

## Table of Contents

1. Agreement and Consent to Conduct Business Electronically .....	5
2. Relationship to Other Agreements .....	5
3. Contacting Us .....	6
4. Authority .....	6
5. Accessing Services Through Business Online Banking .....	6
6. Accessing Services By Telephone .....	6
7. Account Management Services .....	7
a. Account Inquiries .....	7
b. Data Import and Export .....	7
8. Transaction and Payment Services .....	7
a. Internal Transfers .....	7
b. Sweep Service .....	7
i. Target Balance and ZBA Sweeps .....	8
ii. Loan Sweep Service .....	9
iii. Sweep Service Fees .....	10
iv. Miscellaneous .....	10
c. Bill Pay Service .....	10
i. Acknowledgement and Authorization .....	10
ii. Return Thresholds .....	11
iii. Compliance with NACHA Rules and Applicable Law .....	11
iv. Suspension, Termination for Violation of Rules .....	11
v. Entries.....	11
vi. Processing of Entries .....	12
vii. Third-Party Service Providers .....	12
viii. Your Account Payments; Fees .....	12
ix. Your Credit Approval .....	12

x. Our Liability .....	12
xi. Cut-Off Times .....	13
e. Wire Transfer Service .....	13
i. Execution of Wire Transfers .....	13
ii. Notices Concerning Wire Transfers .....	14
iii. Cut-Off Times .....	14
iv. Payment .....	14
f. Duty to Report Unauthorized or Erroneous Payment .....	14
g. Draw-Down Wires/Reverse Wire Requests .....	15
h. Error Resolution for Wire Transfers; Limitation of Liability for Wire Transfers .....	15
i. Reliance On Your Instructions and Your Responsibility to Provide Accurate Information .....	15
j. Foreign Currency .....	15
k. Transaction Limits .....	16
l. Exposure Limits .....	16
m. Stop Payment Requests .....	16
n. Amendment or Cancellation of Transaction Requests .....	16
o. Our Right to Reject Transactions .....	17
p. Notice of Transactions and Rejections .....	17
q. Taxes .....	17
r. Use of Fund Transfer Systems and Consent to Governing Rules .....	17
9. Risk Management Services .....	18
a. Positive Pay Service .....	18
b. Traditional Positive Pay .....	18
c. Payee Positive Pay .....	18
i. Handling of Exception Checks .....	18
ii. Issued Item Files .....	19
iii. Cut-off Times .....	19
d. ACH Verification Service .....	19

i. ACH Filtering .....	19
ii. ACH Blocking .....	19
iii. Notification .....	19
10. Remote Deposit Capture Service .....	19
a. RDC Service Instructions; Legal Requirements .....	20
i. Limited Sublicense for Use of the Program .....	20
ii. Your Security Responsibilities .....	20
iii. Authorized Equipment .....	20
iv. Check Handling; Collections .....	21
v. Provisional Credit; Funds Availability .....	21
vi. Returned Deposit Items .....	21
vii. Cut-Off Times .....	22
11. Prohibited or Restricted Uses of Services .....	22
12. Security Procedures .....	22
a. Online Service Security Procedures .....	23
b. Customer Service Center Security Procedures .....	23
c. Other Security Procedures .....	23
13. Responsibility for Safeguarding Security Procedures and Related Information .....	23
14. Responsibility for Customer Technology and Equipment .....	24
15. Acceptance of Risk When Using the Internet and Other Third-Party Communication Tools and Systems ..	24
16. Information Processing and Reporting .....	25
a. Your Use of Email and the Internet .....	25
b. Information You Provide to Us .....	25
c. Your Instructions .....	25
17. Your Creditors .....	25
a. Your Review of Data and Information .....	26
18. Fees .....	26
19. Liability, Disclaimer of Warranty and Indemnification .....	26

a. Our Liability for Unauthorized and Erroneous Transactions .....	26
b. General Limitation of Liability .....	26
c. DISCLAIMER OF WARRANTY .....	27
d. Indemnification .....	27
20. Arbitration Agreement .....	27
a. Agreement to Arbitrate .....	27
b. Claims Covered By Arbitration .....	28
c. Claims Not Covered By Arbitration.....	28
d. Pre-Arbitration Demand .....	28
e. Commencing an Arbitration.....	29
f. Arbitration Procedure.....	29
g. Costs and Expenses .....	30
h. JURY WAIVER AND LIMITATION OF RIGHTS .....	30
i. CLASS ACTION AND REPRESENTATIVE ACTION WAIVER.....	30
ii. PUBLIC INJUNCTIVE RELIEF WAIVER .....	31
i. Governing Law .....	31
j. Severability .....	31
21. Other Terms and Conditions .....	31
a. Our Business Days .....	31
b. Our Relationship With You.....	31
c. Periodic Reporting of Financial Information .....	32
d. Audits and Inspections .....	32
e. Force Majeure.....	32
f. Default.....	32
g. Right of Set-Off; Remedies Cumulative.....	33
h. Third-Party Institutions and Service Providers .....	33
i. Monitoring, Recording and Use of Communications.....	33
j. Choice of Law and Venue .....	33

k. Notices .....	34
l. Term, Termination and Modification of Agreement and Services .....	34
m. Severability .....	35
n. Limitations of Assignment .....	35
o. No Third-Party Beneficiaries .....	35
p. Entire Agreement .....	35
q. Survival .....	35
r. Statute of Limitations .....	35
s. Interpretation .....	35
22. Definitions .....	36

**NOTE: THE TERMS OF THIS TREASURY MANAGEMENT SERVICES AGREEMENT ARE SUBJECT TO BINDING ARBITRATION AND A WAIVER OF CLASS ACTIONS AND YOUR RIGHT TO A JURY, SEE SECTION 20 BELOW.**

## **1. Agreement and Consent to Conduct Business Electronically**

This Treasury Management Services Agreement ("Agreement") sets forth the terms and conditions governing the treasury management services ("Services") provided by Gate City Bank. The Services include any and all commercial banking products and services provided under this Agreement, which you may elect to receive by submitting a Treasury Management Application and any related set-up forms (or as the Bank may otherwise permit) (collectively, "Treasury Management Forms"). This Agreement includes your Treasury Management Forms, the Schedule of Fees, and any other agreements, user guides, procedures, supplements, schedules, or exhibits attached hereto, each of which is incorporated herein by reference. When you see the words "we," "us," "our," or "Bank" in this Agreement, it refers to the Bank and any of the Bank's affiliates, successors, assignees, agents or service providers. When you see the words "you," "your," or "customer," it refers to you, the business entity using or requesting the Services, as well as the customer's Authorized Users, officers, representatives, agents and successors. "Authorized Users" are individuals who you authorize to access the Services on your behalf.

By accepting this Agreement or otherwise using, requesting or applying for any of the Services, you agree to be bound by this Agreement as well as any other agreement or document we may provide to you from time to time in connection with the Services, and you consent to conducting business electronically in accordance with our Electronic Communications Disclosure and Consent.

## **2. Relationship to Other Agreements**

Except as may be modified by this Agreement, all provisions of the Bank's deposit account or credit terms and conditions and any other agreements between you and the Bank regarding any deposit account, credit

account, or service unrelated to the Services governed by this Agreement (collectively, “Other Agreements”) will remain in full force and effect during the term of this Agreement, including all related fees and charges. If the specific terms and conditions of this Agreement conflict with any Other Agreement with respect to the Services, the terms and conditions of the Other Agreement shall control unless otherwise specified in this Agreement, but only to the extent necessary to resolve the conflict.

### **3. Contacting Us**

You may contact us with any inquiries, notices, questions or concerns related to the Services by telephone or by mail. The best way to contact us is by calling our Customer Service Center at (701) 293-2400 or (800) 423-3344. You may also contact us by mail. Our address is 500 2<sup>nd</sup> Avenue North, Fargo, ND 58102.

### **4. Authority**

We may request and you agree to provide information, documentation and or other evidence satisfactory to the Bank of you or your Authorized Users’, officers’, representatives’ or agents’ authority to execute and perform the obligations set forth in this Agreement or to use the Services. You acknowledge that the Bank is entitled to rely upon any such evidence of authority you provide. You must notify us immediately in writing of any change to such authority and provide us with evidence of the change. You understand that it will generally take up to 5 business days (and may take longer if we encounter unexpected delays) for us to act upon such notice and agree that any action we take or decline to take in connection with the Services before the end of this time period may not be affected by your notice.

### **5. Accessing Services Through Business Online Banking**

As part of the Services, you may be given access to the Business Online Banking Service (the “Online Service”). You may designate the deposit accounts, loan accounts, and lines of credit at the Bank (“Authorized Accounts”). The Online Service allows you to access certain Services and features through our online portal or mobile application that permits you to (i) view account information; (ii) access certain documents related to your accounts or relationship with us; and (iii) request certain transactions. You must submit an application to gain access to our Online Service. After submitting an application, we will notify you when the Online Service becomes available to you. Your use of the Online Services is governed by the Online and Mobile Banking Agreement.

### **6. Accessing Services By Telephone**

Certain Services may be accessed by calling our Customer Service Center and following the instructions provided. We may require that you comply with additional Security Procedures when accessing Services through our Customer Service Center.

We will never initiate a telephone call to you to request your account or card numbers, login credentials, PINs, or other sensitive information. You should only provide such information to us or attempt to access the Services through our Customer Service Center if you have initiated the call. If you receive a call from us about a transaction, we will only ask you to verify your identity, the payee, the amount of the transaction, and, if applicable, provide a call back or verification code previously provided to you.

## **7. Account Management Services**

The Bank offers several Services that allow you to manage your accounts and access related information and documents ("Account Management Services"). For security reasons, the data and information you may access through the Account Management Services are provided from a system separate and apart from the Bank's core data processing system. You acknowledge and agree that, in the event of any discrepancy between information retrieved using the Account Management Services and the Bank's core data processing system, the information from our core system shall be considered the information of record and will be assumed to be accurate.

### **a. Account Inquiries**

You may obtain account and transaction information using the Online Service or by calling our Customer Service Center, including account balances, transaction histories, cleared checks and check images, and other information.

### **b. Data Import and Export**

Most customers may download account transaction histories through the Online Service in a format that can be imported into compatible accounting systems or personal or small business financial software; provided, we do not guarantee any such compatibility and have no obligations or liability related to any such systems or software. You may also upload information from certain check-writing software programs to the Online Service.

## **8. Transaction and Payment Services**

We offer a variety of transaction and payment related Services ("Transaction Services") that allow you to request a transfer of funds to and from your accounts and make and receive payments to or from third parties (each, a "Transaction Request"). Many of the Transaction Services can be accessed through the Online Service or by calling our Customer Service Center. Certain Transaction Services require you to submit an application and your access to them is subject to our approval. Some Transaction Services are also subject to additional terms, conditions, limitations, and Security Procedures contained in separate agreements, applications, or disclosures provided to you before or at the time you are given access to the Service.

### **a. Internal Transfers**

You may request internal transfers of funds from any Authorized Account in an amount up to the available balance in that account to any other Authorized Account. This includes internal transfers between two deposit accounts, transfers from a deposit account to make a payment on a loan account or line of credit, or advances from a line of credit to a deposit account, provided each account involved in the transfer has been designated as an Authorized Account.

### **b. Sweep Service**

This Service allows you to establish Target Balance account sweeps ("Target Balance Sweep Services"), zero balance account sweeps ("ZBA Sweep Services"), and sweeps relating to your line of credit (the

“Loan Sweep Service” and, together with the ZBA Sweep Services and the Target Balance Sweep Services, collectively, the “Sweep Services”).

**i. Target Balance and ZBA Sweeps**

You may establish automatic transfers between a master or parent demand deposit account (“Master Account”) and one or more designated demand deposit sub-accounts (“Child Accounts”) held by you, whereby funds will be transferred between the Master Account and Child Accounts each Business Day to maintain a specified balance (“Target Amount”) or threshold range (“Threshold Range”) in each Child Account. The Target Amount or Threshold Range will be established by you in the Treasury Management Form for the Sweep Service. The Sweep Service can also be used to designate one or more child accounts as zero-balance sweep accounts.

The Bank will transfer funds from the Master Account to the Child Accounts when the balance in the Child Accounts falls below the Target Amount or Threshold Range, or transfer funds from the Child Accounts to the Master Account when the balance in the Child Accounts exceeds the Target Amount or Threshold Range, as directed by you in the Treasury Management Form for the Sweep Service. You may also designate one or more Child Accounts as zero-balance sweep accounts in the Treasury Management Form for the Sweep Service.

This Service is only available to business customers and may not be used for personal, family, or household purposes.

By electing to use the Sweep Service, you are requesting the Bank to set up a Master Account, which services a designated number of Child Accounts and authorizes the Bank to initiate transfers of funds between the Master Account and Child Accounts. The designated Child Accounts will be able to complete transactions but will maintain a specified balance or threshold range. Funds will be controlled through the Master Account. Transfers will be executed in accordance with instructions provided by you in the Treasury Management Form for the Sweep Service. You acknowledge that transfers between the Master Account and Child Accounts will occur each Business Day after all debits and credits have been processed for the Child Accounts. The amount of each transfer will be based upon the amount necessary to maintain the Child Accounts at the Target Amount or Threshold Range established by you. You agree to maintain a sufficient balance in the Master Account to cover the transfers requested. If the Master Account does not have a sufficient balance, the Child Accounts will not be funded. If the balance in the Master Account is insufficient to cover the transfers authorized, the Bank, in its sole discretion, and without limiting the generality of its termination rights under Section 21(l), may cancel the Sweep Service immediately without notice and exercise its rights and remedies under applicable laws and regulations. This may include refusing payment of any outstanding and unpaid check drawn on any relevant account and withholding from processing any transaction generated on such account until sufficient collected funds to cover such transaction have been credited to the Master Account.

## ii. Loan Sweep Service

For purposes of the Loan Sweep Service, the following terms have the following definitions:

- “Loan Documents” means any document, instrument, or agreement related to your LOC, for example, a loan agreement, note, and security agreement.
- “LOC” means your line of credit with us.
- “LOC Sweep Account” means any Authorized Account designated by you for Loan Sweep Services, such as an operating account or a money market savings account.
- “LOC Sweep Account Target Balance” means the balance designated to be maintained in the LOC Sweep Account.
- “LOC Sweep Account Target Balance Excess” means the amount by which the balance in the LOC Sweep Account at the end of any Business Day exceeds the LOC Sweep Account Target Balance.
- “LOC Sweep Account Target Balance Shortfall” means the amount by which the balance in the LOC Sweep Account at the end of any Business Day is less than the LOC Sweep Account Target Balance.

You may request the Bank, for each Business Day that there is an LOC Sweep Account Target Balance Excess, to debit the LOC Sweep Account for any amount that is owed to the Bank under your LOC, up to the amount of the LOC Sweep Account Target Balance Excess, and apply the amount of the debit to pay any such owed amounts.

You may also request the Bank, for each Business Day that there is an LOC Sweep Account Target Balance Shortfall, to make an advance under your LOC and credit the LOC Sweep Account; provided, that, (a) such amount is available to be borrowed under your LOC (however, the Bank may, in its sole discretion, make an advance up to the amount that is available for borrowing under the LOC, even if it would not fully cure the LOC Sweep Account Target Balance Shortfall), (b) you are not in default under the terms of the Loan Documents, and (c) you are otherwise permitted to request any such advance under your LOC.

All transfers will be executed in accordance with the instructions provided by you on the applicable Treasury Management Form (or otherwise).

If the Bank has agreed to provide any other service under which the Bank will transfer funds to or from the LOC Sweep Account, the Bank may, in its discretion, credit or debit the LOC Sweep Account in accordance with your instructions for the Loan Sweep Service in lieu of or prior to initiating such other transfer, without incurring any liability.

Without limiting Section 21(l), the Bank shall have the right, at any time and without providing notice to you or obtaining your further consent, to suspend or terminate the Loan Sweep Service if you are in default under the Loan Documents or if the LOC is terminated or is no longer in effect. You acknowledge and agree that the Loan Sweep Service does not modify or supersede any rights or obligations contained in the Loan Documents.

THIS NOTICE IS GIVEN PURSUANT TO APPLICABLE LAW: IN THE UNLIKELY EVENT OF THE FAILURE OF THE BANK, THE FEDERAL DEPOSIT INSURANCE CORPORATION ("FDIC") WILL ALLOW THE BANK TO CONTINUE TO COMPLY WITH YOUR INSTRUCTIONS, UP TO AND INCLUDING THE DATE OF THE FAILURE, TO DEBIT THE LOC SWEEP ACCOUNT IF THERE IS AN LOC SWEEP ACCOUNT TARGET BALANCE EXCESS, AND THESE DEBITED FUNDS WILL NOT BE TREATED AS DEPOSITS BY THE FDIC. ANY REMAINING FUNDS IN THE LOC SWEEP ACCOUNT WILL BE DEEMED DEPOSITS AND WILL BE INSURED UP TO THE APPLICABLE FDIC LIMITS.

**iii. Sweep Service Fees**

You authorize the Bank to debit your Master Account or LOC Sweep Account, as applicable, as the primary source of payment for the fees specified in the Schedule of Fees or as otherwise provided to you by the Bank. Fees will be debited from your applicable account monthly.

**iv. Miscellaneous**

The Bank reserves the right to eliminate or change the Sweep Services provided under this Agreement at any time without prior notice. You must follow the Bank's required process in order to make additions or deletions of accounts subject to the Sweep Service, including to submit a new Treasury Management Form for the Sweep Service. You acknowledge that no separate notices will be provided to you related to the Sweep Service.

**c. Bill Pay Service**

The Bill Pay Service allows you to request a payment or initiate a payment to a third party. The Bill Pay Service can be accessed through the Online Service and allows you to request one-time or recurring payments from an Authorized Account to another party, including individuals, companies or organizations. The Bill Pay Service is subject to the terms and conditions set forth in the Online and Mobile Banking Agreement.

**d. Automated Clearing House Service**

The Automated Clearing House ("ACH") Service allows you to initiate debit or credit ACH entries ("Entries") to accounts maintained by us and other financial institutions through the ACH Network. You will be required to apply for access to the ACH Service and provide any requested documentation and information before you will be permitted to initiate Entries.

**i. Acknowledgement and Authorization**

The ACH Service is intended to be used to transmit Entries for which you are the "Originator" of the Entry as defined by the National Automated Clearing House Association ("NACHA") Operating Rules (the "Rules"). If we determine that you are a "Third-Party Sender" or other designation under the Rules, we may require you to agree to additional terms, conditions and obligations by separate written agreement before approving your access to, or allowing you to continue to use, the ACH Service. By applying for or using the ACH Service, you authorize the Bank to transmit any Entry received by the Bank from you in accordance with the Rules and the terms of this Agreement and to credit or debit the amount of such Entry to the account(s) that you specify.

**ii. Return Thresholds**

The Rules establish thresholds for returned ACH transactions, including for returns on the basis that the transaction was unauthorized, returns for administrative reasons, and total returns regardless of cause (collectively, “ACH Return Thresholds”). You agree that you will not exceed ninety-five percent (95%) of any ACH Return Threshold contained in the Rules.

If you reach or exceed any ACH Return Threshold, we may, at our sole discretion, in addition to any of our other rights under this Agreement; (i) reduce your Exposure Limits under Section 8(l); (ii) suspend your use of the ACH Service until you demonstrate to our satisfaction that you have a reasonable plan for reducing your return rates; (iii) terminate your access to the ACH Service; or (iv) take any other action we deem necessary to protect the Bank or the ACH Network.

**iii. Compliance with NACHA Rules and Applicable Law**

Your rights and obligations with respect to your use of the ACH Service and any Entry are governed by the Rules, this Agreement, and the laws of the state of North Dakota. The current Rules are available online at [www.nachaoperatingrulesonline.org](http://www.nachaoperatingrulesonline.org). By using the ACH Service, you expressly agree to comply with and be bound by the Rules, as well as applicable law. You may not transmit any Entry or engage in any act or omission that violates or causes the Bank to violate the Rules, applicable laws, regulations or regulatory requirements, including regulations of the Office of Foreign Asset Control (OFAC), sanctions or executive orders. You warrant and represent that you have access to the most recent version of the Rules and have reviewed and understand the Rules prior to initiating any Entries.

**iv. Suspension, Termination for Violation of Rules**

In addition to any other suspension or termination rights set forth in this Agreement, you acknowledge that we may suspend, terminate, or limit your access to the ACH Service and your ability to transmit Entries immediately if you violate the Rules, cause us to violate the Rules, or if you exceed any ACH Exposure Limits or ACH Return Thresholds. If we take any such action, we will inform you in writing.

**v. Entries**

You agree only to transmit Entries to us that comply with any instructions we provide with respect to the transmittal of Entries (“ACH Origination User Guides and other job aids or guides”). We have no obligation to transmit any Entry that would violate applicable law, or if you fail to comply with the Rules, this Agreement, or any ACH Origination User Guides and other job aids or guides.

You agree that the Bank may proscribe ACH Origination User Guides and other job aids or guides that set forth specific methods and procedures for your use of the ACH Service, including your transmittal of Entries, which we may change from time to time at our sole discretion. You agree that you are bound by the terms of the ACH Origination User Guides and other job aids or guides as if such terms were provisions of this Agreement.

You understand and agree that the Bank has no obligation to monitor your use of the ACH Service for impermissible transactions or to detect or correct any errors with respect to the Entries you transmit to us.

**vi. Processing of Entries**

You understand that you have no right to cancel or amend any Entry after the Bank receives it. However, the Bank will use reasonable efforts to act on your requests to cancel an Entry before transmitting it to the ACH Operator or crediting or debiting an account held by the Bank.

You understand and agree that we may rely solely on the account numbers provided with any Entry and payment of the Entry may be made on the basis of such number even if it identifies a person different from the named Receiver.

**vii. Third-Party Service Providers**

You may only use special equipment, services or software provided by a third party to assist you in creating and transmitting Entries ("Service Provider") with the Bank's written approval. If you use a Service Provider to transmit Entries to the Bank, you agree that (i) the Service Provider is acting as your agent in the delivery of Entries to the Bank, and (ii) you assume full responsibility and liability for any failure of Service Provider to comply with applicable laws, the Rules, and this Agreement.

**viii. Your Account Payments; Fees**

You agree to pay for all credit Entries that you or the customer's Authorized Users make, as well as credit Entries otherwise made effective against you. You agree to pay the Bank on the date as determined by the Bank in its sole discretion. The relevant fees for the ACH Service are as disclosed to you on the Schedule of Fees and along with your Account Opening Agreement.

You also agree to pay the Bank for the amount of each debit Entry returned by another financial institution or debit Entry dishonored by the Bank.

**ix. Your Credit Approval**

By providing you with access to the ACH Service, the Bank is making certain warranties on your behalf; specifically, the Bank is assuring the ACH network that you are able to pay for the intended Entries. Accordingly, you agree to provide the Bank with any ACH agreements that you make, supplemental financial information, and a separate credit agreement if the Bank so requests.

**x. Our Liability**

In addition to the limitations of liability described below in Section 19, and notwithstanding the generality of Section 19(c), to the extent allowed by applicable law, the Bank shall not be liable for, and shall be excused from failing to transmit or any delay in transmitting an Entry, (i) if such transmittal would result in the Bank's having exceeded any limitation upon its intra-day net funds position established pursuant to present or future Federal Reserve guidelines; (ii) if, for any reason, the ACH Operator fails or declines to process an Entry; (iii) if, in the Bank's sole discretion,

processing an Entry would violate or contribute to the violation of any present or future risk control program of the Federal Reserve or any Rule, law, regulation or regulatory requirement; (iv) if processing an Entry, in the Bank's sole discretion, would cause it to engage in an unsafe and unsound practice; or (v) you fail to send a response to the Bank's acknowledgement, as described in any ACH Origination User Guides and other job aids or guides. Subject to the limitations of liability described in Section 19, to the extent of the Bank's liability for loss of interest resulting from its error or delay, any such interest shall be calculated by using a rate equal to the average Federal Funds rate at the Federal Reserve Bank of New York for the period involved. At the Bank's option, payment of such interest may be made by crediting your Account.

The Bank is not responsible for your acts or omissions (including the amount, accuracy, timeliness of transmittal or authorization of any Entry received from you) or those of any other person, including any Federal Reserve Bank, ACH operator or transmission or communications facility, any Receiver or RDFI as defined in the Rules (including the return of an Entry by such Receiver or RDFI), and no such person shall be deemed the Bank's agent.

**xi. Cut-Off Times**

Cut-off times for the ACH Service are as set forth in the Account Opening Agreement. Any Instruction received from you after the applicable cut-off time shall be deemed to have been received on the next Business Day.

**e. Wire Transfer Service**

The Wire Transfer Service allows you to request wire transfers electronically through the Online Service from an Authorized Account permitted to send and receive wire transactions. If you have not designated an Authorized Account, any account you have with us is an Authorized Account to the extent that payment of the wire Instruction is not inconsistent with the use of the account. Your access to the Wire Transfer Service is subject to our approval. When making a request for a wire transfer through the Online Service, you will receive a message from us confirming our receipt of your wire Instructions.

**i. Execution of Wire Transfers**

An Instruction for a wire transfer request is considered accepted by us when we execute the wire transfer. We will only accept an Instruction for a wire transfer request if: (i) we actually receive wire Instructions from you; (ii) the Instructions identify the Authorized Account from which the wire will be paid; (iii) you have sufficient available funds in the Authorized Account to pay for the wire and any applicable fees; (iv) the requested wire transfer would not exceed any applicable transaction limits or restrictions; (v) the request is made in accordance with applicable Security Procedures; and (vi) complies with applicable federal and state laws, as well as the rules of the applicable payment system. You must pay us the amount of the wire transfer, plus any applicable fees, before we will execute the request. You may give us a wire Instruction electronically, or in writing, but your order cannot state any condition to payment to the creditor other than the time of payment.

**ii. Notices Concerning Wire Transfers**

If we determine, at our sole discretion, not to honor, execute or accept a wire transfer request, we will make reasonable efforts to notify you. We will also make reasonable efforts to notify you promptly if a wire transfer is returned to us after its execution. In either case, we will have no liability by reason of our delay or failure to provide you with notice.

We are not obligated to accept any wire Instruction that you give us, although we normally will accept your wire Instruction if you have a withdrawable credit in an authorized account sufficient to cover the order. If we do not execute your wire Instruction, but give you notice of our rejection of your wire Instruction after the execution date or give you no notice, we are not liable to pay you as restitution any interest on a withdrawable credit in a non-interest-bearing account. If we receive a wire instruction credit an account you have with us, we are not required to provide you with any notice of such wire instruction or the credit.

**iii. Cut-Off Times**

Cut-off times for the Wire Transfer Service are as set forth in the Cut-Off Times Schedule. Any Instruction received from you after the applicable cut-off time shall be deemed to have been received on the next Business Day.

**iv. Payment**

If we accept a wire Instruction you give us, we may receive payment by automatically deducting from any Authorized Account the amount indicated in the wire Instruction plus the amount of any expenses and charges for our services in execution of your wire Instruction. We are entitled to payment on the payment or execution date. Unless your wire Instruction specifies otherwise, the payment or execution date is the funds transfer date on which we receive the wire Instruction. The funds transfer is completed upon acceptance by the creditor's bank. Your obligation to pay your wire Instruction is excused if the funds transfer is not completed, but you are still responsible to pay us any expenses and charges for our services. However, if you told us to route the funds transfer through an intermediate bank, and we are unable to obtain a refund because the intermediate bank that you designated has suspended payments, then you are still obligated to pay us for the wire Instruction. You will not be entitled to interest on any refund you receive because the creditor's bank does not accept the wire Instruction.

**f. Duty to Report Unauthorized or Erroneous Payment**

You must exercise ordinary care to determine that all wire Instructions or amendments to wire Instructions that we accept that are issued in your name are authorized, enforceable, in the correct amount, to the correct creditor, and not otherwise erroneous. If you discover (or with reasonable care should have discovered) an unauthorized, unenforceable, or erroneously executed wire Instruction or amendment, you must exercise ordinary care to notify us of the relevant facts. The time you have to notify us will depend on the circumstances, but that time will not in any circumstances twenty-four (24) hours from when you are notified of our acceptance or execution of the wire Instruction or amendment or that your account was debited with respect to the order or amendment. If you do not provide us

with timely notice, you will not be entitled to interest on any refundable amount. If we can prove that you failed to perform either of these duties with respect to an erroneous payment and that we incurred a loss as a result of the failure, you are liable to us for the amount of the loss not exceeding the amount of your order.

**g. Draw-Down Wires/Reverse Wire Requests**

We may offer you a “reverse wire” or “draw-down” service (“Draw-Down Wire Service”) that allows you to authorize a third party to submit payment requests to us, the amount of which plus any applicable fees we will draw from an Authorized Account you designate and send to the third party by wire transfer. Your access to the Draw-Down Wire Service is subject to you providing an authorization request to us and our approval. The terms and conditions of this Agreement (including this subsection (e)) apply to Draw-Down Wire requests and instructions made by an authorized third party to the same extent as Instructions for a wire transfer request provided by you.

**h. Error Resolution for Wire Transfers; Limitation of Liability for Wire Transfers**

You agree that all wire transfers will be reflected on your periodic statement and we are not required to provide you with a separate notice of incoming or outgoing wire transfers. You should review your statement promptly for any discrepancies, unauthorized transactions or errors in connection with any funds transfers (each, an “Error”). You must contact us in writing upon the earlier of: (i) your discovery of any Error, or (ii) within thirty (30) days from the date your statement showing the Error is made available to you. If you fail to notify us of an Error within that time period, we will have no obligation to pay interest on the amount of an unauthorized or erroneous funds transfer for which we are liable. Furthermore, you will also be liable to us for any Losses we may incur as a result of your failure to notify us within the time period set forth herein.

**i. Reliance On Your Instructions and Your Responsibility to Provide Accurate Information**

Be sure to carefully review all information you provide to us regarding any Transaction Request through any of the Services before authorizing the transaction. You are solely responsible for providing us with accurate and complete information with all Transaction Requests, including Transaction Requests we receive from third parties you have authorized through the Draw-Down Wire Service, and we are entitled to rely on the information provided. In addition, we and, if applicable, any intermediary banks may process any Transaction Request solely on the basis of the bank identifying numbers and account numbers you provide, even if the Transaction Request indicates a different creditor or recipient than the name associated with the identifying number or account number.

**j. Foreign Currency**

All Transaction Requests will be processed in U.S. Dollars. For the Wire Transfer Service only, you may request that we execute a wire transfer in the currency of a foreign government or intergovernmental organization. For such requests, we will debit your Authorized Account for an equivalent amount in U.S. Dollars, determined on the basis of our buying rate for such foreign currency on the date of the transfer. If any Transaction Request initiated in a foreign currency is subsequently reversed or returned, we will pay to you the value in U.S. Dollars of the amount of foreign currency received by us as

determined by our buying rate for that foreign currency on the date of receipt. We will have no liability to you for any loss due to a currency exchange.

**k. Transaction Limits**

You agree not to exceed the transaction limits applicable to any Service made available to you. Transaction limits applicable to your use of the Services may be changed or established from time to time at our sole discretion and may be requested or set forth in a Treasury Management Form or otherwise. We will notify you of any applicable transaction limits and any changes we make to such limits. We may decline to process any Transaction Request that will exceed applicable transaction limits.

**l. Exposure Limits**

We may establish limits to your transaction activity through the Transaction Services (“Exposure Limits”) to manage the Bank’s risk and avoid excessive rates of unpaid, returned or reversed transactions. If Exposure Limits are applied to your use of the Transaction Services, we may reject or refuse to honor any Transaction Request or other transaction that would cause you to exceed the Exposure Limit. Such Exposure Limits may be changed or established from time to time at our sole discretion. We will notify you of any applicable Exposure Limit and any changes we make to such limits. Such notice may be provided orally or in writing, including electronically, by any commercially reasonable means.

You acknowledge that any such Exposure Limits are in addition to the transaction limits disclosed to you and are not part of any Security Procedure. Exposure Limits may be waived by us in our sole discretion, and you understand that you may not rely on any Exposure Limits as a limit on the total amount of transfers or other transactions that may be authorized in your name on any business day.

**m. Stop Payment Requests**

Please refer to the Deposit Account Agreement and Disclosures governing your deposit account for our policies and procedures regarding stop payment requests. In addition, the terms and conditions for stop payment requests applicable to the Bill Pay Service is contained in the Bill Pay Terms of Service (including the “General Terms for Each Service,” the “Bill Payment Service Additional Terms,” and the “Zelle and Other Payment Services Additional Terms”).

**n. Amendment or Cancellation of Transaction Requests**

Except as permitted through the Online Service or by calling the Customer Service Center, and unless this Agreement or another agreement, user guide, or disclosure provides otherwise, you do not have a right to cancel or amend a Transaction Request once we have received it. However, we may attempt to amend or cancel a Transaction Request upon request at our sole discretion. If we attempt to reverse or modify a transaction at your request, we assume no liability therefor, including for any interest or losses that result if the reversal or modification is unsuccessful. Any request to amend or cancel a Transaction Request must include the exact amount (dollars and cents) of the Transaction Request at issue and, if applicable, clear instructions on how the Transaction Request should be modified. You are solely

responsible for providing notice to the receiver or beneficiary of the Transaction Request that a reversal or modification is being transmitted and the reason for the reversal or modification.

**o. Our Right to Reject Transactions**

Unless prohibited by applicable law, we may refuse any Transaction Request or other transaction for any reason at our discretion and without prior notice. This includes, but is not limited to, transactions we believe are illegal, fraudulent, violate any applicable funds transfer or payment network rules, violate the terms of this Agreement or any other agreement you have with us, would exceed any applicable transaction limits, would cause you to overdraw your account, or pose an undue risk to the Bank.

**p. Notice of Transactions and Rejections**

Unless otherwise specified in this Agreement or agreed to by you and the Bank, we will notify you of the execution, making or transmittal of Transaction Requests related to the Services. We will notify you if we, any funds transfer system or clearinghouse, or any other bank rejects or fails to execute a Transaction Request, and will inform you of the reason for the rejection or failure after we receive notice of the reason, unless prohibited by applicable law. If a Transaction Request is rejected, we will refund any monies debited from your account in connection with the Transaction Request only after we have received confirmation of the effective cancellation of the Transaction Request and the Bank is in possession of the funds associated with the Transaction Request. If the Transaction Request is payable in foreign currency, we will credit your account for the value of the Transaction Request after it has been converted to U.S. Dollars at the Bank's buying rate for exchange at the time the cancellation of the order is confirmed by us.

**q. Taxes**

You understand that you are responsible for all tariffs, duties, or taxes (excluding U.S. federal, state, and local taxation of the income of the Bank) imposed by any government or governmental agency in connection with any Transaction Request executed pursuant to this Agreement.

**r. Use of Fund Transfer Systems and Consent to Governing Rules**

The Bank may facilitate any Transaction Request by use of any ACH, Fedwire or other funds transfer system we choose at our discretion. If the accounts to be debited and credited pursuant to a Transaction Request are both maintained by the Bank, we may facilitate the Transaction Request by a "book" transfer rather than through a funds transfer system. The Bank will be responsible for selecting an ACH Operator for transmission of Transaction Requests involving ACH Entries. You acknowledge that all Transactions Requests will be governed by, and you agree to be bound to, the rules of the funds transfer system(s) we use to execute the Transaction Request ("Governing Rules"), including Fedwire, NACHA, the Clearing House Interbank Payments System ("CHIPS"), and the Society for Worldwide Interbank Financial Telecommunication ("SWIFT").

## 9. Risk Management Services

We offer the following Risk Management Services designed to allow you to reduce the risk of loss that could result from the payment of checks and ACH transfers not authorized by you or checks that are lost, stolen or altered after issuance. These Services are generally optional. However, we may condition your access to other Services or to maintain accounts with us on your use of the Risk Management Services.

### a. Positive Pay Service

This Service (the “Positive Pay Service”) is available to customers using the Online Service and restricts the payment of checks from Authorized Accounts. With Positive Pay, checks will be paid or returned based on specific criteria selected by you when you apply for the Positive Pay Service or selected through the Online Service. We offer two types of Positive Pay, (1) Traditional Positive Pay and (2) Payee Verification.

### b. Traditional Positive Pay

If you elect to use Traditional Positive Pay, you will be required to submit an “Issued Items File” to us through the Online Service each business day that checks are issued on an Authorized Account by the Cut-Off time indicated in the Cut-Off Times Schedule.

We will compare all checks that are presented to us for payment that are drawn on an Authorized Account to the Issued Items File and pay any check that matches the check number and amount listed in the Issued Items File without further action from you. We will post a list of any checks presented to us that were not included in the Issued Items File, or did not match the check number or amount listed in the Issued Items File (collectively, “Exception Checks”), to the Online Service each business day.

### c. Payee Positive Pay

You may also elect to use Payee Positive Pay. Payee Positive Pay follows the same procedures as Traditional Positive Pay described above, except the Issued Items File must also include the name of the payee on each check issued. Exception Checks will include those checks that do not match the applicable payee name in addition to those that do not match the check number or amount listed in the Issued Items File.

#### i. Handling of Exception Checks

When you apply for the Positive Pay Service, you must select between two options, “Pay Default” and “Return Default,” that will determine how we handle Exception Checks.

If you select Pay Default, we will pay any Exception Check unless you object to such payment by submitting a return request through the Online Service by the cut-off time shown in the Cut-Off Times Schedule.

If you select “Return Default,” we will return all Exception Checks unpaid unless you request that we pay an Exception Check by submitting a pay request through the Online Service by the cut-off time shown in the Cut-Off Times Schedule.

Return requests and pay requests must be in the form we require and accurately identify each Exception Check you want us to return or pay by check number and amount.

**ii. Issued Item Files**

Each Issued Items File must list all checks issued on each Authorized Account since the last Issued Items File provided to us. Each Issued Items File must include all information required by us and be provided to us in the format we specify.

**iii. Cut-off Times**

Cut-off times for Positive Pay Service decisioning are as set forth in the Cut-Off Times Schedule. Any Instruction received from you after the applicable cut-off time shall be deemed to have been received on the next Business Day.

**d. ACH Verification Service**

The ACH Verification Service is available to customers using the Online Service and restricts ACH transfers from Authorized Accounts. We offer two types of ACH Verification, (1) ACH Filtering and (2) ACH Blocking.

**i. ACH Filtering**

If you elect to use ACH Filtering, you will be permitted to establish parameters for ACH transfers to be paid or flagged for your further review through the Online Service. ACH transfers that are flagged for further review will require you to provide us with instructions to pay or block and return the transfer through the Online Service. All pay or return instructions must be provided to us by the cut-off time stated on the Cut-Off Times Schedule. Any instruction that we receive from you after the applicable cut-off time shall be deemed to have been received on the next business day. If you do not provide us with instructions by the cut-off time, we will return all flagged ACH transfers.

**ii. ACH Blocking**

If you elect to use ACH Blocking, ACH transfers will be blocked and returned to the sender based on the parameters you establish through the Online Service.

**iii. Notification**

You may be given various options to receive notifications related to the ACH Verification Service depending on the type of ACH Verification you choose. Such options will be accessible through the Online Service.

**10. Remote Deposit Capture Service**

We offer a Remote Deposit Capture ("RDC") Service that can assist you in making deposits without visiting a retail office location. You must apply and be approved to receive the RDC Service.

The RDC Service consists of a check scanning device (the “Scanner”), access to a browser-based software program, and all related materials and documentation (collectively herein the “Program”). The Program permits you to scan paper checks and electronically transmit images of the checks (“Check Images”) to the Bank for collection.

**a. RDC Service Instructions; Legal Requirements**

You agree that the Bank may proscribe specific methods of and procedures for your use of the RDC Service, check handling and the transmission of Check Images in separate instructions the (“RDC Service Instructions”), which we may change from time to time at our sole discretion. You agree that you are bound by the terms of the RDC Service Instructions as if such terms were provisions of this Agreement.

You agree to comply with the RDC Service Instructions and with all applicable state and federal laws, rules and regulations affecting the use of checks, drafts and Check Images.

**i. Limited Sublicense for Use of the Program**

Subject to the terms and conditions of this Agreement, the Bank grants you a non-transferable and non-exclusive sublicense to: (i) use the Program solely for processing checks in connection with your own business operations and in accordance with the applicable Program documentation and solely on equipment that has been approved by the Bank (“Authorized Equipment”) and (ii) copy and use the applicable Program documentation solely to support your authorized use of the Program. The Customer acknowledges and agrees that the Program is valuable, confidential, and proprietary property of the Bank or its vendors and agrees not to transfer, distribute, copy, reverse compile, modify, or alter the Program.

**ii. Your Security Responsibilities**

You are solely responsible for protecting against unauthorized access to the Scanner and the Program.

**iii. Authorized Equipment**

In order to participate in the Program, you must purchase or rent a Scanner from us; that Scanner is the only equipment you are authorized to use in connection with the Program. In certain circumstances, we may instruct you to work directly with a vendor of our choosing to purchase or lease a Scanner instead of providing one to you; in such instances, you will be authorized to use the Scanner provided by our designated vendor in connection with the Program. We will provide you access to the Program, as well as assistance during your initial installation of the Scanner and setup of the Program. You understand that you are solely responsible for any computer systems, networks, internet connections or other equipment you will use in connection with the Scanner and Program. The Bank’s entire liability and your exclusive remedy with respect to failures of the Scanner or the Program is limited to the replacement of any Scanner that is returned to the Bank.

After delivery and installation of the Scanner and Program, the Bank will assist you in obtaining technical support and other information for the operation and use of the Scanner from our vendor until the termination of your access to the RDC Service. Such support and information shall be provided at your expense, when applicable. We will also provide you with any modifications, refinements, and enhancements to the Scanner which our vendor may implement and for which we have received notification. However, you will remain solely responsible for ensuring that the Authorized Equipment is functioning properly.

**iv. Check Handling; Collections**

You agree to submit and deposit only checks (*i.e.*, drafts drawn on a credit union, savings and loan, or bank and payable on demand). You represent and warrant that each check and corresponding Check Image is provided in compliance in all respects with applicable law, this Agreement, and the RDC Service Instructions.

We will process Check Images according to the amount you enter, if applicable, or by the numeric amount shown. If the numeric amount is unclear, we may process the Check Image according to the written amount and may correct any amount that you entered.

**v. Provisional Credit; Funds Availability**

At its option, the Bank may either transmit Check Images for collection through the Federal Reserve system, peer-to-peer image exchange, or convert Check Images to substitute checks and place such substitute checks into the payment system for collection. Check Images received for deposit will be provisionally credited to your Account, subject to final collection. If the Bank does not receive such final payment for the Check Images, we are entitled to a refund from you in the amount of the credits to the Account. Funds will be available for withdrawal in accordance with our standard funds availability schedule, which is disclosed in your Deposit Account Agreement.

We will retain Check Images for forty-five (45) days or as may be required under applicable law. Fees for obtaining copies of Check Images may apply.

**vi. Returned Deposit Items**

The Bank may reject any Check Images if you are not in compliance with the terms of this Agreement, the RDC Service Instructions, or applicable law. We reserve the right to reject any Check Images and have no liability to you for such rejection. The Bank will handle returned Check Images in the manner described in the RDC Service Instructions.

The Bank reserves the right to redeposit dishonored checks and attempt collection again, unless you provide special Instructions regarding return deposit items.

**vii. Cut-Off Times**

Cut-off times for the RDC Service are as set forth in the Cut-Off Times Schedule. Any Instruction received from you after the applicable cut-off time shall be deemed to have been received on the next Business Day.

**11. Prohibited or Restricted Uses of Services**

You agree that you will not use, or permit any Authorized User to use, the Services in any way that would violate, or cause the Bank to violate, any federal, state or local laws, regulations, ordinances or rules, or any applicable payment or funds transfer network rules. You also agree that you, nor any of the customer's Authorized Users, will use the Services in connection with any restricted business activities without obtaining prior, written permission from the Bank. Restricted business activities include:

- Adult entertainment
- Cannabis or CBD
- Cryptocurrency and digital assets
- Gambling, betting, and lotteries
- The sale of schedules II-IV controlled substances with a pharmaceutical license
- Financial services, including banks, bank affiliates, securities brokers, money transmitters, investment companies, or investment funds

If you are engaged in any of these activities or businesses, we may require that you provide additional information and documentation to determine your eligibility to use the Services.

**12. Security Procedures**

We require the use of various security procedures in connection with the Services to verify that Transaction Requests, requests for information or documentation, and other Instructions you provide or actions you take are issued and authorized by you (each, a "Security Procedure"). Security Procedures may differ by Service or the method by which you access the Services. Security Procedures may only be modified by written agreement with the Bank. You agree to follow the Security Procedures. You agree that we may implement new Security Procedures, or modify existing Security Procedures, contained in this Agreement or other agreements you may have with us from time to time and may require you to use such new or modified Security Procedures as a condition to your continued access and use of the Services.

You acknowledge that you have reviewed the Security Procedures applicable to each Service before your use of the Service and agree that the Security Procedures used by the Bank are commercially reasonable and appropriate for the Services and your relationship with the Bank. If new Security Procedures are added or existing Security Procedures are modified, you agree to review the new or modified Security Procedures before attempting to use the relevant Services and that your continued use of such Services constitutes your acceptance of the Security Procedures and their commercial reasonableness and appropriateness. Except as required by applicable law, you agree to be bound by, and liable for, all transactions and actions initiated using the Security Procedures. To the extent you are permitted to choose between more than one Security Procedure in connection with a Service, or request that all or any part of a Security Procedure be curtailed, deactivated, or otherwise modified, you solely accept any resulting liability.

You also acknowledge that the Security Procedures are for the purpose of verifying the authenticity of your transactions, requests and Instructions, and are not intended to, and will not, detect errors. In addition, you agree that your use of the Security Procedures, whether or not modified at your request, do not diminish or otherwise affect your responsibility to implement and maintain procedures and safeguards against unauthorized access and activity in connection with the Services, including exercising appropriate supervision of Authorized Users and others you permit to access the Services and taking reasonable steps to maintain the confidentiality of the Security Procedures and any associated access credentials, usernames, passwords, PINs, codes or similar authorization methods.

**a. Online Service Security Procedures**

Access to the Online Service requires, at a minimum, a username and password, and may also require a token or verification of an image selected by you. Access to certain Services through the Online Service may require further use of a token, code, or similar security measure. You may be given options for modifying the Security Procedures applicable to certain, but not all, aspects of the Online Service, such as the procedures for adding Authorized Users or changing or resetting passwords, establishing or changing transaction limits, restricting access to certain Authorized Accounts or Services, or requesting additional usernames, passwords, tokens, codes and other similar security measures.

Instructions will be provided to you, through the Online Service or separate documentation, for setting up the initial security parameters for the Online Service and the Services accessible through the Online Service. You will also be required to establish security questions and answers to be used when requesting a password reset or when making certain other changes through the Online Service.

**b. Customer Service Center Security Procedures**

When calling our Customer Service Center to access or use the Services, you will be required to orally convey the account number of an Authorized Account and certain other non-public information that would generally be known only to you or an Authorized Person. You may be given the option to restrict access to certain accounts or transactions through the Customer Service Center. You may contact our Customer Service Center for more information concerning your options related to such Security Procedures.

**c. Other Security Procedures**

There are additional Security Procedures associated with certain Services, such as the Wire Transfer Service, Draw-Down Wire Service, the ACH Service, and the Bill Pay Service. Instructions concerning such Security Procedures will be provided to you through the Online Service or other documentation. You agree to comply with all such Security Procedures under this Agreement.

**13. Responsibility for Safeguarding Security Procedures and Related Information**

You are responsible for safeguarding all Security Procedures, as well as the credentials, usernames, passwords, PINs, codes or similar information associated with the Security Procedures or the Services. You agree to implement and maintain reasonable procedures and controls in addition to the Security Procedures to ensure such safeguarding, as well as instruct and exercise adequate supervision over the

customer's Authorized Users and any other persons you permit to access the Services with respect to such procedures, controls and Security Procedures.

You agree that you will immediately notify us of any loss, theft or compromise of Security Procedures, credentials, passwords, PINs, codes or similar, as well the loss, theft or compromise of any computer, mobile device, network, or system you use to access the Services. Such notice must be made to us by calling Our Customer Service Center at (701) 293- 2400 or (800) 423-3344.

#### **14. Responsibility for Customer Technology and Equipment**

Use of the Services may require you to use equipment, software, applications, internet access, mobile devices, communications tools and other technology that is not provided by or controlled by the Bank ("Customer Technology"). It is your responsibility to ensure that all Customer Technology meets or exceeds the Bank's minimum specifications for accessing the Services, including the Online Service and any applicable Security Procedures. All Customer Technology used in connection with the Services must be owned or leased and controlled by you.

All network technology that allows you to access the Services and the Bank's systems, such as computers, servers, routers, modems and similar equipment must incorporate commercially reasonable firewalls, antivirus software and other protections designed to prevent unauthorized access and unauthorized use of your network and the Services. You agree that you will, and will be responsible for, using the most current versions (including all updates and patches) of (i) operating systems; (ii) internet browsers; (iii) any software or applications needed to use or access the Services; and (iv) security software that provides firewall, intrusion and antivirus protection ("Security Software"). You further agree to maintain, at a minimum, the recommended settings and performing all recommended system scans and checks established by the provider of your Security Software for ensuring a commercially reasonable security environment. You warrant and represent that all Customer Technology is free from any software or applications that alter or modify the operating or security features of any of the Security Software.

You agree that you are solely responsible for selecting and maintaining all Customer Technology and Security Software.

#### **15. Acceptance of Risk When Using the Internet and Other Third-Party Communication Tools and Systems**

You acknowledge that the Bank does not control and is not responsible for third-party communication tools, systems or services, such as email, text message, and your access to the internet. Although we employ certain protections to prevent unauthorized access to the Services and your accounts, there is no guarantee that any communications between you and the Bank made through any third-party tool, system or service will be secure or cannot be intercepted. You agree that you are solely responsible, and that we are in no way liable, for any issues that may arise from your use of third-party communication tools, systems or services.

## 16. Information Processing and Reporting

We offer a number of Services that require us to receive, process and report information involving your accounts and transactions. We are not responsible for determining the accuracy, timeliness or completeness of any information that you or others provide to us. We will have no duty to interpret the content of any data transmitted to us, except to the limited extent set forth in this Agreement. Unless otherwise agreed to by us in writing, we will not be required (by means of any Security Procedure or otherwise) to detect errors in the transmission or content of any information we receive from you or third parties.

### a. Your Use of Email and the Internet

If you send us electronic mail ("email"), we may not receive or review it immediately. You agree to afford us a reasonable time to act upon any email request or notice, and we reserve the right to reject any transaction instruction or other request received by email. You acknowledge that, even though email may be encrypted, we cannot ensure that it will not be intercepted or affected by the actions or omissions of others, such as third-party networks or persons with access to the internet. As such, we recommend that you not send account data or other sensitive information to us by email. We reserve the right to monitor your email or any other electronic communications with our employees and agents.

### b. Information You Provide to Us

You assume the sole responsibility for providing us with complete and accurate information in the form and format we may require. We are not responsible for confirming such information, detecting errors or omissions, or for monitoring or refusing to process (or delaying in processing or acting on) any duplicate Instructions (as defined below) by you or the customer's Authorized Users, or your agents. For example, if you give us a wire transfer Instruction that is incorrect in any way, you agree that we may charge your account for the payment whether or not the error could have been detected by us.

### c. Your Instructions

We are entitled to rely on, and shall incur no liability for following, any written notice, instruction, Transaction Request or other communication ("Instructions"), including those delivered by facsimile or electronic mail; provided, we believe in good faith that the Instruction is genuine and has been signed or otherwise authenticated by a person designated as an Authorized User. We are entitled to act on any incomplete Instruction, where, in our reasonable opinion, it contains sufficient information.

Transactions may not be executed by us immediately when an Instruction is received, and certain Instructions may only be processed during normal banking hours. We may refuse to follow or delay in following and shall incur no liability for refusing to follow or delaying in following, any Instruction in our sole discretion, including in order to comply with applicable law.

## 17. Your Creditors

You must accurately describe transaction creditors (formerly referred to as beneficiaries), intermediary financial institutions, and the creditors' financial institution in transfer and payment Instructions. If you

describe any creditor or institution inconsistently by name and number, we may process the transaction solely on the basis of the number, even if the number identifies a person or entity different from the named creditor or institution. You also understand that any other institution involved in processing your transaction (such as the creditor's bank) may do the same.

**a. Your Review of Data and Information**

You acknowledge that it is not possible for us or the Services to be totally free from operator, programming or equipment errors, and that errors in processing or compiling information and data may occasionally occur. For example, errors may occur due to the failure of others to provide accurate information to us, telecommunication failures, or a breakdown in an electronic data interchange. As such, you agree to review and verify all data and information we provide or display to you and to maintain adequate controls for insuring both the accuracy of data transmissions and the detection of errors. Unless otherwise required by applicable law, our sole responsibility for any reporting or informational errors caused by us will be to reprocess the information for the period in question and to provide corrected reports at our own expense. You agree to maintain backup files of the data you submit to us for a reasonable period of time in order to facilitate any needed reconstruction of your transactions or other information (*e.g.*, in the event of a telecommunication failure).

**18. Fees**

The fees and charges for the Services under this agreement will be provided to you separately and may be set forth in a separate agreement applicable to the relevant Service or in the Schedule of Fees associated with your Authorized Accounts. These fees may be in addition to any fees otherwise related to your accounts with us. You agree to pay all fees when due. We reserve the right, upon written notice to you, to increase these fees and charges, or to impose additional fees and charges, in connection with the Services.

**19. Liability, Disclaimer of Warranty and Indemnification**

**a. Our Liability for Unauthorized and Erroneous Transactions**

Except as modified by this Agreement, our liability for unauthorized or erroneous transactions are as set forth in Deposit Account Agreement and Disclosures governing the Authorized Account on which the unauthorized or erroneous transaction occurred.

**b. General Limitation of Liability**

TO THE FULLEST EXTENT ALLOWED BY LAW, OUR LIABILITY HEREUNDER IS LIMITED TO ACTUAL DAMAGES ARISING DIRECTLY FROM OUR INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE WHEN PERFORMING THE SERVICES.

TO THE FULLEST EXTENT ALLOWED BY LAW, IN NO EVENT SHALL BANK OR ITS AFFILIATES, SUCCESSORS, ASSIGNEES, AGENTS OR SERVICE PROVIDERS BE LIABLE TO YOU (1) FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, COMPENSATORY OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER (HOWEVER ARISING, WHETHER UNDER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER LEGAL OR EQUITABLE THEORY) IN CONNECTION WITH THE SERVICES AND THIS AGREEMENT, INCLUDING LOST PROFITS, DATA LOSS, OR OTHER PECUNIARY LOSS, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES, AND (2) FOR AN AMOUNT EXCEEDING THE AVERAGE

FEES ACTUALLY PAID BY YOU AND RECEIVED BY US DURING THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE CLAIM FIRST ACCRUED.

THIS AGREEMENT AND OUR OTHER AGREEMENTS WITH YOU MAY CONTAIN ADDITIONAL LIMITATIONS OF LIABILITY.

**c. DISCLAIMER OF WARRANTY**

NEITHER BANK NOR ITS AFFILIATES, SUCCESSORS, ASSIGNEES, AGENTS OR SERVICE PROVIDERS MAKES ANY REPRESENTATION OR WARRANTY TO YOU AS TO THE SERVICES HEREUNDER, INCLUDING ANY HARDWARE, SOFTWARE, MOBILE APPLICATION, EQUIPMENT, TECHNOLOGY OR ASSOCIATED DOCUMENTATION PROVIDED BY US IN CONNECTION WITH THE SERVICES (WHETHER EXPRESS, IMPLIED OR STATUTORY), INCLUDING IMPLIED WARRANTIES OF QUALITY, TITLE, NON-INFRINGEMENT, PERFORMANCE, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ANY WARRANTIES IMPLIED BY ANY COURSE OF PERFORMANCE OR USAGE OF TRADE, OR THAT THE SERVICES WILL MEET YOUR REQUIREMENTS OR WILL BE UNINTERRUPTED, TIMELY, AVAILABLE, SECURE, OR ERROR-FREE. THE SERVICES ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS.

**d. Indemnification**

You agree to indemnify and hold harmless the Bank and its affiliates, directors, officers, employees, counsel, agents, attorneys-in-fact, and other representatives from any costs, liabilities, claims, demands, losses, liabilities, penalties, actions, judgments, suits, damages, or expenses (including reasonable attorneys’ fees, court costs, and fees of collection) (collectively, “Losses”) related to or arising from the Services and this Agreement, and any related act or omission by us or you, including (i) any claim by a third party alleging that a Transaction Request or any other activity contravenes or compromises the rights, title, or interest of any third party, or violates any laws, rules, regulations, ordinances, court order or other mandate or prohibition, or (ii) the breach of any representation, warranty, or covenant made by you to the Bank in this Agreement or any related agreement.

**20. Arbitration Agreement**

**PLEASE READ THE PROVISIONS OF THIS SECTION 20 (THIS “ARBITRATION AGREEMENT”) CAREFULLY. IT REQUIRES ALL CLAIMS BETWEEN YOU AND US TO BE RESOLVED BY BINDING ARBITRATION WHENEVER YOU OR WE CHOOSE TO SUBMIT A CLAIM TO ARBITRATION. BY ACCEPTING THIS ARBITRATION AGREEMENT, YOU WAIVE YOUR RIGHTS TO TRY ANY CLAIM IN COURT BEFORE A JUDGE OR JURY (EXCEPT FOR MATTERS THAT MAY BE TAKEN TO A SMALL CLAIMS COURT) AND TO BRING OR PARTICIPATE IN ANY CLASS OR OTHER REPRESENTATIVE ACTION.**

**a. Agreement to Arbitrate**

Either you or we may elect, without the consent of the other, to arbitrate any Claim (as defined below) through the binding arbitration process set forth in this Arbitration Agreement. For purposes of this Arbitration Agreement, “we,” “our,” and “us” include Gate City Bank and its employees, officers, directors, parents, agents, controlling persons, subsidiaries, affiliates, predecessors, acquired entities, successors, and assigns.

**b. Claims Covered By Arbitration**

“Claims” subject to this Arbitration Agreement include all of the following: (i) claims related to or arising out of this Agreement or any prior or later versions of the Agreement, as well as any changes to the terms of the Agreement; (ii) claims related to or arising out of any aspect of any relationship between you and us that is governed by the Agreement; (iii) claims related to or arising out of your account or any services provided to you under the Agreement; and (iv) claims related to the interpretation, scope, applicability, or enforceability of the Agreement or Arbitration Agreement. Claims are subject to arbitration whether they are based in contract, tort, federal or state statute, constitution, regulation, or any other legal theory, or whether they seek legal or equitable remedies (except as provided in the “Public Injunctive Relief Waiver” section below). All claims are subject to arbitration whether they arose in the past, may currently exist, or may arise in the future. Claims include claims or disputes that arose before the parties entered into the Agreement (such as claims related to advertising) or after termination of the Agreement or your account is closed.

**c. Claims Not Covered By Arbitration**

Claims filed by you or by us in a small claims court are not subject to arbitration, so long as the dispute remains in such court and advances only an individual claim for relief. The “Class and Representative Action Waiver” and “Public Injunctive Relief Waiver” sections below set forth additional claims not subject to arbitration.

**d. Pre-Arbitration Demand**

You agree that before filing any claim in arbitration, you must first submit an individualized request regarding your Claim (a “Pre-Arbitration Demand”) by sending us a notice, in writing, to the address specified in (and otherwise in accordance with) Section 22(k), at any time. A Pre-Arbitration Demand is only valid when it pertains to, and is on behalf of, a single individual.

Your Pre-Arbitration Demand must include: (i) your name, (ii) the telephone number(s) associated with your account(s), (iii) the email address(es) associated with your account(s), (iv) a factual description of your Claim and the amount that you are seeking in order to fully resolve the Claim, and (v) the name, related firm, telephone number, mailing address, and email address of your counsel, if any. You agree to promptly notify us if, at any time during the Pre-Arbitration Demand process, you subsequently become represented by counsel, change counsel, or are no longer represented by counsel.

The informal dispute resolution process described in this subsection (d) is a condition that must be fulfilled before commencing arbitration. If your Claim is not resolved within sixty (60) calendar days of submitting a Pre-Arbitration Demand, a demand for arbitration can be made in accordance with this Arbitration Provision, unless we and you mutually agree to extend or shorten that 60-day period. You and we agree that the arbitrator shall dismiss any arbitration demand filed prior to the end of that period.

**e. Commencing an Arbitration**

Unless the parties agree to select a different arbitration administrator, the arbitration shall be administered by the American Arbitration Association (“AAA”) under AAA’s Commercial Arbitration Rules, except as modified by this Arbitration Agreement. AAA’s rules may be obtained from [www.adr.org](http://www.adr.org) or 1-800-778-7879 (toll-free).

If AAA is for any reason unable to serve and the parties are unable to agree on an alternative arbitration administrator, then a court of competent jurisdiction shall appoint an arbitration administrator.

Either you or we may start an arbitration by giving written notice to the other party; provided, that you are required to first comply with the Pre-Arbitration Demand process set forth in subsection (d). This notice may be given before or after a lawsuit has been filed concerning the Claim and it may be given by papers filed in the lawsuit such as a motion to compel arbitration. The party asking for arbitration must file a notice with the arbitration administrator pursuant to its rules.

If you are represented by counsel, the demand for arbitration must include the counsel’s name, telephone number, mailing address, and email address. Your counsel must also sign the demand for arbitration.

By signing a demand for arbitration, you and/or your counsel shall be deemed to have certified to us, to the best of you (and/or your counsel’s knowledge), information, and belief, formed upon its due and reasonable inquiry, that (i) the demand for arbitration is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of dispute resolution, (ii) the claims and other legal contentions in the demand for arbitration are warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law (or for establishing new law), and (iii) the factual contentions made in the demand for arbitration have evidentiary support (or will likely have evidentiary support) after a reasonable opportunity for further investigation or discovery. The arbitrator shall be authorized to afford any relief or impose any sanctions available under Federal Rule of Civil Procedure 11 or any applicable state law for either party’s violation of this paragraph.

**f. Arbitration Procedure**

Unless you and we agree otherwise in writing, the arbitration shall be decided by a single, neutral arbitrator, who shall be a retired judge or a lawyer with at least ten years of experience, selected in accordance with the chosen arbitration administrator’s rules.

The arbitrator will decide the Claim or Claims in accordance with the terms of the Agreement and applicable substantive law, including the Federal Arbitration Act, 9 U.S.C. § 1 et seq. (the “FAA”), and applicable statutes of limitation (subject to Section 22(r)). The arbitrator shall honor claims of privilege recognized at law. Except as provided in the “Public Injunctive Relief Waiver” section below, the arbitrator may award damages or other relief (including injunctive relief) available to the individual claimant under applicable law.

The arbitrator will not have the authority to award relief to, or against, any person or entity who is not a party to the arbitration. An award in arbitration shall determine the rights and obligations between the named parties only, and only in respect to the Claim(s) in arbitration and shall not have any bearing on the rights and obligations of any other persons, or on the resolution of any other dispute.

The arbitrator will take reasonable steps to protect customer account information and other proprietary or confidential information.

You irrevocably consent to and agree that any arbitration hearing or other proceeding hereunder shall take place in the State of North Dakota, unless we, in our sole and absolute discretion, expressly agree otherwise in writing.

At your or our request, the arbitrator will issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. The arbitrator's award shall be final and binding except that any party may appeal any award relating to a Claim for more than \$500,000 (exclusive of claimed interest, arbitration fees and costs) or for injunctive relief to a three-arbitrator panel appointed by the arbitration administrator, which will reconsider de novo any aspect of the appealed award. The panel's decision will be final and binding.

**g. Costs and Expenses**

Each party agrees to bear its own costs and expenses in connection with initiating any arbitration proceeding; provided, that a party that does not agree to submit to arbitration after a lawful demand by the other party must pay all of the other party's costs and expenses for compelling arbitration. The arbitrator may award the payment of costs and expenses to the extent permitted by applicable AAA rules.

**h. JURY WAIVER AND LIMITATION OF RIGHTS**

**YOU AND WE AGREE THAT, BY ENTERING INTO THIS ARBITRATION AGREEMENT, THE PARTIES ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR A TRIAL BEFORE A JUDGE IN COURT (EXCEPT FOR MATTERS THAT MAY BE TAKEN TO A SMALL CLAIMS COURT). YOU AND WE ACKNOWLEDGE THAT ARBITRATION WILL LIMIT OUR LEGAL RIGHTS, INCLUDING THE RIGHT TO PARTICIPATE IN A CLASS ACTION, THE RIGHT TO A JURY TRIAL, THE RIGHT TO CONDUCT FULL DISCOVERY, AND THE RIGHT TO APPEAL.**

**i. CLASS ACTION AND REPRESENTATIVE ACTION WAIVER**

**YOU AND WE AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN AN INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. FURTHER, UNLESS MUTUALLY AGREED TO BY YOU AND US, CLAIMS OF TWO OR MORE PERSONS MAY NOT BE JOINED, CONSOLIDATED, OR OTHERWISE BROUGHT TOGETHER IN THE SAME ARBITRATION (UNLESS THOSE PERSONS ARE JOINT ACCOUNT HOLDERS OR BENEFICIARIES ON YOUR ACCOUNT OR RELATED ACCOUNTS, OR PARTIES TO A SINGLE TRANSACTION OR RELATED TRANSACTION). THE ARBITRATOR SHALL HAVE NO**

**AUTHORITY TO CONDUCT ANY CLASS, PRIVATE ATTORNEY GENERAL OR OTHER REPRESENTATIVE PROCEEDING. THIS SECTION DOES NOT APPLY TO REQUESTS FOR PUBLIC INJUNCTIVE RELIEF, WHICH ARE ADDRESSED IN THE SECTION BELOW ENTITLED “PUBLIC INJUNCTIVE RELIEF WAIVER.”**

**ii. PUBLIC INJUNCTIVE RELIEF WAIVER**

**NEITHER YOU NOR WE WILL HAVE THE RIGHT TO SEEK PUBLIC INJUNCTIVE RELIEF AS A REMEDY FOR ANY CLAIM AGAINST ONE ANOTHER (A “PUBLIC INJUNCTIVE RELIEF REQUEST”) IN ARBITRATION, IF SUCH A WAIVER IS PERMITTED BY THE FAA. IF SUCH A WAIVER IS DEEMED UNENFORCEABLE, YOU AND WE AGREE THAT THE PUBLIC INJUNCTIVE RELIEF REQUEST SHALL BE SEVERED FROM ANY OTHER CLAIMS OR REMEDIES YOU HAVE. THE PUBLIC INJUNCTIVE RELIEF REQUEST MUST BE ADJUDICATED BY A COURT AFTER ALL YOUR OTHER CLAIMS TO BE DECIDED IN ARBITRATION UNDER THIS ARBITRATION AGREEMENT ARE RESOLVED IN ARBITRATION. THE VALIDITY, ENFORCEABILITY, AND EFFECT OF THIS SECTION SHALL BE DETERMINED EXCLUSIVELY BY A COURT, AND NOT BY ANY ARBITRATION ADMINISTRATOR OR ARBITRATOR.**

**i. Governing Law**

You and we agree that you and we are participating in transactions that involve interstate commerce and that this Arbitration Agreement and any resulting arbitration are governed by the FAA. Notwithstanding any section in the Agreement to the contrary, to the extent state law applies, the laws of North Dakota apply. No state statute pertaining to arbitration shall apply.

**j. Severability**

Notwithstanding any section in the Agreement to the contrary, if any section of this Arbitration Agreement (except for the “Class Action and Representative Action Waiver” above) is deemed invalid or unenforceable for any reason, it shall not invalidate the remaining portions of this Arbitration Agreement. However, if the “Class Action and Representative Action Waiver” section is deemed invalid or unenforceable in whole or in part, then this entire Arbitration Agreement shall be deemed invalid and unenforceable.

**21. Other Terms and Conditions**

**a. Our Business Days**

For purposes of this Agreement, our “business days” are Monday through Friday, excluding federal holidays.

**b. Our Relationship With You**

By providing you with the Services, we are establishing a banking relationship with you and committing to act in good faith and to the exercise of ordinary care in our dealings with you as defined by the Uniform Commercial Code as adopted by the State of North Dakota. This Agreement and your use of the Services does not create a fiduciary, advisory, or any other special relationship between you and us.

**c. Periodic Reporting of Financial Information**

You agree that at least once every twelve (12) months at our request, and at any other times upon our request, you will promptly provide to the Bank financial statements and other information as we may reasonably request for purposes of evaluating the Bank's risk of nonpayment under this Agreement.

**d. Audits and Inspections**

We reserve the right to audit and inspect your books, records, policies, procedures, operations, premises and physical assets that relate to the Services. If we exercise this right, we will endeavor to provide at least thirty (30) days' advance written notice except in exigent circumstances where such prior notice cannot be provided, including the request of a governmental authority or any relevant payment or funds transfer network. Any such audit or inspection shall be performed at the Bank's expense unless the need for the audit or inspection arises from your breach or failure under this Agreement or any other agreement related to the Services.

**e. Force Majeure**

We will have no liability to you for our failing to comply with, or delaying in complying with, our obligations under this Agreement due to a computer malfunction, interruption of communication facilities, labor difficulties, acts of God, war, flood, fire, riot, pandemic, terrorist attack, or any other cause, in each case beyond the Bank's reasonable control.

**f. Default**

The occurrence of any of the following will be deemed, the Bank's sole discretion, a default under this Agreement:

- Any breach or default by you under the terms of this Agreement;
- Any breach or default under the terms of any other note, obligation, mortgage, assignment, guaranty, other agreement, or other writing to which you and the Bank are parties;
- The insolvency, death, dissolution, liquidation, merger or consolidation of the customer;
- Any appointment of a receiver, trustee or similar officer of any property of the customer;
- Any assignment for the benefit of creditors of the customer;
- Any commencement of any proceeding under any bankruptcy, insolvency, receivership, dissolution, liquidation or similar law by or against the customer;
- The issuance or levy of any writ, warrant, attachment, garnishment, execution or other process against any property of the customer;
- The attachment of any tax lien to any property of the customer;
- Any statement, representation or warranty made by the customer (or any representative of the customer) to the Bank at any time is determined to have been incorrect or misleading in any material respect when made;
- There is a material adverse change in the condition (financial or otherwise) of the business or property of the customer;
- The Bank in good faith believes that the prospect of due and punctual payment or performance of the customer's obligations under this Agreement is impaired; or

- The Bank in good faith believes that the customer is using the Services for any purpose that is illegal, fraudulent or exposes the Bank to an unacceptable risk of financial, legal or reputational harm.

**g. Right of Set-Off; Remedies Cumulative**

You acknowledge and agree that we have the right of set-off against any deposit account you have with us with respect to the amount of any and all fees, returns and refunds owed to the Bank by you under this Agreement or other agreement related to the Services without providing any notice to you or incurring any related liability therefor (including to the extent exercising our right of set-off results in the dishonor of any payments). Our rights and remedies under this Agreement or any other documents or instruments pursuant to or in connection with the Services are cumulative and not exclusive of any other rights or remedies.

**h. Third-Party Institutions and Service Providers**

We may work with one or more third-party financial institutions or service providers in connection with the Services. By using the Services, you authorize us to share your corporate, financial, or other information with such third parties as necessary to provide you with the Services or to complete transactions you have requested. You also license and authorize us to access information maintained by such third parties, on your behalf as your agent, and you expressly authorize such third parties to disclose your information to us. We disclaim any liability for your use of any third-party financial institutions or service providers. Unless stated expressly in writing, we do not endorse or make any representations or warranties regarding any third-party financial institutions or service providers.

**i. Monitoring, Recording and Use of Communications**

You acknowledge and agree that all telephone or electronic conversations, or any other communications among or between you, the Bank, any third parties used by you or the Bank, and any of your or our respective employees and agents, may be monitored and recorded and retained by us or our third-party service providers by use of any reasonable means unless prohibited by applicable law. We may use any recording for reasonable business purposes, including security and quality assurance. However, we are under no obligation to make or maintain any such recording. We will not remind you that we may be monitoring or recording a telephone or electronic conversation unless required by applicable law to do so.

**j. Choice of Law and Venue**

Except as otherwise specified, this Agreement will be construed in accordance with and governed by the laws of the United States and the State of North Dakota, without regard to conflicts-of-laws principles that would result in the application of the substantive laws of another jurisdiction. You agree that any dispute arising under this Agreement or relating in any way to the Services or your relationship with us, to the extent not arbitrated pursuant to Section 20, will be exclusively resolved in a federal or state court located in North Dakota and that you will be subject to such court's jurisdiction. You waive any objection that you may have based upon improper venue or forum *non conveniens* as to the conduct of any such proceeding.

**k. Notices**

Unless we provide to you an alternate or different address, all notices to the Bank must be in writing and sent to:

Gate City Bank  
Attn: Treasury Management Services  
500 2<sup>nd</sup> Avenue North  
Fargo, ND 58102

We may send notices to you by telephone, email, through the Online Service, or any other form of commercially reasonable communication based on the contact information you provide to us. You agree to keep us informed of any changes to your contact information at all times.

**l. Term, Termination and Modification of Agreement and Services**

You may terminate this Agreement (or any or all of the individual Services) for any reason upon at least thirty (30) days' advance written notice to us. You will be responsible for paying any applicable fees and charges related to this Agreement that have accrued on or before the date of termination.

While we will generally endeavor to provide you with advance notice, we may not do so unless required by applicable law, and we reserve the right to terminate or modify this Agreement or any or all of the Services, or limit, suspend or discontinue your access to any or all Services, at any time without notice and for any reason, including (i) for security reasons; (ii) as may be required by applicable law, regulation, any Governing Rules or a government authority; (iii) your default under this Agreement or any other agreement with us; (iv) if you have not used any of the Services at least once in the last six (6) months; or (v) you otherwise present undue risk to the Bank as determined by us in our sole discretion. You will be responsible for paying any fees and charges related to the Services that have accrued on or before the date of termination.

We may change this Agreement at any time by posting a revised version on our website or otherwise making the revised Agreement available to you. For example, we may add, delete, or modify terms. These terms include, but are not limited to, fees and charges for the Services.

Any change shall be effective on the date the change was made and published. Your initial or continued use of any Service will constitute your agreement to adhere to and be bound by this Agreement, as amended from time to time.

We may require you to obtain Risk Management Services (as defined in the Deposit Account Agreement and Disclosures) or to comply with other requirements as a condition of continuing to any Services we, in our sole discretion, deem necessary, including for risk mitigation purposes.

You may only amend, add, or remove Service(s) or entities enrolled in the Service(s) in accordance with the Bank's requirements. The Services are subject to the Bank's initial and ongoing approval.

**m. Severability**

In the event that any court or tribunal of competent jurisdiction determines that any provisions of this Agreement are illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected. To the extent permitted by applicable law, you and we waive any provisions of law which prohibit or renders unenforceable any provisions of this Agreement, and to the extent such waiver is not permitted by applicable law, you and we agree that such provision will be interpreted as modified to the minimum extent necessary to render the provisions enforceable.

**n. Limitations of Assignment**

You may not assign, transfer, or otherwise delegate, whether by operation of law or otherwise, your rights or obligations, in whole or in part, under this Agreement without the Bank's prior written consent. Any assignment, transfer, or delegation or attempted assignment, transfer, or delegation in violation of the foregoing shall be void. The Bank may assign, transfer, or otherwise delegate its rights or obligations, in whole or in part, under this Agreement in our sole discretion, including through the use of the Bank's subcontractors and service providers.

**o. No Third-Party Beneficiaries**

This Agreement is for the benefit only of you and is not intended to, and shall not be construed as, granting any rights to or otherwise benefiting any other person or entity.

**p. Entire Agreement**

This Agreement (and the other documents referenced herein) constitute the entire agreement and understanding between you and the Bank relating to the subject matter of this Agreement and supersedes all prior agreements (if any).

**q. Survival**

Sections 19, 20, 21, 22, 23, and any other terms that expressly or are intended by their nature to survive termination of this Agreement, including any disclaimers of warranties and limitations of liability, shall survive the termination of this Agreement.

**r. Statute of Limitations**

Any claim, action or proceeding by you to enforce the terms of this Agreement or to recover for any Service-related loss must be commenced within one year from the date that the event giving rise to the claim, action or proceeding first occurs.

**s. Interpretation**

For purposes of this Agreement, the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation," the word "or" is not exclusive, and the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Words defined in the singular include the plural, and vice versa. Headings are included for convenience only and shall not affect the interpretation of this Agreement.

## 22. Definitions

As used in this Agreement, the following capitalized terms shall have the meanings ascribed to them below:

- a. "ACH" is as defined in Section 8(d).
- b. "Agreement" is as defined in Section 1.
- c. "Authorized Accounts" is as defined in Section 5.
- d. "Authorized Users" is as defined in Section 1.
- e. "Business Days" is as defined in Section 21(a).
- f. "Child Accounts" is as defined in Section 8(b).
- g. "Cut-off Time" means the time at which Bank will stop receiving or accepting Client's Instructions or transmittal of data in connection with a Service, as specified in the Cut-off Times Schedule. Any Client Instruction or transmittal of data received or accepted after the applicable Cut-off Time shall be deemed to have been received or accepted on the next Business Day.
- h. "Cut-Off Times Schedule" means the means the *Treasury Management Services Cut-Off Times Schedule* (or any successor or supplemental schedule) containing the Cut-off Times applicable to the Services, as the same may be amended by the Bank from time to time.
- i. "Email" is as defined in Section 16(a).
- j. "Master Account" is as defined in Section 8(b).
- k. "NACHA" is as defined in Section 8(d)(i).
- l. "Online Service" is as defined in Section 5.
- m. "Other Agreements" is as defined in Section 2.
- n. "Positive Pay Service" is as defined in Section 9(a).
- o. "RDC" is as defined in Section 10.
- p. "RDC Service Instructions" is as defined in Section 10(a).
- q. "Schedule of Fees" means any fee schedule applicable to the Services provided by the Bank to Client, each as amended from time to time.
- r. "Service Provider" is as defined in Section 8(d)(vii).
- s. "Services" is as defined in Section 1.
- t. "Sweep Service" is as defined in Section 8(b).
- u. "Target Amount" is as defined in Section 8(b).
- v. "Threshold Range" is as defined in Section 8(b).
- w. "We," "us," or "Bank" is as defined in Section 1.
- x. "You" or "your" is as defined in Section 1.