Section 9, the parties: (a) agree that any such action may be commenced only in a court of competent subject-matter jurisdiction in Marion County, West Virginia; (b) consent to venue and personal jurisdiction in such a court, and (c) waive any defense of lack of venue or personal jurisdiction in any such suit, action, or proceeding. The parties further (x) agree that process in any such suit, action, or proceeding may be served by mailing a copy thereof by certified mail, return receipt requested, to the other party at the Bank's notice address set forth herein or the address provided by the Company in its account opening documentation, as applicable, and (y) waive any defense of insufficiency of service of such process.

9. **DISPUTE RESOLUTION; MANDATORY ARBITRATION; WAIVER OF CLASS ACTION.** Please read the following section carefully because it requires you to arbitrate certain disputes and claims and limits the manner in which you can seek relief, unless you opt out of arbitration by following the instructions set forth below. No class or representative actions or arbitrations are allowed under this arbitration provision. In addition, arbitration precludes you from suing in court or having a jury trial.

NO REPRESENTATIVE ACTIONS. Any claim, controversy or dispute arising out of or related to this Agreement, the account, the creation, use, existence or other issues related to the account, or any other products or services provided by or on behalf of the Bank (a "Dispute") is an individual action, and will not be brought as a class action, class arbitration, or any other type of representative proceeding.

ARBITRATION OF DISPUTE. Except for small claims actions in which you or the Bank has asserted an individual action in small claims court located in the applicable county of residence, or any Dispute in which you or the Bank seek injunctive or other equitable relief for alleged breaches of confidentiality obligations or for alleged infringement or misappropriation of intellectual property, you and the Bank waive any and all right to a jury trial or to have any Dispute resolved in court. Instead, for any Dispute that you have against the Bank, you agree to first contact the Bank and attempt to resolve the claim informally by sending a written notice of your claim ("Notice") to the Bank using the contact information provided in Section 10 below and to legal@mvbbanking.com. The Notice must (a) include your name, residence address, email address, and telephone number; (b) describe the nature and basis of the Dispute; and (c) set forth the specific relief sought. Any notice by the Bank to you will be similar in form to that described above. If you and the Bank cannot reach an agreement to resolve the Dispute within thirty (30) days after such Notice is received, then either party may submit the Dispute to binding arbitration as provided herein or, under the limited circumstances set forth above, in court. Arbitration of Disputes will be administered by the American Arbitration Association ("AAA") in accordance with its Consumer Arbitration Rules ("AAA Rules") before one arbitrator. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Arbitration proceedings will be held in your county of residence. The most recent version of the AAA Rules is available on the AAA website (<https://adr.org/>) and is hereby incorporated by reference. You either acknowledge and agree that you have read and understand the AAA Rules or waive your opportunity to read the AAA Rules and waive any claim that the AAA Rules are unfair or should not apply for any reason.

This Agreement affects interstate commerce, and the enforceability of this Section 9 will be substantively and procedurally governed by the Federal Arbitration Act, 9 U.S.C. § 1, et seq. (the "FAA"), to the maximum extent permitted by applicable law. If the FAA, this Agreement, and the AAA Rules are



found to not apply to any issue that arises under this Agreement or the enforcement thereof, then that issue shall be resolved under the laws of the state of West Virginia.

As limited by the FAA, this Agreement, and the AAA Rules, the arbitrator will have exclusive authority to make all procedural and substantive decisions regarding any Dispute, including the power to determine the question of arbitrability, and to grant any remedy and award any relief that would be available in court for the claims presented in arbitration.

The arbitration may allow for the discovery or exchange of non-privileged information relevant to the Dispute. The arbitrator, the Bank, and you will maintain the confidentiality of any arbitration proceedings, judgments, and awards, including information gathered, prepared, and presented for purposes of the arbitration or related to the Dispute therein. The arbitrator will have the authority to make appropriate rulings to safeguard confidentiality unless the law provides to the contrary. The duty of confidentiality does not apply to the extent that disclosure is necessary to prepare for or conduct the arbitration hearing on the merits, in connection with a court application for a preliminary remedy, or in connection with a judicial challenge to an arbitration award or its enforcement, or to the extent that disclosure is otherwise required by law or judicial decision.

You and the Bank agree that for any arbitration you initiate, unless applicable law provides otherwise, as determined by the Arbitrator, the Bank and you shall equally share filing fees and other similar and usual administrative costs, as are common to both court and administrative proceedings. Your responsibility to pay any AAA filing, administrative and arbitrator fees will be solely as set forth in the AAA Rules. However, if your claim for damages does not exceed \$75,000, the Bank will pay all such fees, unless the Arbitrator finds that either the substance of your claim or the relief sought in your Demand for Arbitration was frivolous or was brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)). Any Dispute must be filed within one year after the relevant claim arose; otherwise, the Dispute is permanently barred, which means that you and the Bank will not have the right to assert the claim.

SEVERABILITY. If any portion of this Section 9 is found to be unenforceable or unlawful for any reason, (a) the unenforceable or unlawful provision shall be severed from this Agreement; (b) severance of the unenforceable or unlawful provision shall have no impact whatsoever on the remainder of this Section 9 or the parties' ability to compel arbitration of any remaining claims on an individual basis pursuant to this Section 9; and (c) to the extent that any claims must therefore proceed on a class, collective, consolidated, or representative basis, such claims must be litigated in a civil court of competent jurisdiction and not in arbitration, and the parties agree that litigation of those claims shall be stayed pending the outcome of any individual claims in arbitration. Further, if any part of this Section 9 is found to prohibit an individual claim seeking public injunctive relief, that provision will have no effect to the extent such relief is allowed to be sought outside of arbitration, and the remainder of this Section 9 will be enforceable.

10. **NOTICES AND COMMUNICATIONS.** All notices required and permitted hereunder, including all Exhibits, shall be in writing, by U.S. Mail, email, or telecopy, until the party changing its address actually delivers written notice of an address change to the other. If intended for the Company, we will send to the address of the Company listed in the Bank's records, and if to the Bank, addressed as follows:

MVB Bank, Inc.
Attention: Treasury Services
301 Virginia Ave.
Fairmont, WV 26554

11. **AUTHORITY.** The Company warrants to the Bank that it has full and complete authority to enter into this Agreement. The Bank may accept oral or written instructions (including written instructions sent via facsimile or other electronic transmission) from any Authorized Person. The Bank may require further written confirmation of instructions given orally or by facsimile. Each Authorized Person is authorized to conduct any transaction within the scope of services covered by this Agreement, including the applicable Attachments and Exhibit(s) and related to the account or accounts specified in the applicable Exhibit(s). The Bank may rely on any written notice containing signatures of an Authorized Person if the Bank believes, in good faith, that the signature is genuine. Unless the applicable Exhibit states otherwise, each Authorized Person may act alone. If the Bank receives conflicting instructions from Authorized Persons, the Bank may (a) honor one or more of the instructions received, (b) refuse to honor any of the instruction until the Bank receives instructions to which all Authorized Persons agree or (c) submit to a court all funds which are subject to the conflicting instructions (at which time the Bank shall be automatically discharged from any obligations with respect to such funds).
12. **REPORTING ERRORS.** The Company has sole audit responsibility for determining and ensuring the accuracy and validity of information, data, entries, and processing services. The Company must promptly report in writing any non-receipt of statements or other regular reports and any error in connection with any services covered by this Agreement and any discrepancy between the Company's records of its orders and requests (including wire and ACH payment orders) and the notices the Company receives from the Bank regarding the Bank's execution of the Company's orders and requests. The Company agrees that thirty (30) days is a reasonable time for the Company to notify the Bank of discrepancies, including unauthorized and erroneous payment orders, unless any other portion of this Agreement, or any other applicable document, agreement or Law provides for a shorter notification time, in which case such shorter time shall apply. The Company agrees to provide the Bank with all information it reasonably requests in connection with any discrepancy. This Section does not modify the Bank's Rules and Regulations Governing Deposit Accounts notification requirements regarding checks paid without a properly authorized signature or errors or discrepancies other than those specifically related to a service covered by this Agreement.



13. **EXTENSIONS OF CREDIT.** Certain provisions of this Agreement may require the Company to have specified amounts of collected or available funds in its accounts at the Bank or an affiliate of the Bank at certain times. Neither the Bank nor the affiliate the Bank is ever obligated to extend credit to the Company unless the Bank has specifically agreed to do so in a separate writing and any conditions to that obligation have been satisfied. However, the Bank has the option to extend credit to the Company from time to time by permitting overdrafts in its accounts, delaying collection of amounts due or otherwise. If the Bank extends credit to the Company, the outstanding principal amount is immediately due and payable and will bear interest from the date the credit is extended until it is repaid at a per annum interest rate determined by the Bank, but not exceeding the lesser of 18% per annum or the maximum no usurious rate of interest permitted under applicable West Virginia or federal Law (whichever permits the higher rate). If the Bank does not elect to extend credit to the Company, the Company must provide immediately available funds sufficient to satisfy its obligations under this Agreement.
14. **FORCE MAJEURE.** The Bank will not be deemed to have breached this Agreement if it fails to perform because of, and shall incur no liability for delays, errors, failures, or damages caused by, circumstances beyond the control of the Bank. Examples of circumstances beyond the control of the Bank include, without limitation: any failure or interruption of any electronic communication system between the Company and the Bank, equipment or software failure or malfunction, electrical computer, or mechanical failure or malfunction, action or inaction of governmental, civil or military authority, national emergency, fire, riots, insurrection, strike, lockout or other labor disputes, flood, catastrophe, hurricane, weather conditions, war, theft, earthquake, failure of power, material shortage, natural disaster, act of God, default of common carriers or third party vendors or processors, and suspension in payments by another financial institution.
15. **TAPES AND RECORDS.** All specifications, tapes, electronic data or media, records, programs, and disks generated and/or used by the Bank under this Agreement are the Bank's sole property unless otherwise provided herein. The Bank may, in its sole discretion, make available such information upon the Company's request. Any expenses incurred by the Bank in making any such information available to the Company shall be paid by the Company. All data, reports, items, or other materials which the Company is required to furnish or perform, including computer tapes or data, will conform to the Bank's computer and other specifications unless waived in writing by the Bank. The Bank is authorized, but not required, to record electronically telephone and other conversations or communications between the Bank and the Company's Authorized Persons.
16. **CONFIDENTIALITY.** The Company acknowledges that it will have access to certain confidential information regarding the Bank's execution of Service(s) contemplated by this Agreement. The Company shall not disclose any such confidential information of the Bank and shall use such confidential information only in connection with the transactions contemplated by this Agreement.
17. **BINDING AGREEMENT; BENEFIT.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors, and permitted assigns, including any acquirer of the Bank or any resulting successor formed by a merger of the Bank with a third party. Unless otherwise indicated in this Agreement, this Agreement is not for the benefit of any third party, and no third party shall have any right against the Bank or the Company hereunder.
18. **SURVIVAL.** The terms, provisions, representations, and warranties contained in this Agreement which by their sense and context are intended to survive the performance hereunder shall so survive the completion of performance and termination of this Agreement.
19. **COOPERATION IN LOSS RECOVERY EFFORTS.** The Bank and the Company each agree to cooperate with the other party in performing loss recovery efforts in the event either party may be liable to the other for damages.
20. **CONFLICTS.** In the event of any disagreement hereunder, or if conflicting demands, notices or policies are made upon the Bank relating to this Agreement or any item or amount received by the Bank hereunder, the Bank may, at its option, refuse to comply with any claims or demands on it, or refuse to take any other action hereunder with regard to the subject matter of the dispute, so long as such dispute continues; and in any such event, the Bank shall not be or become liable to any person for its failure or refusal to act, and the Bank shall be entitled to continue to refrain from acting until (a) the rights of all parties shall have been fully and finally adjudicated by a court of competent jurisdiction, or (b) all differences shall have been adjusted and all doubt resolved by written agreement in a form satisfactory to the Bank among all of the interested persons. The rights of the Bank under this Section are cumulative of all other rights which it may have by Law or otherwise.
21. **SEVERABILITY.** If one or more of the provisions of this Agreement (including the applicable operating, and other procedures) should be or declared to be illegal, invalid or unenforceable in any respect under present or future Laws, then (a) this Agreement is to be construed and enforced as if such illegal, invalid or unenforceable provision was not a part hereof; (b) the remaining provisions of this Agreement will remain in full force and effect and will not be affected by such illegal, invalid or unenforceable provision or by its severance from this Agreement; and (c) there will be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and still be legal, valid and enforceable; PROVIDED HOWEVER, that if this entire Agreement shall be or be declared to be illegal, invalid or unenforceable or should any regulatory agency direct the Bank to discontinue providing the Services hereunder, the parties agree that payments or credits due up to that time shall be remitted or made, and this Agreement shall thereafter be immediately terminated without liability to either party.
22. **ENTIRE AGREEMENT.** The Company Accounts affected by this Agreement shall continue to be governed by the initial account agreement and disclosure documentation provided by the Bank to the Company in connection with the Company Accounts (such initial account agreement and disclosure documentation, including any amendments thereto, collectively referred to herein as the "Deposit Account Agreement and Disclosures"). This Agreement and the Deposit Account Agreement and Disclosures (and the Supplemental Account Agreement, Payment Technology Partner Agreement, and/or the Third-Party Sender Agreement, to the extent the Company is party to any such agreement) contain the entire understanding of the parties with respect to the



subject matter hereof, and supersede all proposals and prior agreements, communications and understandings relating to the subject matter hereof. In the event of any conflict between the provisions of this Agreement and the Deposit Account Agreement and Disclosures, the provisions of this Agreement will control. In addition, the following Attachments and Exhibits, if executed, provide additional terms and conditions under this Agreement, provided that the Company has enrolled for such services as described in the Attachments and Exhibits. If terms of a given Attachment or Exhibit conflict with the terms of the Agreement, the terms of the Attachments or Exhibits shall control. If there is a conflict between the terms of this Agreement and what the employees of the Bank and/or its service providers say, the terms of this Agreement will prevail.

23. **EMAIL COMMUNICATION.** The Company may transmit, and the Bank will accept communication via email of notices, files, reports, and other communication contemplated under this Agreement. The Company acknowledges the inherent risk of email communication and understands that email addresses can be simulated and manipulated by third parties. If the Company uses email in connection with the provision of services under this Agreement, the Company accepts all risk of loss of any kind or character which may result and releases the Bank from any liability related in any way to the Company's use of email. The Bank will not ask the Company to verify User Identification codes, PIN codes, passwords or any other personal identifiers conveyed via email.
24. **GENERAL RECOMMENDED SECURITY MEASURES.** By accessing Bank Services, the Company acknowledges that it has reviewed the security measures and protocols established by the Bank below and herein. The Company agrees that the security measures employed by the Bank are commercially reasonable. The Company agrees that the Bank is not responsible for any losses due to the Company's lack of security protocols regarding its own computer systems, networks, and authentication mechanisms (i.e., passwords, security tokens, etc.). The Company understands the importance of these security measures and agrees that it is responsible for each of the following areas
- (a) Access Controls - Security of the Company user accounts passwords and access tokens (herein referred to as credentials) is of the upmost importance. Specific security measures should be used to ensure the security of these credentials. The Company agrees that it will (i) use credentials in a secure environment; (ii) allow only Authorized Persons to have access to the Company credentials; (iii) change the Company passwords on a regular basis and (iv) immediately notify the Bank if it believes that the Company credentials granting access to the Bank services have been compromised, (v) approve and monitor all delegation of access and credentials such that delegated access and authority is appropriate for each and every entity contained in this agreement. If the Company authentication credentials do fall into the wrong hands or are otherwise compromised, the Company agrees it is responsible for losses incurred. Additionally, the Company agrees to cooperate with the Bank on any investigation and prosecution of any individuals who gain access to the Company accounts through the unauthorized disclosure or theft of the Company authentication credentials.
 - (b) Operational Controls - The Company may want to consider utilizing:
 - i. Dual control to initiate ACH and wire transfers;
 - ii. Automatic wire, ACH, and online alerts, to include event alerts, balance alerts, item alerts, and personal alerts;
 - iii. Online access to reconcile all banking transaction daily;
 - iv. Audits to ensure that security measures are implemented properly and effectively; and
 - v. Education to employees about security measures and the dangers of user access.
 - (c) System and Network Security - The Company understands that there is a constant risk posed to its computer systems and networks by individuals attempting to gain unauthorized access. Daily, computer systems run the risk of compromise through unauthorized access by hackers, malware, and other threats that not only put the Company's own data and employees at risk but could also potentially compromise the Company financial information and accounts. Financial losses resulting from such risk could cause the failure of the Company's business. The Company explicitly acknowledges that the Bank is not responsible for the safety and security of the Company's systems and networks. The Company understands that its computer systems are vulnerable to various types of infiltration. The Company will take responsible measures to protect its data by ensuring that proper security network devices are deployed, configured properly, and kept up to date with tools such as firewalls, proxies, intrusion detection and prevention systems, up-to-date anti-virus protection, operating system patches, and patches for third-party software packages like Adobe Acrobat, Internet Explorer, and Microsoft Office. Additionally, security audits should be performed by the Company to ensure that the security measures it has in place are adequate and effective.
 - (d) Security Awareness - Maintaining a secure network environment is a responsibility shared by the Company, its agents, and employees. Thus, the Company should educate its agents and employees on a regular basis on how to maintain a secure networked environment, including, but not limited, (i) guidance regarding the threats posed by internet activity, and (ii) what to do if they think their computer is compromised or receive suspicious email communications. Company should only allow authorized personnel to have access to sensitive information and assess to accounts. COMPANY SHOULD REPORT ANY DATA BREACHES IMMEDIATELY TO THE TREASURY SERVICES DEPARTMENT at treasuryservices@mvpbanking.com.
 - (e) Physical Security - The Company should ensure that security measures are in place to protect its computer systems and sensitive information from tampering and theft. Only authorized personnel should have access to sensitive areas in which network or server devices are kept. If a security token or any physical security device used to access the Company's accounts is lost or stolen, the Company should immediately report it to the Bank.



- (f) Disclaimer - The Bank has no obligation to prevent, and has no liability for, loss resulting from infiltration of the Company's computer systems or any fraudulent or criminal activity by third parties. The FDIC insures deposits from the Bank insolvency, not from losses resulting from any other cause. The Bank, directly or through its third-party service providers, may implement various security measures or devices. Such security measures or devices are primarily for the benefit of the Bank and should not be relied upon by the Company to prevent theft or other losses.
- (g) No Guaranties - The Bank makes no warranties or guaranties that all the safeguards included in this section will prevent a loss. This Section is not an exhaustive list and additional safeguards, and procedure may be appropriate for your business. Any security measure is subject to malfunction, tampering or human error and may be circumvented by the criminal conduct of third parties.
25. **GOVERNING LAW.** This Agreement and the rights and obligations of the parties hereto shall be governed by and construed and enforced in accordance with the Laws of the State of West Virginia, without regard to its conflicts of Laws provisions.
26. **FINES AND SUSPENSION.** In the event Company violates any Applicable Law and NACHA Operating Rules or any other applicable entity imposes a fine on Bank because of Company's violation(s), Bank may charge the fine to Company Account. The Bank reserves the right to suspend Company's ACH Services for breach of the NACHA Operating Rules. Bank reserves the right to audit the Company's compliance with this Agreement and with the NACHA Operating Rules under the terms of this Agreement.
27. **AMENDMENTS.** This Agreement, the Services, applicable fees and service charges, and any materials related to this Agreement and the Services, including but not limited to any applicable security procedures, may be altered, or amended by the Bank from time-to-time in the Bank's sole discretion. In such event, the Bank will provide notice to the Company. Any use of the Services after the Bank provides the Company a notice of change will constitute the Company's consent agreement to such change(s). Further, the Bank may, from time to time, revise, or update applications and/or other material related to the Services, 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 Services, applications, and any related material and limit access to only the more recent revisions and updates to the Services, applications, and materials. In the event the Company desires to make a change to any Exhibit, the Company must give written notice of such requested change to the Bank. The change shall not be effective until such time as it is received and accepted in writing by the Bank.
28. **ASSIGNMENT.** The Company may not assign this Agreement to any other party, by operation of Law or otherwise, in whole or in part, without the prior written consent of the Bank, and any purported assignment made or attempted in violation of this Section will be null and void. The Bank may assign this Agreement in its sole discretion. The Bank may also assign or delegate certain of its rights and responsibilities under this Agreement to independent contractors or other third parties.
29. **NO WAIVER.** The Bank shall not be deemed to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Bank. No delay or omission by the Bank in exercising any rights or remedies shall operate as a waiver of such rights or remedies or any other rights or remedies. A waiver by the Bank on any one occasion shall not be construed as a bar or waiver of any rights or remedies on future occasions.
30. **CAPTIONS AND HEADINGS.** The captions and headings of sections hereof are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement.
31. **DISPUTES.** In the event of a dispute regarding the Services, the Company agrees to resolve the dispute by looking to this Agreement.
32. **COUNTERPARTS.** This Agreement may be executed by the parties in separate counterparts, each of which when so executed and delivered will be an original, but all such counterparts will together constitute one and the same instrument. Any provision of this Agreement that is invalid, illegal, or unenforceable will not affect in any way the remaining provisions hereof.



ATTACHMENT A - INTERNAL TRANSFER SERVICES

- DEFINITIONS.** "Funds" means the Company's funds held at the Bank which are available for transfer hereunder, whether held in the form of investment, repurchase account, instruments, or balances. "Account" includes any Company Account into which or from which the Company requests or authorizes Funds to be transferred. "Transfers" means the movement of Funds by debit, electronic or other means from one Account to another Account at the Bank. "Product" means any Internet-based banking system designated by the Bank. All capitalized terms used but not defined in this Attachment will have the meanings ascribed to them in the Agreement.
- TRANSFER SERVICES.** The Company authorizes and directs the Bank, upon an Authorized Person's request, as communicated in writing or through the Product, and received by the Bank, to transfer Funds into any other Company Account or third-party account at the Bank. The Bank shall not be obligated at any time to transfer from any Account any amount more than the available balance on deposit in such account at the time of the request or time of transfer. The Bank shall have the right, but shall not be obligated, to refuse any transfer hereunder for purposes of determining whether the Company has authorized the transfer and shall incur no liability for any such delay. This statement is specifically for use in performing a transfer of funds from account to account at the Bank and is not intended for wire transfer transactions. Transfer requests received after 7:00 p.m. Eastern Time will be processed on the next Business Day.
- RECORDATION; SECURITY CODES; PRIOR NOTICE.** The Bank is authorized, but is not required to, record telephonic and other conversations between the Bank and the Company's Authorized Persons. The Bank does not require the use of security codes or devices from Authorized Persons for conducting transfers. The Bank may (but is not obligated to) initiate a call back to another Authorized Person to verify the authenticity of the transfer request. Access of Authorized Persons to the Bank's Internet-based access system is controlled by the Company. User identification and passwords are known only to the Company. The Company may give the Bank written instructions prior to any requested action. The Company assumes security risks inherent in program.

ATTACHMENT B - STOP PAYMENT AUTHORIZATION

- TERM.** A stop payment request, whether received in writing on online, will expire and become null and void six (6) months from the date received, unless revoked or released prior to that time or unless renewed for additional periods of time.
- NOTICE.** Reasonable notification of any stop payment request must be received by the Bank prior to the item being presented. The Bank and the Company agree that reasonable time is at least one banking day prior to the item being presented to the Bank.

ATTACHMENT C - DIGITAL BANKING AND BILL PAYMENT SERVICES

If Company wishes to enroll in Digital Banking services provide by Bank, then it should visit our website found at www.mvbnnow.com and agree to the terms outlined in the Electronic Banking Service Agreement. Separately, if Bill Payment services are requested by Company, then Company shall enroll and agree to the terms outlined in separate the Bill Pay Terms & Conditions. Eligibility criteria applies for both services. In the event you wish to cancel, suspend, or reinstate this service, please contact MVB at 844-MVB-BANK (844-682-2265) or you may email your request to clientsupport@MVBbanking.com.

ATTACHMENT D - POSITIVE PAY SERVICES

- SERVICE.** The Positive Pay Service ("Positive Pay Service") is to be performed by the Bank for the Company until either party terminates upon notice to the other. The Company must complete Exhibit 8 in connection with the Positive Pay Service, and on that Exhibit will elect the service types, described below.
- ERRORS OR UNAUTHORIZED TRANSACTIONS; NOTICE OF CLAIMS.** Unless the Company is using a Positive Pay Service, the Company will be notified of debits to the Company's account(s) referenced in Section 3 & Section 4 of the Agreement, through the Company's periodic account statements (each such notice, whether provided through the Company Account statement(s) or electronically, by telephone, in writing or otherwise through the Company's use of another service, a "Confirmation").

The Company agrees to regularly and promptly review and verify each Confirmation, and if the Company suspects an error, discrepancy or unauthorized transaction, the Company shall immediately report the event by verbally contacting the Bank, and also submitting a written report detailing the problem as soon as possible, but in any event within 30 days of the earlier of (i) the closing date of the account statement(s) which first reflected the problem, or (ii) the day the Bank first electronically notified the Company or otherwise make available (other than via account statement(s)) a Confirmation to the Company.

If the Company fails to notify the Bank, the Company will be precluded from asserting subsequent forgeries, alterations or unauthorized transactions by the same person or entity with respect to any of the Company's account(s). Without regard to care or lack of care, the Company failure to discover and report any suspected error, discrepancy or unauthorized transaction in connection with any Positive Pay Service or the Company's account(s) within two (2) months after a Confirmation or other documentation reflecting the problem was made available to the Company will bar any claim against the Bank with respect to any such error, discrepancy or unauthorized transaction. The Company will notify the Bank immediately of any claim against the Company or the Bank made by a third party, that any act or omission by the Bank with any Positive Pay Service has caused such third party to sustain any damage. The Company



acknowledges that the reconstruction of an event causing the Company to suffer damages becomes difficult and may be inaccurate more than one (1) year following the occurrence of such event. Accordingly, the Bank and the Company agree that any claim, action or proceeding against the other for damages arising from or in any way related to an act or omission of the other in connection with the Positive Pay Service or the performance of the Positive Pay Service, including any claim based on negligence, must be brought within one (1) year from the date of such act or omission. The Company and the Bank will cooperate with the other in any loss recovery effort related to the performance of the Positive Pay Service and will assist the other in the defense or prosecution of any claim, action or proceeding brought by or against a third party related to the Positive Pay Service.

3. CHECK POSITIVE PAY SERVICES. Our Check Positive Pay Services allow you to set acceptance criteria and identify on exception items. An exception item is a Check Entry not previously authorized or written by you. Check Positive Pay provides a way for you to request that some or all checks against your relevant account(s) be blocked. Where required, you will indicate which Checks you want us to return, having been deemed by you to be unauthorized.

- (a) Delivery Arrangements - The exception will be displayed within online banking platform and the Company shall have the sole responsibility to respond to such daily exceptions.
- (b) Timing - The Company shall review the daily list of exceptions and specify which exceptions the Company decides to pay or return. If Positive Pay exception items have not been decided by **11:00 am EST**, then default settings will apply as selected by Company, and items will be paid or returned accordingly. Default settings are acknowledged by the Company through Exhibit 8. The Bank holds no liability for fees associated with return Checks if (i) the Check is included in a report of exception items, and ii) you do not give us timely instructions to pay the Check Entry. Further, The Bank holds no liability for the payment of a Check Entry which is unauthorized if (i) the Check is included in a report of exception items; and (ii) you do not give us timely instructions to return the Check Entry.

4. ACH POSITIVE PAY SERVICES. Our ACH Positive Pay Services allow you to identify exception items, and to select through online banking platform whether to pay or return those items. An exception item is an ACH Entry not previously authorized by you. ACH Positive Pay provides a way for you to request that some or all ACH entries against your relevant account(s) be blocked. Where required, you will indicate which ACH Entries you want us to return, having been deemed by you to be unauthorized.

- (a) Delivery Arrangements - The exception will be displayed within online banking platform and the Company shall have the sole responsibility to respond to such daily exceptions.
- (b) Timing - The Company shall review the daily list of exceptions and specify which exceptions the Company decides to pay or return. If Positive Pay exception items have not been decided by **11:00 am EST**, then default settings will apply as selected by Company, and items will be paid or returned accordingly. Default settings are acknowledged by the Company through Exhibit 8. The Bank holds no liability for fees associated with return ACH Entries if (i) the ACH Entry is included in a report of exception items, and ii) you do not give us timely instructions to pay the ACH Entry. Further, the Bank holds no liability for payment of an ACH Entry which is unauthorized if (i) the ACH Entry is included in a report of exception items; and (ii) you do not give us timely instructions to return the ACH Entry.

ATTACHMENT E — ACH SERVICES

1. SERVICES. The Company wishes to initiate Credit and/or Debit Entries pursuant to the terms of this Agreement and the Operating Rules and Operating Guidelines that have been adopted by the National Automated Clearing House Association (“NACHA”) (together with any amendments or revisions thereto, hereinafter collectively called “Rules”), and the Bank is willing to act as an Originating Depository Financial Institution (“ODFI”) with respect to such Entries. The Company agrees that the Bank may from time to time provide email updates to the Company providing notice of Rules changes or any other updates to governing Laws or ACH procedures. The Company acknowledges that entries may not be initiated which violate the Laws of the United States.

2. RULES. Unless otherwise defined herein, capitalized terms shall have the meanings provided in the Rules. The term “Entries” shall have the meaning provided in the Rules and also shall mean the data received from the Company hereunder from which the Bank prepares Entries.

3. TRANSMITTAL OF ENTRIES BY THE COMPANY. The Company shall deliver or transmit Entries to the Bank to be processed in accordance with the provisions of Exhibit 1, and/or 3, attached hereto and incorporated herein by this reference. The total dollar amount of Entries transmitted by the Company to the Bank on any one day shall not exceed the dollar limitations as set forth in the Exhibit.

4. SECURITY PROCEDURE. The Company and the Bank shall comply with the security procedure requirements described below and in Exhibits 3 and 5-A with respect to Entries transmitted by the Company to the Bank.

5. PROCESSING, TRANSMITTAL AND SETTLEMENT BY THE BANK. (a) Under this Attachment and the Agreement, “Effective Entry Date” means a date specified in an Entry on which the originating party or the Company instructs that the payment is to be made. (b) Except as otherwise provided herein, The Bank shall (i) process Entries received from the Company to conform with the file specifications set forth in the Rules, (ii) process and/or transmit such Entries as an ODFI to a receiving account or ACH Processor for further processing, and (iii) settle for such Entries as provided in the Rules. (c) The Bank shall transmit any Entries requiring further processing to the ACH Processor by the deadline of the ACH Processor prior to the Effective Date shown in such Entries, provided (i) such Entries are received before the Bank’s related cut-off time, and (ii) the Effective Entry Date follows receipt by the Bank of such Entries by at least the



number of days required in the Operating Instructions. The Bank will provide the Company with cut-off deadlines which may be amended from time to time. Entries shall be deemed received by the Bank when the Company has complied with the Operating Instructions by delivery of Entries and all security procedures in Exhibit 3 (or Exhibit 5-A in the case of third-party processors). If one of the requirements of clause (i) or (ii) of subsection (c) above is not met, the Bank shall use reasonable efforts to transmit such Entries to the ACH Processor by the next deposit deadline of the ACH Processor.

6. **PREFUNDING.** The Bank generally debits Company's account for credit Entries (including debit reversals) on the settlement date unless Company is prefunding the Entries. Prefunding means that Company pays for all credit Entries three (3) days prior to the credit date. The Bank may, at its discretion, at any time and without notice, require payment before the Bank processes Company's Entries. Even if the Bank has done so in the past, the Bank is not obligated to process any Entries without having first been paid by Company, but, if Bank does so, the amount is immediately due and payable without notice or demand.
7. **ON-US ENTRIES.** Except as otherwise provided herein, in the case of any Entry received for credit/debit to an account maintained with the Bank (an "On-Us Entry"), the Bank shall credit/debit Receiver's account in the amount of such Entry on the Effective Entry Date contained in such Entry, provided the requirements set forth in clauses (i) and (ii) of Section 5(c) of this Attachment are met. If one of those requirements is not met, the Bank shall use reasonable efforts to credit/debit the Receiver's account for the Entry on the next Business Day following such Effective Entry Date.
8. **SAME DAY ACH.** The Bank may offer same day ACH services on a case-by-case bases depending on the company's intended purpose. Company is required to request the capability through appropriate business channels. Additional fees will be associated with same day ACH transmission.
9. **ACCEPTANCE/REJECTION OF ENTRIES.** All ACH input files containing Entries must be setup, pre-noted and approved by the Bank before being processed.
10. **REJECTION OF ENTRIES.** The Bank shall reject any Entry that does not comply with the requirements hereof, or that contains an Effective Entry Date more than ten (10) days after the Business Day such Entry is received by the Bank. The Bank shall have the right to reject an On-Us Entry for any reason for which an Entry may be returned under the Rules. The Bank shall have the right to reject any Entry if the Company has failed to comply with its account balance obligations under this Agreement and any applicable Attachments and Exhibits. The Bank shall notify the Company by phone or electronic transmission of such rejection no later than the Business Day such Entry would otherwise have been transmitted by the Bank to the ACH Processor or, in the case of an On-Us Entry, its Effective Entry Date. The Bank shall have no liability to the Company by reason of the rejection of any such Entry or the fact that such notice is not given at an earlier time than that provided herein.
11. **CANCELLATION OR AMENDMENT REQUEST.** A request that an Entry be amended or canceled by the Bank may be given to the Bank by an Authorized Persons by phone or facsimile, provided a written request for amendment or cancellation containing an ORIGINAL authorized signature is received via U.S. Mail or by courier from the Company within 48 hours of the phone or facsimile request. The Bank will place a call to the Company's Authorized Person(s) to authenticate such request. The Bank shall be relieved of liability for acting on phone or facsimile instructions that the Bank reasonably believes to be those of the Company's Authorized Person.
12. **CANCELLATION OR AMENDMENT BY THE COMPANY.** The Company shall have no right to the cancellation or amendment of any Entry after its receipt by the Bank. The Bank shall use reasonable effort to act on a request by the Company for cancellation of an Entry if such request is made prior to transmitting the Entry to the ACH Processor or, in the case of an On-Us Entry, prior to crediting/debiting a Receiver's account, provided such request is received by the Bank at a time and in a manner affording the Bank a reasonable opportunity to act on the request and provided the request complies with the security procedures for cancellation set forth in Exhibit 3 (or Exhibit 5-A in the case of third party processors), as circumstances may warrant; but the Bank shall have no liability if such cancellation is not effected.
13. **NOTICE OF RETURNED ENTRIES.** The Bank shall promptly notify the Company by mail or by electronic access of the receipt of a returned entry from the ACH Processor. Except for an entry retransmitted by the Company in accordance with the requirements in this Attachment, the Bank shall have no obligation to retransmit a returned Entry to the ACH Processor if the Bank complied with the terms of this Agreement with respect to the original entry.
14. **PERMISSIBLE REVERSALS.** An ACH File Reversal can be requested based on specific criteria, including Duplicate Transaction, Wrong Dollar Amount, Wrong Account Number(s)/ABA(s). The reversing entry must be submitted to the RDFI by the Bank within five banking days following the settlement date of the erroneous entry. If the Company wishes to request for an ACH Reversal, please contact your relationship banker or nearest branch. We may require a supporting written notice of the request and documentation of the criteria.
15. **PAYMENT.** The Company shall pay the Bank the amount of each Entry transmitted by the Bank pursuant to this Agreement at such time on the Settlement Date with respect to such Entry as the Bank, in its discretion, may determine, and the amount of each On-Us Entry at such time on the Effective Entry Date of such Entry as the Bank, in its discretion, may determine.
16. **THE ACCOUNT.** The Bank may, without notice or demand, obtain payment of any amount due and payable to it under this Agreement by debiting the account(s) of the Company identified in Treasury Services Master Agreement Authorization Form (the "Account"), and shall credit the Account for any amount received by the Bank by reason of the return of an Entry transmitted to the Bank for which the Bank has previously received payment from the Company. Such credit shall be made as of the day of such receipt by the Bank. The Company shall at all times maintain a balance of collected funds in the Account sufficient to cover its payment obligations under this Agreement. In the event there are not sufficient collected funds in the Account to cover the



Company's obligations under this Agreement, the Company agrees that the Bank may, in its discretion, reverse all Entries, refuse to process Entries, require the Company to deposit additional funds before the Entries are processed, and/or debit or place a hold on funds in any account maintained by the Company with the Bank, and that the Bank may set off against any amount it owes to the Company, in order to obtain payment of the Company's obligations under this Agreement.

17. **ACCOUNT RECONCILIATION: DUTY TO REPORT DISCREPANCIES.** Entries debited or credited to the Company's Account maintained with the Bank will be reflected on the Company's periodic statement issued with respect to the Account pursuant to the Agreement between the Bank and the Company. Not more than 14 days after the mailing or delivery of such periodic statement, the Company will cause it to be examined and will immediately notify the Bank of any discrepancy or error therein. If the Company fails to notify the Bank of any such discrepancy or error within that time, the Company agrees that the Bank shall not be liable for any other losses resulting from the Company's failure to give such notice or any loss of interest with respect to an Entry shown on such periodic Statement. Failure of the Company to notify the Bank of any discrepancy or error within sixty (60) days of the mailing or delivery of such periodic statement shall relieve the Bank of any liability for any Entries reflected in the statement.
18. **THE COMPANY REPRESENTATIONS AND AGREEMENTS; NOTICE OF PROVISIONAL PAYMENT.** The Company represents to the Bank that (a) each person shown as the Receiver on an Entry has authorized the Entry prior to its submission to the Bank and such authorization is and shall remain in effect until the Receiver's account is debited or credited, and (b) each Entry transmitted to the Bank conforms to the Company's obligations under this Agreement, the Rules, the Operating Instructions, and all applicable Laws and regulations. The Company agrees to be bound by the Rules as in effect from time to time, including without limitation the provision thereof making payment of an Entry by the Receiving Depository Financial Institution ("RDFI") to the Receiver provisional until receipt by the RDFI of Final Settlement for such Entry; and specifically acknowledges that it has received notice of that Rule and of the fact that, if such settlement is not received, the RDFI shall be entitled to a refund from the Receiver of the amount credited and the Company shall not be deemed to have paid the Receiver the amount of the entry. "Final Settlement" with respect to any Entry shall be the day upon which such Entry is posted to the account of RDFI by the Bank or a Federal Reserve Bank in accordance with the Rules. Such Entry may also be made by the Bank as originator for direct the Bank affiliate Entries.
19. **COMPLIANCE WITH SECURITY PROCEDURES.** The authorizations in Exhibit 3 (or Exhibit 5-B in the case of third-party processors) and security procedures in Exhibit 3 (or Exhibit 5-B in the case of third-party processors) shall apply equally to Entries and requests for cancellation or amendment of Entries. Accordingly, in this Section 19, "Entry" shall be construed to include requests for cancellation or amendment of Entries. If an Entry received by the Bank was transmitted or authorized by the Company, or if an Entry received by the Bank purports to have been transmitted or authorized by the Company, and the Bank has complied with the security procedures provided for herein, then, in either case, it will be deemed effective as the Company's Entry. If signature comparison is to be part of that security procedure, the Bank shall be deemed to have complied with that part of such procedure if the signature accompanying a file or Entries bears any resemblance whatsoever to the signature of the Company's authorized representative for submission of Entries. The Company is responsible for maintaining the confidentiality of the security procedures hereunder and shall promptly report to the Bank any breach thereof. The Bank shall have no liability for losses occasioned by the Company's failure to maintain the confidentiality of its security procedures. The Bank may change, add, or delete any procedures established pursuant to this Agreement, from time to time, upon notice to the Company.
20. **ACH SECURITY FRAMEWORK.** You are bound by the NACHA established minimum data security regulations: to protect sensitive non-public data of their customer or employees. This includes confidential and personal data such as: Health information, Social Security Numbers, Driver's License Numbers, Bank, and account number information. Monitoring access controls against unauthorized use to systems with sensitive ACH data. Create, verify, or update security policies, procedures and controls related to the initiation, processing, and storage of ACH entries. Storage and safekeeping procedures for voided checks and ACH Authorization agreements.
21. **VERIFICATION.** The Bank shall be entitled, at its sole discretion, but not obligated to seek verification or authentication of any file or Entries by contacting the Company by telephone or any other means set forth in any regulation or publication made available to the Company or otherwise deemed reasonable by the Bank provided, however that so long as the Bank complies with the security procedures in Exhibit 3 (or Exhibit 5-A in the case of third party processors) hereon, the Bank shall have no obligation to seek verification or authentication. If the Bank is unable to obtain any verification or authentication sought by it, the Bank may, in its sole discretion, either effectuate or refuse to effectuate the Entries. The Bank will call the Company when there is any deviation between total of debits/credits in the Entry file to those totals reported by the Company's Third-Party Processor.
22. **INCONSISTENCY OF NAME AND ACCOUNT NUMBER.** The Company acknowledges and agrees that if an Entry describes the Receiver, RDFI, or any Intermediary Bank inconsistently by name and number, (account number in Receiver's case; the Bank number in the Bank's case), payment might be made by the Intermediary or RDFI on the basis of the number even if it identifies a person or the Bank, as the case may be, different from the named Receiver or the Bank, and the Company's obligation to pay the amount of the Entry to the Bank is not excused in such circumstances.
23. **PRENOTIFICATIONS (PRENOTES).** Prenotes are zero-dollar entries that precede the first live entry. The purpose of a prenote is to verify account information. Prenotes are optional for you to send, however if sent, prenote rules must be followed and a prenote must precede the first live entry by at least three (3) banking days. The receiving bank is not required to validate the name of the payee or the prenote, although many do, they are only required to check the account number.
24. **NOTIFICATION OF CHANGE.** When ACH information is incorrect, a Notification of Change (NOC) is sent by the receiving bank requesting that future entries contain correct information. NACHA Rules require ACH Originators to make changes within six (6) banking days of receiving the information from us, as the initiating Bank, or before another entry is submitted. The receiving bank warrants that the information they provide is correct. We will make every reasonable



attempt to notify Company of all notifications of change received by the Bank relating to Entries originated by the Company by mail no later than one Business Day after receipt thereof. Notifications of change may occur via phone, email, or other electronic means. We may pass along any fines based upon your noncompliance.

25. **NOTICES, INSTRUCTIONS, ETC.** The Bank shall be entitled to rely on any written notice or other written communication believed by it in good faith to be genuine and to have been signed by an Authorized Person, and any such communication shall be deemed to have been signed by such person. The names of Authorized Persons are set forth in Exhibit 3 (or Exhibit 5-B in the case of third-party processors) attached hereto. The Company may add or delete any Authorized Person by written notice to the Bank signed by at least one Authorized Person other than the new Authorized Person being added or deleted. Such notice shall be effective on the second Business Day following the day of the Bank's receipt thereof unless another timeframe is provided by the Bank.
26. **RECORDING OF PHONE INSTRUCTIONS.** The Bank may, but is not required, to tape record any phone request, calls, and other instructions. The Company consents to such tape recording and agrees to indemnify and hold the Bank harmless against any liability the Bank may incur as a result of such tape recording.
27. **DATA RETENTION.** The Company shall retain data on file adequate to permit remaking of Entries for three Business Days after midnight of the Effective Entry Date and shall provide such data to the Bank upon its request.
28. **EVIDENCE OF AUTHORIZATION.** The Originator will (a) obtain all authorizations and consents required by the NACHA Rules and (b) retain such authorizations and consents for at least 2 years after their expiration. Copies of such authorizations and consents must be provided to the Bank within 7 days of any such request.
29. **WAIVER.** The ODFI may waive any provisions of the Agreement without changing its rights with respect to another transaction or modifying the terms of the Agreement.
30. **FRAUD.** The Bank will not be responsible for any fraudulent activities related to the providing of services under this Attachment E.
31. **AUDIT.**
- (a) **Bank Audit.** Bank may, at its discretion, perform an ACH operations audit of the Company. The Company agrees to cooperate with such audit, including, but not limited to, allowing on-site inspections, and producing copies of the Company's records relating to ACH transactions, retention of required documents and risk and compliance documentation required by NACHA.
 - (b) **Company Audit.** Company shall perform an Annual Compliance Audit to validate all laws and regulations bound by the rules set for by NACHA. Additionally, Bank may request for the Annual Compliance Audit observations and completion attestation at any time and Company shall provide such document in a timely manner, or ACH services may be temporary or permanently suspended by Bank without prior notice.
32. **COMPLIANCE WITH LAWS AND REGULATIONS.** The Company agrees to comply with and be bound by the Rules, as well as future Rules updates, abide by the appropriate Laws of the state of WV and of the United States of America. Company shall perform its obligations under this Agreement in accordance with all applicable Laws and regulations, including the sanctions Laws administered by OFAC, the Electronic Funds Transfer Act (if applicable) and the Uniform Commercial Code Article 4A (if applicable) and (e) Company shall be bound by and comply with the Rules as in effect from time to time, including, without limitation, the provision making payment of an Entry by the Receiving Depository Financial Institution to the Receiver "provisional" until receipt by the Receiving Depository Financial Institution of final settlement for such Entry. It shall further be the responsibility of the Company to obtain information regarding such OFAC enforced sanctions. (This information may be obtained directly from the OFAC compliance hotline at (800) 540OFAC.) Company shall obtain all consents and authorizations required under the Rules and shall retain such consents and authorizations for two years after they expire
33. **COMPANY ACTING AS THIRD-PARTY PROCESSOR.** If Customer is acting as a third-party processor, the Bank may request that Customer furnish additional information to the Bank. Such information, which will be furnished within five (5) Business Days of a request by the Bank to the Company, may include, without limitation, data: (i) regarding Customer's financial condition; (ii) verifying Customer's own customers and the nature of their businesses; and (iii) sufficient for the Bank to determine whether Customer is working with additional ODFIs. Under periodic reviews, the Bank may require additional information for new and existing originators to include:
- (a) Originators Name or DBA
 - (b) Physical address
 - (c) Phone Number(s) of business
 - (d) Tax Identification number/EIN



- (e) Principals' names
- (f) Principals' phone number(s)
- (g) Website address: and
- (h) Geographical locations

ATTACHMENT F — REAL TIME PAYMENTS

1. **SERVICES.** The Company wishes to initiate Real Time Payments pursuant to the terms of this Agreement and the RTP Operating Rules that have been adopted by the Clearing House Association ("Clearing House") (together with any amendments or revisions thereto, hereinafter collectively called "Rules"), and the Bank is willing to act as a Participant with respect to such RTP System. The Company agrees that the Bank may from time to time provide email updates to the Company providing notice of Rules changes or any other updates to governing Laws or RTP procedures. The Company acknowledges that entries may not be initiated which violate the Laws of the United States.
2. **RULES.** Unless otherwise defined herein, capitalized terms shall have the meanings provided in the Rules. The terms "Sender," "Receiver," "Sending Participant," "Receiving Participant," "RTP System," "Payment," "RTP Payment," "Payment Instruction," "Payment Amount," "Person," and "Request for Return of Funds," shall have the meaning provided in the Rules.
3. **TRANSMITTAL OF PAYMENTS BY THE COMPANY.** The Company shall deliver or transmit Payments to the Bank to be processed in accordance with the provisions of Exhibit 10 attached hereto and incorporated herein by this reference. The total dollar amount of Payments transmitted by the Company to the Bank on any one day shall not exceed the dollar limitations as set forth in the Exhibit. The Bank is under no obligation to honor, in whole or in part, any Payment Instruction that could violate applicable law, including, without limitation, requirements of the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") and the Financial Crimes Enforcement Network ("FinCEN").
4. **SECURITY PROCEDURE.** The Company and the Bank shall comply with the security procedure requirements described below and in Exhibit 10 with respect to Entries transmitted by the Company to the Bank.
 - (a) Multi-factor Authentication. Bank will utilize multi-factor authentication, as needed, in accordance with the Risk Management and Fraud Control Requirements Schedule as defined in the Rules.
 - (b) Risk Measures. The Bank will utilize fraud and risk-screening measures prior to submitting a Payment Message to the RTP System.
5. **USE OF SERVICE PROVIDER(S).** The Bank may use from time to time a third-party service provider to facilitate its compliance with the RTP Rules and/or for the submissions of RTP Payments and Payment Instructions. Therefore, the Bank may require you to contract directly with an approved third-party service provider to receive the full benefit of RTP Payments. If you do not wish to contract with such service provider, then your RTP services may be limited or restricted. The approved service providers are subject to change, and you will be notified by the Bank prior to any change.
6. **PROCESSING, TRANSMITTAL AND SETTLEMENT BY THE BANK.** The RTP System is typically available 24 hours a day, 7 days a week, including weekends and state and federal holidays. However, the Bank's RTP Service may be unavailable from time to time, including due to scheduled or unscheduled maintenance. RTP Payments processing may fail or be delayed due a review by either the Receiving, or the Sending, Participant, such as for fraud, regulatory, or compliance purposes. RTP Payments will fail if the Receiving Participant does not respond to the Payment Instruction received from the RTP System within a certain timeframe defined by the RTP Operating Rules. The Bank will not notify you if the Payment fails, but the Payment Amount will not be withdrawn from your account. Once failed, a RTP Payment may be resubmitted with new Payment Instructions.
7. **REJECTION OF PAYMENTS.** You are not obliged to accept a RTP Request for Payment that is sent to you through the RTP System. You may reject a Payment Request by responding directly to the RTP System. Separately, if you receive an erroneous RTP Payment and you wish to reject the Payment, please contact us at RTPNotifications.events@mvpbanking.com.
8. **FRAUD.** The Bank will not be responsible for any fraudulent activities of third-parties related to Payments under this Attachment F.

ATTACHMENT G —MOBILE DEPOSIT CAPTURE

1. **DEFINITIONS.**
 - (a) We, us, and our - refer to the Bank, the Depository Financial Institution.
 - (b) You, your, applicant, client, and customer - refer to the Company, a Business Depository Customer.



- (c) Account - refers to your checking or share draft account with us which is identified by the Account Number.
- (d) Qualifying Items - refer to checks as defined in Regulation CC drawn on financial institutions located in the United States. See Section 4 of this Attachment for a detailed list of qualified and non-qualified items.
- (e) Remote Deposit - refers to your deposit of Qualifying Items to the Account(s) specified in this agreement by indorsing the paper originals, scanning both sides of them and sending their accurate images to us, together with an electronically generated deposit ticket, via the Internet, rather than by providing us with the paper originals.
- (f) Banking Day - refers to one of our banking days as defined in 12 CFR 229.2.
- (g) Business Day - refers to a business day as defined in 12 CFR 229.2.
- (h) All capitalized terms used but not defined in this Attachment will have the meanings ascribed to them in the Agreement.

2. REQUIREMENTS.

- (a) Remote Deposit Requirements - You can make Mobile Remote Deposits if, but only if, you satisfy all of the Software Requirements, Image Requirements, and other requirements of this Agreement.
- (b) Software Requirements - You will use the required mobile application under the terms below of this Attachment.
- (c) Image Requirements - The images of Qualifying Items you send us will be sufficiently inclusive and high quality to permit us to satisfy all pertinent requirements of the following: the Check 21 Act, 12 USC 5001, et seq.; all related Laws or regulations; all other state or federal Laws and regulations; The American National Standards Institute; The Electronic Check Clearing House Organization; and all other clearing houses or associations. In addition, the images will satisfy the following requirements:
 - I. Must include the endorsement of the business's name;
 - II. Must include the endorsement - "For mobile deposit MVB;"
 - III. Endorsements must be manually written on the back of the Qualifying Items;
 - IV. Must be legible when submitted; and
 - V. Must pass the image verification process included in the Remote Deposit software.
- (d) Remote Deposit Limits - Limits on the total number of Qualifying Items and the total daily value of Qualifying Items that can be transmitted to us under this Agreement will be determined unilaterally by us, separately either in writing or via electronic communication. Further, these limits can also be increased by us temporarily or permanently at our exclusive determination based upon risk analysis.
- (e) Receipt Deadline - The deadline (Receipt Deadline) for our receipt of Remote Deposits 7:00 p.m. Eastern Time. Any Remote Deposits not received on a Banking Day or not received in its entirety by the Receipt Deadline on a Banking Day will be considered to have been received on the next Banking Day.
- (f) Retention/Destruction of Original Items - You will retain and preserve the paper original of each Qualifying Item included in a Remote Deposit for the period of 90 days after it is accepted for deposit. Items must be stored in a secure location to prevent unauthorized access to confidential information. You will destroy items immediately after the expiration period by shredding so that the items and the information on them are unrecoverable. You may also bring the expired items to the Bank for destruction. At our request, you will provide any original documents needed to facilitate the investigation of unusual transactions and/or resolve any disputes relating to Remote Deposits.
- (g) Fees - You will be assessed on-going monthly fees, based upon the Remote Deposit Capture Program Fees under the terms in Section 6 of this Attachment. These fees are subject to change without notice. We can debit your Account for such fees and penalties without notice.
- (h) Other Provisions - The Bank will use the same care and diligent effort to process imaged transactions as it would with existing paper transactions. In the event that an error occurs in the processing of these deposits either at the Bank or at some other stage of the processing, the customer agrees to cooperate with the Bank personnel to assist in the redeveloping the deposits in question. We reserve the right to perform an



unannounced audit to ensure proper retention and destruction of items, personal computer security and maintenance, and other applicable requirements are being carried out as stated in this agreement.

3. TERMS AND CONDITIONS.

- (a) Enrollment - You willingly agree, if you so enroll, to present electronic images of certain types of checks along with additional deposit related information to us, or to a processor we select, for deposit into your account. You agree that we may change requirements for use of, suspend, or discontinue Business Mobile Remote Deposit or your use of Business Mobile Remote Deposit at any time with prior notice to you. You may cancel your enrollment in and use of Business Mobile Remote Deposit at any time.
- (b) Acceptance Required - We will credit your account for a Qualifying Item included in a Business Mobile Remote Deposit if, but only if, we have received it and it has been accepted for deposit. We can reject an item included in a Remote Deposit for any reason or for no reason at all.
- (c) Provisional Credit Only - Any credit to your Account of a Qualifying Item included in a Business Mobile Remote Deposit (including Qualifying Items drawn "on us") is provisional only until collection is final. Until final settlement, we will act only as your agent, regardless of the form of endorsement or lack of endorsement on a Qualifying Item, even if we have provisionally credited your Account. We can reverse any provisional credit to your Account of a Qualifying Item included in a Remote Deposit that is lost, stolen, or returned. In addition to and without limiting your obligations under Section 5 of the Agreement, you will indemnify us and hold us harmless from any loss we may incur as a result of our lawfully reversing a provisional credit to your Account.
- (d) Failures of Alterations in Transmission - We will not be liable for any failures or alterations in the transmission of Remote Deposits to us.
- (e) Presentment/Collection - Presentment and collection of Qualifying Items included in Remote Deposits will be by any means and through any clearing agents we deem appropriate, and you consent to any applicable clearing house rules.
- (f) Funds Availability - Funds from Qualifying Items included in Remote Deposits will be available to you under normal Business Day posting (under our policies as reflected in our then current funds availability disclosure and 12 CRF 229.10, et seq.). Even after funds are available to you and have been withdrawn, you will still be responsible for returned items or any other problems with the Remote Deposit.
- (g) Warranties - Unless prohibited by Law, by making Remote Deposits, you make the following express warranties to us and, in addition to and without limiting your obligations under Section 5 of the Agreement, you agree to indemnify us and hold us harmless of any breach of such warranties, including payment of our reasonable attorneys' fees and litigation expenses:
 - I. That you were entitled to deposit each of the Qualifying Items included in your Remote Deposits;
 - II. That only paper originals of bona fide Qualified Items have been scanned for Business Remote Deposit;
 - III. That each of the Qualifying Items included in your Remote Deposit was duly authorized in the amount stated on the Qualifying Item and to the payee stated on the Qualifying Item;
 - IV. That there was and will be no duplication among Qualifying Items included in your Remote Deposits;
 - V. That you will not deposit or redeposit the paper originals of the Qualifying Items included in your Remote Deposits or make any other deposits or redeposits of such Qualifying Items without our informed consent;
 - VI. That you are responsible for verifying the receipt of an email notification for each Remote Deposit you submit (and, in the instance that you do not receive an email notification for your Remote deposit, it is your responsibility to notify the Bank within a reasonable amount of time);
 - VII. That you reconcile your Remote Deposits against your statement within 60 days of the date of the statement on which the Remote Deposit should appear and notify the Bank of any discrepancies;
 - VIII. That we will not suffer any loss as a result of your Remote Deposits;
 - IX. That we will not suffer any loss as a result of your retention of destruction of the paper originals of Qualifying Items included in your Remote Deposits;
 - X. That all information you provide to us regarding your Remote Deposits will be accurate;



-
- XI. That your Remote Deposits and all information you provide to us will be virus-free;
 - XII. That your Remote Deposits will not violate any Laws; and
 - XIII. That you have performed and will perform all your obligations under this Agreement.
- (h) Return Items - If Qualifying Items included in your Remote Deposits are returned, we will provide you with images or substitute checks of the returned items, rather than the paper originals.
- (i) Statements - You will examine your statement of account and report to us any alterations or unauthorized signatures purporting to be yours or on your behalf relating to Remote Deposits that you discover, or reasonably should have discovered, with reasonable promptness. Reasonable promptness for this purpose will not exceed 14 days in Montana, New York, or South Carolina, or 30 days in other states, from when the statement was first sent or made available to you. If you do not make such a report with reasonable promptness, you cannot assert against us such alterations or unauthorized signatures, or any others made by the same wrongdoer before we receive such a report, unless we failed to exercise good faith, or in all states except Tennessee unless we failed to exercise reasonable care. If we failed to exercise reasonable care, in all states, except Tennessee, New York, or South Carolina, the loss will be allocated between you and us according to the extent to which your and our failure to exercise reasonable care contributed to the loss. In addition, in all states, if you do not discover and report to us any such alterations or unauthorized signatures or any other issues regarding Remote Deposits within 60 days from when the statement including the Remote Deposits was first sent or made available to you, you cannot assert them against us, even if we failed to exercise reasonable care.
- (j) Information and Access - You will promptly provide us with any information, including financial information, we request that is pertinent in any way to your Remote Deposits or this Agreement. In addition, upon our request you will grant us access to your documents and records sufficient to permit us to determine whether you are complying with the requirements of this Agreement.

4. QUALIFYING DEPOSIT ITEMS.

- (a) Qualifying Deposit Items include:
- I. A negotiable demand draft drawn on or payable through or at an office of a bank;
 - II. A negotiable demand draft drawn on a Federal Reserve Bank or a Federal Home Loan Bank;
 - III. A negotiable demand draft drawn on the Treasury of the United States;
 - IV. A demand draft drawn on a state government or unit of general local government that is not payable through or at a bank;
 - V. A United States Postal Service money order; or
 - VI. A traveler's check drawn on or payable through or at a bank.

The term check includes an original check and a substitute check. The term check does not include a noncash item or an item payable in a medium other than United States money. A draft may be a check even though it is described on its face by another term, such as money order. For purposes of this Agreement, the term check also includes a demand draft of the type described above that is non-negotiable.

- (b) Non-Qualifying Deposit Items include:
- I. Checks made payable to a third party;
 - II. Remotely created checks; and,
 - III. Counterfeit checks

5. RELATED SOFTWARE AND MAINTENANCE.

- (a) Software - The software provided for the Customer's use is currently and will remain the sole property of the Bank. The software will be installed at the customer's mobile device by the user.



- (b) Authorized Persons - User names and passwords for the software will be assigned by the Bank, or to a processor we select, and it is your responsibility to limit access to this information to Authorized Persons. Only Authorized Persons on the accompanying Account will be allowed to receive this information from the Bank or request the addition or deletion of users and/or password changes. They also expressly accept responsibility for all actions that they or any person at their location carry out with the equipment and/or software. In addition to and without limiting its obligations under Section 5 of the Agreement, the customer will indemnify the Bank if it or any person using its equipment and/or software causes the Bank any financial loss due to an inappropriate transaction of any type.
- (c) Maintenance - The Customer agrees to provide timely maintenance to the software as instructed.

6. **BUSINESS MOBILE DEPOSIT CAPTURE PROGRAM PRICING.**

- (a) Monthly service fee = \$9.95 for a single user
- (b) Monthly additional user fee = \$3.95 per additional user

ATTACHMENT H —REMOTE DEPOSIT CAPTURE (RDC)

1. **DEFINITIONS.**

- (a) We, us, and our - refer to the Bank, the Depository Financial Institution.
- (b) You, your, applicant, client, and customer - refer to the Company, a Business Depository Customer.
- (c) Account - refers to your checking or share draft account with us which is identified by the Account Number.
- (d) Qualifying Items - refer to checks as defined in Regulation CC drawn on financial institutions located in the United States. See Section 4 of this Attachment for a detailed list of qualified and non-qualified items.
- (e) Remote Deposit - refers to your deposit of Qualifying Items to the Account(s) specified in this agreement by indorsing the paper originals, scanning both sides of them and sending their accurate images to us, together with an electronically generated deposit ticket, via the Internet, rather than by providing us with the paper originals.
- (f) Banking Day - refers to one of our banking days as defined in 12 CFR 229.2.
- (g) Business Day - refers to a business day as defined in 12 CFR 229.2.
- (h) All capitalized terms used but not defined in this Attachment will have the meanings ascribed to them in the Agreement.

2. **REQUIREMENTS.**

- (a) Remote Deposit Requirements - You can make Remote Deposits if, but only if, you satisfy all the Scanner and Related Hardware and Software Requirements, Image Quality Requirements, and other requirements of this Agreement and Exhibit 7.
- (b) Scanner and Related Hardware and Software Requirements - You will use the required scanner(s) and related hardware and software provided to you by MVB Bank under the terms in Section 5.
- (c) Image Quality Requirements - The images of Qualifying Items you send us will be sufficiently inclusive and high quality to permit us to satisfy all pertinent requirements of the following: the Check 21 Act, 12 USC 5001, et seq.; all related Laws or regulations; all other state or federal Laws and regulations; The American National Standards Institute; The Electronic Check Clearing House Organization; and all other clearing houses or associations. In addition, the images will satisfy the following requirements:
 - I. Must be legible when submitted; and,
 - II. Must pass the image verification process included in the Remote Deposit software.
- (d) Remote Deposit Limits - Limits on the total number of Qualifying Items and the total daily value of Qualifying Items that can be transmitted to us under this Agreement will be determined unilaterally by us, separately either in writing or via electronic communication. Further, these limits can also be increased by us temporarily or permanently at our exclusive determination based upon risk analysis.



- (e) Receipt Deadline - The deadline (Receipt Deadline) for our receipt of Remote Deposits is 7:00 p.m. Eastern Time in Fairmont, West Virginia on a Banking Day. Any Remote Deposits not received on a Banking Day or not received in its entirety by the Receipt Deadline on a Banking Day, the remote deposits will be considered to have been received on the next Banking Day.
- (f) Retention/Destruction of Original Items - The customer will retain and preserve the paper original of each Qualifying Item included in a Remote Deposit for the period of 90 days after it is accepted for deposit. Items must be stored in a secure location to prevent unauthorized access to confidential information. You will destroy items immediately after the expiration period by shredding so that the items and the information on these items are unrecoverable. You may also bring the expired items to the Bank for destruction. At our request, you will provide any original documents needed to facilitate the investigation of unusual transactions and/or resolve any disputes relating to Remote Deposits.
- (g) Fees - You will pay a one-time initial setup fee (if applicable) and on-going monthly fees, based upon the Remote Deposit Capture Program Fees (in the attached Schedule D which will not exceed the standard pricing in Section 6 of this Attachment) for the specific program we have determined you should participate under this Agreement. In addition, you may be required to pay an annual warranty fee. These fees are subject to change without notice. In addition, if you do not make any Remote Deposits for a period of 90 days, we have a right to levy a fee of the one third of the cost of the Remote Deposit Capture scanner equipment and, if in the first year of the Agreement, a separate \$400 penalty, or if in the second year of the Agreement, a separate \$200 penalty. We can debit your Account for such fees and penalties without notice.
- (h) Other Provisions - The Bank will use the same care and diligent effort to process imaged transactions as it would with existing paper transactions. If an error occurs in the processing of these deposits either at the Bank or at some other stage of the processing, the customer agrees to cooperate with the Bank personnel to assist in the redeveloping the deposits in question. We reserve the right to perform an unannounced audit to ensure proper retention and destruction of items, personal computer security and maintenance, and other applicable requirements are being carried out as stated in this agreement.

If the customer is unable to submit a remote deposit for any reason, it will be the customer's responsibility to deliver the physical items to the Bank for processing.

If a Remote Deposit needs to be recreated, it will be the customer's responsibility to provide the original items needed to recreate the deposit.

3. TERMS AND CONDITIONS.

- (a) Internet Addresses and Other Information - You and we will provide each other with Internet addresses and other information as needed for purposes of this Agreement and will update such information as needed.
- (b) Acceptance Required - We will credit your account for a Qualifying Item included in a Remote Deposit if, but only if, we have received it and it has been accepted for deposit. We can reject an item included in a Remote Deposit for any reason or for no reason at all.
- (c) Provisional Credit Only - Any credit to your Account of a Qualifying Item included in a Remote Deposit (including Qualifying Items drawn "on us") is provisional only until collection is final. Until final settlement, we will act only as your agent, regardless of the form of endorsement or lack of endorsement on a Qualifying Item, even if we have provisionally credited your Account. We can reverse any provisional credit to your Account of a Qualifying Item included in a Remote Deposit that is lost, stolen, or returned. In addition to and without limiting your obligations under Section 5 of the Agreement, you will indemnify us and hold us harmless from any loss we may incur as a result of our lawfully reversing a provisional credit to your Account.
- (d) Failures of Alterations in Transmission - We will not be liable for any failures or alterations in the transmission of Remote Deposits to us
- (e) Presentment/Collection - Presentment and collection of Qualifying Items included in Remote Deposits will be by any means and through any clearing agents we deem appropriate, and you consent to any applicable clearing house rules.
- (f) Funds Availability - Funds from Qualifying Items included in Remote Deposits will be available to you under normal Business Day posting (under our policies as reflected in our then current funds availability disclosure and 12 CRF 229.10, et seq.). Even after funds are available to you and have been withdrawn, you will still be responsible for returned items or any other problems with the Remote Deposit.
- (g) Warranties - Unless prohibited by Law, by making Remote Deposits you make the following express warranties to us and, in addition to and without limiting your obligations under Section 5 of the Agreement, you agree to indemnify us and hold us harmless of any breach of such warranties, including payment of our reasonable attorneys' fees and litigation expenses:
 - I. That only paper originals of bona fide Qualified Items have been scanned for Remote Deposit;
 - II. That you were entitled to deposit each of the Qualifying Items included in your Remote Deposits;
 - III. That each of the Qualifying Items included in your Remote Deposit was duly authorized in the amount stated on the Qualifying Item and to the payee stated on the Qualifying Item;



- IV. That there was and will be no duplication among Qualifying Items included in your Remote Deposits;
 - V. That you will not deposit or redeposit the paper originals of the Qualifying Items included in your Remote Deposits or make any other deposits or redeposits of such Qualifying Items without our informed consent;
 - VI. That you are responsible for verifying the receipt of an email notification for each Remote Deposit you submit (and, in the instance that you do not receive an email notification for your Remote deposit, it is your responsibility to notify the Bank within a reasonable amount of time);
 - VII. That you reconcile your Remote Deposits against your statement within 60 days of the date of the statement on which the Remote Deposit should appear and notify the Bank of any discrepancies;
 - VIII. That we will not suffer any loss as a result of your Remote Deposits;
 - IX. That we will not suffer any loss as a result of your retention or destruction of the paper originals of Qualifying Items included in your Remote Deposits;
 - X. That all information you provide to us regarding your Remote Deposits will be accurate;
 - XI. That your Remote Deposits and all information you provide to us will be virus-free;
 - XII. That your Remote Deposits will not violate any Laws; and
 - XIII. That you have performed and will perform all your obligations under this Agreement.
- (h) Return Items - If Qualifying Items included in your Remote Deposits are returned, we will provide you with images or substitute checks of the returned items, rather than the paper originals.
- (i) Statements - You will examine your statement of account and report to us any alterations or unauthorized signatures purporting to be yours or on your behalf relating to Remote Deposits that you discover, or reasonably should have discovered, with reasonable promptness. Reasonable promptness for this purpose will not exceed 14 days in Montana, New York, or South Carolina, or 30 days in other states, from when the statement was first sent or made available to you. If you do not make such a report with reasonable promptness, you cannot assert against us such alterations or unauthorized signatures, or any others made by the same wrongdoer before we receive such a report, unless we failed to exercise good faith, or in all states except Tennessee unless we failed to exercise reasonable care. If we failed to exercise reasonable care, in all states except Tennessee, New York, or South Carolina, the loss will be allocated between you and us according to the extent to which your and our failure to exercise reasonable care contributed to the loss. In addition, in all states, if you do not discover and report to us any such alterations or unauthorized signatures or any other issues regarding Remote Deposits within 60 days from when the statement including the Remote Deposits was first sent or made available to you, you cannot assert them against us, even if we failed to exercise reasonable care.
- (j) Information and Access - You will promptly provide us with any information, including financial information, we request that is pertinent in any way to your Remote Deposits or this Agreement. In addition, upon our request you will grant us access to your documents and records sufficient to permit us to determine whether you are complying with the requirements of this Agreement.

4. QUALIFYING DEPOSIT ITEMS.

- (a) Qualifying Deposit Items are:
- I. A negotiable demand draft drawn on or payable through or at an office of a bank;
 - II. A negotiable demand draft drawn on a Federal Reserve Bank or a Federal Home Loan Bank;
 - III. A negotiable demand draft drawn on the Treasury of the United States;
 - IV. A demand draft drawn on a state government or unit of general local government that is not payable through or at a bank;
 - V. A United States Postal Service money order; or
 - VI. A traveler's check drawn on or payable through or at a bank.

The term check includes an original check and a substitute check. The term check does not include a noncash item or an item payable in a medium other than United States money. A draft may be a check even though it is described on its face by another term, such as money order. For purposes of this Agreement, the term check also includes a demand draft of the type described above that is non-negotiable.

- (b) Non-Qualifying Deposit Items include:
- I. Checks made payable to a third party;
 - II. Remotely created checks; and,



III. Counterfeit checks

5. **SCANNER AND RELATED HARDWARE AND SOFTWARE.**

- (a) Software - The software provided for the Customer's use is currently and will remain the sole property of the Bank. The scanner and software will be installed at the customer's location by Bank personnel. If for whatever reason the customer either ceases their account relationship with the Bank, ceases presenting deposits in an imaged format or in the opinion of the Bank alters the account relationship in any way, they agree to permanently delete the software from all their computers.
- (b) Scanner(s) - Any scanner provided for the customers use by the Bank will remain the sole property of the Bank. If for whatever reason the Customer either ceases their account relationship with the Bank, ceases presenting deposits in an imaged format or in the opinion of the Bank alters the account relationship in any way, they agree to return any scanner provided by the Bank to the Customer to the Bank within 20 days.
- (c) PC Security - The customer agrees to restrict access to the PC and the related software to individuals within their organization that are rightfully designated to use the software. The customer is also solely responsible for the physical security of the PC(s) on which the Software and Imaged Items reside. The customer is responsible for maintaining current Antivirus and Antispyware software on any PC running the Merchant Capture software. Regular definition updates and scans must be run to keep the PC running Merchant Capture Software free from Viruses and Spyware. Windows Security Updates must also be installed, and it is the customers' responsibility to check periodically to ensure that the updates are being installed in a timely manner.
- (d) PC Liability - The Bank does not assume responsibility for any PC equipment owned by the customer. It is your responsibility to retain technical support for issues relating to hardware and software on their PC equipment, as well as ensuring their data is backed up prior to the installation of the software and in an ongoing manner. The customer will not hold the Bank responsible for the loss of any data resulting from the installation or operation of the Merchant Capture software or scanner.
- (e) Authorized Persons - User names and passwords for the software will be assigned by the Bank and it is the customer's responsibility to limit access to this information to Authorized Persons. Only Authorized Persons the accompanying account will be allowed to receive this information from the Bank or request the addition or deletion of users and/or password changes. They also expressly accept responsibility for all actions that they or any person at their location carry out with the equipment and/or software. In addition to and without limiting its obligations under Section 5 of the Agreement, the customer will indemnify the Bank if it or any person using its equipment and/or software causes the Bank any financial loss due to an inappropriate transaction of any type.
- (f) Maintenance - The customer agrees to provide timely maintenance to the PC running the software and to the scanner as instructed and keep the equipment in such a manner as to protect it from unreasonable damage. In the event of a scanner malfunction, the Bank will either repair the scanner or provide a replacement.

6. **BUSINESS REMOTE DEPOSIT CAPTURE PROGRAM PRICING.**

- (a) Monthly Scanner Fee (per location) = \$24.00

ATTACHMENT I — WIRE TRANSFER SERVICES

The Company authorizes the Bank to receive, execute and charge its Account(s) without limit as to amount (unless an amount limit is clearly set forth in the attached Exhibits) for all telephonic, telegraphic, computer communication device, oral or written funds transfer requests, when such requests are received in accordance with the procedures specified herein from an Authorized Person. Accordingly, and in consideration of the mutual covenants herein expressed and other good and valuable consideration, the Bank and the Company agree as follows:

1. **DEFINITIONS.** The following definitions shall apply to this Wire Transfer Services Agreement and applicable Wire Transfer Authorization Exhibit 6:

- (a) "Advice" has the meaning set forth in Section 7 of this Attachment.
- (b) "Beneficiary" means the person or entity to be paid by the Beneficiary's Bank.
- (c) "Beneficiary's Bank" means the Bank identified in a Payment Order in which an account of the Beneficiary is to be credited pursuant to the Payment Order which otherwise is to make payment to the Beneficiary if the order does not provide for payment to an account.
- (d) "Damages" has the meaning set forth in Section 5(a) of this Attachment.



- (e) "Funds Transfer" (sometimes referred to herein as "Transfer" or "Wire Transfer") means the series of transactions, beginning with a Payment Order, made for the purpose of making payment electronically, including via wire, to the Beneficiary of the order. A Funds Transfer is completed by acceptance by the Beneficiary's Bank of a Payment Order for the benefit of the Beneficiary of the Payment Order.
- (f) "PIN" means a unique code assigned by the Bank to the Company and/or the Company's Representative for authentication of the Company's Payment Orders as further defined in Section 3(b) of this Attachment.
- (g) "Payment Order" means an instruction from the Company to the Bank, transmitted orally, electronically, or in writing, to initiate a Funds Transfer of a fixed or determinable sum of money to a Beneficiary. If the instruction is to make repetitive or semi-repetitive transfers to the same Beneficiary, the instruction is a separate Payment Order with respect to each payment.
- (h) "Random Transfer" means a Payment Order for which repetitive instructions have not been established.
- (i) "Repetitive Transfer" is a predefined Payment Order (occurring periodically with the instructions remaining constant except for the date and possibly the transfer amount) from a designated Company account at the Bank to Beneficiary. Upon written request from an Authorized Person, the Bank may establish such Transfer on a semi-repetitive file assigning a unique code number to each.
- (j) "Verification Process" has the meaning set forth in Section 3(b) of this Attachment.
- (k) All capitalized terms used but not defined in this Attachment will have the meanings ascribed to them in the Agreement.

2. TYPES OF FUNDS TRANSFERS. When authorization and instructions are made in accordance with this Agreement, on behalf of the Company or an Authorized Person, the Bank may effectuate the following type of Funds Transfers;

- (a) Transfer funds from specified Company Account(s) with the Bank to any other specified Company account(s) whether such account(s) are with the Bank or other financial institution(s);
- (b) Transfer funds from Company Account(s) with the Bank to any account(s) of a Beneficiary, whether such Beneficiary account(s) are with the Bank or other financial institutions. For Funds Transfer, such Funds Transfer may be based solely upon the American Banking Association routing and account number, social security number, federal employer identification number, and/or account numbers provided to the Bank; and
- (c) Transfer funds from Company Account(s) with the Bank based upon instructions provided to the Bank by the Company or a third party designated under this Agreement by the Company via FedLine from Federal Reserve Banking Services, as directed by the Company under Exhibit 5-B.
- (d) Request for the Transfer of funds from a third party based upon instructions provided to the Bank by the Company to be deposited into Company Account(s) with the Bank, as further described in Exhibit 5-C.
- (e) Transfer funds from Company Account(s) with the Bank to international financial institutions based upon instructions provided to the Bank by the Company. The Bank may transfer funds through an intermediary the Bank or funds transfer system different from that shown in the instructions received from the Company or the Authorized Person. Foreign transfers may be subject to delays and charges imposed by other the Banks or changes in foreign currency exchange rates. The Bank will not be responsible for any changes in an exchange rate involved with a foreign transfer.

The Bank shall have the right to deduct the Funds Transfer from any of the Company's Accounts if the Company or an Authorized Person does not designate a particular account or if the designated account has insufficient available balances.

The Bank may refuse to honor instructions for a Funds Transfer request that would exceed the available balance of the Company's account. In addition, the Bank has the right to reject any Funds Transfer request for any reason.

3. SECURITY PROCEDURES.

- (a) Authorized Persons - Individuals designated as Authorized Persons of the Company must be listed in Exhibit 6 attached hereto or in accordance with Section 4 of the Agreement. The Bank will accept a Payment Order only from an Authorized Person and certain limitations on the Authorized Person's authority may appear on Exhibit 6 or be established in accordance with Section 4 of the Agreement. The list of Authorized Persons shall remain in full force and effect until the Bank shall have received further written notification from the Company or the president of the Company (or his duly authorized designee), or from a general partner or trustee of the Company. The Bank shall have a reasonable period to act on each such change; provided, however, that the Bank may in its sole discretion act upon a telephonic, telegraphic, or oral instruction which the Bank reasonably believes to be from the Company or the president (or his duly authorized designee), general partner or trustee of the Company to delete an Authorized Person. The list of Authorized Persons shall remain valid notwithstanding a change in the incumbency of the office of the



president, general partner, or trustee of the Company. The Company agrees to notify the Bank immediately of the termination of any Authorized Person from the Company's employment, so that the Bank may cancel the PIN assigned to such person.

- (b) Verification - The Bank will accept a Funds Transfer request from the Company or the Authorized Person only when the Company or the Authorized Person has complied with the Verification Process through either (1) an in-person verification option (2) a telephone verification option or (3) verification has occurred through the use of online business banking MVB Online ID and Passwords, as follows.
- I. In Person Verification: Through an in-person verification option, the Company or the Authorized Person may come into any Bank branch to provide Wire Transfer request instructions and have identity verified, in-person by the Bank, to support approval of the Wire Transfer request.
 - II. Telephone Verification: Through a telephone verification option, based upon PIN verification or callback procedures initiated by the Bank to a phone number predetermined by the Company or the Authorized Person and recorded on the Bank's core data processing system, based upon the instructions in Exhibit 6, the Bank will call the Company or the Authorized Person to approve the Wire Transfer request by obtaining the applicable PIN. Successful verification must be completed prior to processing any such Wire Transfer request through this telephone verification option. For this reason, it is imperative that the Company contact information on file with the Bank be correct.
 - III. Online Banking: Any wire transfer submitted through the Bank's online business banking service utilizing MVB Online ID and Passwords will be considered verified.

The Bank will not have any further responsibility for verifying the validity of the instructions for such Wire Transfer requests. The Bank shall conclusively presume that any person possessing appropriate security codes is an Authorized Person and the Bank will regard such instructions as being authorized by the Company.

- (c) PIN - The Bank will assign a unique PIN to each Authorized Person, as listed on Exhibit 6. These PINs are strictly confidential and should be safeguarded. The Company should instruct holders of PINs not to disclose their PINs to anyone. The Company warrants and agrees that no individual will be allowed to initiate a Wire Transfer request in the absence of proper supervision and adequate safeguards. If the Company believes that any of these PINs have become known by an unauthorized person (whether or not employed by the Company), or the Company has removed an Authorized Person, the Company must contact the Bank immediately to deactivate PINs or issue new PINs as appropriate. The Bank reserves the right to re-issue PINs and provide new written instructions, as necessary.

4. PAYMENT ORDERS AND FUNDS TRANSFERS.

- (a) Funds Transfers and Available Balance - The Bank agrees to make Transfers and otherwise act upon Payment Orders made in compliance with this Agreement within a commercially reasonable time after such requests have been received by the Bank and for amounts not to exceed the available balance in any Company Account from which Payments Orders are to be processed; however, the Bank shall have no liability to the Company for failure to make a Transfer or failing to take any other action on or before any deadline contained in a Payment Order, unless such deadline is commercially reasonable. Payment Orders should not exceed the Available Balance (as determined solely by the Bank) in the Company's Account(s) at the Bank which are subject to debit for a Funds Transfer. Nevertheless, the Company shall be liable for any funds transferred upon proper instructions by an Authorized Person whether or not such amount exceeds the Company's Available Balance in the Account(s) used as a source for the Funds Transfer. Each such request is subject to balance verification by the Bank. The Bank, however, may effectuate a Funds Transfer even though the Account against which the Funds Transfer is drawn does not have sufficient available funds. In that event, the Company must deposit to said Account sufficient funds to reverse any resulting overdraft by the close of the banking day on which the Funds Transfer was effectuated. The Bank's decision to complete a Funds Transfer, notwithstanding insufficient funds, shall not obligate the Bank to follow this precedent at any future time.
- (b) Cancellation and Amendment of Payment Order - The Company shall have no right to cancel or amend a Payment Order after it is accepted by the Bank, except under mutual agreement. The Bank may, but is not obligated to, act upon a request for amendment or cancellation of a Payment Order, if the Bank has not yet acted on such Payment Order, and if the request has been authenticated by the applicable security procedure. The Company shall be liable to the Bank for any loss or expense incurred by the Bank as a result of such cancellation or amendment, whether or not such cancellation or amendment is effective. The Bank shall not be liable to the Company or a Beneficiary if any attempted cancellation or amendment of a Payment Order is not affected. In the case of an erroneous or otherwise irregular Funds Transfer, the Bank may, but shall not be obligated to, on its own initiative, request a Beneficiary's Bank or Beneficiary to return the funds previously transferred on behalf of the Company. A Payment Order issued by the Company is paid at the time the Payment Order is executed.
- (c) Sequence of Payment Order - The Bank may handle Payment Orders from the Company and those which it may receive from other customers in any order selected by the Bank, in its sole discretion, and the Bank may use any means or route which it, in its sole discretion, may consider suitable for executing a Payment Order.



- (d) **Cut-Off Times** - The Bank may establish a cut-off time or time on a Business Day for the receipt and processing of Payment Orders and communications canceling or amending Payment Orders. Any Payment Order or communication received after such cut-off time or on a Saturday, Sunday or the Bank holiday shall be deemed received on the next Business Day.
- (e) **Identification of Payment Order** - The Bank may execute Payment Orders for the transfer of funds to a Beneficiary in the name of the Beneficiary and/or the account number of the Beneficiary furnished to the Bank by the Company. When a Payment Order identifying a Beneficiary or Beneficiary's Bank by both name and identifying number is received by the Bank; the number will be relied on as the proper identification.
- (f) **Unclear or Inaccurate Instructions** - If the Bank cannot complete a Funds Transfer due to unclear or inaccurate instructions or for any other reason, the Bank will notify the Company or the Authorized Person via phone or in writing by the end of the next Business Day. The Bank shall have no liability to the Company by reason of the rejections of such instructions, or for any failure to provide notice of such rejection.
- (g) **Discrepancies** - The Company agrees that it or the Authorized Person to notify the Bank immediately if the Company or the Authorized Person notices any discrepancy involving the posting of the Funds Transfer or if the Company or the Authorized Person discovers a problem with the Funds Transfer. Written notice must be sent to the Bank of the problem to 301 Virginia Avenue, Fairmont, WV 26554, including a statement of relevant facts, within a reasonable time, not to exceed ten (10) days from the date of discovering the problem or after receipt of the latest Company bank account statement, whichever is sooner.
- (h) **Inconsistent Information** - If instructions describe the intended recipient of funds inconsistently by name and account number, then the Company acknowledges that payment by the receiving the Bank may be made on the basis of account number, even if that account is not owned by the person or entity named in the instructions. If the Company or the Authorized Person are the originator or provider of instructions for any Funds Transfer requests containing an inconsistent name and account number, the Company does hereby acknowledge and agree that the Company has the obligation to pay the Bank the amount of that instruction and such an obligation to pay the Bank shall not be excused in any such circumstances.

5. LIABILITY.

- (a) Article 4A and Regulation J. for a Funds Transfer subject to (i) Article 4A of the Uniform Commercial Code or (ii) Regulation J, which governs Fedwire (as a consequence of a part of the related Funds Transfer having been carried out through the use of Fedwire), the Bank will not be liable for any expense, claim, loss, damage, or cost (collectively, "Damages") arising out of or relating to the Bank's performance under this Agreement other than those damages required to be paid under Article 4A or the Fedwire Regulation, as applicable; provided however, that the Bank shall not be liable for any such Damages to the extent otherwise disclaimed or reduced in this Agreement.
- (b) **Other Funds Transfers** - In addition to and without limiting the terms of Section 5 of the Agreement, for Funds Transfer requests other than those described in subsection (a) above and for the Bank's other obligations under this Agreement, the Bank will not be liable for any Damages arising out of or relating to the Bank's performance under this Agreement, subject to the limits set forth below. The Bank's liability is limited to direct money Damages that the Company actually incurs in an amount not exceeding the greater of (i) the compensation the Bank receives according to the Company's account analysis statement during the month in which such acts or omissions occurred, or (ii) the amount, if any, of funds transferred from an account with the Bank owned or controlled by the Company (a) exceeding the amount specified in the applicable Payment Order or (b) to an account not specified in the applicable Payment Order. However, the Bank will not be liable for any Damages unless the Company reports such to the Bank within fourteen (14) days of the date the Company receives (i) the Advice (defined below) of the erroneous Funds Transfer, or (ii) the monthly statement which reflects such erroneous Funds Transfer. If such an excess or incorrect Transfer occurs, the Bank also will calculate and pay or credit compensation equivalent to interest on the excess amount or the amount incorrectly transferred, as applicable.
- (c) **Interest Calculation** - If the Bank is obligated to pay compensation equivalent to interest, such will be calculated by the Bank as follows, unless the Bank and the Company expressly agree otherwise;
 - I. If the applicable amount is an analyzed account, the Bank will adjust the aggregate ledger and collected balances of the Company's account to reflect properly in the average balances on the account analysis the amount that would have resulted had no error occurred.
 - II. If the applicable account is a non-analyzed interest-bearing account, the Bank will calculate the amount using the applicable interest rate(s) for the account; and
 - III. If the applicable account is a non-analyzed, non-interest-bearing account, the Bank will calculate the amount using the average of the Federal Fund rates published by the Federal Reserve Bank of New York for the relevant period. If the Bank is required to refund payment to the Company because a Funds Transfer is not completed, then the interest shall be adjusted by a percentage equal to the Bank's reserve requirement for the applicable account; but



IV. Compensation, if any, for loss of interest or use of funds due to the Company as a result of a Bank error or of the Bank's failure to execute a Payment Order on the date received when the Order is received prior to the Bank's published deadlines, will be for a period not exceeding fourteen (14) days, or the date of actual transfer or error correction, whichever occurs first.

(b) One Year Limit - No action arising out of any claimed breach of this Agreement or transaction under this Agreement may be brought by the Company more than one (1) year after the cause of action has occurred.

6. THE BANK'S AND THE COMPANY'S REPRESENTATIONS AND DUTIES.

(a) The Company - The Company represents that neither this Agreement nor any transaction contemplated hereby will violate any currency exchange control regulation or any other legal restriction applicable to the Company or such transaction, and the Company authorizes and directs the Bank to execute all Payment Orders. The Company will assume full responsibility for all transfers executed by the Bank in good faith and in accordance with the procedures established herein and agrees that the Bank shall be conclusively deemed to have discharged its duty to act in good faith if it has followed the transfer procedures as contained in the attached Exhibits and the Bank's Operating Procedures or other documents of similar import, and agrees that The Bank assumes no responsibility beyond its duty to exercise ordinary care.

(b) The Bank - The Bank's duties and responsibilities are limited to those described in this Agreement and to act in good faith with ordinary care. In addition to and without limiting its obligations under Section 5 of the Agreement, the Company will indemnify and hold the Bank harmless from any claims, demands, expenses (including reasonable attorney's fees and costs), losses, or damages of any nature whatsoever arising out of the Bank's acting upon a Payment Order by persons purporting to be Authorized Persons and which transfers are made by the Bank in accordance with this Agreement or from the Bank's refusal to act upon requests not made in accordance with this Agreement or which cannot be authenticated by the Bank if the Bank elects to attempt authentication.

7. **NOTIFICATION OF FUNDS TRANSFERS.** The Bank will email, mail, or provide phone notification (as the Bank desires) daily to the Company at the address(es) listed on Exhibit 6 notification(s) (an "Advice") of all Funds Transfer(s) made which affect the Company's Account(s). The Company agrees to exercise ordinary care to determine whether an Advice or a monthly statement contains an error or if there is any discrepancy between the Company's records and the notification mailed by the Bank. The Company further agrees that the Company's right to assert a claim against the Bank with respect to any Funds Transfer reasonably identified on a monthly statement or Advice shall expire (if not reported to the Bank) after thirty (30) days of the Company's receipt of the Advice or statement whichever first occurs.

8. **MISCELLANEOUS OPERATING PROCEDURES.** All requests by the Company for transfers shall conform to the procedures as the Bank may from time to time prescribe. The Bank may change these procedures from time to time upon three (3) days prior written notice to the Company. The Company further agrees that it will prevent the disclosure within and outside of its organization, except on a "need to know" basis, of any of the Bank's procedures relating to Funds Transfers. If the confidentiality of the procedures is compromised, the Company will notify the Bank immediately.

9. **ADDITIONAL FORMS AND INFORMATION.** The Company agrees to supply to the Bank any additional forms or information which the Bank may reasonably request including, but not limited to, transfer authority, accounts to be affected, dates of transfer, supplemental instructions and further evidence of any Authorized Person's authority to transfer funds or to do any other act contemplated hereunder.

END OF TERMS



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