

## CONTRACT FOR THIRD PARTY SERVICES

This CONTRACT FOR THIRD PARTY SERVICES ("this Contract"), entered into by and between State of Indiana (the "State") and BMO Harris Bank N.A. (the "Bank"), is executed pursuant to the terms and conditions set forth herein.

The State and the Bank agree as follows:

- 1. Duties of Bank.** The duties of the Bank shall be as set forth in that certain Global Treasury Management Services Master Agreement (the "Master Agreement") between the State and the Bank, which is attached as an addendum hereto. If there is any conflict between any term or provision of the Master Agreement or Service Documentation and the terms and provisions of this Contract, this Contract will control to the extent of such conflict. Any capitalized terms not defined herein shall have the same meaning as set forth in the Master Agreement.
- 2. Term.** This Contract shall be effective for a period of one (1) year. It shall commence on July 1, 2017 and shall remain in effect through June 30, 2018, unless terminated earlier by either party in accordance with the provision of paragraphs 29 or 30 hereof. This Contract may be renewed under the same terms and conditions for another one (1) year term, subject to the written approval of both parties.
- 3. Access to Records.** The Bank shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the fees payable by the State under this Contract. The Bank shall make such materials available at its office at all reasonable times during this Contract, and for three (3) years from the date of final payment under the Contract, for inspection by the State or its authorized designees. Copies shall be furnished at no cost to the State if requested.
- 4. Assignment; Successors.** The Bank binds its successors and assignees to all the terms and conditions of this Contract. The Bank shall not assign or subcontract the whole or any part of this Contract without the State's prior written consent. Notwithstanding the foregoing, the Bank may assign this Contract to an affiliate of the Bank, or its right to receive payments to such third parties as the Bank may desire without the prior written consent of the State, provided that the Bank gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.
- 5. Audits.** The Bank acknowledges that it may be required to submit to an audit of funds paid by the State pursuant this Contract. Any such audit shall be conducted in accordance with IC §5-11-1, *et seq.*, and audit guidelines specified by the State.
- 6. Authority to Bind Bank.** The signatory for the Bank represents that he/she has been duly authorized to execute this Contract on behalf of the Bank and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Bank when his/her signature is affixed, and accepted by the State.
- 7. Changes in Work.** The Bank shall not commence any additional work or change the scope of the work until authorized in writing by the State. The Bank shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract.
- 8. Compliance with Laws.**

A. The Bank shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of rules or regulations thereunder after execution of this Contract shall be reviewed by the State and the Bank to determine whether the provisions of this Contract require formal modification.

B. The Bank and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in IC §4-2-6, *et seq.*, IC §4-2-7, *et seq.* and the regulations promulgated thereunder. If the Bank or its agents violate any applicable ethical standards, the State may, in its sole discretion, terminate this Contract immediately upon notice to the Bank. In addition, the Bank may be subject to penalties under IC §§4-2-6, 4-2-7, 35-44.1-1-4, and under any other applicable laws.

C. The Bank certifies by entering into this Contract that neither it nor, to its knowledge, its principal(s) are presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana. The Bank agrees that any payments currently due to the State of Indiana may be withheld from payments due to the Bank. Additionally, further work or payments may be withheld, delayed, or denied and/or this Contract suspended until the Bank is current in its payments and has submitted proof of such payment to the State.

D. The Bank warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the State of any such actions. During the term of such actions, the Bank agrees that the State may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.

E. If a valid dispute exists as to the Bank's liability or guilt in any action initiated by the State or its agencies, and the State decides to delay, withhold, or deny work to the Bank, the Bank may request that it be allowed to continue, or receive work, without delay. The Bank must submit, in writing, a request for review to the Indiana Department of Administration (IDOA) following the procedures for disputes outlined herein. A determination by IDOA shall be binding on the parties. Any payments that the State may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest, except as permitted by IC §5-17-5.

F. The Bank warrants that the Bank and its subcontractors, if any, shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the State. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the State.

G. The Bank affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

H. As required by IC §5-22-3-7:

(1) The Bank and any principals of the Bank certify that:

(A) the Bank, except for de minimis and nonsystematic violations, has not violated the terms of:

(i) IC §24-4.7 [Telephone Solicitation Of Consumers];

(ii) IC §24-5-12 [Telephone Solicitations]; or

(iii) IC §24-5-14 [Regulation of Automatic Dialing Machines];

in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and

(B) the Bank will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

(2) The Bank and any principals of the Bank certify that an affiliate or principal of the Bank and any agent acting on behalf of the Bank or on behalf of an affiliate or principal of the Bank, except for de minimis and nonsystematic violations,

(A) has not violated the terms of IC §24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and

(B) will not violate the terms of IC §24-4.7 for the duration of the Contract, even if IC §24-4.7 is preempted by federal law.

**9. Condition of Payment.** All services provided by the Bank under this Contract must be performed to the State's reasonable satisfaction, as determined at the discretion of the undersigned State representative and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. The State shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract or performed in violation of any federal, state or local statute, ordinance, rule or regulation.

**10. Confidentiality of State Information.** The Bank understands and agrees that data, materials, and information disclosed to the Bank may contain confidential and protected information. The Bank covenants that data, material, and information gathered, based upon or disclosed to the Bank for the purpose of this Contract will not be disclosed to or discussed with third parties without the prior written consent of the State.

The parties acknowledge that the services to be performed by Bank for the State under this Contract may require or allow access to data, materials, and information containing Social Security numbers maintained by the State in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the Bank and the State agree to comply with the provisions of IC §4-1-10 and IC §4-1-11. If any Social Security number(s) is/are disclosed by Bank, Bank agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this contract.

#### **11. Debarment and Suspension.**

A. The Bank certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Bank.

B. The Bank certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Bank shall immediately notify the State if any subcontractor becomes debarred or suspended, and shall, at the State's request, take all steps required by the State to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

**12. Default by State.** If the State, sixty (60) days after receipt of written notice, fails to correct or cure any material breach of this Contract, the Bank may cancel and terminate this Contract and institute measures to collect monies due up to and including the date of termination.

**13. Disputes.**

A. Should any disputes arise with respect to this Contract, the Bank and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

B. The parties agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all of its responsibilities under this Contract that are not affected by the dispute. Should the any party fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the State or the Bank as a result of such failure to proceed shall be borne by the party causing delay.

C. Notwithstanding paragraph 20 of the Master Agreement, the parties agree to the following procedures in an initial attempt to resolve any disputes:

i. The parties shall submit their dispute to the Commissioner of the Indiana Department of Administration, who shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Bank and the State within then (10) business days after presentation of such dispute for action. The presentation may include a period of negotiations, clarifications, and mediation sessions and will not terminate until the Commissioner or one of the parties concludes that the presentation period is over. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) business days after receipt of the Commissioner's decision, a written appeal. Within ten (10) business days after receipt by the Commissioner of a written request for appeal, the Commissioner may issue a reconsidered decision. If no reconsidered decision is provided with such ten (10) business day period, the parties may mutually agree to submit the dispute to arbitration or mediation for determination, or otherwise the dispute may be submitted to an Indiana court of competent jurisdiction.

ii. The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to the Bank of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for the Bank to terminate this Contract, and the Bank may bring suit to collect these amounts, as well as reasonable attorney fees, without following the disputes procedure contained herein.

**14. Drug-Free Workplace Certification.** As required by Executive Order No. 90-5 dated April 12, 1990, issued by the Governor of Indiana, the Bank hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Bank will give written notice to the State within ten (10) days after receiving actual notice that the Bank, or an employee of the Bank in the State of Indiana, has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the State for up to three (3) years.

In addition to the provisions of the above paragraph, if the total amount set forth in this Contract is in excess of \$25,000.00, the Bank certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Bank's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of: (1) the dangers of drug abuse in the workplace; (2) the Bank's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will: (1) abide by the terms of the statement; and (2) notify the Bank of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

**15. Force Majeure.** In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately or as soon as is reasonably possible under the circumstances give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

**16. Funding Cancellation.** When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Director of State Budget Agency that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

**17. Governing Law.** Notwithstanding paragraph 18(i) of the Master Agreement, the laws of the State of Indiana govern this Contract and the services provided under the Master Agreement. The services provided under the Master Agreement are also subject to applicable federal rules established by the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporations, the Federal Reserve Board, or their successors, as applicable to the Bank. The services are further subject to the Operating Rules of the National Automated Clearing House Association (the "Rules") and the Bank's operating rules and procedures for electronic entries, both as they now exist and as they may be amended, modified, or supplemented from time to time.

**18. Indemnification.** The Bank agrees to indemnify, defend, and hold harmless the State, its agents, officials, and employees from all claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Bank in the performance of this Contract. **The State shall not provide such indemnification to the Bank.**

**19. Independent Bank.** Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint venturers, or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees, or subcontractors of the other party. The Bank shall be responsible for providing all necessary unemployment and worker's compensation insurance for the Bank's employees.

**20. Licensing Standards.** The Bank, its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules, or regulations governing services to be provided by the Bank pursuant to this Contract. The State will not pay the Bank for any services performed when the Bank, its employees or subcontractors are not in compliance with such applicable standards, laws, rules, or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification, or accreditation, the Bank shall notify the State immediately and the State, at its option, may immediately terminate this Contract.

**21. Merger & Modification.** This Contract, the Master Agreement, and Service Documentation constitute the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented, or amended, except by written agreement signed by all necessary parties.

**22. Nondiscrimination.** Pursuant to the Indiana Civil Rights Law, specifically including IC §22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Bank covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Bank certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services.

**23. Notice to Parties.** Whenever any notice, statement or other communication is required under this Contract, it shall be sent to the following addresses, unless otherwise specifically advised.

A. Notices to the State shall be sent to:

**Ryan A. Locke  
General Counsel  
Office of the Indiana Treasurer of State  
242 West Washington Street  
Indianapolis, IN 46204  
(317) 232-5258**

B. Notices to the Bank shall be sent to:

**BMO Harris Bank N.A.  
Document Analysis and Control  
111 West Monroe Street 9 Center  
Chicago, IL 60603**

**24. Ownership of Documents and Materials.**

A. All documents, records, programs, applications, data, algorithms, film, tape, articles, memoranda, and other materials (the "Materials") not developed or licensed by the Bank prior to execution of this Contract, but specifically developed under this Contract shall be considered "work for hire" and the Bank hereby transfers and assigns any ownership claims to the State so that all Materials will be the property of the State.

B. Use of the Materials, other than related to contract performance by the Bank, without the prior written consent of the State, is prohibited. During the performance of this Contract, the Bank shall be responsible for any loss of or damage to the Materials developed for or supplied by the State and used to develop or assist in the services provided while the Materials are in the possession of the Bank. Any loss or damage thereto shall be restored at the Bank's expense. The Bank shall provide the State full, immediate, and unrestricted access to the Materials and to Bank's work product during the term of this Contract.

**25. Penalties/Interest/Attorney's Fees.** The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, IC §5-17-5, IC §34-54-8, IC §34-13-1 and IC § 34-52-2-3.

Notwithstanding the provisions contained in IC §5-17-5, any liability resulting from the State's failure to make prompt payment shall be based solely on the amount of funding originating from the State and shall not be based on funding from federal or other sources.

**26. Severability.** The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

**27. Substantial Performance.** This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

**28. Taxes.** The State is exempt from most state and local taxes and many federal taxes. The State will not be responsible for any taxes levied on the Bank as a result of this Contract.

**29. Termination for Convenience.** This Contract may be terminated, in whole or in part, by either party whenever, for any reason, such party determines that such termination is in its best interest. Termination of services shall be effected by delivery to the non-terminating party of a Termination Notice at least sixty (60) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Bank shall be compensated for services properly rendered prior to the effective date of termination. The State will not be liable for services performed after the effective date of termination. The Bank shall be compensated for services herein provided but in no case shall total payment made to the Bank exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date.

**30. Termination for Default.**

A. With the provision of thirty (30) days' notice to the Bank, the State may terminate this Contract in whole or in part if the Bank fails to:

1. Correct or cure any breach of this Contract;
2. Deliver the supplies or perform the services within the time specified in this Contract or any extension;
3. Make progress so as to endanger performance of this Contract; or
4. Perform any of the other provisions of this Contract.

B. If the State terminates this Contract in whole or in part, it may acquire, under the terms and in the manner the State considers appropriate, supplies or services similar to those terminated, and the Bank will be liable to the State for any excess costs for those supplies or services. However, the Bank shall continue the work not terminated.

C. The State shall pay the contract price for completed supplies delivered and services accepted. The Bank and the State shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the State determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

D. The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.

**31. Travel.** No expenses for travel will be reimbursed unless specifically permitted under the scope of services or consideration provisions. Expenditures made by the Bank for travel will be reimbursed at the current rate paid by the State and in accordance with the State Travel Policies and Procedures as specified in the current Financial Management Circular. Out-of-state travel requests must be reviewed by the State for availability of funds and for appropriateness per Circular guidelines.

**32. Waiver of Rights.** No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the State's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Bank shall be and remain liable to the State in accordance with applicable law for all damages to the State caused by the Bank's negligent performance of any of the services furnished under this Contract.

**33. Work Standards.** The Bank shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the State may request in writing the replacement of any or all such individuals, and the Bank shall grant such request.



**Non-Collusion and Acceptance**

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Bank, or that the undersigned is the properly authorized representative, agent, member or officer of the Bank. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Bank, directly or indirectly, has entered into or been offered any sum of money or other consideration for the execution of this Contract other than that which appears upon the face hereof. **Furthermore, if the undersigned has knowledge that a state officer, employee, or special state appointee, as those terms are defined in IC 4-2-6-1, has a financial interest in the Contract, the Bank attests to compliance with the disclosure requirements in IC 4-2-6-10.5.**

**In Witness Whereof**, Bank and the State have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below agree to the terms thereof.

BMO Harris Bank N.A.

By: Katherine E. Aeschliman

Katherine E. Aeschliman  
Name and Title, Printed

Date: 12/4/17

State of Indiana

By: Kim Logan

Kim Logan Deputy Treasurer  
Name and Title, Printed

Date: 11-30-17

## GLOBAL TREASURY MANAGEMENT SERVICES MASTER AGREEMENT

This Global Treasury Management Services Master Agreement ("*Master Agreement*") is made as of the date appearing on the signature page between STATE OF INDIANA ("*you*" or "*your*") and BMO Harris Bank N.A. ("*we*," "*our*" and "*us*"). This Master Agreement includes the terms and conditions pursuant to which we will provide to you our global treasury management products and services (the "*Services*").

### 1. *Services*.

Other than as set forth in Section 19(h), the *Services* are only available for commercial cash management banking purposes and may not be used for personal or consumer banking purposes of any kind. We agree to make available to you the *Services* selected by you and described on the Service Selection Form, which is part of this Master Agreement (as updated or amended from time to time, the "*Service Selection Form*"). By completing and signing the Service Selection Form for a particular *Service* or *Services*, you select that *Service* and agree to the terms and conditions of the related service description, including any appendices, (the "*Service Description*") and other Service Documentation (as defined in Section 1(b)) for that *Service*. You may add *Services* by submitting to us an executed copy of the Service Selection Form for the new *Service*. Any other services or features we provide in connection with a *Service* which are not listed in the Service Selection Form are also considered "*Services*" and are subject to this Master Agreement and any related Service Documentation.

- (a) *Acceptance*. Upon acceptance and approval by us of your executed Master Agreement and the Service Selection Form for the *Services* you request, and the completion of any required setup process, the requested *Services* will be available to you. If you do not execute the Service Selection Form for a particular *Service*, but nevertheless use that *Service* in any manner, your first such use constitutes your agreement to the Service Documentation for that *Service*, including the Service Selection Form, in the form we presented to you.
- (b) *Service Documentation*. Your use of the *Services* is governed by this Master Agreement and the following documents (collectively, the "*Service Documentation*"), all of which are incorporated by reference into this Master Agreement (as applicable):
- Service Description;
  - Service Selection Form;
  - the setup and security instructions and procedures; and
  - user guides, questionnaires and other instructions and manuals for *Services* provided by us (as updated from time to time, the "*User Guides*").

If there is any conflict between any term or provision of the Service Documentation and the terms and provisions of this Master Agreement, this Master Agreement will control to the extent of such conflict. If there is any conflict among the Service Documentation, the Service Description will control to the extent of the conflict. Terms which are defined in this Master Agreement have the given meaning when used in the Service Documentation unless otherwise specified.

Your deposit account(s) that are enrolled in the *Services* (the "*Accounts*") will remain subject to your applicable deposit account agreement ("*Account Agreement*") and your use of the *Services* will also be governed by such Account Agreement, which is incorporated by reference in this Master Agreement. Except as set forth in Section 19(h), if there is any conflict between your Account Agreement and the Master Agreement or Service Documentation, then the Master Agreement or Service Documentation controls. Capitalized terms not defined in this Master Agreement have the meaning given in your applicable Account Agreement.

- (c) *Service Changes*. We may from time to time add to, discontinue or modify the *Services* and may update or make changes in the Service Documentation relating to a *Service*. We will give you notice

of any material change and such change will be effective as of the date specified in the notice sent to you. We reserve the right to notify you of changes and updates electronically, by Internet posting, mailing or other means permitted by law. The right to change fees is addressed in Section 2 and the right to change the terms of this Master Agreement is addressed in Section 18(b).

- (d) *Authorized Individuals; Contact Information.* Before accessing any Service, you must provide to us (or there must be on file with us) a signed and completed Certificate of Account Resolutions in the form provided by us or other form acceptable to us ("*Account Resolutions*"). The Account Resolutions evidence the proper authority of the persons ("*Authorized Individuals*") signing this Master Agreement, the Service Selection Form and any authorization forms, and provide us with any contact information that we may require in connection with your use of a Service. We are entitled to rely on such authorization and contact information according to its terms until we receive properly authorized written notice in the form provided by us or other form acceptable to us that the existing authorization and/or contact information is changed or terminated and we have a reasonable opportunity to act on such notice. If you instead choose to communicate changes to us by some other means we are entitled (but not obligated) to rely on such communications and the changes as having been duly authorized by you if we in good faith believe the communications came from someone authorized by you to deliver it to us. We will not be responsible for losses if you fail to timely and properly notify us of changes in authorization and/or contact information. You must also promptly notify us in writing of any change in the name of your company and address.

## **2. Fees**

You agree to pay fees and other charges for each Service as we establish from time to time or maintain compensating balances as we may permit. We may amend our fees from time to time in accordance with Section 18(b) below. Pursuant to the terms of the Account Agreement, you authorize us to access your Account to debit fees and other charges, even if it creates an overdraft.

## **3. Electronic Information**

Some Services allow you to view and receive information about your Account balance, activity, transactions and other cash management information electronically, via the Internet through one of our access Services or by other electronic means. Account information changes frequently and is subject to updating, verification, and correction. Since the information may change during the delay between when the information was last sent to you or posted by us and when you receive or access the information, we assume no responsibility for your reliance on such information which is subsequently updated, verified or corrected. If you identify and report to us any information which requires updating or correction, we will promptly make any required corrections.

## **4. Account Statement and Reconciliation**

- (a) *Statements and Notices.* At your election, we will either provide to you electronically through our Online Banking for Business Service ("*OLBB*") or by mail at your current address in our files, periodic statements, notices and other information regarding the Account and Account activity, including any activity resulting from Services (as provided in connection with the Service option you select). In either case, we may assess charges for such service as determined by us from time to time. You acknowledge that you are in the best position to discover erroneous charges, payments, missing or incorrect deposits, credits or debits or other entries to your Account ("*errors*") or other Account problems. You agree to promptly examine each statement, record, notice, canceled check and other items provided or made available to you (whether originals, images, copies or in other formats) and to promptly notify us of any error or Account problem. Your failure to provide reasonably prompt notice to us may affect any rights you may have against us with respect to the error or Account problem. You must notify us of a forged or unauthorized signature, or alteration within a reasonable time under the circumstances (not to exceed 30 days) after we send or otherwise make available to you your checks (whether originals, images, copies or in other formats) or information identifying your checks or transactions. You must notify us of any other error or Account problem, including an erroneous statement entry, unauthorized or missing endorsement, discrepancy or improper charge or entry

within 60 days of the date we sent or otherwise made available to you your statement or other information indicating the error or Account problem. Such notifications are to be made by calling us or writing to us at the telephone number or address listed on your statement. If you fail to notify us promptly within the timeframes described above, we will not be obligated to recredit or refund the amount of the error or account problem and you will be precluded from asserting the error or Account problem against us.

- (b) *Time Limitation.* You agree that you cannot commence any legal action or arbitration proceeding against us regarding any error, problem or unauthorized payment or debit unless you do so within one year after we mail or otherwise make available to you the first statement or other information on which the error, problem or unauthorized payment or debit appeared or was otherwise indicated.
- (c) *Notice of Receipt of Fund Transfers.* Unless we have otherwise agreed in the Service Documentation for any Service we provide to you, funds transfers to and from your Account will be reflected on the periodic statements we send or make available to you.

#### **5. Vendors**

If you engage any third party in connection with any Service ("*Vendor*"), the Vendor is your agent. You are solely responsible for insuring that your Vendor complies with your obligations under this Agreement and the Service Documentation (including Security Procedures, as defined below, relating to the Services). You are bound by all information, Orders (as defined herein), entries or other instructions provided on your behalf by Vendors through the Services in compliance with the procedures required by us (including Security Procedures). You confirm that you grant authority to Vendors to legally bind you with respect to their use of the Services. You are liable for (a) the Vendor's actual failure to comply with any of your obligations under this Master Agreement and the Service Documentation relating to the Service, (b) all fees, costs and expenses owed to each Vendor for its services on your behalf and (c) any claims, damages, costs and expenses incurred by you or us as a result of any Vendor's failure to perform, or delay or error in performing its services on your behalf.

#### **6. Security Procedures**

- (a) *Verification.* We require that the authenticity of any payment order, Automated Clearing House ("*ACH*") entry, entry data, batch release, electronic data or transmission or other instruction to transfer or pay funds or pay, return or issue checks (collectively, "*Orders*") issued to us in your name in connection with any Service be verified pursuant to security procedures as provided in this Master Agreement or in the applicable Service Documentation ("*Security Procedures*"). We may also require that other instructions you issue to us be delivered and accepted in compliance with Security Procedures. For Orders originated by you through OLBB, including through our File Transfer Facility Service, the Security Procedures are described in this Master Agreement in Section 19. For Orders delivered to us through other means, whether by telephone, computer transmission, facsimile or other acceptable or agreed upon means, the Security Procedures are described in the relevant Service Documentation.
- (b) *Acceptance of Security Procedures.* You should carefully review the Security Procedures in light of the size, amount and frequency of your transactions. Your use of the Service indicates your agreement that the Security Procedures are commercially reasonable. If instead of accepting and following the Security Procedures we offer, you choose to communicate to us pursuant to some other procedure, you are refusing the Security Procedures we recommend as commercially reasonable and you will be bound by any Order issued in your name and accepted by us in compliance with the procedure you choose.
- (c) *Security Procedure Limitations.* You acknowledge that the Security Procedures are used to verify the authenticity of, but not to detect errors in any Order you transmit. From time to time we may at our option use additional procedures to verify or authenticate Orders. The Security Procedures do not verify the actual identity of the users of the Services and do not monitor the actions of the users to determine whether their Orders exceed the scope of their authority. The Security Procedures are in addition to, and do not limit, revoke or affect the authority of any Authorized Individual to transmit

Orders, or any agreement now or hereafter existing between you and us relating to Orders. We may continue to rely upon such authority and agreements and we are authorized to act upon Orders received from persons acting pursuant to such authority or agreements.

**7. Confidentiality and Security.**

- (a) *Confidential Service Information.* You agree that it is your responsibility to maintain the security and strict confidentiality of all account numbers and identification data, codes and passwords provided to or used by you in connection with any Service ("*Identification Data*") as well as information concerning access to any Service or your Account, including the Security Procedures ("*Confidential Service Information*"). You may disclose the Identification Data and the Confidential Service Information only to your Authorized Individuals and Vendors who need to know Confidential Service Information in order to carry out their responsibilities to you with respect to the Services. You also agree to maintain the confidentiality of all User Guides, Service Descriptions, software and other proprietary information regarding the Service which we provide to you.
- (b) *Effective Policies and Procedures.* You represent and warrant to us that you have in place, and will maintain and enforce effective policies and procedures to prevent unauthorized access to your Account and the Services, including unauthorized and erroneous transmission of Orders and other communications to us. You agree to take all steps necessary to ensure the security, accuracy, authenticity, confidentiality and legitimacy of all communications to us and all access to the Services.
- (c) *Notification of Loss.* If at any time any Identification Data or Confidential Service Information has been lost, stolen or misused or you believe that the security of communications between you and us may be or has been compromised or is in any way insecure, you must notify us immediately (with confirmation in writing) and assist us in investigating and remedying the situation. Your notice will not affect any action taken by us, including transfers made or instructions carried out prior to the time we have received the notice and have had a reasonable opportunity to act on it.
- (d) *Our Obligations Regarding Confidential Information.* We protect the confidentiality of your financial information including your Identification Data and Confidential Security Information you provide to us in connection with the Services (including confidential information relating to your customers) and agree to use such information only to carry out the Services to you and as otherwise permitted by law or any agreement between us.
- (e) *Use of Confidential Service Information.* All uses of the Services in accordance with the Security Procedures will be deemed to be authorized by and binding on you. Your failure to protect Identification Data and Confidential Service Information may allow an unauthorized party to (i) use the Service(s); (ii) access your electronic communications and financial data; and (iii) send Orders and communications to us or receive information from us. We shall have no responsibility or liability whatsoever for any loss due to any unauthorized Order, instruction or other communication from you, your Vendor or your Authorized Individual to us, unless such loss was caused solely by our gross negligence or willful misconduct.
- (f) *Unencrypted Messages.* You recognize that unencrypted messages including e-mail are not secure. If you choose to communicate with us by e-mail, you acknowledge that we may rely on the contents of the e-mail as having been authorized by you, if we accept and act on it in good faith. You agree that we may reply to you in an e-mail with the requested information. You assume the entire risk for unencrypted electronic communications.

**8. Representations and Warranties: Agreement to Provide Information.**

- (a) *Your Representation and Warranties.* In addition to any representations and warranties in the Service Documentation, you represent and warrant to, and agree with us that:
  - (i) your execution, delivery and performance of this Master Agreement has been duly and properly authorized by all necessary corporate or other organizational action and governmental action and does not violate any provision of law, your certificate or articles of incorporation, by-laws or other organizational agreement or any material agreement binding upon you;

- (ii) this Master Agreement is your valid, legal and binding obligation enforceable against you in accordance with its terms;
  - (iii) the person or persons signing this Master Agreement on your behalf are authorized to do so; and
  - (iv) the establishment and maintenance by you of your Account with us and your use of the Services are for legitimate business purposes only and comply fully with applicable law, regulations and rules, including, where applicable, the rules of National Automated Clearing House Association ("NACHA Rules") or other funds transfer systems used in connection with a funds transfer (collectively, "Applicable Law").
- (b) *Our Representations and Warranties.* We represent and warrant to you that:
- (i) this Master Agreement has been authorized by all necessary corporate and governmental action and does not violate any provision of law, our charter or by-laws or any material agreement binding on us; and
  - (ii) this Master Agreement is our valid, legal and binding obligation enforceable against us in accordance with its terms.

EXCEPT AS EXPRESSLY PROVIDED FOR IN THE SERVICE DOCUMENTATION, WE MAKE NO OTHER REPRESENTATIONS OR WARRANTIES, EITHER EXPRESS OR IMPLIED, OF ANY KIND WITH RESPECT TO ANY SERVICE OR OUR PERFORMANCE OF THE SERVICES, INCLUDING, WITHOUT LIMITATION, THOSE OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NO DESCRIPTIONS OR SPECIFICATIONS CONSTITUTE REPRESENTATIONS OR WARRANTIES OF ANY KIND.

- (c) *Agreement to Provide Information.* You agree that you shall promptly furnish to us such information respecting your business and financial condition, in such form and manner, as we may reasonably request from time to time, which information shall be true, complete, and correct in all material respects.

#### **9. Limitations and Indemnities**

Except in the case of our gross negligence or willful misconduct, you agree to indemnify and hold us and our officers, directors, agents, affiliates and providers harmless from and against any and all actions, claims, demands, loss, liability or expenses whatsoever, including court costs and reasonable attorneys' fees and expenses ("*Claims*") resulting directly or indirectly from our performance under this Master Agreement or any Service in accordance with the Service Documentation; your omissions or your acts or your breach of any of the representations, warranties or covenants of this Master Agreement, any Service Documentation or the Account Agreement; or any willful misconduct or wrongful, fraudulent or grossly negligent act or omission of any third party where you voluntarily waive the use or improperly use the Security Procedures offered by us.

#### **10. Our Liability**

We will use ordinary care in providing the Services to you. Our ordinary care is to be evaluated based on reasonable commercial banking standards prevailing in our industry and location for similarly situated commercial banks. Our cumulative liability to you for all loss or damage arising from or relating to this Master Agreement and any Service, regardless of the form of action, is limited to direct losses attributable to our gross negligence or willful misconduct and limited to an amount not to exceed twelve (12) times the fees paid by you during the month immediately preceding the month in which the loss or damage was incurred. Any claim for liability arising under this section shall be made within 12 months after the date the claim arises. In no event under any theory are we liable for any indirect, punitive, consequential or special damages, including lost profits, even if we are aware of the possibility of such damages. Except as otherwise expressly required by Article 4A of the Uniform Commercial Code of Illinois, our sole and exclusive liability for our loss, destruction, or erroneous transmission of ACH entries or entry data shall be to assist you in recreating or regenerating such entry data or retransmitting the transactions based on that entry data. If in any case we are liable to you for lost interest, we will calculate interest based on our then current account analysis earning rate.

**11. Termination.**

- (a) This Master Agreement will continue in full force and effect until all Services have been terminated. Any Service may be terminated at any time by either you or us upon at least thirty (30) days' prior written notice to the other party. Only the Service specified in such notice will be terminated, and no other Services will be affected.
- (b) Either one of us may terminate this Master Agreement or any or all Services immediately upon written notice to the other due to:
- the other party's breach of a material obligation, representation, warranty or agreement made by the party under this Agreement,
  - the other party's insolvency, receivership or voluntary or involuntary bankruptcy, or the institution of any proceeding therefore, or any assignment for the benefit of the other party's creditors, or if in the good faith opinion of one party the financial condition of the other party has become impaired.
- (c) Upon termination of any or all Services under this Agreement:
- you will immediately return to us or destroy the originals and all copies (in all formats and media) of software programs we licensed to you, all User Guides, and security and access devices.
  - Any licenses granted by us to you with respect to those terminated Services under the applicable Service Documentation will automatically terminate.
- (d) Even if this Master Agreement or any or all Services are terminated, this Master Agreement shall continue in full force and effect as to all transactions that we began processing before such termination and the provisions of Sections 2, 7, 8, 9, 10 and 20 will survive any termination of this Master Agreement and the relevant Service.

**12. Money Laundering and Funding of Terrorism**

You acknowledge that transactions made on your behalf may be subject to federal and state laws and regulations governing transactions in currency and other monetary instruments relating to money laundering activities and the funding of terrorism and that such laws and regulations may impose severe criminal penalties on those who participate or assist in such activities or in structuring of such activities to avoid reporting requirements. You acknowledge that we may monitor transactions for compliance with such laws and regulations. Provided, further, you agree that you will not initiate any Order which would violate, or result in a payment in violation of the federal and state laws or regulations, including, without limitation, the federal laws and regulations administered by bank regulatory agencies and the Office of Foreign Assets Control ("OFAC") relating to money laundering and the funding of terrorism.

**13. Right of Set Off and Security Interest**

In accordance with the terms of the Account Agreement, in addition to our rights under this Master Agreement, we and each of our affiliates may exercise the right of set-off against any or all of your Accounts and deposits and you grant us a first priority security interest in all Accounts owned by you now or in the future with us or any of our affiliates to secure payment of any and all obligations regarding Services provided under this Master Agreement and Service Documentation.

**14. Our Use of Third Parties**

We may use the services, software, hardware or equipment of a third party to provide or facilitate all or any portion of the Services, including call centers, Website host, contractors, processor and the like. You agree that we may disclose to any such third party any information regarding you necessary to provide the Service and related support to you.

**15. Events Beyond Our Control**

We are not liable for any failure or delay in carrying out any of our obligations under this Master Agreement or any Service Documentation if such failure or delay results from us acting in accordance with applicable laws, regulations or rules or from acts of God, strike or stoppage of labor, power or equipment failure, disruptions in telecommunications systems or the financial markets, adverse weather conditions or any other cause beyond our control. We have no responsibility and will incur no liability for any act or failure to act by any other financial institution, intermediary or any other third party including any failure, delay or error by any Federal Reserve Bank or other intermediary bank in timely presenting data or checks to us.\*

**16. Subsidiaries**

If you have one or more "Subsidiaries" (defined as any corporation, limited liability company or other entity organized under the laws of any state of which you are the direct or indirect owner of a majority of its voting securities and equity interests), we may upon request provide one or more Services to that Subsidiary. If we agree to allow a Subsidiary to access a Service, that Subsidiary and you must execute and deliver to us a "Global Addendum" or other appropriate form provided by us. Any such Subsidiary using Services becomes a party to this Master Agreement, the relevant Service Selection Form and Service Documentation as "you".

**17. Notices**

Except as may be otherwise specified in the Service Documentation for a particular Service, all notices and other communications by you or us relating to this Master Agreement and or any Service Documentation generally shall be in writing and:

- if to you, addressed to your primary address as shown on our records or, if permitted by law, delivered electronically;
- if to us, addressed to Documentation Analysis and Control at: BMO Harris Bank N.A., Documentation Analysis and Control, 111 West Monroe Street 9 Center, Chicago, Illinois 60603, or at such other address as we may specify in writing.

Any notice or communication to you or us will be effective when it is actually received and there has been a reasonable time to act on it except that written notice or communication to you will be effective no later than five (5) days after it was mailed by first class certified or registered mail, return receipt requested whichever is earlier. We are entitled to rely on any written notice or other communication that we believe in good faith to be genuine and to have been signed by your authorized representative. We are permitted at our sole discretion, to act on e-mail notices from you sent to [gtmus.clients@harrisbank.com](mailto:gtmus.clients@harrisbank.com) or otherwise, although we shall be under no obligation to do so. We will accept any such communications unless we notify you to the contrary. You should be aware, however that sending any personally identifiable information (such as account numbers, tax identification numbers, etc.) by unsecured e-mail is not advisable and you assume all risks of loss arising from your use of such delivery method should you choose to do so. We reserve the right to give notices and communications to you in such form or medium as we consider reasonable and by such means as are permitted by applicable law.

**18. Miscellaneous**

- (a) This Master Agreement and the Service Documentation constituting a part of this Master Agreement together with the Account Agreement constitute the entire agreement between you and us with respect to the Services and supersedes and replaces any previously made proposals, representations, warranties or agreements, express or implied, either oral or in writing.
- (b) We may amend this Master Agreement by written notice sent to you in accordance with Section 17, above. Except as specifically provided in the Service Documentation, any amendment to this Agreement (other than a change in fees and charges) will be effective thirty (30) days after notice of the amendment is sent to you. Notices of increases in our fees or charges will be effective on the date indicated in the notice. If an effective date is not indicated, the effective date will be ten (10)



Business Days from the date the notice was sent. This paragraph does not apply to the changes and updates described in Section 1 of this Master Agreement under "Service Changes".

- (c) You may not assign this Master Agreement or any Service or your rights under this Master Agreement without our prior written consent. We may not assign this Master Agreement without your prior written consent, except that we may assign this Master Agreement, in whole or in part, without such consent to any of our subsidiaries or affiliates or in connection with the merger, consolidation, reorganization or acquisition of substantially all the assets of our company. Any purported assignment of this Master Agreement or any Service without our written consent is void.
- (d) No party's failure or delay in exercising any right or remedy under this Master Agreement will operate as a waiver of such right or remedy; and no single or partial exercise by a party of any right or remedy under this Agreement will preclude any additional or further exercise of such right or remedy or the exercise of any other right.
- (e) If a provision of this Master Agreement is held to be invalid, illegal, or unenforceable, the validity, legality, or enforceability of the other provisions of this Master Agreement will not be affected or impaired by such holding.
- (f) This Master Agreement is binding upon and will inure to the benefit of the parties and their respective legal representatives, successors and permitted assigns. This Master Agreement is not for the benefit of any other person except as explicitly provided in this Master Agreement, and no other person shall have any right against you or us under any of this Master Agreement.
- (g) Where appropriate, terms defined in this Master Agreement in the singular shall be deemed to include the plural and those defined in the plural shall be deemed to include the singular.
- (h) This Master Agreement may be executed in multiple counterparts with the same effect as if you and we had executed the same document, and all counterparts must be construed together as one instrument. Delivery of an executed counterpart by facsimile is effective as delivery of a manually signed counterpart.
- (i) This Master Agreement is governed by and must be construed in accordance with the laws of the State of Illinois, including the Uniform Commercial Code as in effect in the State of Illinois from time to time (the "UCC"). The parties acknowledge that certain provisions of the UCC contain provisions which by the express terms of the UCC may not be varied by agreement of the parties (a "Non-variable Obligation"). To the extent that any provision of this Master Agreement purports to vary such Non-variable Obligation, the parties acknowledge that their respective rights and obligations under this Master Agreement are subject to the Non-variable Obligation.

**THE FOLLOWING SECTION 19 APPLIES ONLY IF YOU HAVE ENROLLED IN OUR ONLINE BANKING FOR BUSINESS SERVICE**

**19. Internet Access**

In addition to other means of accessing our Services, we offer you the ability to access a variety of our Services and other features via the Internet through OLBB on our OLBB Website. Your use of a Service through OLBB is also subject to the terms and conditions of the Service Documentation for that Service.

- (a) **OLBB.** The Services and other features currently available through OLBB are summarized below and are described in more detail in the OLBB User Guide which is separately furnished. OLBB provides direct access to these Services via the Internet and facilitates reporting, individual transactions and Orders which can be key-entered.
  - (1) **Balance and Information Reporting Services.** You may use OLBB to access, view and receive information about your Account(s), including balances and transactions, and other information relating to your relationship with us (including, but not limited to information on any loans, transactions or other Services you use) as we may provide or make available to you (collectively, the "Information Reporting Services"). Information available and provided through the Information Reporting Services changes frequently and is subject to updating verification and

correction by us from time to time and at any time throughout the day. Information may change between when we last sent the information to you or electronically posted it and when you receive or access the information and, therefore, you are solely responsible for any actions taken in reliance on information presented through the Information Reporting Services, including any actions that may result in an overdraft or incorrect payment you make.

- (2) Internal Book Transfer Services. You may transfer funds on deposit in an Account to another Account maintained with us (a "Book Transfer") using OLBB. Each Book Transfer shall be deemed to be an Order and our liability for processing such Order shall be subject to the limitations on liability as set forth herein. You must communicate instructions to initiate a Book Transfer through OLBB by using the Security Procedures we assign. Book Transfers shall be subject to the cut-off times we establish and any of our information or formatting requirements and you may schedule Book Transfers for future dates. We may reject any Book Transfer for any reason in our sole good faith discretion (including, but not limited to, an overdraft in your Account). You agree to be liable for any Book Transfers communicated to and executed by us in compliance with the Security Procedures, whether or not they are authorized. You shall have no right to cancel a Book Transfer once you submit it to us for processing.
- (3) Stop Payment Services. You may use OLBB to transmit an order for us to stop payment on a check you issued (each a "Stop Order") on your Account, and we agree to provide such Services relating to such Stop Orders subject to the terms herein. We are authorized to rely on Stop Orders received through OLBB and you agree that a Stop Order placed under this Service constitutes a writing pursuant to Section 4-403 of the UCC. We will endeavor to process Stop Orders on the same Business Day if received prior to our current cut-off time, provided that we shall have no liability if such Stop Order is not processed on the same Business Day. To place a Stop Order, you must provide all information we require (the "Required Information") and the Required Information must precisely identify a check you have issued on your Account or the Stop Order shall be void and not processed. We also require you to provide a reason for the Stop Order and your phone number, as well as the duration to maintain the Stop Order.

This Service is available only for checks drawn on your Account and will not apply to cashier's checks, certified checks, drafts or other similar cash equivalent items. No Stop Order, or release of a Stop Order, placed hereunder will be effective until you receive verification thereof from us; such verification may be provided through OLBB. We will not be obligated to honor any Stop Order and such Stop Order will be void if the item to which it relates has been paid or we have become otherwise obligated to pay such item. **UNLESS OTHERWISE SET FORTH ON THE REQUEST FOR A STOP ORDER, EACH STOP ORDER PLACED HEREUNDER WILL AUTOMATICALLY EXPIRE 6 MONTHS AFTER THE DATE WE CONFIRM RECEIPT AND PLACEMENT THEREOF, UNLESS YOU RENEW IT FOR A SIMILAR PERIOD. WE HAVE NO OBLIGATION TO COMPLY WITH ANY EXPIRED STOP ORDER AND SHALL HAVE NO LIABILITY FOR PAYMENT OF A CHECK ON WHICH THE STOP ORDER HAS EXPIRED. NO NOTICE WILL BE PROVIDED TO YOU THAT AN ORDER IS EXPIRING.**

- (4) Alerts Services. You may elect to receive informational alerts for selected Services ("Alerts") delivered via OLBB to the email address you designate. The types of Alerts are described in the Service Documentation for a specific Service to which the Alert applies. You are solely responsible for the selection, security, accuracy and accessibility of the email addresses provided for the Alerts. Alerts are provided for your convenience and are based on your Account information, which may be updated throughout the day. We shall not be liable for any failure or delay or inaccuracy in any Alerts. You are solely responsible for your use and reliance on such Alerts. You are not permitted to reply to any Alerts by means of the Internet address to which such Alerts are delivered or otherwise. You acknowledge and agree that Alerts are sent without encryption or any security codes and we shall not be responsible or have any liability for unauthorized access to an Alert or the information therein. You acknowledge and agree that Alerts are provided as a courtesy and do not have any effect on the validity of transactions

initiated using any other Service or information provided to you as part of a Service or in connection with an Account, including periodic statements or information provided by other means and your obligations to monitor activity on your Accounts is not modified by our providing, or failure to provide, Alerts. You further acknowledge and agree that you are responsible for accessing each Service as applicable to administer your transactions and information, notwithstanding whether an Alert is provided, and Alerts do not relieve you of your responsibilities under the terms of any Service.

(5) Bill Pay Services. If you enrolled in our online bill payment services ("*Bill Pay*"), you can pay bills either on an automatic, recurring basis or periodically as you request. By using Bill Pay, you are requesting that we make payments for you from your Bill Payment Account(s) (defined below) in accordance with the terms of this Section 19(a)(5).

A. **Definitions**. Certain capitalized terms in this Section 19(a)(5) not defined elsewhere in this Master Agreement are defined below:

- (i) "*Bill Payment Account*" means an Account you have designated for us to debit with respect to a payment made through Bill Pay in connection with OLBB.
- (ii) "*Bill Payment*" means a payment through Bill Pay to designated Billers based upon your instructions provided to us in OLBB.
- (iii) "*Biller*" is the person or business entity to which you wish a Bill Payment to be directed or is the person or entity from which you receive electronic bills, as the case may be.
- (iv) "*Billing Account*" is your account with your Biller.
- (v) "*Due Date*" is the date reflected on your statement for which the payment is due. It is not the late payment date or grace period.
- (vi) "*Expedited Payment*" means a One Time Payment that we process on an expedited schedule.
- (vii) "*One Time Payment*" means a single Scheduled Payment to a Biller in the amount designated by you.
- (viii) "*Payment Instruction*" is the information provided by you to us for a Bill Payment to be made to the Biller (such as, but not limited to, Biller name, Billing Account number, and Scheduled Payment Date).
- (ix) "*Recurring Payment*" means Scheduled Payments of a fixed amount designated by you to a Biller designated by you made on a regular time interval or payments of varying amounts made upon receipt of an electronic bill.
- (x) "*Scheduled Payment*" is a payment that has been scheduled through OLBB but has not begun processing.
- (xi) "*Scheduled Payment Date*" is the day you want your Biller to receive your payment and is also the day your Bill Payment Account will be debited, unless

the Scheduled Payment Date falls on a non-Business Day in which case it will be considered to be the previous Business Day.

- (xii) "*Security Credentials*" mean the information we use to identify you when accessing your Account(s) and OLBB and may include Security Devices, Account numbers, PINs, Card numbers, User IDs, User Passwords, Customer IDs, Customer Passwords and challenge questions and answers. Security Credentials may be assigned to you by us or selected by you, as may be updated from time to time.
  
- B. Payment Scheduling.** You may schedule two (2) types of Scheduled Payments to your Billers: One Time Payments or Recurring Payments. The earliest possible Scheduled Payment Date for each Biller will be designated within Bill Pay when you are scheduling the payment. Therefore, Bill Pay will not permit you to select a Scheduled Payment Date earlier than the earliest possible Scheduled Payment Date designated for each Biller. When scheduling payments you must select a Scheduled Payment Date that is no later than the actual Due Date reflected on your Biller statement. However, if the actual Due Date falls on a non-Business Day, you must select a Scheduled Payment Date that is at least one (1) Business Day before the actual Due Date.
  
- C. Payment Remittance.** The cut-off time for Payment Instructions is provided within Bill Pay. Payment Instructions received after the cut-off time on a Business Day or on a non-Business Day will be processed the next Business Day.
  
- D. Expedited Payments.** You may use the Expedited Payment service to make a same day ACH payment or overnight delivery of a check payment to a participating Biller for an additional fee. You may pay any Biller that is approved by us and eligible for payment under the Expedited Payment service. Overnight delivery checks are not available to Billers with a post office box address or who are located in Alaska, Hawaii or any United States territory. By providing us with your Billing Account (including, but not limited to, Biller name, Billing Account number and the amount of your payment), you authorize us to initiate and complete the payment scheduled by you through the Expedited Payment service. We reserve the right to select the payment method in which your funds will be remitted to the Biller. You will be notified whether the payment will be made by ACH or check when you are scheduling it. It is your sole responsibility to enter and verify any address for expedited payments by check to ensure that the address is correct and that it is a valid overnight package address of the specified Biller.

You may access the Expedited Payment service online whenever Bill Pay is available. However, each individual Biller sets their own business days and payment cutoff times and they are subject to change. To ensure timely payment and obtain the full benefit of the Expedited Payment service, your Bill Payment Account must be in good standing and you must submit an eligible, accurate Payment Instruction containing all of the information required by the Expedited Payment service before the cut-off time for the applicable Biller's business day as displayed. Funds will be debited from your Bill Payment Account and credited to your Billing Account on the date we indicate at the time you submit your Payment Instruction. In the event you attempt to schedule a payment after the Biller's cut-off time, you will be asked whether you wish to schedule the payment for the Biller's following business day or if you wish to cancel the transaction. If we are unable to complete the transaction because of insufficient funds in your Bill Payment Account or some other reason, we will send you an alert at the e-mail address you have provided for OLBB. We are not responsible for any charges imposed or any other action taken by a Biller if your Billing Account is not in good standing with the Biller or that result

from a payment that you have not scheduled properly, including any applicable finance charges and late fees. In addition, we will not be liable if there are insufficient available funds in your Bill Payment Account or if any part of the electronic funds transfer system network is not working properly. You cannot cancel an Expedited Payment. If your Bill Payment Account is a personal Account, the fee for an Expedited Payment is set forth in the Deposit Account Disclosure that applies to your Account. Any fee associated with payments made through the Expedited Payment service also will be separately displayed at the time you submit your Payment Instruction. The fee will be deducted from your Bill Payment Account along with the amount of the payment to the Biller on the Business Day that you schedule the transaction. This fee is subject to change from time to time.

- E. **Payment Methods.** Payments will be made using the ACH, by paper check, or any other method chosen by us. You agree that we have the sole right to select the method in which to remit funds on your behalf to your Biller (each a "Payment Method" and collectively as "Payment Methods"). Your Payment confirmation will list the Payment Method for each Bill Payment. If a check is used as the Payment Method, a check number will be included in your payment confirmation.
- F. **Limitations on Payments.** The current maximum amount of any single Bill Payment is \$100,000 and the aggregate maximum total amount of all Bill Payments processed on any Business Day is \$250,000. If a transaction would exceed these amounts, a notice will be separately displayed at the time you submit your Payment Instruction. There are no minimum amounts which apply to a Bill Payment. These limits are subject to change from time to time.
- G. **Payment Cancellation Requests.** Except as otherwise expressly provided in this Section 19(a)(5), you may cancel or edit any Scheduled Payment (including Recurring Payments) by following the directions within Bill Pay. There is no additional charge for canceling or editing a Scheduled Payment. Once we have begun processing a Scheduled Payment, it cannot be cancelled or edited online through Bill Pay.
- H. **Stop Payment Requests.** To stop a Scheduled Payment that has been, or is being processed, you must submit a stop payment request to us. We must have a reasonable opportunity to act on any stop payment request. Your ability to stop payment of a Scheduled Payment that has been, or is being, processed will depend on the Payment Method and whether your Bill Payment Account is a commercial Account or personal Account. If your Bill Payment Account is a commercial Account and the Payment Method is a paper check, you may request a stop payment of the check in accordance with Section 19(a)(3), above, or your Account Agreement. If your Bill Payment Account is a personal Account and the Payment Method is a paper check or electronic funds transfer, you may request a stop payment in accordance with the applicable provisions of your Account Agreement. For all other Payment Methods, although we will make every effort to accommodate your stop payment request, we are not liable to you for failing to do so. You may also be required to present your stop payment request in writing within fourteen (14) days. If your Bill Payment Account is a personal Account, the fee for a stop payment request is set forth in the Deposit Account Disclosure that applies to your Bill Payment Account.
- I. **Prohibited Payments.** You may make payments to Billers within the United States, subject to any maximum payment limits. In addition, Expedited Payments made by overnight delivery check may not be made to Billers located in Alaska, Hawaii or any United States territory. You agree not to use Bill Pay to pay tax payments, payments made pursuant to court orders, fines, payments for gambling debts, or payments

otherwise prohibited by law. In no event will we be liable for any claims or damages resulting from you scheduling these types of payments. We have no obligation to research or resolve any claim resulting from a prohibited payment. All research and resolution for any misapplied, misposted or misdirected payments will be solely your responsibility and not our responsibility.

- J. **Electronic Bill Delivery and Presentment (E-Bills).** This feature is for the presentment of electronic bills only and it is your sole responsibility to contact your Billers directly if you do not receive your bills. This electronic bill delivery feature does not alter your liability or the obligations that currently exist between you and your Billers. In addition, if you elect to activate one of Bill Pay's electronic bill options, you also agree to the following:
- We are unable to update or change your personal information with the Biller such as, but not limited to, name, address, phone numbers and e-mail addresses. You must contact the Biller directly to make any changes. Additionally it is your responsibility to maintain all usernames and passwords for all Biller websites. You also agree not to use someone else's information to gain unauthorized access to another person's bill. We may, at the request of the Biller, provide to the Biller your e-mail address, service address, or other data specifically requested by the Biller at the time of activating electronic bills for that Biller.
  - Upon activation of the electronic bill feature, we may notify the Biller of your request to receive electronic billing information. The presentment of your first electronic bill may vary from Biller to Biller and may take up to sixty (60) days, depending on the billing cycle of each Biller. Additionally, the ability to receive a paper copy of your statement(s) is at the sole discretion of the Biller. While your electronic bill feature is being activated it is your responsibility to keep your Billing Accounts current. Each Biller reserves the right to accept or deny your request to receive electronic bills.
  - Your activation of Bill Pay for a Biller shall be deemed to be your authorization for us to obtain bill data from the Biller on your behalf. For some Billers, you will be asked to provide us with your user name and password for that Biller. By providing us with such information, you authorize us to use the information to obtain your bill data.
  - We will present your electronic bills to you by notification within Bill Pay. In addition, we may send an e-mail notification to the e-mail address listed for OLBB. It is your sole responsibility to ensure that this information is accurate. In the event you do not receive notification, it is your sole responsibility to periodically log on to Bill Pay and check on the delivery of new electronic bills. The time for notification may vary from Biller to Biller.
  - The Biller reserves the right to cancel the presentment of electronic bills at any time. You may cancel electronic bill presentment at any time. The timeframe for cancellation of your electronic bill presentment may vary from Biller to Biller. Depending on the billing cycle of each Biller, cancellation of electronic bill presentment may take up to sixty (60) days. We will notify your Biller(s) of the change in status of your Billing Account and it is your sole responsibility to make arrangements for an alternative form of bill delivery. We will not be responsible for paying any electronic bills that are already in process at the time of cancellation.
  - You agree to hold us harmless should you fail to receive your electronic bill. You are responsible for ensuring timely payment of all bills. Copies of previously delivered bills must be requested from the Biller directly.
  - We are not responsible for the accuracy of your electronic bill(s). We only present the information we receive from the Biller. Any discrepancies or disputes regarding the accuracy of your electronic bill summary or detail must be addressed with the Biller directly.

**K. Failed Bill Payments.** A Scheduled Payment will fail to result in a Bill Payment in the following circumstances:

- (i) the Scheduled Payment was insufficiently funded or Bill Pay could not retrieve the funds necessary to make the Schedule Payment for any reason;
- (ii) you provide us with erroneous or incomplete information that prevents us from making accurate and timely payment;
- (iii) a Biller cannot or will not accept a payment we deliver;
- (iv) we suspect the Scheduled Payment of being fraudulent; or
- (v) we suspect that the Biller is a blocked entity under Office of Foreign Assets Control Sanctions.

We will notify you of each Scheduled Payment that does not result in a Bill Payment because of any of the reasons described above. If the Bill Payment does not occur due to any of items (ii) through (v) above, we may request additional information regarding the failed Scheduled Payment. If you do not provide the information we need to resolve the failed Bill Payment within five (5) Business Days, the Scheduled Payment will be cancelled and funds will be re-credited to your Bill Payment Account.

If a Scheduled Payment does not result in a Bill Payment because (a) the Bill Payment Account from which the Scheduled Payment was scheduled has insufficient funds or (b) Bill Pay could not retrieve the funds necessary to make the Scheduled Payment for any reason, then you acknowledge and agree that (i) Bill Pay will be CANCELLED for ALL of your Accounts associated with Bill Pay; (ii) notice of such a failed Scheduled Payment as a result of (a) or (b) above shall also constitute notice of the cancellation of Bill Pay and any Scheduled Payments scheduled to be made after the failed Scheduled Payment; and (iii) all Scheduled Payments in Bill Pay for ALL of your Accounts (including during the three (3) day period specified below) will be CANCELLED with no further notice to you and will not be made or initiated. This cancellation will remain in effect until we determine whether Bill Pay can be restored. During the time when Bill Pay is cancelled as provided herein, it will be your sole responsibility to provide for another means of payment. We may, but have no obligation to, attempt to re-submit a failed Scheduled Payment up to three (3) times after the Scheduled Payment fails due to the inability of Bill Pay to retrieve the funds from your Bill Payment Account for payment. If Bill Pay is able to retrieve the funds in any of these subsequent attempts, Bill Pay will resume three (3) days after the Scheduled Payment is made successfully and results in a Bill Payment. After Bill Pay has resumed, we will process: (i) Scheduled Payments that you submit through Bill Pay after that date; and (ii) One Time Payments and Recurring Payments that you submitted through Bill Pay prior to its cancellation that are scheduled to occur after the date that Bill Pay is resumed. We will give you notice if and when we restore Bill Pay on your Accounts.

You agree that we are not responsible or liable for our failure to process any Scheduled Payment for any of the reasons described above, including during any time that Bill Pay is cancelled, whether or not there are sufficient funds in your Bill Payment Account(s) during such cancellation period. You also agree to indemnify and hold us harmless from any claims, liability, loss or damages resulting from our actions taken under this subsection K. This provision amends and supersedes any conflicting provision of our Account Agreements with you for your Accounts.

**L. Service Fees and Additional Charges for Personal Bill Payment Accounts.** The provisions of this subsection L only apply to Bill Payment Accounts that are personal Accounts. Any applicable fees will be charged regardless of whether Bill Pay was used

during the billing period. There may be a charge for additional transactions and other optional services. You agree to pay such charges and authorize us to deduct the amount from your designated Bill Payment Account for these amounts and any additional charges that may be incurred by you. For personal Accounts, the Bill Payment Account for Service fees is the Account which Bill Pay or the requested transaction impacts. Any fees associated with your Accounts continue to apply. You agree that we may deduct from your Bill Payment Account any amount due, including for an amount due to payment made under this Agreement.

- M. Service Termination and Cancellation of Payments.** You may terminate Bill Pay at any time. Any Scheduled Payment(s) scheduled to occur before the cancellation date will be completed. All Scheduled Payments, including Recurring Payments, scheduled to occur after the cancellation date of Bill Pay will not be processed. We may terminate Bill Pay at any time. If any of your Bill Payment Accounts are closed, we will automatically cancel Bill Pay for all your Bill Payment Accounts and no Scheduled Payments, including Recurring Payments, will be made by us from any of your Bill Payment Accounts. You must make other arrangements to make these payments.
- N. Biller and Payment Limitations.** Bill Pay will be monitored for compliance with laws and regulations governing currency transactions and money laundering. We reserve the right to refuse to pay any Biller to whom you may direct a payment or refuse any Scheduled Payment. We will notify you promptly if we refuse to pay a Biller designated by you or refuse to make a Scheduled Payment. This notification is not required if you attempt to make a prohibited payment under this Master Agreement.
- O. Delayed and Returned Payments.** You will be notified if a delay occurs in the processing of your Scheduled Payment. You may be instructed to call us or we may call you if we need more information in order to process the transaction.

You understand that Billers and/or the United States Postal Service may return payments to us for various reasons such as, but not limited to, Biller's forwarding address expired; Billing Account number is not valid; Biller is unable to locate Billing Account; or Billing Account is paid in full. We will research and correct the returned payment and return it to your Biller, or void the payment and credit your Bill Payment Account.

- P. Address or Other Changes.** All changes made are effective immediately for scheduled and future payments paid from the updated Bill Payment Account information. We are not responsible for any payment processing errors or fees incurred if you do not provide accurate Billing Account or contact information.
- Q. Liability for Unauthorized Transfers or Payments for Personal Accounts.** This subsection Q applies to Bill Payment Accounts that are personal Accounts. When you give another party your Security Credentials, you are authorizing that party to use Bill Pay and you are responsible for all payments that party performs while using your Security Credentials, even those that you did not intend or want to be performed.
- (i) If you are a consumer customer and use Bill Pay to make a payment from your personal Account, the following terms apply to your use of Bill Pay.

Federal law requires that if you believe your Security Credentials have been lost or stolen, and you tell us within two (2) Business Days after you learn of the loss or theft, you can lose no more than \$50 if someone used your Security



Credentials without your permission. Please call us AT ONCE at 1-888-340-2265 if you believe your Security Credentials have been lost or stolen. Telephoning is the best way to minimize your losses. You could lose all the money in your Account (plus your maximum overdraft line of credit, if you have that service). If you tell us within two (2) Business Days after you learn of the loss or theft, you can lose no more than \$50 if someone used your Security Credentials without your permission. If you do NOT tell us within two (2) Business Days after you learn of the loss or theft of your Security Credentials, and we can prove that we could have stopped someone from using your Security Credentials without your permission if you had told us, you could lose as much as \$500. Also, if your statement shows transfers that you did not make, including those made using your Security Credentials, tell us at once. If you do not tell us within sixty (60) days after the statement was provided or made available to you or if we can prove that we could have stopped someone from taking the money if you had told us in time, you may not get back any money you lost. If a good reason (such as a long trip or a hospital stay) kept you from telling us, we may extend the time period.

Please note that if the Biller you scheduled a payment to is an individual or if the Biller does not appear on a list of pre-approved Billers when you input the Biller's information within Bill Pay, or if we notify you the payment will be made by overnight check when you request an Expedited Payment, we will make payments by check to those Billers and the limitations of liability set forth above will not apply.

- (ii) For additional provisions relating to unauthorized transactions, please see your Account Agreement.
- (iii) Except as otherwise expressly set forth above and in the Account Agreement that applies to your applicable Bill Payment Account, we shall have no liability to you for any errors or losses you sustain in using Bill Pay except where we fail to exercise ordinary care in processing any transaction. We also are not liable for any failure to provide any service or make any Scheduled Payment if your applicable Account(s) are no longer linked to Bill Pay. Except as otherwise expressly set forth herein, our liability in any case shall be limited to the amount of any funds improperly transferred from your Bill Payment Account less any amount, which, even with the exercise of ordinary care, would have been lost.

R. **Rich Remittance.** You may use Bill Pay to transmit additional detail related to the payment to the Biller such as invoice numbers, credit memo detail and dollar amounts by following the directions within Bill Pay.

(6) **File Transfer Facility Service.** The File Transfer Facility ("FTF") Service permits us to exchange files and reports with you through OLBB related to certain Services in which you are enrolled. You are responsible for monitoring any files transmitted using the FTF Service to ensure that such files were successfully transmitted and not rejected, and for re-transmitting any rejected files.

(b) **User Identification.** In the Service Documentation, you will specify your "Corporate Administrator" for OLBB and will designate other authorized users and approvers for a particular Service through OLBB. We will assign to you a unique identification number ("Customer ID") and password ("Customer Password") at the entity level and will assign to the Corporate Administrator a user identification

number ("User ID") and password ("User Password"). You represent to us that the Corporate Administrator has full authority on your behalf to:

- designate individuals who will have authority to access OLBB ("Authorized Users"), establish their permission rights and otherwise act on your behalf in connection with OLBB;
- assign User ID's and User Passwords to Authorized Users for access to OLBB, as the case may be; and
- accept on your behalf all Service Documentation and other documents and correspondence relating to OLBB.

The Corporate Administrator is responsible for assigning User ID's and User Passwords to Authorized Users; we have no control over the establishment of Authorized Users or their Identification Data. If you have Subsidiaries or affiliates with separate Accounts, we may, in our discretion, treat each such entity as a separate entity for all security and set-up procedures, including the assignment of a separate Customer ID and Customer Password or may allow, upon your request, use of common Customer ID and Customer Password. We may also allow common User ID's and User Passwords and common Security Devices (as defined below) for all entities for which a particular User is authorized to act. We recommend against the use of common User IDs and User Passwords. You understand that the use of Identification Data and, where applicable a Security Device is the "Security Procedure" for accessing a Service through OLBB. We are authorized to act and rely upon all Orders submitted to us using the Identification Data and Security Device (if applicable).

- (c) *Security Devices.* You may elect, at your option, to require your Corporate Administrators and Authorized Users to use a security token, digital certificate, encryption key, or similar device (a "Security Device") to access the Service. You may be subject to additional fees and charges for selecting this option. If you do not elect to require the use of Security Devices to access the Service, you agree that you will be treated as having assumed any associated risk. Use of a Security Device is required in connection with approvals of transactions in our ACH and Wire Transfer Services and our FX trading Services and may be required in connection with other Services as specified in the Service Documentation. Each Security Device requires a Security Device identification number ("Device Password") in addition to other required Identification Data before accessing a Service. You are responsible for the proper use and care of the Security Device. Each Security Device at all times remains our exclusive property. The Security Devices are licensed for use only in the country of original installation and such other jurisdictions where such use is authorized under applicable law or license provisions. You may not export, directly or indirectly the Security Devices or any technology inherent in the Security Devices.
- (d) *Your Responsibilities.* In addition to your responsibilities under Section 7 of this Master Agreement, you agree to institute and maintain and enforce procedures and policies to insure that OLBB and other access Services are only used by Authorized Users for authorized activities and transactions on your behalf. These procedures must include, among other measures, internal controls, procedures to ensure that terminals used to access OLBB are attended only by Authorized Users while accessing OLBB and that sessions are fully terminated when authorized use is completed. You must also ensure that Authorized Users use Identification Data only as authorized and only for the specific modules or Services for which the Authorized User has authority. We are not responsible if any Authorized User exceeds the limits of the Authorized User's authority. Notwithstanding our efforts to make OLBB secure, you understand that the Internet is inherently insecure and that all data communications and transfers occur openly on the Internet and can be monitored, intercepted, rerouted, copied and read by others. To reduce the likelihood of such third party access, you agree to transmit and receive data and messages through OLBB using only software including, but not limited to, browser software, or other access devices that support the Secure Socket Layer 128 bit encryption protocol or other protocols required by or acceptable to us and to follow the other Security Procedures that support such protocols.

- (e) *Equipment.* You also are responsible for having and maintaining at your expense proper functioning hardware, software and communication devices, Internet access and services necessary for use with OLBB and other Services and access methods as explained in the User Guides. We are not responsible if any of the foregoing fails to function properly. You must also ensure that your systems comply with applicable Law.
- (f) *Websites.* Our OLBB and other website ("*Websites*") may have a situs in the United States or Canada, and may be owned, hosted or controlled by us, our affiliates or a third party selected by us and which Website may also be used for other Internet services offered by us or any of our affiliates. We make no representation or warranty that OLBB or any other Service access method is available or appropriate for use in countries other than the United States and Canada. You are responsible for compliance with all laws (including foreign and domestic laws and regulations requiring governmental consent) applicable to where you conduct business.
- (g) *Unavailability of Access.* If OLBB or any other communication system or Website becomes disabled or is otherwise unavailable for your use for any period of time, you must promptly notify us of the situation. We will cooperate to restore access as promptly as possible. However, if a timely remedy is not available, you and we will cooperate to seek an alternative method to initiate Orders and carry out other Services. In any event, we will have no liability to you based on the unavailability of OLBB or any other communications system or Website or our failure to remedy the problem in a timely manner.
- (h) *Links to Personal Accounts.* If you elect to link your commercial Accounts with your personal Accounts through OLBB, then (i) your Account Agreement shall mean the Deposit Account Agreement for Personal and Business Deposit Accounts, dated as of October 6, 2012, as amended from time to time and not this Master Agreement or the Commercial Account Agreement and (ii) any transactions on your personal Account(s) through the Service shall be governed by your Account Agreement. Notwithstanding the foregoing, however, Section 19(a)(5) of this Master Agreement shall also apply to your personal Account with respect to Bill Pay transactions initiated on such Account.
- (i) *Intellectual Property.* All pages, screens, text, and other materials, or other works of authorship and material appearing on or utilized in connection with our Websites, the names, trademarks, logos, slogans and services mark used, displayed and found on the Websites, the Security Devices and all other intellectual property relating to the Websites (collectively, "*Intellectual Property*") are owned by and proprietary to us or our affiliates or licensors, except as otherwise indicated on the Websites. Except as expressly permitted under the Service Documentation, no Intellectual Property may be copied, modified, reproduced, used in any way or publicly displayed, or distributed in any medium of expression without our prior written permission. All additions, inurements and improvements to the Intellectual Property, regardless of whether created by you or us, if any, shall automatically become our exclusive property (or our licensor's) without further action of the parties. You agree that you will only use the Intellectual Property to conduct Services on the Websites and for no other purpose.
- (j) *Third Party Information and Linked Websites.* Financial market data, quotes, news, research and other information developed by third parties and transmitted by us will be available on the Websites (or sites linked to the Websites) ("*Third Party Information*"). The posting of Third Party Information or other information or data on the Websites (or sites linked to the Websites) will not be a recommendation by us that a particular service or transaction is suitable or appropriate for you. Although we strive to insure that information we obtain from third parties is reliable, we do not guarantee the accuracy, completeness or timeliness of such Third Party Information, nor are we in any way responsible for any decision you make or action you take in reliance on such information.
- (k) *Miscellaneous.* You must ensure that the software (excluding software provided by us), listed websites and related materials you use in accessing our Internet Services are free of defects, bugs and virus, software problems and other items of a destructive nature; we are not responsible for any of these problems you may encounter. Your use of OLBB is also subject to the terms and conditions of the Website as posted on the Website. Certain Services may require that you agree to a



reasonable license or sublicense with us or a third party. We will provide you a copy of such license or sublicense in advance.

## 20. Claims Subject to Arbitration

We and you agree to arbitrate all disputes or claims between you and us arising out of or relating to the Services or this Master Agreement. This arbitration provision is intended to be broadly interpreted. Claims include, but are not limited to:

- claims arising out of or relating to your Services, this Master Agreement, any applicable Service Descriptions or any other agreement related to your Services, or any transactions arising thereunder, whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory;
- claims that arose before the effective date of this Master Agreement or any prior services agreement (including, but not limited to, claims relating to advertising, promotions, or disclosures);
- claims that are currently the subject of purported class action litigation in which you are not a member of a certified class; and
- claims that may arise after the termination of this Master Agreement.

This Master Agreement evidences a transaction in interstate commerce, and thus the Federal Arbitration Act, 9 U.S.C. § 1 et. seq., governs the interpretation and enforcement of this provision. The arbitrator will decide the substance of all Claims in accordance with all applicable law, including recognized principles of equity and statutes of limitations, and will honor all claims of privilege recognized by law. Under this arbitration provision, arbitrators will not be bound by rulings in prior arbitrations involving different customers but are bound by rulings in prior arbitrations involving the same customer to the extent required by applicable law. This arbitration provision will survive the termination of your Services and/or this Master Agreement.

Unless both you and we agree otherwise, each party must bring all related or similar Claims in a single arbitration proceeding. If you or we later initiate a subsequent arbitration asserting Claims that are related or similar to ones that were raised by such party in a prior arbitration, the American Arbitration Association ("AAA") or the arbitrator will either: (i) consolidate the subsequent arbitration with the earlier proceeding if it is ongoing or (ii) dismiss the subsequent arbitration if it raises Claims that would be barred by applicable law if brought in court.

(a) *Notice of Dispute and Arbitration Procedures.* A party who intends to pursue a Claim must first send to the other a letter describing the Claim and containing the information described below (a "Notice of Dispute"). Any Notice of Dispute sent to us should be addressed to:

BMO Harris Bank N.A.  
Documentation Analysis and Control  
111 West Monroe Street 9 Center  
Chicago, IL 60603.

Any Notice of Dispute sent to you by us will be sent to the address in our records that is associated with your Account at the time the Notice of Dispute is sent. The Notice of Dispute must (a) describe the nature and basis of the Claim; (b) set forth the specific relief sought; (c) set forth the name and address of the claimant; and (d) include the Services to which the Claim relates. If we and you do not reach an agreement to resolve the Claim described in the Notice of Dispute within forty-five (45) days after the Notice of Dispute is received, you or we may commence an arbitration proceeding with AAA. If you or we attempt to commence arbitration proceedings before providing the requisite Notice of Dispute, the AAA

shall not commence administration of arbitration proceedings for at least forty-five (45) days after the AAA receives the request to initiate arbitration. Neither you nor we will disclose to the arbitrator the existence, amount, or terms of any settlement offers made by either party until after the arbitrator issues a final award resolving the Claim.

A form for initiating arbitration proceedings is available on the AAA's web site at <http://www.adr.org>.

The arbitration will be governed by the AAA's Commercial Dispute Resolution Procedures, as amended from time to time (the "AAA Rules") as modified by this Agreement, and will be administered by the AAA. The AAA Rules are available online at <http://www.adr.org>, by calling the AAA at 1-800-778-7879, or by writing to the notice address provided above.

The arbitrator is bound by the terms of this Master Agreement. All issues are for the arbitrator to decide, except that issues relating to the arbitrability of Claims or the scope, and enforceability of this arbitration provision, including the interpretation of the prohibition of class and representative actions and non-individualized relief, are for the court to decide. If the value of the relief sought (either to you or to us) is \$10,000 or less, we agree that you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing as established by the AAA Rules. If the value of the relief sought (either to you or to us) exceeds \$10,000, the right to a hearing will be determined by the AAA Rules. Any in-person arbitration hearing will take place in Chicago, Illinois. Regardless of the manner in which the arbitration is conducted, the arbitrator, upon the request of either party made prior to the closing of the hearing (or, if there is no oral hearing, prior to or along with submission of final documents to the AAA), will issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award, if any, is based. Unless otherwise agreed by you and us, any award will be rendered by the arbitrator not later than fourteen (14) days from the date of the closing of the hearing or, if there is no oral hearing, from the date of the AAA's transmittal of the final statements and proofs to the arbitrator in accordance with the AAA Rules.

- (b) *Prohibition of Class and Representative Actions and Non-Individualized Relief.* The arbitrator may award injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief necessitated by that party's individual Claim; any injunctive relief must be individualized in nature and cannot affect individuals other than the claimant. YOU AND WE AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR OUR INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING, OR AS A PRIVATE ATTORNEY GENERAL OR ON BEHALF OF THE GENERAL PUBLIC. Further, unless both you and we agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding. If a court decides that any part of this arbitration provision (other than the prohibition of class or representative actions and/or consolidation) is invalid or unenforceable, the other parts of this arbitration provision will still apply. However, if a court decides that this paragraph's prohibition of class or representative actions and/or consolidation is invalid or unenforceable, then the entirety of this arbitration provision will be null and void.
- (c) *Availability of Small Claims Court and Access to Government Agencies.* Notwithstanding the foregoing, either party may bring an individual action in small claims court. This arbitration provision does not preclude you from bringing issues to the attention of federal, state, or local agencies. Such agencies can, if the law allows, seek relief against us on your behalf.
- (d) *Future Changes to the Arbitration Provision.* Notwithstanding any provision in this Master Agreement to the contrary, we agree that if we make any future change to this arbitration provision (other than a change to any notice address, website link or telephone number provided herein), that change will not apply to any Claim of which we had written notice on the effective date of the change. Moreover, if we seek to terminate the arbitration provision as included in this Master Agreement, any such termination



will not be effective until at least thirty (30) days after written notice of such termination is provided to you, and shall not be effective as to Claims which arose prior to the date of termination.

- (e) Other Remedies. This arbitration provision and the exercise of any of the rights you and we have under this provision will not prohibit you or us from exercising any lawful rights either you or we have to use other remedies available to preserve, foreclose or obtain possession of real or personal property or exercise self-help remedies, including set-off rights as described in this Master Agreement.

By signing below, you and we agree to the terms and conditions set forth in this Master Agreement, effective as of the date set forth in the space provided under our signature below.

STATE OF INDIANA

\* If required by your Account Resolutions, the signature of a second Authorized Individual is required.

X *Kim Logan*

X \_\_\_\_\_

By: KIM LOGAN

By:

Title: DEPUTY TREASURER

Title:

Tax Identification Number: [REDACTED]

Return Email Address for Executed Agreements:

BMO HARRIS BANK N.A.

X *[Signature]*

Title: Authorized Individual

Dated: December 1, 2017

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## SCHEDULE OF SERVICES TO THE MASTER AGREEMENT

This Schedule of Services to the Master Agreement ("*Schedule of Services*") is a part of the Global Treasury Management Services Master Agreement (as amended from time to time "*Master Agreement*") between you and us. Capitalized terms used but not defined in this Schedule of Services have the meanings given in the Master Agreement.

### Service Selections.

You may elect to receive from us one or more of the Services identified on the Service Selection Form by completing the form and submitting it to us for review. We will provide to you the Service(s) selected by you upon our acceptance and approval of your Service Selection Form and the completion of any required setup process.

### Representations and Warranties.

In addition to the terms and conditions included in the Master Agreement:

- (a) You represent and warrant to us that you have received and read the Service Documentation for the Services you select and you agree to be bound by all terms, conditions and procedures included in the Master Agreement, Schedule of Services and all applicable Service Documentation.
- (b) The person executing the Service Selection Form on your behalf certifies to us that he or she is an Authorized Individual, and/or is otherwise authorized to act on your behalf, as provided in your authorizing documents with full power and authority to execute this Schedule of Services on your behalf.

### Designated Personnel.

You acknowledge and agree that when you specify to us a person as a Corporate Administrator, Designated Contact, Security Administrator or otherwise, that person has the requisite authority to perform the duties of the position as described in the Master Agreement and/or the relevant Service Documentation on your behalf.

### Changes.

If you wish to change any of the features or service options for a Service already selected, including changing designated personnel for a particular Service, you may do so by having an Authorized Individual complete and execute a setup form provided by us, or some other form acceptable to us. If you choose to communicate a change to us by any other means, we are entitled (but not obligated) to rely on the change communicated to us if we in good faith believe it was communicated to us by someone authorized to do so on your behalf.


### Additional Services.

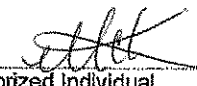
If you wish to add a Service, you must complete a new Service Selection Form for the additional Service and any other setup documentation we may require.

**SERVICE SELECTION FORM**

<input checked="" type="checkbox"/> ACH Fraud Control Service	<input checked="" type="checkbox"/> File Transfer Facility Service
<input checked="" type="checkbox"/> ACH Origination Service	<input type="checkbox"/> Foreign Exchange Service
<input type="checkbox"/> ACH Third Party Services/Sender	<input type="checkbox"/> Liquidity Portal Service
<input type="checkbox"/> Autoconnect Service	<input type="checkbox"/> Loan Pay and Drawdown Service
<input type="checkbox"/> Check Debit Block Service	<input type="checkbox"/> Lockbox Distributed Capture Service
<input checked="" type="checkbox"/> Check Imaging Service	<input type="checkbox"/> Multicurrency Deposit Account Service
<input type="checkbox"/> Cash Vault Service	<input type="checkbox"/> National Retail Lockbox Service
<input type="checkbox"/> Comprehensive Payables/EDI Origination Service	<input type="checkbox"/> National Wholesale Lockbox Service
<input checked="" type="checkbox"/> Comprehensive Receivables Solutions Service	<input checked="" type="checkbox"/> Online Banking for Business Service
<input type="checkbox"/> Controlled Disbursement Service	<input type="checkbox"/> Online Billpay Consolidator Service
<input type="checkbox"/> Convenience Pay Service	<input type="checkbox"/> Positive Pay Service
<input type="checkbox"/> Corporate Image Cash Letter Service	<input checked="" type="checkbox"/> Regional Lockbox Service (Basic Wholesale, Wholesale, Hybrid and Retail Lockbox)
<input type="checkbox"/> Commercial Sweep to Loan Service	<input checked="" type="checkbox"/> Remote Deposit Service
<input type="checkbox"/> Commercial Sweep to Loan and Mutual Fund Service	<input type="checkbox"/> Reverse Positive Pay Service
<input type="checkbox"/> Commercial Sweep to Mutual Fund Service	<input type="checkbox"/> Safekeeping Service
<input type="checkbox"/> Correspondent Image Cash Letter Service	<input type="checkbox"/> Tax Payment Service
<input type="checkbox"/> DirectBiller Electronic Bill Presentment and Payment Service	<input checked="" type="checkbox"/> Wire Transfer Service

By signing below, you select the Services indicated above and certify that you have received, read and agree to the terms and conditions of the Service Documentation for the selected Services:

STATE OF INDIANA X 	* Provide second signature if required by Account Resolutions or other authorizing documents accepted by us.  X
Name: KIM LOGAN Title: DEPUTY TREASURER	Name: Title:

BMO HARRIS BANK N.A. X 
Its: Authorized Individual
Accepted on <u>December 1</u> , 2017