

PROGRAM SPONSORSHIP AGREEMENT

This Program Sponsorship Agreement (the “**Agreement**”) dated as _____, _____ (“**Effective Date**”) is by and between _____, a _____ (“**Client**”), and _____, a _____ (“**Bank**”). Client and Bank together are referred to herein as the “**Parties**” and are individually referred to as a “**Party**.”

RECITALS

WHEREAS, Client wishes to utilize the services of Bank in connection with the Program as described below, including the provision of a payment product to Client’s customers, whereby {Describe Service};

WHEREAS, Bank is a member of various electronic payment networks, and is in the business of establishing Accounts, issuing Cards, and establishing Settlement Accounts for the Settlement of Transactions and of establishing Accounts and performing activities in support of the Service as set forth in this Agreement, including where applicable, the issuance of Cards;

WHEREAS, Client wishes to retain the services of Bank to provide certain program management services in connection with the Program as further described below.

NOW, THEREFORE, in consideration of the mutual covenants and conditions and for good and sufficient consideration hereinafter set forth, the Parties hereto, intending to be legally bound, agree as follows:

TERMS OF AGREEMENT

1. CERTAIN DEFINITIONS.

Capitalized terms used herein but not otherwise defined shall have the meaning set forth below:

“**Account**” means, as applicable for the Client Service, any savings, demand deposit, and/or prepaid account established by Bank in favor of an Accountholder in connection with this Agreement, subject to the terms of an Accountholder Agreement. Where applicable for a Program, the Account will include a for the benefit of (“FBO”) account titled in the Bank’s name as follows: “[Bank Name] FBO {FinTech} Customers”. As between Bank and Client, Client shall not hold or have access to or any control over any Account or Customer funds; rather, Bank will at all times hold and have access to and control over the Account and Bank shall be solely responsible for maintaining all Customer funds held in the Account.

“**Accountholder**” means (i) a person who has established an Account at Bank, and/or (ii) any authorized user of an Account.

“**Accountholder Agreement**” means the agreement between Bank and an Accountholder governing the terms and use of an Account and when applicable includes, but is not limited to, a Cardholder Agreement.

“**Accountholder Data**” means any data or information of any Accountholder or Account applicant that is provided to or obtained by any Party in the performance of its obligations under this Agreement or otherwise, including but not limited to, all lists of Accountholders, former Accountholders, and all information relating to, and identified with, such Accountholders, including, but not limited to account transaction and balance data, and “non-public personal information” as defined by the Gramm-Leach-Bliley Act and its implementing regulations, as amended, including but not limited to

postal and e-mail addresses and associated data (including any personally identifiable information, personal account information, financial information, account numbers, personal identification numbers and other related information, social security numbers, or other non-public business or personal or financial information) provided by the Accountholders to any Party.

“**Additional Services**” shall mean any additional services sought by Client from a Processor, related to the Program, not set forth in the Agreement, that requires Bank to enter into any agreement with such Processor and/or such additional services are billed through Bank to Client.

“**Affiliate**” means, with respect to any Person, each Person that controls, is controlled by, or is under common control with, such Person. For purposes of this definition, “control” of a Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through the ownership of voting securities, by contract or otherwise.

“**Applicable Law**” means (a) the Network Rules, (b) any and all federal laws, treaties, rules and regulations, and any and all regulatory guidance issued by, determinations of, mandatory written direction from or agreements with any arbitrator or governmental agency or authority, including, without limitation, the Bank Secrecy Act, Regulations E and Z of the Consumer Financial Protection Bureau, anti-money laundering laws, any and all directives, sanctions or regulations enforced by OFAC, the Federal Deposit Insurance Corporation or the OCC, Interagency Guidelines Establishing Standards for Safeguarding Customer Information, FFIEC Information Technology Examination Handbook, and Section 501 of GLBA, (c) any telemarketing and electronic marketing laws and regulations, including CAN-SPAM laws and regulations, (d) all laws, statutes or regulations of any state relating to Accounts, Cards, money transmission or unclaimed property that are applicable to the processing, marketing, issuance, sale, authorization or usage of the Accounts or Cards, or otherwise applicable to any of the Parties by law or made applicable to any Party in connection with the transactions contemplated by this Agreement, and (e) any applicable rule or requirement of the National Automated Clearinghouse Association.

“**Bank Policies**” means Bank’s policies and procedures, as promulgated from time to time by Bank in good faith to ensure the continued safety and soundness of Bank.

“**BIN**” means Bank Identification Number.

“**Business Day**” means any day that is not a Saturday, a Sunday or a federal holiday.

“**Card**” means any debit card, prepaid card or account access device or number issued by Bank under a Program under this Agreement that may be used to access funds or access funds on Deposit in an account.

“**Cardholder Agreement**” means the agreement between Bank and a Cardholder governing the terms and conditions applicable to the use of a Card.

“**Control**” means owning, directly or indirectly, 51% or more of the combined voting securities of such entity or having the power to direct the decisions of such entity.

“**Customer**” means any customer or prospective customer of Client (i) to whom Client markets the Program or who holds an Account at Bank in connection with the Program and (ii) who is a lawful resident of the Territory or is otherwise able to hold an Account pursuant to Applicable Law and Bank’s then-applicable Rules.

“Customer Experience” means the Customer registration process and Customer user experience across all of Client’s digital assets (including, but not limited to, Client’s iOS application, Android application, and web application).

“Data Breach” means a security incident that results in an actual, unauthorized disclosure of Accountholder Data to a third party.

“Deposit Network Agreement” means an agreement with a Deposit Network governing the transfer and management of Deposits to a Deposit Network.

“Deposit Network” means any deposit network designated by Bank from time to time.

“Deposit” means the depositing of funds or value to an Account.

“Deposit Failure” means the inability of any Deposit to be effectively credited to any Account, where such Deposit has been initiated to an Account, to the extent such failure is not caused by the unavailability or failure of the Federal Reserve System.

“Existing Materials” means any and all existing intellectual property of any Party, including but not limited to materials, technology, hardware, software, products, methods of providing products, services, patents, trade secrets, copyrights, trademarks, trade dress and Marks.

“GLBA” means, collectively, Title V – Privacy of the Gramm–Leach–Bliley Act, P.L. 106–102, the Privacy Regulations and implementing regulations promulgated thereunder, and the standards for safeguarding customer information set forth in 12 CFR Part 364 and 16 CFR Part 314, all as they may be amended, supplemented and/or interpreted in writing from time to time by any federal Regulatory Authority.

“Graphic Standards” means all standards, policies, and other requirements adopted by a Network or Bank from time to time with respect to use of their respective Marks, in each case as amended, waived, or modified for Client.

“Intellectual Property Rights” means, with respect to the applicable materials, all right, title and interest in all intellectual property rights, including but not limited to rights in patents, trade secrets, copyrights, trademarks, trade dress and service marks, and including but not limited to the right to distribute, sell, modify, reproduce, publish, display, perform, prepare derivative works and all other intellectual property rights relating thereto.

“Interchange” means the revenue paid to the issuer of a Card by an acquiring financial institution for a Transaction, as established by a Network; provided that “Interchange” shall not include any Network Fees assessed to Bank daily.

“Launch Date” means the earlier of (i) the date on which the Program becomes generally available to consumers, or (ii) .

“Mark” means the service marks and trademarks of a Network, Client, and Bank, including but not limited to, the names and other distinctive marks, logos and other proprietary designations which identify a Network, Client and Bank.

“Membership” means the membership in a Network and licensing rights thereto obtained by Bank.

“**NACHA**” means the National Automated Clearinghouse Association.

“**Network**” means VISA, Star, Plus, Interlink, NACHA, and/or any other association or card network system of transmitting Transactions and Settlement selected by Client and agreed to by Bank with respect to the product and services contemplated by this Agreement.

“**Network Fees**” means all fees charged by a Network related to the Program(s), including, but not limited to, (a) settlement fees which are assessed to Bank daily; (B) fees which are assessed to Bank monthly, including, but not limited to, file maintenance fees, authorization and settlement services fees, and other BIN fees; (c) fees assessed to the Bank quarterly based on the quarterly Network report; and (d) registration and other fees assessed to Bank annually, including, but not limited to, related to Client’s registration, as applicable, as a marketing agent or service provider of Bank, and registration of any independent service organization.

“**OCC**” means the Office of the Comptroller of the Currency.

“**OFAC**” means Office of Foreign Assets Control.

“**PCI-DSS**” means the Payment Card Industry Data Security Standards, as such standards may be amended from time to time.

“**Person**” means and includes any individual, partnership, joint venture, corporation, company, bank, trust, unincorporated organization, government or any department, agency or instrumentality thereof.

“**Processing Services**” means those services, which are necessary to process a transaction in accordance with the Network Rules and Regulatory Authority.

“**Processor**” means any other third-party provider of Processing Services, as selected by Bank in its sole discretion for the Program not contracted for by the Client.

“**Program**” means the Accounts, the Service, and, when applicable, any related debit Card program made available to Customers under the oversight and control of Bank, including. “Program” includes, without limitation, (i) the origination of new Accounts by Bank in support of the Service, and (ii) the marketing, evaluation, administration, supervision, servicing, and maintenance of the foregoing, (iii), the transfer of funds via ACH and debit, and (iv) all other aspects of the customized program specified herein, in each case as established under this Agreement (including the Schedules hereto) and the Accountholder Agreements.

“**Program Critical Subcontractor**” means any Subcontractor which (i) has access to unencrypted Accountholder Data in order to provide Accountholder Services to Accountholders; or (ii) stores, transmits or processes unencrypted Accountholder Data; or (iii) has access to encrypted Accountholder Data and the ability to decrypt it. A Program Critical Subcontractor does not include Processing Services with respect to a Processor the Bank has entered into a written contract with in accordance with Section 3.10.

“**Regulation E**” means (i) the regulations, all amendments thereto and official interpretations thereof (12 C.F.R. 1005) issued by the Consumer Financial Protection Bureau implementing Title IX (Electronic Funds Transfer Act) of the Consumer Credit Protection Act as amended (15 U.S.C. 1693 et. seq.), and (ii) the Electronic Funds Transfer Act and any amendments thereto.

“Regulatory Authority” means any other Federal or state regulator or agency having jurisdiction over Bank, Client, or the Program.

“Rules” means the by-laws and operating rules of any Network, including, without limitation, PCI-DSS, the published regulations of any Regulatory Authority and the published policies and procedures of Bank, as promulgated by Bank’s Board of Directors in good faith to ensure the continued safety and soundness of Bank. Any reference to the Rules herein, shall include any applicable waivers, amendments, or variances granted to Client or Bank.

“Sensitive Customer Information” shall include “non-public personal information” as defined in the Gramm-Leach-Bliley Act and implementing regulations; including, without limitation, a consumer customer’s name, address, or telephone number in conjunction with the customer’s social security number, driver’s license number, account number, credit or debit card number, or a personal identification number or password that would permit access to the customer’s account, or any combination of components of customer information that would allow someone to log onto or access a customer’s account, such as a username and password, password and account number, transaction information regarding the Account, or any other information provided to Bank or Client by a Customer in connection with the Program.

“Servicing Messaging” means any ordinary course communication between Client and a Customer that relates to customer service issues, technical support services or general discussion about the Program, in each case to the extent such communication does not involve solicitation of the Program subject to regulation by Applicable Law or Rules.

“Settlement” means the movement of funds between Bank and Network members in accordance with the Rules.

“Solicitation Material” means the documentation, materials, artwork, copy, brochures, applications or other written or recorded materials, and any advertisements in any format or media (including email, television, radio, internet and social media) used to promote or identify the Program to Customers; provided that, for the avoidance of doubt, Solicitation Material shall not include Servicing Messaging.

“Subcontractor” means any entity with which Client has a direct contractual relationship whereby such entity fulfills some or all of the obligations of Client in this Agreement.

“Territory” means the fifty (50) United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the other territories and possessions of the United States.

“Transaction” means an Account transaction that is processed through Bank, the Network and its members or through Client, including deposits, purchases, cash withdrawals, credits, disputes and refunds. Without limiting the foregoing, a “Transaction” includes, when applicable, using a Card or Account to do any of the following: (i) to make a purchase; (ii) to obtain a credit for a previous purchase; (iii) to obtain cash from a terminal or automated teller machine (“**ATM**”); (iv) to make a bill payment or other payment to a third party; (v) to transfer value to another card or account; (vi) to initially load funds to an Account and/or Card; (vii) to add further funds or to “reload” an Account and/or Card; (viii) a fee charged to an Account and/or Card; or (ix) without duplication of any of the foregoing, any other transaction involving use of an Account and/or Card.

2. GENERAL PROGRAM DESCRIPTION

2.1 Purpose. The purpose of the Program initiated pursuant to this Agreement is to offer Accounts, and, when applicable, any associated Cards to Customers. The Accounts and any Cards may be used by Accountholders to, among other things, (a) hold deposited funds in an Account from which such deposited funds can be withdrawn at any time, (b) pay for purchases and expenses as permitted under Applicable Law, (c) provide the Service.

2.2 General. Bank and Client hereby each acknowledge and agree that (a) Bank shall establish the Accounts as necessary to effectuate this Agreement, (b) Bank shall have control pursuant to Applicable Law and continued oversight over the Accounts and any Cards, including without limitation all policies, activities and decisions with respect to the Accounts and (c) the Accounts offered in connection therewith are products of Bank.

2.3 Appointment of Client. Bank hereby appoints Client as Bank's authorized agent solely to, as applicable to the Program, (a) market and offer Accounts and/or Cards that meet Bank requirements; (b) develop, market and offer Programs that utilize Accounts and/or Cards; and (c) perform such services hereunder to support the Programs, solely in accordance with the terms of this Agreement.

2.4 Statutory Authority of the Regulatory Authority. As an authorized delegate and representative of Bank, Client acknowledges and agrees to the following:

- a. any Regulatory Authority has and shall have the statutory authority to regulate, examine and initiate an enforcement action against Client with respect to the activities performed by Client as agent or representative of Bank;
- b. Bank and Client, in its capacity as Bank's authorized delegate and representative, are both subject to control and supervision by the appropriate Regulatory Authority, which control and supervision includes, but is not limited to, the ability to require that Bank obtain such Regulatory Authority's approval (or non-objection) before entering into a contractual arrangement with Client and the right of the Regulatory Authority to approve specific contractual language;
- c. the Regulatory Authority may require both Bank and Client, in its capacity as Bank's authorized delegate and representative, to (and, if required, the Parties shall) submit periodic reports to the Regulatory Authority;
- d. the Regulatory Authority may require the Parties to (and, if required, the Parties shall) modify the terms of this Agreement or terminate Bank's relationship with Client at any time; and
- e. the Regulatory Authority may institute any other requirements or conditions that the Regulatory Authority deems appropriate for a particular purpose in connection with this Agreement and the rights and responsibilities set forth herein, in which case the Parties agree to comply with such requirements or conditions.

2.5 Program Marketing.

- a. Commencing on the Effective Date and continuing through the Term of this Agreement, Client, at its own expense, shall (i) design and develop Solicitation Materials to promote the Program and (ii) perform the services described in Section 3 of this Agreement to support the Program, all in accordance with the terms of this Agreement. Bank, in its sole and absolute discretion, shall review and approve Client's Solicitation Materials prior to

Client's use of such Solicitation Material to ensure Client's compliance with Applicable Law with respect to such Solicitation Materials. Bank shall be identified on all Solicitation Materials contemplated in this Agreement. Bank shall respond to Client's requests for approval of Solicitation Materials as set forth in Section 2.8 hereof.

- b. Bank, a Regulatory Authority or a Network may require amendments to any Solicitation Materials from time to time in order to comply with Applicable Law or for any other purpose. Client agrees that if Bank determines, in its commercially reasonable discretion, that the Solicitation Materials violate or may violate Applicable Law, Bank may direct Client to suspend the marketing of Accounts and/or Cards for any Program until such time as the Parties can amend the Solicitation Materials to comply with Applicable Law, as determined by Bank.
- c. If Client fails to obtain Bank's prior approval of Solicitation Materials before distributing such Solicitation Materials to consumers on three or more occasions Bank shall have the right to immediately suspend or terminate this Agreement in its sole discretion by giving written notice of termination to Client, in which case the date of termination shall be as set forth in such notice.
- d. Bank agrees to reasonably cooperate with Client in the execution of such agreements or provision of such extensions of agency, commitments, assurances, references or such other similar items as may be requested by Client or required under Applicable Law or by any Regulatory Authority or Network in order to offer the Accounts in the Territory or otherwise perform their respective obligations hereunder, unless otherwise prohibited by Bank's charter restrictions, Applicable Law or any Regulatory Authority directive.

2.6 Accountholder Approval. Accountholders shall be approved and qualified for purposes of establishing an Account and, when applicable, receiving an Account and/or Card (in each case as determined by Bank in its reasonable discretion consistent with Applicable Law and its then-applicable standard policies and procedures), including, but not limited to, Accountholder Data collection and Accountholder identity verification to the extent required by, and in accordance with, Applicable Law. Bank reserves the right to deny an Accountholder approval in accordance with Applicable Law, and Client agrees to reasonably cooperate with Bank in the Accountholder approval or denial process.

2.7 Establishment of Program Accounts. Client shall set up and maintain various deposit accounts approved by Bank ("**Program Accounts**") within its Processing Services as are necessary for purposes of (a) facilitating the flow of funds in connection with the Program, (b) receiving Accountholder deposits, (c) reconciling negative customer accounts, and (d) the payment of Settlement Transactions to the Network. Program Accounts must be set up no later than 45 days prior to Program beta testing and funded with a minimum balance in accordance with Bank policies related to the particular account type. Testing and subsequent Program activity, including making the program generally available to Client's customers, cannot proceed without proper Program Account setup and funding.

2.8 Program Modification.

- a. Standard Program. The Program defined in this Agreement may include, as applicable, but is limited to, providing Client's customers with interest bearing savings accounts; direct deposit accounts (without check-writing, online bill pay and/or online banking capabilities on Bank's platform); and debit cards issued through the applicable Network. The Program does not include Additional Services.

- b. Prescribed Modifications. In the event that Bank reasonably determines in good faith that Applicable Law requires a modification to the Program, including, without limitation, a determination that Applicable Laws have been modified or passed in a jurisdiction that prohibits or places restrictions on the establishment or marketing of Accounts in the manner hereby agreed, then Bank shall provide Client with written notice of such determination, and the Parties shall negotiate in good faith to determine any necessary Program modifications. Upon such determination, each Party shall, and shall use commercially reasonable efforts to cause its employees, agents, vendors, and/or third party service providers to, take reasonable steps to implement such modification(s), which modification(s) the Parties acknowledge and agree may require (i) Bank suspending or terminating Accounts in certain jurisdictions and/or (ii) modifications to marketing methods, Solicitation Materials (in accordance with Section 2.5(b) above), and/or Accountholder Agreements. Each Party shall be responsible for its own actual out-of-pocket costs and expenses incurred in connection with taking such steps, including their own legal fees and expenses.
- c. Change Request. Client may request a material change to the Program that affects the Accounts or the Cards, except for Additional Services, by notifying Bank of the change request in writing. Such notification shall describe the proposed change, the rationale for change, the desired timeline for implementation thereof and the proposed impact on each Party's rights, responsibilities and compensation. Bank shall endeavor to provide initial feedback to Client on the proposed change request within fifteen (15) Business Days following receipt of such request. Bank may approve or reject any such request at its sole discretion.

2.9 Regulatory Communications.

- a. In the event that Client receives criticism in a report of examination or in a related document or specific oral communication from, or is subject to formal or informal supervisory action by, or enters into an agreement with any Regulatory Authority or any Network with respect to any matter whatsoever relating to (including omissions from) a Program (any such event, a "Criticism"), Client shall advise Bank in writing of the Criticism received and share the relevant portions of any written documentation (or provide a detailed written summary of any oral communications) received from the relevant Regulatory Authority or Network, as applicable, to the extent not specifically prohibited by Applicable Law or the Regulatory Authority or Network, within two (2) Business Days of such Criticism.
- b. Client shall, to the extent not specifically prohibited by Applicable Law or the applicable Regulatory Authority, provide Bank with notice and copies of any material communication to or from any Regulatory Authority or any official thereof, including, without limitation, any member of Congress, official of the executive branch of the United States Government, state attorney general, state legislator or federal or state agency, regarding this Agreement or any aspect of a Program (or provide a detailed written summary of any oral communications) (each, a "Regulatory Communication") within two (2) Business Days of such communication. For any Regulatory Communication for which a response is required from Client, the Parties shall coordinate and cooperate on such response.

- c. Client shall provide Bank with prompt notice and copies of all subpoenas, levies, garnishments or other legal requests received by Client which require the assistance of Bank in order to provide an accurate response, or which otherwise have a material effect on the Program(s), whether from a governmental authority, Regulatory Authority, private attorney, court or otherwise, relating to a Accountholder, Account, Card, a Program, or this Agreement (“**Legal Documents**”). With regard to any Legal Documents received directly by Bank, Bank shall forward such Legal Documents to Client, and Client shall promptly provide to Bank any requested information as set forth within such Legal Documents, and in no event later than three (3) days prior to the response deadline of the Legal Document in order for Bank to timely meet such response deadline.
- d. Bank shall, to the extent not prohibited by Applicable Law or the applicable Regulatory Authority, provide Client with a summary of any material Criticism or Regulatory Communication received by Bank. The Parties hereby acknowledge that due to restrictions contained in Applicable Law or set forth by a Regulatory Authority, Bank may not be able to disclose the existence of any Criticism or Regulatory Communication.

2.10 **Legal Actions.** Each Party shall use commercially reasonable efforts to assist the other Party in complying with any subpoenas relating to a claim brought by a third party against a Party hereto relating to the Program; provided that any out-of-pocket costs and expenses (including legal costs and expenses) incurred by the assisting party shall be subject to the provisions of Section 17.1.

2.11 **Ownership of Certain Intellectual Property.** Each Party shall be the sole and exclusive owner of all Intellectual Property Rights in and to (a) all Existing Materials owned or acquired by it as of the Effective Date, (b) all content and materials developed by it after the Effective Date but independent and separate from this Agreement, and (c) all enhancements to, additions to or derivative works of the Party’s content or materials described in subsections (a) and (b) above, including all Intellectual Property Rights practiced by and/or incorporated in all such content or materials and derivative works in (a)-(c). Bank shall solely own all Solicitation Materials (and all intellectual property relating thereto) developed during the period from the Effective Date through the Termination Date whether the same are developed independently or jointly unless otherwise transferred to a successor bank upon termination of this Agreement or the applicable Program pursuant to Section 11.2. Client shall solely own the Program-related content and materials used in connection with its website, mobile application and any other Client-owned medium (and all intellectual property relating thereto) developed during the period from the Effective Date through the Termination Date whether the same is developed independently or jointly, including the look and feel and substance of such content, but excluding any Mark owned solely by Bank or any Network (or Affiliate of either of the foregoing).

3. DUTIES OF CLIENT

3.1 **Duties Generally.** Client shall serve as program manager for the Program, except as otherwise provided for in this Agreement.

3.2 **Marketing.** Client shall only promote and market the Program to Customers in accordance with Applicable Law, all Rules, and in accordance with this Agreement.

- a. Bank hereby grants Client a non-exclusive, royalty-free right, non-transferrable right and license to use certain Marks (owned by Bank or its licensees), as necessary for Client to perform its rights and obligations under this Agreement. Client’s use of Bank’s Marks in any such advertisement, promotional literature, documentation and other Solicitation Materials will be subject to Bank’s prior review and approval, such approval not to be

unreasonably withheld or delayed. Notwithstanding the foregoing, portions of Client's marketing materials not related to a Program and not containing Bank's Marks shall not be subject to Bank's prior approval.

- b. For the duration of the Term and for such longer period as is necessary to enable the Parties to complete wind-down of this Agreement as contemplated by Section 11.5 hereof, Client hereby grants to Bank a non-exclusive, nontransferable, non-sublicensable, royalty-free right to include Marks designated by Client on, when applicable, the Cards, in any Program marketing material and otherwise as shall be necessary to enable Bank to perform its obligations hereunder.
- c. Subject to Applicable Law and any Accountholder opt-out rights, Client shall have the right to communicate with Customers, through direct mail (including through catalogs, invitations, newsletters and postcards), e-mail, telephone messaging, text messaging and any other communication channel that Client deems appropriate (including, for the avoidance of doubt, Servicing Messaging). Client may communicate with Customers through these channels about any aspect of the Program and any other subject matter, subject to any limitation set forth in this Agreement, including Bank's review rights with respect to Solicitation Materials and subject to Applicable Law. Client also may use any such communication channels to communicate with Customers with respect to any matter required to comply with Applicable Law and shall do so at Bank's reasonable request.

3.3 Customer Onboarding and Experience. Bank shall have the right to prior review of the initial Customer Experience, and any subsequent changes thereto, provided, that, Bank agrees the scope of any review and/or consent to the Customer Experience will be limited to Applicable Law and all Network and Regulatory Authority Rules. If Bank, in its sole discretion, determines any aspect of the Customer Experience is not compliant with Applicable Law or any Network or Regulatory Authority Rules, Bank shall provide Client with written notice of the same as soon as is reasonably practicable, and Client and Bank shall work in good faith to mutually agree on modifications to the Customer Experience to ensure that it complies in all respects with Applicable Law and all Network and Regulatory Authority Rules. Client shall, at all times, maintain a staffed call center with personnel available to answer Customer inquiries via toll-free phone number.

3.4 Cards and Accountholder Agreements.

- a. Card Design. Client shall, at its sole expense: (i) develop proposed Card designs; and (ii) be responsible for the printing of Cards and any Card carriers. All Card designs and Card carriers must be developed in accordance with Bank directions and Bank Policies, and approved in advance by Bank in writing prior to distribution, such approval not to be unreasonably withheld or delayed, and shall identify Bank as the issuer of the Card and shall include such other names, Marks and disclosures as may be required to conform with Applicable Law and Bank Policies, and shall include such other names and Marks as may be required to conform in all material respects to Graphic Standards, Regulatory Authority, and Rules.
- b. Distribution of Accountholder Agreements. The terms and conditions applicable to each Account and/or Card offered pursuant to a Program shall be determined by Bank and set forth in an Accountholder Agreement between Bank and each Accountholder. Bank shall (i) be the contracting party under all Accountholder Agreements, (ii) enter into a Accountholder Agreement with each Accountholder, and (iii) be identified as the provider of the Account and/or issuer of the Card in each Accountholder Agreement. The

relationship with each Accountholder shall be exclusively owned by Bank and Client's activities related to the performance of its obligations pursuant to this Agreement shall be limited to marketing the Programs and facilitating the Transactions initiated by Accountholders. Client shall be responsible for the distribution of Accountholder Agreements (which distribution may, for the avoidance of doubt, be accomplished electronically); provided that, for the avoidance of doubt, Bank shall be responsible for the content and administration of such Accountholder Agreements.

- c. Distribution of Cards. Client shall be responsible for the distribution of any Cards for a particular Program and any disclosures required by Applicable Law. Client shall use commercially reasonable efforts to work with Processor to ensure that any and all Cards are handled, shipped and distributed in accordance with any and all Rules, including the Network Rules provided to Client and Processor in writing upon execution of this Agreement or such variances from the Network Rules as Bank may approve from time to time, as the same may be amended and provided to Client and Processor in writing.
- d. Costs of Issuing Cards. Client shall be responsible for all reasonable and documented costs related to the manufacture, issuing, and distribution of the Cards.

3.5 Termination of Accounts. Client acknowledges that the Accounts and, as applicable, the Cards are issued by Bank, and shall be subject to suspension (blocking) and cancellation at any time by Bank, in each case with notification to Client, in accordance with this Agreement, the Accountholder Agreement and Applicable Law, on a case-by-case basis, where Bank reasonably believes in good faith that an Accountholder may be using the Account and/or Card for fraudulent or illegal purposes. Conversely, Bank acknowledges that Client maintains independent customer relationships with Accountholders, and Client may have independent reasons to suggest suspension or cancellation of an Account or Card by Bank. As such, where Client (i) reasonably believes in good faith that an Accountholder may be using the Account and/or Card for fraudulent or illegal purposes; or (ii) otherwise intends to suspend or terminate its independent customer relationship with an Accountholder due to actual or suspected fraud or illegal purposes, it shall immediately notify Bank in writing. In the event that Client closes the account within its application/platform, Client must also ensure the account has been settled and closed simultaneously or within one (1) Business Day in the system of record.

3.6 Accountholder Customer Service. Client, at Client's sole expense, may or may cause a Program Critical Subcontractor to (a) provide customer service and support to Accountholders in connection with a Program hereunder, either directly or via a Bank-approved Program Critical Subcontractor; (b) establish and maintain an internet website (or mobile application, if applicable) that performs customer service functions; and (c) administer and maintain a dedicated toll free phone number, which number shall be printed on any disclosure materials as required by Applicable Law or Bank in its sole discretion, for providing interactive voice response telephonic customer service during normal business hours and, if required by Applicable Law or Bank in its reasonable discretion, live telephonic customer service during normal business hours; and (d) perform monthly quality monitoring of the customer services functions in accordance with this Agreement and Applicable Law and Rules. Client shall ensure that its Accountholder customer service activities are conducted by trained personnel using a commercially reasonable standard of care consistent with industry best practices and any SLAs set forth in this Agreement.

3.7 Accountholder Error Resolution. Client agrees that in the event it or the Processor receives from an Accountholder, and such third party forwards to Client, an oral or written notice of "error" as defined by 12 CFR 205.11(a) of Regulation E, Client will respond to such inquiry in accordance with the terms of the applicable Accountholder Agreement and Regulation E. Bank agrees to cooperate with Client as

needed to respond to such inquiries within the timeframes set forth in the Accountholder Agreement and Regulation E. Client shall retain all error-related information for no less than five (5) years (or such additional time as may be required under Applicable Law) and shall provide the same to Bank immediately upon request. Client will develop and maintain written Regulation E policies and procedures that have been approved by Bank. Client will cooperate with Bank in responding to Customer complaints and/or inquiries from any Regulatory Authority with respect to Client's error resolution efforts. Bank shall have the right, upon reasonable request and prior written notice, to annually review Client's error resolution dispute handling processes, including without limitation, by performing no more frequently than quarterly Regulation E compliance reviews of Client's customer service/IVR scripts, website content, and any statements (printed or accessible online) and/or annual disclosures related to Regulation E, and Client will cooperate in connection with such reviews. Client agrees that if Bank's Regulation E compliance reviews identify material deficiencies or if Bank otherwise is made aware of material deficiencies in Client's Regulation E compliance, Bank may increase its frequency of its Regulation E compliance reviews.

3.8 Establishment of Negative Balance Reserve Account. For purposes of retaining adequate reserves to off-set any outstanding balances, Deposit Failures, and fraud losses as described in Section 3.12, Client shall set up and maintain a jointly Client and Bank owned, but Bank-controlled, noninterest-bearing Program Reserve deposit account (the "**Negative Balance Reserve Account**") at Bank's direction. The Negative Balance Reserve Account must be set up a minimum of forty-five (45) days prior to Program testing in the amount of \$[REDACTED]. After the Launch Date, the Negative Balance Reserve Account must be funded in an amount equal to any actual negative balances as of the last day of the previous calendar month, plus ten percent (10%) (the "**Negative Balance Reserve Amount**"). At the end of each calendar month, Client's compensation owed pursuant hereto will be disbursed net of any amounts required to ensure that the Negative Balance Reserve Account balance is equal to the Negative Balance Reserve Amount; provided, however, Bank shall have the right at any time to draw funds from the Negative Balance Reserve Account to reimburse itself for any losses of Bank attributable to the Program, provided that Bank provides prior written notice to Client of the amount of such losses, and, upon receipt of such notice, Client shall replenish the Negative Balance Reserve Account within two (2) days, in an amount such that, following Bank's withdrawal of sufficient funds from the Negative Balance Reserve Account to fully reimburse itself for the losses attributable to the Program set forth in such notice, the Reserve Negative Balance Reserve Account will have a balance of at least the Negative Balance Reserve Amount. If at any time Client is unable to deposit the entire amount required to be deposited into the Negative Balance Reserve Account pursuant to this section, Client shall immediately provide written notice to Bank of such breach, including the amount of such shortfall, and Client shall use best efforts to deposit any such shortfall amount into the Negative Balance Reserve Account as soon as possible thereafter. The initial reserve required prior to the Launch Date will be \$[REDACTED], and at all times the Negative Balance Reserve Amount shall be not less than \$[REDACTED]. Bank may adjust the Negative Balance Reserve Amount in its sole and absolute discretion if (a) Client obtains Additional Services, or (b) Bank (or a Regulatory Authority) deems, in its sole and absolute discretion, the Negative Balance Reserve Amount is inadequate and Client shall fund the Negative Balance Reserve Account up to the revised Negative Balance Reserve Amount within one (1) day following notice from Bank. All funds in the Negative Balance Reserve Account shall be returned to Client as soon as commercially practicable after the termination of this Agreement once all Accounts and/or Cards have been terminated or have expired, and any negative balances have been charged off.

3.9 Accountholder Funds. If necessary for the contemplated Program, Client and Bank acknowledge and agree that Bank will establish individual Accounts for each Accountholder on Bank's books and records, and upon Bank's receipt of Deposits from an Accountholder, (a) all Accountholder funds shall be held by Bank as deposits of Accountholders for the purpose of carrying out transactions initiated by Accountholders or as otherwise permitted by this Agreement or in the Accountholder Agreement, and

Bank shall be liable to Accountholders with respect to such Accountholder funds whether or not the Cards for which such Accountholder funds are held have been activated, and (b) neither Bank nor Client have an equitable interest in the Accountholder funds, and (c) Bank may reallocate funds that accumulate through the Program to the Deposit Network. Bank shall transfer Accountholder Funds from the Accounts to Settlement accounts in an amount adequate to facilitate Settlement with the Network on a daily basis or as otherwise determined by Bank.

3.10 Escheatment. To the extent not provided by a Bank Vendor (as defined below), Client shall provide escheat recordkeeping services on Bank's behalf for the Programs in compliance with all state unclaimed property laws. Bank shall remit such unclaimed funds to the appropriate jurisdiction as required under Applicable Law. Client shall be solely liable for any costs and fines related to any challenge by any Regulatory Authority with respect to escheat or unclaimed property laws, regardless of whether such cost is incurred by or such fines are assessed to Bank or Client unless such challenge is related to Bank's failure to remit to the appropriate jurisdiction any unclaimed funds following the receipt of accurate records from Client. Client shall be liable to Bank for any amounts claimed by states under unclaimed property laws that represent breakage that has been previously paid to Client by Bank.

3.11 Accountholder Fraud and Fraud Recovery. Client agrees that it shall be responsible for and liable to Bank for all reasonable and documented out-of-pocket expenses incurred by Bank in connection with (a) over-limit processing (b) Accountholder fraud (c) under-floor-limit processing or (d) Bank's efforts at fraud remediation or unauthorized Transaction recovery under Applicable Law, in each case to the extent related to the Program and except for those costs and expenses incurred as a result of Bank's gross negligence, willful misconduct, breach of this Agreement or failure to follow its fraud and unauthorized transaction policies and procedures. Client and Bank shall use commercially reasonable efforts to assist with the location and prosecution of the perpetrator of any such unauthorized activity or fraud, and each Party shall bear its own costs and expenses in connection therewith. To the extent Client remits payment to Bank in connection with an incident subject to this Section 3.11 and all or a portion of such funds are returned to Bank as a result of a resolution of such incident, Bank shall immediately remit the amount of such funds back to Client. Any amount owing by Client following communication of a reasonably detailed statement with respect thereto shall be set off against the amount otherwise payable by Bank herein.

3.12 Bank Secrecy Act/Patriot Act/OFAC Compliance. Bank and Client agree that a condition to this Agreement is that the Processor shall implement and maintain Bank-approved anti-money laundering ("AML"), Office of Foreign Assets Control ("OFAC") and anti-terrorist financing ("ATF") compliance program as provided to the Processor and approved by Bank, including Bank-identified Account/SSN blocking and reporting requirements. Each Party shall communicate to the other Party any suspected fraudulent or illegal uses of the Accounts as soon as feasible after discovery, and Client shall provide all needed information to Bank in order to fulfill (or to assist the Processor in fulfilling) its Suspicious Activity Reporting filing, and all Bank Secrecy Act, AML, ATF, OFAC and other legal and/or regulatory obligations. The Parties hereby agree that the Processor shall implement measures to collect customer-identifying information and verify the identity of all Account applicants consistent with Applicable Law and all Rules. Bank may audit the foregoing on a quarterly basis (or engage an auditor to perform such audit), and Client shall not be entitled to reimbursement of its expenses incurred in connection with any such audit.

3.13 Taxes. To the extent applicable to the Program, Client shall be solely responsible for the collection and remittance of any sales, use or other taxes applicable to the sale of any Accounts or Cards under this Agreement; provided that Bank shall be solely responsible for all franchise or income taxes payable by Bank with respect to any Program. Further, Client will, or will cause its Subcontractors to, accurately and timely calculate, report and pay all sales, use or other taxes applicable to the sale of

Accounts and/or any Cards issued under this Agreement or any Program, and accurately disclose to each Accountholder the amount of such sales, use or other taxes applicable to each Card purchase, if necessary.

3.14 Client Employees and Agents.

- a. Client shall actively and diligently monitor its employees, sales representatives, sales offices and agents to ensure compliance with this Agreement and Applicable Law.
- b. Client shall provide appropriate training for its officers, employees, agents and representatives with respect to duties of Client and such officers, employees, agents and representatives under this Agreement and under Applicable Law, as the case may be, including, without limitation, the obligations under Sections 3.7 and 3.13 in accordance with the training program designed and provided by Bank to Client for purposes of this Section. Bank shall have the right to (i) periodically review and audit Client's training program to ensure Client's compliance with Bank's training program and (ii) at the request of Bank, monitor and participate in any such training program.

3.15 Subcontractors.

- a. Client may from time to time in its discretion retain the services of one or more Subcontractors. Client must conduct a due diligence review of each Subcontractor that includes an assessment of the Subcontractor's financial condition and, where applicable, ability to provide the contemplated services and for compliance with FFIEC guidance on Vendor and Third-Party Management.
- b. Client shall obtain Bank's prior written approval before retaining any Program Critical Subcontractor. Client shall obtain or require Program Critical Subcontractor to provide to Bank all information regarding such Program Critical Subcontractor reasonably requested by Bank. Client shall be responsible for obtaining a written agreement with each Program Critical Subcontractor, and such written agreements shall be available to Bank for review upon Bank's request. Bank may in its sole discretion deny approval of a Program Critical Subcontractor, or rescind its approval of a Program Critical Subcontractor by providing written notice to Client of such rescission in the event that Bank determines, in its commercially reasonable discretion, that such Program Critical Subcontractor's actions or failure to act has resulted or more likely than not will result in (i) a material breach of the obligations of a Program Critical Subcontractor to Client or Bank; (ii) material reputational harm to Bank or a material threat to the safety and soundness of Bank; (iii) a material adverse impact to Accountholders; or (iv) a material risk of a Data Breach. Promptly upon any such rescission, Client shall no longer utilize such Program Critical Subcontractor for any Programs.
- c. Client shall comply with the standards established by Bank for purposes of approving and conducting a due diligence review of any Program Critical Subcontractor. Bank reserves the right to amend such standards at any time by written notice to Client.
- d. Client shall notify Bank in writing of any changes in Program Critical Subcontractors at least forty-five (45) days prior to entering into a contractual relationship with a new Program Critical Subcontractor for and at least ninety (90) days prior to terminating any contractual relationship with any existing Program Critical Subcontractor. Client shall further promptly notify Bank in writing of any material changes in the scope or terms of any written agreement with any Program Critical Subcontractor.

- e. Client shall be responsible for all fees and expenses of each Subcontractor, and shall remain liable for any services performed by any Subcontractor.
- f. Client shall be responsible for ensuring that each Program Critical Subcontractor (i) agrees to hold and utilize all Accountholder Data in accordance with the terms of this Agreement, Applicable Law, and Bank Policies and (ii) does not transmit or otherwise convey any Accountholder Data to any Person other than Client, Processor, another Program Critical Subcontractor, or Bank, without the prior written approval of Bank.

3.16 Recordkeeping and Reporting.

- a. Unless otherwise agreed in writing, to the extent Accountholder Data is maintained by it, or in its possession, Bank will ensure that it keeps complete records reflecting (i) the identity of each Accountholder and the steps taken to verify such identity (if required for the Program); (ii) as applicable, an inventory of any Card issued to and activated by such Accountholder and all Deposits made by such Accountholder, (iii) the balance of each Account, and (iv) all charges, transaction and fees that have been made or charged to each Account, Card or Accountholder, and other information for the Program as may be required by Applicable Law, Bank or Client, from time to time (the “**Required Records**”). With respect to each Account, Bank shall retain all Required Records for the time period required by Applicable Law, and in any event, for no less than five (5) years after the termination of any Accountholder Agreement or the Program, whichever is later.
- b. Client shall retain data on file adequate to permit remaking of Entries for 30 days following the date of their transmittal by Bank as provided herein, and shall provide such data to Bank upon its request.
- c. Client shall catalog and maintain copies of all Criticisms, Regulatory Communications, Legal Documents, third party complaints, and Accountholder complaints (collectively, “**Complaints**”), and responses thereto for the period required by Applicable Law or such longer period as specified by Bank in a written notice to Client. Client shall provide Bank with a monthly summary of all Complaints in the form and manner determined by or acceptable to Bank (each, a “**Complaint Summary**”). Bank (i) shall have access at all times to pending and closed Complaints and responses, and (ii) in Bank’s sole discretion, may audit a reasonable number of such Complaints.

13.17 Identify Theft Prevention Program. Client shall develop and implement an Identity Theft Prevention Program (the “**IDTP**”) designed to detect, prevent, and mitigate identity theft in connection with the Program. The IDTP shall be designed to comply with Applicable Law. Client shall submit the proposed IDTP to Bank for its prior review and approval.

13.18 Third-Party Services: Terms. From time to time, Bank may require, enable, or permit Client to use the services of a third party vendor engaged solely by Bank (“**Bank Vendor**”) in connection with a Program (“**Third-Party Service**”), including, without limitation a Processor for the provision of Processing Services. Unless otherwise agreed in writing by the Parties, such additional Third-Party Services shall be subject to this Agreement, any additional terms and conditions provided by the Bank Vendor, including such additional third-party terms and conditions set forth in the attached Schedules, and any other terms and conditions that may be made available by Bank or Bank Vendor, as amended from time to time (“**Third-Party Terms**”). Client's acceptance of this Agreement constitutes Client's agreement to the Third-Party Terms attached hereto as Schedule 2. Client's breach of any Third-Party Terms set forth in Schedule 2, as amended from time to time, constitutes a breach of this Agreement. The

Bank Vendor may require changes to their respective Third-Party Terms. While Bank will seek to notify Client of any such changes by reasonable means, it is the Client's responsibility to monitor Bank Vendor's website and communications for information about any such changes. Client's continued use of the applicable Third-Party Service following any such change shall constitute Client's acceptance of such changes. Use of any such Third-Party Service by Client shall be at Client's sole expense. As applicable to a Program, Bank may require Client to cause Customers and its Subcontractors to agree to and comply with certain Third-Party Terms. In the event of a conflict between this Agreement and any Third-Party Terms, the Third-Party Terms shall control solely to the extent applicable to the Third-Party Service governed by such Third-Party Terms.

13.19 Treasury Prime. In connection with any services sold or provided by or through Treasury Prime ("Treasury Prime"), Client further agrees that it will:

- a. Use the Treasury Prime platform dashboard for case management and operational support of Client's services in connection with a Program;
- b. Provide access to the necessary information to perform necessary ledger reconciliation, including access to data from processors and networks that allow the derivation of accounts based on information accessible to Treasury Prime in an automated fashion, including, but not limited to (i) reconciliation files; (ii) complete information about each Customer, their accounts and all transactions, relationships between accounts, customers and any related information (if necessary) as may be required to allow Treasury Prime to create a shadow ledger for reconciliation and regulatory supervision; (iii) reconciliation files from the Processor which shall include at a minimum posted transaction activity and the relationship to the underlying account for the activity, as well as all non-card related activity in case the Processor acts as the ledger provider for the Programs (the files shall include charges and interchange from the Processor that are being charged to the Bank as well as information to identify the same transaction in network reconciliation files); (iv) reconciliation files from any network connected to the Processor (these files are to include a reference to the respective transactional item on the Processor sides); (v) any incoming or outgoing ACH, wire or check exchange files being cleared; and (vi) any other reconciliation files for payment streams entering or leaving the Customer accounts to the outside world (other than P2P transactions within a ledger).

4. REPRESENTATIONS AND WARRANTIES OF CLIENT

4.1 Representations and Warranties. Client represents and warrants to Bank as follows:

- a. This Agreement is valid, binding and enforceable against Client in accordance with its terms, except as such enforceability may be limited by laws governing creditors' rights and general principles of equity.
- b. Client is duly formed as a corporation and is in good standing under the laws of the State of [REDACTED] and, to its knowledge as of the Effective Date hereof, is duly qualified to do business in each jurisdiction in which the nature of Client's activities makes such authorization or licensure necessary. To Client's knowledge, neither the execution of this Agreement nor Client's performance of its obligations hereunder requires any consent, authorization, approval, notice to, license, or other action by or in respect of, or filing with, any third party (other than Client's Affiliates) or any Regulatory Authority.
- c. Client has the full power and authority to execute and deliver this Agreement and to perform all its obligations under this Agreement. The provisions of this Agreement and

the performance by Client of its obligations under this Agreement are not in conflict with Client's Certificate of Incorporation or, to Client's knowledge, any other material agreement, contract, lease or obligation to which Client is a party or by which it is bound.

- d. Except as otherwise disclosed, neither Client, nor any principal of Client, has been subject to the following:
 - (i) A criminal conviction (except minor traffic offenses and other petty offenses) in the United States of America or in any foreign country;
 - (ii) Unpaid Federal or state tax lien, or any foreign tax lien;
 - (iii) Administrative or enforcement proceedings commenced by the Securities and Exchange Commission, any state securities regulatory authority, the Federal Trade Commission, any federal or state bank regulator, or any other state or federal regulatory; or
 - (iv) Any restraining order, decree, injunction, or judgment in any material proceeding or lawsuit, alleging fraud or deceptive practice on the part of Client.
- e. Client has the financial capacity to perform its obligations under this Agreement. Client has delivered to Bank complete and correct copies of its balance sheets and related statements of income and cash flow and such other items that Bank has requested in connection with its due diligence review of Servicer (the "**Due Diligence Materials**"). All Due Diligence Materials furnished to Bank were accurate and complete in all material respects and complete insofar as completeness may be necessary to give Bank a true and accurate knowledge of the subject matter. Client's financial statements, subject to any limitation stated therein, which have been furnished to Bank, do fairly present the financial condition of Client, and have been prepared in all material respects in accordance with (i) the books and records of Client, (ii) generally accepted accounting principles as in effect in the United States at the time of preparation, and (iii) all pronouncements of the Financial Accounting Standards Board.
- f. All Subcontractors that, to Client's knowledge as of the Effective Date, will be acting on behalf of Client in connection with the obligations arising under this Agreement have full power and authority to perform any and all acts necessary to the performance of the obligations each such Subcontractor is undertaking, including, but not limited to, all licensing requirements.
- g. Client has established and is maintaining (i) a Security Program which is sufficient to satisfy the requirements of Section 13.3 hereof and (ii) disaster recovery, business resumption and contingency plans appropriate for the nature and scope of the activities of and the obligations to be performed by Client hereunder which are sufficient to satisfy the requirements of Section 14 hereof; which will enable Client to continue to comply with such requirements during the Term and any wind-down period. Client has, within the last twelve (12) months, tested such Security Program and disaster recovery, business resumption and contingency plans, has determined they are sufficient and will enable Client to continue to comply with the requirements herein during the Term and any wind-down period. On or prior to the date hereof, Client has delivered to Bank a certificate of a responsible senior officer of Client certifying that delivered test results were true and correct in all material respects as of the date of such certificate.

- g. There is not pending, or, to Client's actual knowledge threatened, against Client any litigation or Regulatory Authority action, the outcome of which could reasonably be expected to materially and adversely affect the continuing operations of Client.

5. COVENANTS OF CLIENT

5.1 Covenants. Client represents, covenants, and agrees with Bank as follows:

- a. Client is, and shall and will at all times continue to perform its obligations under this Agreement, in (i) compliance with all Applicable Laws and the Rules and (ii) compliance with all rules, orders, and regulations issued by applicable Regulatory Authorities (subject to any applicable waivers, modifications, or amendments), in each case that relate to the matters and transactions contemplated by this Agreement. Client will be responsible for all fines and penalties assessed by any Regulatory Authority against Bank related to the Program to the extent solely resulting from Client's actions, inactions, or omissions, so long as such fine or penalty is not caused by, or results from, any act or omission of Bank, including, but not limited to, Bank's failure to follow its fraud and unauthorized transaction policies and procedures.
- b. Client shall promptly give written notice to Bank of any material adverse change in the business, properties, assets, operations or condition, financial or otherwise, of Client or to the knowledge of Client, any Program Critical Subcontractor, or any significant staffing changes that would affect Client's ability to fulfill its obligations under this Agreement.
- c. Client shall deliver to Bank (i) as soon as available but in any event not later than ninety (90) days following the end of each fiscal year of Client, a copy of the annual [audited] financial report of Client or Client's parent company and its consolidated subsidiaries for such year, including a consolidated balance sheet and consolidated statement of income and consolidated statement of cash flows and all notes and schedules thereto as of the end of such period, certified by the independent public accountants of Client and accompanied by an opinion of such independent public accountants to the effect that such financial statements fairly present, in all material respects, the financial position and results of operations of Client and its subsidiaries on a consolidated basis in accordance with generally accepted accounting principles as in effect from time to time and as consistently applied, and (ii) as soon as available but in any event not later than forty-five (45) days following the end of each fiscal quarter of Client, an unaudited consolidated balance sheet of Client and its consolidated subsidiaries as of the end of such fiscal quarter and an unaudited consolidated statement of income and consolidated statement of cash flows of Client and its consolidated subsidiaries for such period, all in reasonable detail and duly certified (subject to normal year-end audit adjustments and the absence of footnotes) by the chief financial officer (or person performing similar functions) of Client as having been prepared in all material respects in accordance with generally accepted accounting principles as in effect from time to time and as consistently applied. In the event such financial statements reveal that the financial condition of Client, as determined in the discretion of Bank, results in a higher risk to Bank or otherwise does not meet the standards of Bank, Regulatory Authorities or any Network, then Client shall deliver such additional information relating to the financial condition, business or operations of Servicer as Bank, Regulatory Authorities or such Network shall from time to time reasonably request.

- d. Client shall provide notice to Bank at least ninety (90) days in advance of any change in the physical address of Client or any Program Critical Subcontractor.
- e. To the extent necessary for the Program, Client shall, and shall require its Subcontractors to, maintain books and records that allow Accountholders to benefit from pass-through deposit insurance as provided in the Federal Deposit Insurance Act as implemented and regulated by the Federal Deposit Insurance Corporation.
- f. Client will maintain a list of Client's actively employed customer service representatives and will continue to perform background checks to the higher of industry standard or its current standard or, at Client's discretion, any higher standard, on all customer service representatives having access to Accountholder Data.
- g. In connection with the marketing of the Program, Client agrees to notify Bank at least thirty (30) days in advance of (i) any upcoming cash incentive promotions that could reasonably be expected to require additional Bank customer support resources and (ii) any referral programs and related referral codes for the benefit of Bank customer service personnel, in each case in order to assist Bank with its obligations under Applicable Law (including, without limitation, those under 12 C.F.R. § 1030.8(d)).
- h. Notwithstanding anything in this Agreement to the contrary, during the Term and any wind down or transition period agreed to pursuant to Section 11.5, Bank shall be the exclusive provider of Program sponsorship and Card issuance services to Client, and Client will develop and market the Bank services and any products, services, items, or functionality similar to any component of the Bank services or Programs, only in conjunction with Bank pursuant to this Agreement. Bank may enter into similar arrangements with one or more third parties and Client shall not be an exclusive provider of any product or service to Bank.

6. DUTIES OF BANK

6.1 Condition Precedent. It is expressly understood that any required approval by a Network is a condition precedent to the commencement of the Program and that, in particular, the approval of Bank as a principal member for the issuance of Cards by a Card Network is a condition precedent to the commencement of any Program requiring Bank to issue Cards.

6.2 Memberships in Networks.

- a. Bank shall obtain and maintain, at its expense, all required license(s) with each applicable Network. Bank shall retain its Membership in each applicable Network, in each case in good standing, and shall abide by all the rules and regulations applicable to Bank.
- b. Bank shall use its commercially reasonable efforts to assist Client in its efforts to obtain all required Network approvals, as Bank or such Network may require.

6.3 Account and Card Issuance. Bank shall establish Accounts and, when applicable, issue Cards in accordance with this Agreement, and subject to Applicable Law and Network Rules, with the understanding that the same are, and shall at all times remain, the property of Bank. Bank shall sponsor a BIN for the Cards and will issue Cards marketed and promoted by Client pursuant to this Agreement.

6.4 Accountholder Agreements. Bank shall provide a template for an Accountholder Agreement for the Program, which such Accountholder Agreements shall be accessible from the Processor. Bank shall be the contracting Party under all Accountholder Agreements, and shall enter into an Accountholder Agreement with each approved Accountholder. Client may propose changes to the Accountholder Agreement from time to time to address issues arising from or related to the Program, and Bank shall reasonably cooperate with the documentation thereof; provided that any such changes shall (i) not violate Applicable Law, Rules or any of Bank's third party agreements and (ii) be otherwise satisfactory to Bank in Bank's sole and absolute discretion.

6.5 Notices. Except as otherwise provided in this Agreement, each Party shall deliver to the other Party a copy of all written notices and written correspondence that it receives from any Network, or any other third party, relating to or in connection with this Agreement, within five (5) Business Days of receipt of such notice or correspondence.

6.6 Necessary Registrations. Bank has, and shall maintain, all necessary registrations and approvals from Regulatory Authorities required of Bank for the Program.

6.7 Privacy Notification. Bank agrees to provide Processor with privacy disclosures required to be provided under Applicable Law or Network Rules by Bank to Accountholders in order to allow Client to transmit the same through its mobile application to relevant Accountholders.

6.8 Origination Services. Bank will provide Client with Origination Services, as more fully described in Schedule 3. As a condition to the Origination Services, Client agrees to comply with all terms set forth in Schedule 3, in addition to the terms set forth herein.

7. COVENANTS OF BANK

7.1 Covenants. Bank covenants and agrees with Client as follows:

- a. Bank is and will at all times continue to perform its obligations under this Agreement, and is in compliance with all Applicable Laws and the Rules (except to the extent Client has expressly agreed to undertake compliance obligations under this Agreement). Bank will be responsible for all fines and penalties assessed by any Regulatory Authority due to Bank's actions, inactions or omissions provided that such fine or penalty is not caused by or a result Client's breach of any provision of this Agreement or of any acts or omissions of Client;
- b. As applicable and if part of the Program, Bank shall provide a routing and transit number and Card BIN for the Program and its underlying Accounts;
- c. Bank shall remain (i) a federally-insured financial institution, and (ii) in good standing with (x) each Regulatory Authority with jurisdiction over it, and (y) each Network or other electronic payment network which it may be a member of or registered with from time to time;
- d. To the extent applicable for the Program, Bank shall ensure that (i) each separate Account established for each Accountholder shall qualify for deposit insurance and (ii) all deposits (including without limitation any deposits in the Deposit Network) shall remain insured by the Federal Deposit Insurance Corporation in accordance with Applicable Law for the full amount of their deposits; and

- e. Bank shall maintain the minimum capital ratios required to be a well-capitalized institution, as defined under the prompt corrective actions provisions of the Federal Deposit Insurance Act.

8. REPRESENTATIONS AND WARRANTIES OF BANK

8.1 Representations and Warranties. Bank represents and warrants to Client as follows:

- a. This Agreement is valid, binding and enforceable against Bank in accordance with its terms, except as such enforceability may be limited by laws governing creditors' rights and general principles of equity.
- b. Bank is a corporation duly incorporated, validly existing and in good standing under the laws of the State of ___ and is duly qualified and is properly licensed to do business in each jurisdiction in which the nature of Bank's activities makes such authorization or licensure necessary. Neither the execution of this Agreement nor Bank's performance of its obligations hereunder requires any consent, authorization, approval, notice to, license, or other action by or in respect of, or filing with, any third party or any Regulatory Authority.
- c. Bank has the full power and authority to execute and deliver this Agreement and to perform all its obligations under this Agreement. The provisions of this Agreement and the performance by Bank of its obligations under this Agreement are not in conflict with Bank's Certificate of Incorporation, bylaws or any other agreement, contract, lease or obligation to which Bank is a party or by which it is bound.
- d. There is not pending or, to Bank's actual knowledge threatened, against Bank, any litigation or Regulatory Authority action, the outcome of which could reasonably be expected to materially and adversely affect the continuing operations of Bank.
- e. Bank's deposits are insured by the Federal Deposit Insurance Corporation to the full extent permitted by Applicable Law, and no proceeding has been instituted to revoke such insurance.

9. AUDITS & FINANCIAL INFORMATION

9.1 **Bank Audit.** Client agrees that Bank and/or its authorized representatives and agents (collectively the "**Auditing Party**") shall have the right, at any time during normal business hours and upon not less than thirty (30) days' prior written notice, or at any other time required by Applicable Law or by a Regulatory Authority, to inspect, audit, and examine all of Client's facilities, records, personnel, books, accounts, data, reports, papers and computer records relating to the activities contemplated by this Agreement including, but not limited to, financial records and reports, the Security Program, associated audit reports, summaries of test results or equivalent measures taken by Client and/or any Program Critical Subcontractor to ensure that the Security Programs are in accordance with Applicable Law and this Agreement and that Client is otherwise in compliance with the terms of this Agreement. Client and any Subcontractor shall make all such facilities, records, personnel, books, accounts, data, reports, papers, and computer records available to the Auditing Party for the purpose of conducting such inspections and audits, and the Auditing Party shall have the right to make copies and abstracts from Client's books, accounts, data, reports, papers, and computer records directly pertaining to the subject matter of this Agreement.

9.2 **Cooperation**. Client agrees to cooperate with any examination, inquiry, audit, information request, site visit or the like, which may be required by any Regulatory Authority or Network with audit examination or supervisory authority over Bank, to the fullest extent requested by such Regulatory Authority, Network or Bank. Client shall also provide to Bank any information which may be required by any Regulatory Authority or Network in connection with their audit or review of Bank or any Program and shall reasonably cooperate with such Regulatory Authority or Network in connection with any audit or review of Bank or any Program. Client shall also provide such other information as Bank, Regulatory Authorities or Network may from time to time reasonably request with respect to the financial condition of Client and such other information as Bank may from time to time reasonably request with respect to third parties who have contracted with Client relating to or in connection with this Agreement.

9.3 **Audit Findings**. Client shall prepare a written response to Bank (a “**Response to Audit Letter**”) to all criticisms, recommendations, deficiencies, and violations of Applicable Law identified in reviews conducted by Bank, any Regulatory Authority or System (“**Audit Findings**”). The Response to Audit Letter shall be delivered to Bank within twenty (20) Business Days of Client’s receipt of such Audit Findings, unless directed otherwise by a Regulatory Authority. The Response to Audit Letter shall include, at a minimum, a detailed discussion of the following:

- a. the planned corrective action to address the Audit Findings (“**Audit Corrective Action Plan**”);
- b. employee(s) of Client tasked to remedy the Audit Findings;
- c. remedial actions proposed to be directed to current or past Accountholders negatively impacted by the Audit Findings (provided no such action shall be taken without express written approval from Bank);
- d. steps to be taken to prevent any recurrence of the Audit Findings;
- e. a specific timeframe, not to exceed forty (40) Business Days, unless otherwise approved by Bank in advance, to implement the Audit Corrective Action Plan (“**Corrective Action Plan Deadline**”);
- f. documentation evidencing that the Audit Corrective Action Plan has been implemented;
- g. if additional time is needed to implement the Audit Corrective Action Plan or deviations from the Audit Corrective Action Plan are necessary, a written request shall be submitted to Bank detailing the extenuating circumstances that necessitate an extension of the Corrective Action Plan Deadline and such extension request shall be subject to the reasonable approval of Bank; and
- h. identification of any Audit Findings disputed by Client or where corrective action is not possible or necessary, supported by a detailed explanation of Client’s position.

10. PROGRAM FEES

10.1 **Processing Fees**. Bank and Client agree that any and all processing fees payable with respect to the Program shall be agreed between Client and Processor in the Processor Agreement. To the extent any processing fees agreed among the Client and Processor in the Processor Agreement are actually incurred by Bank, Client shall reimburse Bank for such processing fees incurred by Bank in connection with the Program by ACH debit of one of the Program Accounts maintained by Client for this purpose at Bank.

10.2 Program Customization. If Client desires to make material modifications to the Program or develop a new program with Bank, such as Additional Services, Client and Bank agree to consult in good faith regarding the scope and terms of any such program. For the avoidance of doubt, any such modification and associated costs (as applicable) must be mutually agreed by Bank and Client in writing. Such writing may be incorporated into this Agreement as a Schedule or amendment.

10.3 Fees and Revenue. Additional terms for fees and revenue are detailed in Schedule 1.

11. TERM OF AGREEMENT

11.1 Term and Termination of Agreement Without Cause. The term of this Agreement shall commence on the Effective Date and shall continue for four (4) years from the Effective Date (the “**Initial Term**”), unless terminated earlier as provided below. After the Initial Term, this Agreement shall automatically extend for an additional one-year period (each, a “**Renewal Term**” and, together with the Initial Term the “**Term**”) unless terminated earlier as provided below. Either Party may terminate this Agreement at the end of the Initial Term or at the end of a Renewal Term by providing written notice to the other at least one-hundred eighty (180) days in advance of the expiration of the Initial Term or such Renewal Term, or as provided below.

11.2 Termination of Agreement or For Cause.

- a. Either Party shall have the right to terminate this Agreement for cause in the case of any material breach of any duty or obligation under this Agreement, but only if such material breach continues unremedied for a period of thirty (30) days after the earlier of the time the breaching Party becomes aware of such breach or receives written notice from the other Party specifying the breach.
- b. Either Party may immediately terminate this Agreement upon written notice to the other in the event of the following:
 - i. Discovery that any financial statement, representation, warranty, statement or certificate furnished to it by the other Party in connection with or arising out of this Agreement untrue in any material respect as of the date made or delivered, and such discovery is materially adverse to the terminating Party;
 - ii. The commencement by either Party of any proceeding or filing of any petition seeking relief under Title 11 of the United States Code or any other Federal, state or foreign bankruptcy, insolvency, liquidation or similar law; application for or consenting to the appointment of a receiver, trustee, custodian, sequestrator or similar official for such Party or for a substantial part of its property or assets; a general assignment for the benefit of creditors; or taking corporate action for the purpose of effecting any of the foregoing;
 - iii. The commencement by a third party of an involuntary proceeding or the filing of an involuntary proceeding or the filing of an involuntary petition in a court of competent jurisdiction seeking relief in respect of the other Party, or of a substantial part of its property or assets under Title 11 of the United States Code or any other Federal, state or foreign bankruptcy, insolvency, receivership or similar law; the appointment of a receiver, trustee, custodian, sequestrator or similar office for the other Party or for a substantial part of its property or assets; or the winding up or liquidation, of the other Party, if such proceeding or petition

shall continue un-dismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall continue unstayed and in effect for sixty (60) days;

- iv. Upon any change to or enactment of any Applicable Law or Network Rules which would render any portion of the Program illegal, or otherwise have a material adverse effect upon the Program, provided that Client has first sought to engage Bank in a good faith negotiation to offset the effect of such in Applicable Law and the Parties have not agreed on such an offset within thirty (30) days;
- v. A material violation of any Network Rules or Applicable Law by a Party (other than the Party seeking termination) in connection with the performance of this Agreement rendering any of the Parties unable to substantially perform this Agreement;
- vi. Upon direction from any Regulatory Authority to cease or materially limit performance of the obligations under this Agreement;
- vii. by Bank, if there shall have occurred any event or circumstance that, pursuant to any specific provision contained herein, shall give Bank the right to terminate this Agreement, including the termination rights granted to Bank pursuant to Section 2.5(c) hereof in connection with Client's failure to obtain Bank's prior approval of Solicitation Materials;
- viii. By Bank by giving written notice, if a change of Control of Client shall have occurred, on later than thirty (30) days after receiving notice of such change of Control; and
- ix. In the event a Party becomes subject to a formal written enforcement order that materially and adversely affects the Party's ability to fulfill its obligations under this Agreement.

11.3 Notwithstanding and in addition to the provisions of Section 11.2(a) hereof, Bank shall have the right, immediately upon the giving of written notice to Client, to suspend the issuance of Cards (in whole or in part) if Bank determines, in its commercially reasonable discretion, that any activities of Client or any aspect of any Program or this Agreement results in or is more likely than not to result in (a) a material violation of Applicable Law or (b) a material risk to the safety and soundness of Bank; provided, however, that in the event Bank suspends issuance of Cards pursuant to this Section 11, Bank shall evaluate on a weekly basis whether to reinstate its services and/or Card issuance if Client has satisfactorily addressed those activities or Program aspects that gave rise to Bank's decision to suspend services and/or Card issuance. Any termination of any individual Program or any suspension of services and/or the issuance of any Cards by Bank will not affect or impact any other Cards or Programs not affected by such termination or suspension.

11.5 Termination and Transition Assistance.

- a. In the event of the termination or expiration of any Program or the termination of this Agreement, the Parties will cooperate to wind down such Program in accordance with Applicable Law pursuant to Section 11.5(b). Each Party acknowledges that the goals of any wind-down are to benefit the Accountholders by minimizing any possible burdens or confusion and to protect and enhance the names and reputations of the Parties, each of

whom have invested their names and reputations in the Program(s) and, as applicable, Accounts and Cards issued hereunder. Unless otherwise required by Applicable Law or any Regulatory Authority, upon the expiration or termination of this Agreement for any reason, the Parties agree to cooperate in good faith to wind down all affected Programs in a commercially reasonable way as soon as reasonably possible to provide for a smooth and orderly wind-down. Such cooperation will include, as applicable, continued acceptance of Cards presented for payment until such Cards expire or are cancelled as set forth below, and continued provision of customer service to all outstanding Accountholders in accordance with the terms of this Agreement up until the Accounts or Cards expire or are terminated.

- b. In the event that Client or Bank elects to terminate any Program(s) or this Agreement expires or is terminated for any reason other than by Bank for cause pursuant to Section 11.2 above, Client shall have the right, subject to the notice requirements herein, to cause the affected Program(s) and all associated Accountholder Accounts to be transferred to a successor qualified financial institution. Written notice of Company's decision to exercise this option shall be given within ten (10) business days of the date of the notice giving rise to termination hereunder. No later than thirty (30) days after exercising its option hereunder, Client will provide to Bank in writing a proposed transition plan detailing a proposed timeline which shall designate a schedule of dates as of which each Program will be transferred and an allocation of associated cost among the Parties. Bank and Client shall meet promptly thereafter to review such proposed plan and to determine a mutually acceptable transition plan (a "**Transition Plan**"). Such Transition Plan shall include a detailed outline of the Parties intentions in connection with the transfer of the Program(s) and Accountholder Accounts, including timeframes for continuation of the Program(s) during the period of transition, and target dates for transition milestones, such as entering into agreements with a successor financial institution, development of the transition procedures for the transfer of the Program(s) and any other information reasonably requested by Bank or the successor financial institution.
- c. In the event that Bank elects to terminate any Program or this Agreement expires or is terminated for any reason and Client does not exercise its option under Section 11.5(b) above, the Parties will cooperate to provide a smooth and orderly wind-down of the Program or Programs involved. Such wind-down shall include the following:
- d. As soon as reasonably practicable, commencing with the giving of notice of non-renewal or termination or at such other time as the Parties may otherwise mutually agree, Client or Bank, as applicable, will provide to the other Party in writing a proposed wind-down plan detailing a proposed timeline which shall designate a schedule of dates as of which each Program will be wound down and an allocation of associated cost among the Parties. Bank and Client shall meet promptly thereafter to review such proposed plan and to determine a mutually acceptable wind-down plan (a "**Wind-Down Plan**"); provided, however, that if Bank and Client fail to reach mutual agreement on a wind-down plan within thirty (30) days, Bank shall establish a wind-down plan that is appropriate for the affected Program and that is, to the extent practicable, substantially similar to other wind-down plans used by Bank for other programs similar to the affected Program hereunder, in which case such wind-down plan so established by Bank shall constitute the "Wind-Down Plan" hereunder as to the affected Program and shall be deemed to be approved by Client, and Client shall comply with the terms thereof.

- e. Unless otherwise contemplated by the Wind-Down Plan, Bank and Client shall continue to be bound by and comply with the terms of this Agreement and perform all of their obligations hereunder during the wind-down period (regardless of whether the Term has expired or been terminated) until such time as all Accounts or Cards expire or are canceled pursuant to and consistent with the Accountholder Agreements or, to the extent permitted by Applicable Law, until such earlier time as mutually agreed upon by Bank and Client.
- f. During any wind-down period or transition period, Client agrees to continue to provide customer service to the affected Accountholders in accordance with the terms of this Agreement. If Bank determines in its sole discretion that Client has failed to continue to provide customer service to the affected Accountholders during the wind-down period in accordance with the terms of this Agreement, Client shall take all necessary steps to either (i) effect the transfer to Bank of control of the toll free telephone numbers and websites used by Client with respect to such Program (the “**Program Telephone Numbers and Websites**”) or (ii) re-direct Accountholders using the Program Telephone Numbers and Websites to such toll-free telephone numbers and websites as designated by Bank.
- g. Except as required by Applicable Law (including applicable securities laws and the rules promulgated thereunder), in no event will any Party make any public statement or customer communication regarding the termination or wind-down of this Agreement or any Accounts, Cards, or Programs without the express prior written approval of both Bank and Client, which approval shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Client agrees that Bank may communicate the termination or expiration of this Agreement with any party with which Client has contracted to provide any Processing Services, marketing or other service with regard to the Program.

12. CONFIDENTIALITY

12.1 **Confidential Information.** The term “**Confidential Information**” shall mean this Agreement and all proprietary information, data, trade secrets, business information and other information of any kind whatsoever which (a) a Party discloses (the “**Discloser**”), in writing, orally or visually, to the other Party (the “**Recipient**”) or to which Recipient obtains access in connection with the negotiation and performance of this Agreement, and (b) relates to (i) the Discloser and/or its customers and/or associates, or (ii) consumers who have made Sensitive Customer Information available to Bank and/or Client.

12.2 **Disclosure to Employees and Agents.** Each of the Parties, as Recipient, hereby agrees on behalf of itself, its Affiliates and each of their respective employees, officers and other representatives that Confidential Information will not be disclosed or made available to any person for any reason whatsoever, other than on a “need to know basis” and then only to: (a) its employees and officers; (b) subcontractors and other third parties agreed upon by the Parties specifically permitted under this Agreement, provided that all such persons shall have agreed to treat such information confidentially in a manner no less restrictive than the terms hereof; (c) independent contractors, agents, and consultants hired or engaged by the Party, provided that all such persons shall have agreed to treat such information confidentially in a manner no less restrictive than the terms hereof; and (d) as required by Applicable Law or as otherwise permitted by this Agreement, either during the term of this Agreement or after the termination of this Agreement. Prior to any disclosure of Confidential Information as required by Applicable Law, the Recipient shall (i) notify the Discloser of any, actual or threatened legal compulsion of disclosure, and any actual legal obligation of disclosure immediately upon becoming so obligated, and

(ii) cooperate, at Discloser's expense (including reasonable legal fees and expenses incurred by Recipient) with the Discloser's reasonable, lawful efforts to resist, limit or delay disclosure.

12.3 Return/Destruction of Materials. Subject to the requirements of Section 11.5, upon the termination of this Agreement, or at any time upon the request of a Party, the other Party shall return or at the requesting Party's election, destroy, all Confidential Information, including Sensitive Customer Information, in the possession of such Party or in the possession of any third party over which such Party has or may exercise control, subject to any retention requirements under Applicable Law or such Party's approved policies and so long as, in each case, doing so does not otherwise violate Applicable Law.

12.4 Exceptions. With the exception of the obligations related to Sensitive Customer Information, the obligations of confidentiality set forth in this Agreement shall not apply to any information which a Party rightfully has in its possession when disclosed to it by the other Party, information which a Party independently develops, information which is or becomes known to the public other than by breach of this Agreement or information rightfully received by a Party from a third party without the obligation of confidentiality. If a Party determines that it is required to file this Agreement with the Securities and Exchange Commission (the "Commission") as a material agreement of such Party, such filing Party shall, to the extent permitted by law, request confidential treatment of sensitive terms from the Commission.

12.5 Media Releases. All media releases, public announcements and public disclosures by a Party or its Affiliates or their respective representatives, employees or agents, relating to this Agreement or the name or Mark of the other Party, including, without limitation, promotional or marketing material, but not including any disclosure required by legal, accounting or regulatory requirements, shall be approved by both Parties in writing prior to the release thereof (such approval not to be unreasonably withheld or delayed). Notwithstanding the foregoing and for the avoidance of doubt, use of any and all Solicitation Materials shall be governed by Section 2.5 and Section 3.2 hereof.

12.6 Unauthorized Use or Disclosure of Confidential Information. Each Recipient agrees that any unauthorized use or disclosure of Confidential Information of the Discloser might cause immediate and irreparable harm to the Discloser for which money damages might not constitute an adequate remedy. In that event, the Receiver agrees that injunctive relief may be warranted in addition to any other remedies the Discloser may have. In addition, the Receiver agrees promptly to advise the Discloser by telephone and in writing via facsimile or PDF e-mail of any security breach that may have compromised any Confidential Information, of any unauthorized misappropriation, disclosure or use by any person of the Confidential Information of the Discloser which may come to its attention and to take all steps at its own expense reasonably requested by the Discloser to limit, stop or otherwise remedy such misappropriation, disclosure or use.

13. CUSTOMER INFORMATION

13.1 Ownership of Accounts, Accountholder Data and Materials. As between the Parties, Bank shall own all Accountholder Data and Bank shall own the Accounts and shall have all rights, powers and privileges with respect thereto. The Accountholder Data shall at all times be subject to the privacy policy of Bank then in effect ("**Privacy Policy**"). Bank shall develop, and Client shall provide Accountholders with, a Privacy Policy and other disclosures as required by Applicable Law. Notwithstanding anything to the contrary contained herein, during the term of this Agreement, Client may use Accountholder Data in accordance with the privacy policies of Bank and Client, the Accountholder Agreement, and Applicable Law. Notwithstanding the foregoing, Bank shall not sell, assign, transfer, or otherwise dispose of, in whole or in part, the Accounts during the term of this Agreement, except as otherwise specifically provided in this Agreement (to the extent Bank has an ownership interest in an Account).

For purposes of clarity, the Parties agree that Client's relationship with the Customers unrelated to the Program shall be the exclusive property of and owned by Client and nothing contained in this Section 13 or elsewhere in this Agreement shall apply to, limit or prohibit the use in any manner of, any information or data owned or held by Client to the extent such information or data has been independently obtained by Client from a source other than Bank, even if such information or data is duplicative of Accountholder Data.

13.2 Sharing of Accountholder Data.

- a. Client agrees that, during and after the Term, it shall not use, nor permit any Subcontractor or any third party other than Bank or a Program Critical Subcontractor to use, any Accountholder Data other than as necessary to perform Client's obligations hereunder or as required to comply with Applicable Law.
- b. Client may disclose the Accountholder Data in compliance with Applicable Law solely:
 - (i) to any Network or other entity to which disclosure is necessary in connection with the processing of a Transaction;
 - (ii) to its Program Critical Subcontractors in connection with a permitted use of such Accountholder Data under this Section 13, provided that such Program Critical Subcontractor agrees in writing to maintain all such Accountholder Data as strictly confidential in perpetuity and not to use or disclose such information to any Person other than Client or Bank, except as required by Applicable Law or any Regulatory Authority (after giving Bank or Client, as applicable, prior notice and an opportunity to defend against such disclosure); provided, further, that each such Program Critical Subcontractor maintains a Security Program in accordance with the terms of Section 13.3;
 - (iii) to its employees, consultants, attorneys and accountants with a need to know such Accountholder Data in connection with a permitted use of such Accountholder Data under this Section 13; provided that (A) any such Person is bound by terms substantially similar to this Section 13 as a condition of employment or of access to Accountholder Data or by professional obligations imposing comparable terms; and (B) such Party shall be responsible for the compliance by each such Person with the terms of this Section 13; or
 - (iv) to any Regulatory Authority with authority over Client or Bank.

13.3 Data Security.

- a. Client shall, and shall require any Program Critical Subcontractor to, establish and maintain appropriate administrative, technical and physical safeguards designed to (i) protect the security, confidentiality and integrity of the Accountholder Data, (ii) ensure against any anticipated threats or hazards to its security and integrity, (iii) protect against unauthorized access to or use of such information or associated records which could result in substantial harm or inconvenience to any Accountholder or applicant, and (iv) ensure the proper disposal of Accountholder Data (collectively, the "**Security Program**"). At all times during the Term, and during any wind-down or transition

period, (x) Client shall use the same degree of care in protecting the Accountholder Data against unauthorized disclosure as it accords to its other confidential customer information, but in no event less than a reasonable standard of care, and (y) the Security Program shall be in compliance with all information and data security requirements promulgated by the Network and applicable to card issuers (as set forth in the Network Rules) and Applicable Law, as the same may be revised from time to time. Any material change to the Security Program by Client shall be approved in advance by Bank.

- b. Bank shall provide to Client annually a data security questionnaire, which shall be completed by Client and any Program Critical Subcontractors and returned to Bank within thirty (30) days of receipt from Bank.
- c. If required by Bank, Client shall cause each Program Critical Subcontractor to provide to Bank on an annual basis the Independent Service Auditor's Report – SOC1 Type II, as defined in the American Institute of Certified Public Accountants (AICPA's) Statement on Standards for Attestation Engagements (“SSAE”) No. 18, Reporting on Controls at a Service Organization. Client shall also provide Bank with copies of all other reports on compliance, quarterly and annual status forms and other reports filed by Client with any Network in accordance with the Network Rules, if applicable.
- d. To the extent Client or any Program Critical Subcontractor, receives, stores, or processes any PCI-DSS covered data, Client and any such Program Critical Subcontractors shall be assessed on an annual basis for compliance with PCI-DSS, such assessment to be performed by a qualified security assessor approved by the PCI Security Standards Council.
- e. The Security Program(s) shall be reviewed and tested internally at least annually (or more frequently, if reasonably requested by Bank), in order to demonstrate compliance with all Applicable Law and Bank Policies, and an internal audit and quality assurance program. The schedule of such audits and quality reviews shall be provided to Bank at least annually and results from each such audit or review shall be promptly provided to Bank in writing in accordance with the schedule or upon the request of Bank.
- f. Client agrees that in the event there is a breach of security of Client or any Subcontractor resulting in unauthorized disclosure of Accountholder Data or other proprietary information of Bank, Client will immediately notify the primary, or if unreachable, the secondary Security Contact of Bank (as identified in Section 13.3(k)) of such breach, the nature of such breach, and the corrective action taken to respond to the breach and shall take all steps at its own expense to immediately limit, stop or otherwise remedy such misappropriation, disclosure or use, including, but not limited to, notification and cooperation and compliance with Regulatory Authority.
- g. Client shall be liable to Bank for any Losses incurred by Bank as a result of a Data Breach of the systems of Client or any Subcontractor.

- h. Upon the event of a Data Breach, Bank and Client respectively shall agree to make a deposit in an account designated by the other Party in an initial amount of \$25,000 to be applied against the investigation fees and other expenses incurred by the Party which did not cause the security event to investigate and/or correct the Data Breach, including time and material and any third party pass through expenses. To the extent that actual costs related to the investigation, correction and/or resolution of the Data Breach incurred by the Party that did not cause the security event are less than the amount of the deposit, the excess shall be returned to the Party which caused the security event. To the extent that actual costs incurred by the Party which did not cause the security event to investigate and/or correct the Data Breach exceed the amount of the deposit, the Party that caused the security event shall be liable for, and shall promptly upon demand reimburse the Party which did not cause the security event for, the amount of such excess.
- i. Client acknowledges and agrees that in the event of a Data Breach as described in Section 13.3(f), Bank may engage an assessor to determine the extent of the breach. Client shall give the assessor access to Client's facilities, records and personnel, as requested by the assessor, and shall be responsible for all costs, expenses and fees of the assessor. Client shall provide to Bank, upon receipt, any and all reports or documents prepared by or received from the assessor.
- j. Client will only store Accountholder Data, Confidential Information and Program Records at its data center locations which comply with the applicable Security Program. Bank must be notified of any change of the location of a data center.
- k. Each of the Parties has provided to the other Party the name and contact information of such Party's designated primary and secondary "Security Contact" appointed for the purpose of being contacted in connection with (a) any security breach or failure requiring immediate notification to a Party with respect to the unauthorized use or disclosure of Accountholder Data or (b) any use or disclosure of a Party's Confidential Information except in the manner permitted by Section 12. A Party may from time to time change its primary and secondary Security Contact by providing written notice of such change in accordance with the notice requirements of Section 17. In the event a named Security Contact is no longer in the employ of the applicable Party, or is otherwise unable or unwilling to perform the duties of a Security Contact as set forth herein, then a replacement Security Contact shall be named by such Party as soon as possible but in no event later than ten (10) days after the Security Contact has ceased employment with such Party or the occurrence of the event giving rise to such Security Contact's inability or unwillingness to perform such duties. Each Party shall further ensure that either the primary Security Contact or the secondary Security Contact is available at any given time to fulfill the purposes of this Section 13.3, unless otherwise approved in advance in writing by the other Party.

14. DISASTER RECOVER, BUSINESS RESUMPTION, AND CONTINGENCY PLANS

At all times during the Term and for so long as this Agreement remains in effect, Client shall and shall require all Program Critical Subcontractors to, prepare and maintain disaster recovery, business resumption, and contingency plans appropriate for the nature and scope of the activities of and the obligations to be performed by Client or any Program Critical Subcontractor hereunder. Client shall ensure that such plans are sufficient to enable Client or the Program Critical Subcontractor to promptly resume, without giving effect to the force majeure provisions of Section 17.2(q) hereof, the performance of its obligations hereunder in the event of a natural disaster, destruction of facilities or operations, utility

or communication failures or similar interruption in operations and shall ensure that all material records, including, but not limited to, Accountholder Data, are backed up in a manner sufficient to survive any disaster or business interruption. These plans shall ensure that, without giving effect to the force majeure provisions of Section 17.2(q) hereof, such resumption takes place no later than forty eight (48) hours after the interruption. Client shall make available to Bank copies of all such disaster recovery, business resumption, and contingency plans and shall make available to Bank copies of any changes thereto. Client and any Program Critical Subcontractor shall periodically, and no less than annually, test such disaster recovery, business resumption, and contingency plans as may be appropriate and prudent in light of the nature and scope of the activities and operations of Client and its obligations hereunder. Client shall further facilitate and cooperate with any requests by Bank to participate in, monitor or audit the annual testing process of Client or a Program Critical Subcontractor under this Section 14. A complete report of the results of such annual testing shall be promptly provided to Bank.

15. INSURANCE

15.1 Client shall maintain (and shall require each Program Critical Subcontractor to maintain), throughout the Term, an appropriate insurance policy in the name of Client (or any Program Critical Subcontractor), the limit of which shall be no less than one million dollars (\$1,000,000) per occurrence and [five] million dollars (\$[5],000,000) aggregate, for each of the following categories:

- a. a comprehensive general liability policy, including, but not limited to, contractual liability, bodily injury, death and/or property damage;
- b. a comprehensive crime policy, including employee dishonesty/fidelity coverage, with respect to the work or operations done in connection with this Agreement;
- c. a comprehensive errors and omissions policy; and
- d. a workers' compensation policy in at least the minimum amounts required by any applicable statute or regulation.

15.2 In the event Client stores, transmits or processes Accountholder Data, Client shall maintain (and regardless shall require each Program Critical Subcontractor to maintain), throughout the term of this Agreement, an appropriate data security insurance policy in the name of Client (or any Program Critical Subcontractor) and naming Bank as a loss payee, the limit of which shall be, in the case of a Processor, no less than two million dollars (\$2,000,000) per occurrence and two million dollars (\$2,000,000) aggregate:

- a. theft, dissemination and/or unauthorized disclosure or use of Confidential Information and Accountholder Data (including, but not limited to, account information, social security numbers, and confidential corporation information). Such insurance shall also include coverage for credit monitoring, notification expenses and other related costs associated with mitigating a data security or privacy breach; and
- b. introduction of a computer virus into, or otherwise causing damage to, a computer, computer system, network or similar computer-related property and the data, software and programs used thereon.

15.3 Each policy required by Section 15.1 and 15.2 must:

- a. be written by insurance carriers that have an A.M. Best rating of "A" or better or are otherwise acceptable to Bank;
- b. provide that such policy may not be terminated or materially modified without thirty (30) days prior written notice to both Bank and Client (or Subcontractor); and

- c. not include any exclusions that would adversely affect coverage regarding any of the obligations of Client hereunder.
- d. A copy of each policy (including such endorsement) and any certificates of insurance evidencing the existence of such policy, or any other documentation related to the requirements of this Section 15 reasonably requested by Bank, shall be provided to Bank upon Bank's request.
- e. Client shall promptly provide notice to Bank in the event Client receives any notice of nonrenewal or cancellation, lapse, termination or reduction in any insurance coverage required to be maintained pursuant to this Section 15.

16. LIMITATION OF LIABILITY

16.1 No Special Damages. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, EVEN IF SUCH PARTY HAS KNOWLEDGE OF THE POSSIBILITY OF SUCH DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT; PROVIDED, HOWEVER, THAT THE LIMITATIONS SET FORTH IN THIS SECTION SHALL NOT APPLY TO OR IN ANY WAY LIMIT THE INDEMNITY OBLIGATIONS UNDER THIS AGREEMENT.

16.2 Disclaimers of Warranties. OTHER THAN AS SET FORTH HEREIN, EACH PARTY SPECIFICALLY DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MARKETABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES.

17. INDEMNIFICATION

17.2 Client covenants and agrees to indemnify, defend and hold harmless Bank and its Affiliates, and their respective officers, directors, representatives and permitted assigns, as such, against any direct damages, losses, expenses, legal action, claim, demand or proceedings incurred by or brought against any of them by any third party as a result of (i) any unauthorized, illegal or fraudulent access to or use of Accountholder Data caused by Client or arising from a security breach to computer systems maintained by Client, (ii) any Additional Services, or (iii) any act or omission of Client which violates any Rules or Applicable Law; provided, that this provision shall not apply to the extent any such claim for indemnification arises out of (1) an act of fraud, embezzlement or criminal activity by Bank or its representatives, (2) gross negligence or willful misconduct by Bank or its representatives or (3) Bank's breach of this Agreement.

17.2 Bank covenants and agrees to indemnify, defend and hold harmless Client and its Affiliates, and their respective officers, directors, representatives and permitted assigns, as such, against any direct damages, losses, expenses, legal action, claim, demand or proceedings incurred by or brought against any of them by any third party as a result of (i) any unauthorized, illegal or fraudulent access to or use of Accountholder Data caused by Bank or its Affiliates or arising from a security breach to computer systems maintained by Bank or third parties (other than Client or a third party service provider) on behalf of Bank, (ii) any act or omission of Bank or its providers which violates any Rules or Applicable Law

(including without limitation any act of fraud, embezzlement or criminal activity by Bank or its representatives), (iii) any claim relating to obligations owed to or by Bank or any third party retained by it (except to the extent that Client has expressly agreed to fulfill such obligation under this Agreement); provided, that this provision shall not apply to the extent any such claim for indemnification arises out of (1) an act of fraud, embezzlement or criminal activity by Client or its representatives, (2) willful misconduct by Client or its representatives or (3) Client's breach of this Agreement.

17.3 If any claim or demand is asserted against any Party or Parties (individually or collectively, the "**Indemnified Party**") by any person who is not a Party to this Agreement in respect of which the Indemnified Party may be entitled to indemnification under the provisions of subsections (a) or (b) above, written notice of such claim or demand shall promptly be given to any Party or Parties (individually or collectively, the "**Indemnifying Party**") from whom indemnification may be sought. The Indemnifying Party shall have the right, by notifying the Indemnified Party within ten (10) days of its receipt of the notice of the claim or demand, to assume the entire control (subject to the right of the Indemnified Party to participate at the Indemnified Party's expense and with counsel of the Indemnified Party's choice) of the defense, compromise or settlement of the matter, including, at the Indemnifying Party's expense, employment of counsel of the Indemnifying Party's choice. Any counsel retained by the Indemnifying Party for such purposes shall be reasonably acceptable to the Indemnified Party. The Indemnifying Party shall institute and maintain any such defense diligently and reasonably and shall keep the Indemnified Party reasonably advised as to the status thereof. The Indemnified Party shall have the right to employ its own counsel if the Indemnified Party so elects to assume such defense, but the fees and expense of such counsel shall be at the Indemnified Party's expense.

18. GENERAL TERMS

- 18.1. **Disclosure.** Each Party shall promptly notify the other of any action, suit, proceeding, facts and circumstances, and the threat of reasonable prospect of same, which would reasonably be expected to give rise to a potential indemnification claim hereunder or which might materially and adversely affect either Party's ability to perform this Agreement.
- 18.2. **Legal Compliance.** Each Party represents and warrants to the other that it is familiar with the requirements of all Applicable Law, including consumer protection laws applicable to it which relate to the Program and its obligations hereunder, and agrees that it will comply, in all material respects, with all Applicable Laws relating to its activities under this Agreement.
- 18.3. **Relationship of Parties.** Bank and Client agree they are independent contractors to each other in performing their respective obligations hereunder. Nothing in this Agreement or in the working relationship being established and developed hereunder shall be deemed, nor shall it cause, Bank and Client to be treated as partners, joint ventures, or otherwise as joint associates for profit.
- 18.4. **Governing Law.** This Agreement shall be governed by the internal laws of the State of Delaware without regard to conflicts of law.
- 18.5. **Severability.** In the event that any part of this Agreement is deemed by a court, Regulatory Authority, or other public or private tribunal of competent jurisdiction to be invalid or unenforceable, such provision shall be deemed to have been omitted from this Agreement. The remainder of this Agreement shall remain in full force and effect and shall be modified to any extent necessary to give such force and effect to the remaining provisions, but only to such extent.

- 18.6. Survival.** All representations and warranties made by a Party hereunder, and all covenants made by a Party hereunder which survive the expiration or termination of this Agreement pursuant to any express provision hereof or which by their nature are intended to be performed after termination or expiration hereof, shall survive any termination or expiration of this Agreement. Without limiting the generality of the foregoing, the obligations of the Parties pursuant to Sections 11.4 (Termination Assistance), 12 (Confidentiality), 13 (Customer Information), 17 (Indemnification) and 18 (General Terms) will continue.
- 18.7. Successors and Third Parties.** Except as limited by Section 17.2(l), this Agreement and the rights and obligations hereunder shall bind and inure to the benefit of the Parties and their successors and permitted assigns.
- 18.8. Assignment.** Neither this Agreement nor any provision hereof may be assigned or otherwise transferred by Client or Bank without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed.
- 18.9. Notices.** Approvals of materials related to the Program or approvals of third party service providers, financial products or features of the Program required to be provided in writing hereunder may be transmitted by e-mail. All other notices, requests and approvals required by this Agreement shall be in writing addressed/directed to the other Party at the address set forth below, or at such other address of which the notifying Party hereafter receives written notice in conformity with this section, and sent overnight via generally recognized delivery service (e.g., UPS, FedEx). All such notices, requests, and approvals shall be deemed given one (1) Business Day after being accepted for delivery by the courier unless the courier has notified the sender that delivery has been delayed. All such notices, requests and approvals shall be addressed to the attention of:
- If to Bank to:
- Attention: Legal
- If to Client to:
- With a copy to:
- 18.10. Waivers.** Neither Party shall be deemed to have waived any of its rights, power, or remedies hereunder except in writing signed by an authorized agent or representative of the Party to be charged. Either Party may, by an instrument in writing, waive compliance by the other Party with any term or provision of this Agreement on the part of the other Party to be performed or complied with. The waiver by either Party of a breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach.
- 18.11. Entire Agreement; Amendments.** This Agreement and the Schedules hereto constitutes the entire agreement between the Parties and supersedes all prior agreements, understandings, and arrangements, oral or written, between the Parties with respect to the subject matter hereof. This Agreement may not be modified or amended except by an instrument or instruments in writing signed by both Parties.
- 18.12. Counterparts.** This Agreement may be executed and delivered by the Parties in counterpart, each of which shall be deemed an original and both of which together shall constitute one and the same instrument.

- 18.13. Force Majeure.** No Party shall be liable for any failure or delay on its part to perform, and shall be excused from performing any of its obligations hereunder if such failure, delay or non-performance results in whole or in part from any cause beyond the control of the Party, including without limitation, any act of God, act of war, riot, actions of terrorists, earthquake, fire, explosion, natural disaster, flooding, embargo or sabotage (any such occurrence, a “**Force Majeure Event**”). Any Party desiring to rely upon a Force Majeure Event as an excuse for failure, default or delay in performance shall, when the cause arises, give to the other Parties prompt notice in writing of the facts which constitute such Force Majeure Event and, when the Force Majeure Event ceases to exist, give prompt notice thereof to the other Parties. This section shall in no way limit the right of any Party to this Agreement to make any claim against third parties for any damages suffered due to said cause. If any performance under this Agreement is postponed or extended for longer than sixty (60) calendar days as a result of a Force Majeure Event, any Party may, by written notice to the other Party, terminate this Agreement effective immediately, at which time this Agreement shall be subject to Section 11.4.
- 18.14. Third Parties.** There are no third party beneficiaries to this Agreement. The Parties do not intend (a) the benefits of this Agreement to inure to any third party or (b) any rights, claims or causes of action against a Party to be created in favor of any person or entity other than the other Party
- 18.15. Headings.** The various captions and section headings in this Agreement are included for convenience only and shall not affect the meaning or interpretation of any provision of this Agreement. References in this Agreement to any Section are to such Section of this Agreement. To the extent possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be held to be invalid, illegal, or unenforceable, such provision shall be ineffective only to the extent of such invalidity, illegality, or unenforceability, without rendering invalid, illegal, or unenforceable the remainder of such provision or the remaining provisions of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, this Agreement is executed by the Parties' authorized officers or representatives and shall be effective as of the Effective Date.

[Bank]

[Client]

By: _____

By: _____

Name: _____

Name: _____

Its: _____

Its: _____

Schedule 1

Program Fees and Income

[To Be Inserted]

Schedule 2

Third Party Terms

The following terms apply solely to the extent Client is using the module/service being provided by the Vendor identified below.

[To Be Inserted]

Schedule 3

ODFI and Origination Services

1. **Introduction.** Bank is a member bank of the Federal Reserve Bank, which allows Bank to engage in the business of transmitting Entries as an ODFI. Client, either directly or through Vendors, wishes to originate and/or transmit Entries pursuant to the terms of this Schedule 3 as an Originator and/or a Third Party Service Provider in connection with the Program(s) and the Rules and Bank is willing to act as an ODFI with respect to such Entries originated by Client or Client's Vendors. The purpose of this Schedule 3 is to establish the framework pursuant to which the Parties offer ACH processing functionality to consumers as a convenient and secure payment mechanism and as an alternative to the traditional transfer of funds by credit cards, cash and paper checks.

2. **Definitions.** The following terms shall have the following meanings in this Schedule 3 (such meanings to be equally applicable to both the singular and plural forms of the terms defined). To the extent a capitalized term is not defined herein, it shall have the meaning set forth in the Agreement.

"ACH" or "Automated Clearing House" means the electronic funds transfer system governed by the Rules of NACHA.

"ACH Operator" means an entity, including but not limited to the Federal Reserve Bank that acts as a central facility for the clearing, delivery, and ACH Settlement of Entries between or among Participating DFIs.

"ACH Settlement" means the movement of funds between Bank and an ACH in accordance with the Rules.

"Credit Entry" means an order or request for the transfer of money to the account of a Receiver.

"Debit Entry" means an order or request for the withdrawal of money from the deposit account or general ledger account of a Receiver.

"Electronic Funds Transfer Act" means 15 U.S.C. §§ 1693 *et seq*, as amended from time to time.

"Entry" means a Debit Entry, Credit Entry, or Non-Monetary Entry.

"Non-Monetary Entry" means an entry consisting of notice or data complying with the requirements of the Rules that is not an order or request for the transfer or withdrawal of funds.

"Notification of Change" or "NOC" means a Non-Monetary Entry transmitted to an RDFI for the purpose of identifying incorrect information contained within an Entry and providing correct data to be used on future Entries.

"On-Us Entry" shall have the meaning set forth in Section 4(f) of this Schedule 3.

"Originating Depository Financial Institution" or "ODFI" means a Participating Depository Financial Institution with respect to Entries (i) it transmits directly or indirectly to an ACH Operator for transmittal to an RDFI, and (b) on which it is designated as the ODFI in accordance with the Rules.

"Originator" means a Person that has authorized an ODFI (directly or through a Third-Party Service Provider) to transmit, for the account of that Person, a Credit Entry, Debit Entry, or Non-Monetary Entry to the Receiver's account at the RDFI.

"Participating Depository Financial Institution" or "Participating DFI" means a financial institution that (i) is authorized by Applicable Law to accept deposits, (ii) has been assigned a routing number, and (iii) has agreed to be bound by the Rules.

"Receiver" means a Person that has authorized Client to initiate (i) a Credit Entry to the Receiver's deposit account or loan account with an RDFI or the RDFI's general ledger account, or, if the Receiver is also the RDFI, to such Receiver's account, (ii) a Debit Entry to the Receiver's deposit account with an RDFI or the RDFI's general ledger account, or, if the Receiver is also the RDFI, to such Receiver's account, or (iii) a Non-Monetary Entry with respect to the account of that Person.

"Receiving Depository Financial Institution" or "RDFI" means a Participating DFI with respect to Entries (i) it receives from its ACH Operator to the accounts of Receivers, and (b) on which it is

designated as the RDFI in accordance with the Rules.

“Receiving Point” means a Person that receives Entries from an ACH Operator on behalf of an RDFI. A Receiving Point may be an RDFI acting on its own behalf, or a Participating DFI or Third-Party Service Provider acting on behalf of one or more RDFIs.

“Regulation E” means the regulations adopted by the Consumer Finance Protection Bureau, found at 12 C.F.R. Part 1005, to implement the Electronic Funds Transfer Act.

“Return” means an Entry initiated by an ACH Operator or an RDFI that returns an Entry previously originated by Client. A Return may be either domestic or international.

“Rules” means the Operating Rules of NACHA, including all appendices and formal rules interpretations, as in effect from time to time.

“Same Day Entry(ies)” means a Credit Entry or Debit Entry for which the proposed Settlement Date is the same banking day as the date on which the Entry is transmitted to the ACH Operator, and is transmitted by the ACH Operator’s deadline for same-day processing and settlement.

“Sending Point” means a Person that transmits Entries to an ACH Operator on behalf of an ODFI. A Sending Point may be an ODFI acting on its own behalf, or a Participating DFI or Third-Party Service Provider acting on behalf of one or more ODFIs.

“Settlement Date” means, with respect to a Credit Entry or Debit Entry, the date an exchange of funds with respect to such Entry is reflected on the books of the applicable Federal Reserve Bank(s), and with respect to a Non-Monetary Entry, the date specified in the “Settlement Date” field of the Entry.

“Third Party Sender” means a type of Third-Party Service Provider that acts as an intermediary in transmitting Entries between an Originator and an ODFI, and acts on behalf of an Originator or another Third-Party Sender with whom the ODFI does not have a direct agreement or customer relationship. A Third-Party Sender is never the Originator for Entries it transmits on behalf of another individual or organization. However, a Third-Party Sender of Entries may also be an Originator of other Entries in its own right.

“Third Party Service Provider” means a Person that performs any functions on behalf of the Originator, the ODFI, or the RDFI (not including the Originator, ODFI or RDFI acting in such capacity for such Entries) related to the processing of Entries, including the creation of the files or acting as a Sending Point or Receiving Point on behalf of a Participating DFI.

3. Client Responsibilities.

(a) Client, acting as an Originator and/or a Third-Party Service Provider, will originate Entries and/or transmit same to Bank, which Entries shall be accurate, complete, authentic, and comply with the Rules and Applicable Law. Client shall only originate the authorized types of Entries listed on Schedule D-2 to this Schedule D. Client shall obtain all consents and authorizations required to initiate such Entries under the Rules or Applicable Law and shall retain such consents and authorizations for two (2) years from the termination or revocation of the authorization. All Entries initiated by Client shall be transmitted by Client to Bank in the manner directed or approved by Bank.

(b) Client hereby authorizes Bank to process such Entries on behalf of Client, including, but not limited to, the transmittal, for the account of Client, (i) a Credit Entry to the Receiver’s deposit account or loan account with an RDFI or the RDFI’s general ledger account, or, if the Receiver also is the RDFI, to such Receiver’s account, (ii) a Debit Entry to the Receiver’s deposit account with an RDFI or the RDFI’s general ledger account, or, if the Receiver also is the RDFI for the Entry, to such Receiver’s account, or (iii) a Non-Monetary Entry.

(c) For each Entry, Client shall pay Bank the amount of the Entry.

(d) Client shall transmit Entries to Bank in a file that complies with the formatting, security and other requirements set forth in the Rules and as approved by Bank. All Entries must be transmitted to Bank no

later than the cut-off time required by Bank at least one Business Day prior to the proposed Settlement Date for such Entries, unless the Parties otherwise agree.

(e) Bank may reject an Entry for any reason, including but not limited to the following:

(1) if the Entry does not comply with the requirements of the Rules or if it does or may violate Applicable Law;

(2) if the Entry contains a proposed Settlement Date more than three (3) days for Credit Entries and two (2) days for Debit Entries after the business day such Entry is received by Bank;

(3) in the case of an On-Us Entry, for any reason for which an Entry may be returned under the Rules;

(4) if Client does not adhere to security procedures set forth in the Agreement and the Rules.

(f) Bank shall provide notice of any rejection to Client by telephone, e-mail, or any other mutually agreed upon means no later than the next business day after the receipt of the proposed Settlement Date. Notices of rejection shall be effective when given. Bank shall have no liability to Client by reason of the rejection of any Entry or the fact that notice thereof is not given at an earlier time than that provided for herein.

(g) Client shall be solely responsible for all Returns, and all errors on Entries.

(h) Client shall process all NOC Entries within five (5) business days of receipt and in accordance with the Rules.

(i) Bank shall in its sole discretion assign to Client in writing the maximum total daily dollar amount of Entries that, on any given day, can be transmitted by Client to Bank and which may not be exceeded by Client.

(j) Client may request during the term that Bank review and amend the maximum total daily dollar limit, which request shall be approved or denied in Bank's sole discretion. If approved, Bank shall, within two (2) business days of such determination, adjust the system to reflect the change.

(k) Client shall retain data on file adequate to permit remaking of Entries for ninety (90) days following the date of their transmittal by Bank as provided herein and shall provide such data to Bank upon its request. Client shall retain any data regarding Entries processed pursuant to this Schedule 3 for a minimum of six (6) years.

(l) Client shall be responsible to monitor all ACH activity performed pursuant to the terms of this Schedule 3, including those activities undertaken by any Vendor. Such monitoring shall include, but not be limited to, activity trends, large dollar activity, returns (number and percentage), and duplicate Entries on a daily basis.

(m) Client shall ensure that all Entries are properly authorized in accordance with the Rules. Client shall not allow unauthorized Entries in excess of the rate permitted under the Rules.

(n) Client shall ensure that all Entries are not for any restricted purpose as set forth in and do not violate Applicable Law.

(o) Client shall ensure that the rate of all Returns does not exceed two and a half percent (2.5%) of all

Entries. In the event the rate of all Returns hereunder exceeds two and a half percent (2.5%) of all Entries per month, Client shall pay to Bank \$5,000.00 per month until such time as the volume of Returns is less than 2.5% of total Entries per month. Such calculation shall be made at the end of each calendar month. In the event such percentage equals or exceeds 2.5% for a period in excess of ninety (90) days, Client shall provide a detailed explanation to Bank regarding such percentage. Bank, in its sole discretion, may immediately terminate this Schedule 3 if (i) Client fails to provide such explanation, or (ii) if after investigation of Client's explanation Bank reasonably determines that Client will be unable to reduce the excessive rate of returns.

(p) Client shall not act as a Third-Party Sender with respect to the initiation of Entries on behalf of a third-party Originator or Third-Party Sender with whom Bank does not have a customer relationship without Bank's prior written consent. To the extent Client proposes to act as a Third-Party Sender with respect to the initiation of Entries on behalf of third-party Originators or Third-Party Senders, the Parties will cooperate in good faith to modify this Agreement to enable Bank to comply with Applicable Law.

(q) Same Day Processing and Settlement.

(1) Client may request that an Entry be processed as a Same Day Entry for which the Effective Entry Date is the same business day as the date on which the Entry is transmitted to the ACH Operator. Same Day Entries must be transmitted by the ACH Operator's deadline for same-day processing and Settlement. All Same Day Entries must be for an amount permitted by the Rules. International transactions (IAT) and government enrollments (ENR) shall not be submitted by Client as Same Day Entries. Client shall ensure that all procedures and authentication processes are sufficient to minimize risk associated with Same Day Entries.

(2) Client shall ensure that all Same Day Entries transmitted to Bank comply with the Rules and use only such SEC codes set forth in Schedule 3-1 of the Agreement.

(3) Client shall submit Same Day Entries in a file format that complies with the Rules and Bank directives and the terms of the Agreement. Client shall ensure that the volume of Same Day Entries is reasonable in order for such Same Day Entries to be transmitted prior to the ACH Operator deadline for same-day processing and settlement. In the event excessive volume of Same Day Entries is transmitted by Client for processing and such volume results in missing the Same Day Entry Deadline, Bank will process such file as soon as possible for settlement on the next banking day.

(4) The processing window for Same Day Entries will be strictly enforced in order to meet deadlines. Except as otherwise approved in writing by Bank, Same Day Entries must be transmitted to Bank by the cut-off times required by the Bank for Same Day Entries (the "**Same Day Entry Deadline**"), or as otherwise agreed by Bank, to allow the bank's processing system adequate time for submission of the files to the Federal Reserve prior to the Same Day ACH deadline. The Same Day Entry Deadline is absolute due to the need for accurate and timely processing of Same Day ACH Entries. Entries submitted after the Bank's Same Day Entry Deadline must contain accurate effective dates of the next business day. Should Entries not contain correct effective dates Client will be liable for the applicable fee for the entry classification.

(r) For the avoidance of doubt, the Parties agree that Client may engage the services of one or more Vendors to perform the services set forth in this Schedule 3 and all terms applicable to Vendors in the Agreement shall apply to Vendors under this Schedule 3.

(s) Nested Third-Party Senders. To the extent applicable, Client is prohibited from entering into an ACH origination agreement with any Nested Third-Party Sender in connection with this Agreement, unless

expressly permitted to do so by Bank in writing, which such permission may be withheld by Bank in its sole and absolute discretion. In the event Bank permits Client to provide services for a Nested Third-Party Sender in accordance with the preceding sentence, Client will provide Bank with the names and pertinent information required by Bank with respect to any Nested Third-Party Sender for which it transmits Entries through Bank, before transmitting any such Entries, for the purpose of Bank's due diligence and registration of the Nested Third-Party Sender with NACHA. If Client transmits Entries for any Nested Third-Party Sender, Client must have an agreement with the Nested Third-Party Sender that complies with the NACHA Rules and includes the requirements for submitting or originating Entries under of this Agreement as if the Nested Third-Party Sender were Client and Client were Bank. Such agreement also shall include the representations and warranties made by Client in this Agreement, with Bank as an express beneficiary, and the indemnification of Bank as provided in this Agreement. Further, before transmitting Entries for the Nested Third-Party Sender, Client must provide the list of such Nested Third-Party Sender's Originators and any information considered to be reasonably necessary to identify each Originator on whose behalf it initiates Entries within two (2) Business Days of Bank's request. Bank reserves the right to conduct periodic audits and other due diligence of each such Nested Third-Party Sender and its Originators in its discretion as long as the relationship continues to the same extent that Bank may audit or request information on Client and its Originators.

(t) Risk Assessment. If Client qualifies as a Third Party Sender hereunder, Client shall implement (and shall cause each Originator and permitted Nested Third-Party Sender to implement) a risk management system on or prior to the Effective Date and shall maintain a risk management system throughout the Term of this Agreement (the "Risk Management System"). In addition to Client's other audit obligation in the Agreement, at least once per year, Client shall cause each Originator and permitted Nested Third-Party Sender to provide Bank with a risk assessment performed by a qualified third party in accordance with NACHA Rules ("Risk Assessment"). The Risk Assessment must consist of a comprehensive evaluation of each Originator's or permitted Nested Third-Party Sender's ACH policies, procedures, processes, operations and activities against potential risk vulnerabilities (including, but not limited to, potential threats to its operations, controls, access points and other potential risk vulnerabilities) and shall take into consideration IT security, continuity plans, implementation of each Originator's and Nested Third Party Sender's Risk Management System, compliance with NACHA Rules, Applicable Law, industry standards and oversight of each Originator, permitted Nested Third-Party Sender, or any Client Vendor. The Risk Assessment must be maintained for review by Bank for not less than six (6) years. Client agrees to provide (and shall cause each Originator or permitted Nested Third-Party Sender to provide) documentation supporting such Risk Assessment within five (5) Business Days of request from Bank.

4. Bank Responsibilities.

(a) Bank shall retain its relationship with an ACH Operator in good standing and shall comply in all material respects with the Rules and Applicable Law that is applicable to the obligations of Bank hereunder. If Bank's relationship with an ACH Operator is terminated for any reason, Bank shall give notice to Client as soon as practicable after it provides notice to or receives notice from the ACH Operator.

(b) Bank shall provide, either directly or through a third-party subcontractor, for the processing of Entries originated by Client. Such processing shall include (i) the transmission by Bank, as an ODFI, of Entries originated by Client to the ACH Operator, and (ii) the ACH Settlement by Bank of such Entries as provided in the Rules.

(1) Bank's obligation to process any specific Entry on any given day is contingent upon (i) Client's compliance with the requirements set forth in this Schedule 3 and the Rules, (ii) Client's timely provision

to Bank of all required information regarding the Entries, including the proposed Settlement Date, and (iii) Bank's receipt of the Entry from Client on a date on which both Bank and the ACH Operator are open for business. If any of the requirements in this section are not met, Bank shall use reasonable efforts, after receipt of any missing information from Client, to transmit such Entry to the ACH Operator by the deposit deadline of the next regular business day of Bank and the ACH Operator.

(2) Bank shall transmit all approved Entries daily to the ACH Operator, and the ACH Operator shall set the Settlement Date. All Entries will be settled on the Settlement Date.

(3) Bank may, in its sole discretion, require Client to provide any proposed Entry to Bank at least one day prior to the date on which it is intended to be transmitted to the ACH Operator.

(c) In the event that Client requests reversal of an Entry or Entries previously initiated by Client and transmitted to Bank, Bank shall use reasonable efforts to act upon such request in accordance with the Rules; provided, however, that Bank shall not be liable for any expenses, losses, damages or interest if such reversal is not effected. Any request by Client for reversal of an Entry must comply with the requirements of Bank and as set forth in the Rules. Client shall reimburse Bank for any expenses, losses, or damages Bank may incur in effecting or attempting to effect Client's request for a reversal of an Entry. Bank may in its sole discretion require payment from Client in advance for the amount of any requested reversal of a Debit Entry prior to acting on any such request.

(d) In the event that Client identifies what it reasonably perceives to be an error in the processing of any Entry or Entries, Bank shall investigate such alleged error, and shall report any findings regarding such errors to the Client. If in the course of the investigation Bank determines in its sole reasonable discretion that no error occurred, then Client shall be responsible to Bank for any reasonable expenses incurred by Bank in such investigation.

(e) For each Return received by Bank, Bank shall use its reasonable best efforts to provide notice to Client either by telephone, electronically, or as otherwise agreed, but in any event within one (1) business day of receipt of such Return. Returns shall be settled by 5 PM on the business banking day in which the Return is received, unless otherwise determined by Bank. Bank shall have no obligation to re-execute or take other action with respect to any Return. Bank shall not be liable to Client by reason of any Return or the fact that notice thereof was not given at an earlier time than that provided for herein, or for any expenses, losses, damages or interest of Client as a result of such Return.

(f) Except as provided in this section, in the case of a Credit Entry designated to an account maintained with Bank (an "**On-Us Entry**"), Bank shall credit the Client's Reserve Account in the amount of such Credit Entry on the Settlement Date contained in such Credit Entry, provided the requirements set forth herein are met. If these requirements are not met, Bank shall use reasonable efforts to credit the Reserve Account in the amount of such Credit Entry no later than the next business day following the later of the proposed Settlement Date or such time as all requirements set forth herein have been met by Client.

(g) In the event it becomes necessary for the purpose of funding, ACH Settlement, or to correct any other Client errors, or in the event the Reserve Account fails to maintain adequate amounts to perform the ACH Settlement requirements or any other obligations of Client hereunder, Bank may in its sole discretion provide Client a wire option to resolve such errors or to correct the amount in the Reserve Account.

5. Expenses.

Bank shall be solely responsible for all annual membership fees related to Bank's license with and membership in NACHA, and any fees and penalties assessed by NACHA or a Governmental Authority due to Bank's actions or the actions of any third party retained by Bank.

Client shall be solely responsible for the following:

- (a) All fines and penalties assessed by NACHA or a Governmental Authority due to Client's actions, inactions, or omissions.
- (b) All expenses associated with and losses from non-sufficient fund payment requests, consumer fraud, unauthorized Entries, or any other Entries where funds are not available and cash was already distributed.
- (c) All costs incurred or fees assessed by Bank due to errors in Entries originated by Client.

6. Miscellaneous.

- (a) Bank shall have the right, immediately upon the giving of written notice to Client, to terminate this Schedule 3 in its entirety or suspend the processing of Entries hereunder (in whole or in part) in Bank's sole discretion, including but not limited to if Bank determines, in its reasonable good faith discretion, that any activities of Client or any aspect of any Entry or this Agreement results in or could result in (i) a violation of Applicable Law or (ii) a risk to the safety and soundness of Bank.
- (b) In addition to the audit rights set forth in the Agreement, Client agrees that Bank shall have a separate right, at any time during normal business hours and upon reasonable prior written notice, or at any other time required by Applicable Law or by a Governmental Authority or NACHA, to inspect, audit, and examine all of Client's facilities, records, personnel, books, accounts, data, reports, papers and computer records relating to the activities contemplated by this Schedule 3.
- (c) Bank in its sole discretion may require that the minimum balance in the Reserve Account be increased by Client in the event of excessive Returns.

Schedule 3-1

Authorized Entry Types

CCD – Corporate Credit or Debit Entry

PPD – Prearranged Payment and Deposit

COR – Notification of Change or Refused Notification of Change

WEB – Internet Initiated/Mobile Entries

Schedule 3-2

Early ACH

Bank is a member bank of the Federal Reserve Bank, which allows Bank to engage in the business of transmitting Entries as an ODFI. Client wishes to provide a feature to Accountholder whereby they can access funds as early as on the ACH Origination Date instead of the ACH Settlement Date and Bank is willing to approve such feature, subject to the terms set forth herein.

1. Definitions.

Except as otherwise specifically indicated in Schedule 3 or the Agreement, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

“ACH” means a credit entry made through the Automated Clearing House to a Card in the Early Access Feature.

“ACH Settlement Date” means the date the ACH would normally be loaded to a Card.

“ACH Origination Date” means the date the ACH is received by the Bank.

“Early Access” means access by an Accountholder to Early Access Deposits on or after the ACH Origination Date.

“Early Access Account” means an Account in a Program approved by Bank to offer the Early Access Feature.

“Early Access Feature” means the Program feature that will provide Accountholders Early Access to Early Access Deposits.

“Early Access Deposits” means domestic ACH credits to Accounts, excluding (i) any debit ACH entries, and (ii) other elements as defined by the Bank from time to time.

“Report” shall have the meaning set forth in Section 2(d) herein.

2. Duties of Client.

(a) Client must obtain Bank’s prior written approval in order to offer the Early Access Feature on any Program.

(b) Client shall comply with all marketing guidelines provided by Bank related to the Early Access Feature. Any marketing materials relating to the Early Access Feature shall be considered Marketing Materials as such term is defined in the Agreement. Client may not charge a fee to any Accountholder for Early Access.

(c) Upon approval by Bank, Client may credit Early Access Deposits to Early Access Accounts and provide Accountholders Early Access to Early Access Deposits on or after the later of (i) the ACH Origination Date or (ii) the date the flat file is received.

(d) Client shall provide Bank access to an automated report titled the “Bank ACH Posted-Detail Report” (the **“Report”**). Client shall comply with all directives of Bank related to the Report and the Early Access Feature, including but not limited to (i) providing all data required by Bank related to Early Access, (ii) building functionality to ensure that all Early Access and the Report comply with Bank directives, (iii) ensuring that all ACH’s are settled in a timely manner.

(e) Client shall ensure that funding equal to all Early Access Deposits deposited to Early Access Accounts is received by Bank no later than the ACH Settlement Date, and Client shall wire an amount equal to any shortfall within twenty four (24) hours of the discovery of such shortfall.

(f) Except to the extent caused by the willful misconduct of Bank, Client shall be liable for any and all losses related to Early Access, including but not limited to (i) the unavailability of funding between the ACH Origination Date and the ACH Settlement Date (i.e., due to ACH reversals or returns, fraud, reclamation or payroll for a failed company) and (ii) duplicate entries that could have been reversed prior to the ACH Settlement Date.

3. Term.

This Schedule 3-2 to Schedule 3 shall be co-terminus with the Term of the Agreement, provided, however, that either Party may elect to terminate this Schedule 3 on thirty (30) days advance written notice for any or no reason. In the event of termination both parties will use commercially reasonable efforts to wind down the Early Access Feature in the smallest timeframe possible.