



# UNITED FEDERAL CREDIT UNION

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Treasury Services Master Terms & Conditions

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## **GENERAL TERMS AND CONDITIONS**

- 1. Introduction.** This Treasury Services Master Terms and Conditions (“TSMTC”) contains the terms and conditions under which we provide treasury management services. This TSMTC supplements the Business Member Account Terms and Conditions and supersedes any prior agreements between you and us on the subject matter hereof and will be binding upon your heirs, representatives, and successors. In the event of any inconsistency between this TSMTC and the Business Member Account Terms and Conditions, this TSMTC will govern.

This TSMTC uses capitalized terms that are defined in the Glossary or in the Service-Specific Terms and Conditions. The terms “we”, “us”, “our”, “United”, “Credit Union”, and “UFCU” refer to United Federal Credit Union and its successors and assigns. The terms “you”, “your” and “Member” refer to the member identified on the Treasury Management Services Agreement. By signing and returning the Treasury Management Services Agreement, you agree to the General Terms and Conditions section of this TSMTC that contains terms and conditions applicable to every Service. You also agree to the Service-Specific Terms and Conditions of this TSMTC containing the specific terms and conditions of each Service we provide to you. If you would like an additional Service, the Service-Specific Terms and Conditions of this TSMTC are applicable to the provision of the additional Service when we approve your use of that Service. You may begin using the additional Service when we have received all requested information and properly executed forms. In the event of any conflict between the General Terms and Conditions of this TSMTC and the Service-Specific Terms and Conditions of this TSMTC, the Service-Specific Terms and Conditions will prevail with respect to the Service. Whenever you use any of the Services covered by this TSMTC, you agree to be bound by these terms and conditions, as amended from time to time.

Please note that this agreement contains a binding ARBITRATION AND CLASS ACTION WAIVER provision which affects your rights with respect to any claims or disputes by or against United Federal Credit Union. Please closely review the Arbitration and Class Action Waiver section of this agreement. You may opt out by following the specified process within the specified timeframe.

Please read this TSMTC carefully and keep it for your records.

### **ARBITRATION AND CLASS ACTION WAIVER RULES**

**Please review this provision carefully: It affects your legal rights. Arbitration of a dispute will result in the loss of any right to participate in a class action lawsuit related to the claim arbitrated.**

- a. **Notice of Dispute Required.** Before making any claim for damages against us in court or arbitration as provided for under this agreement, you agree to first send us written notice of your claim or dispute. Your notice should be sent to the following address:

UNITED FEDERAL CREDIT UNION  
ATTN: LEGAL DISPUTE PROCESSING  
P.O. BOX 125  
ST. JOSEPH, MI 49085

Your notice to us should include the following:

- Your name and account number (if any).
- Describe your claim or dispute, and explain as clearly as you can why you believe you are entitled to damages.
- Tell us the dollar amount of your alleged damages.
- Tell us your desired resolution to your claim or dispute.

You agree we have thirty (30) days from the date we actually receive your notice to review your claim or dispute, during which time each of us agrees to make a good faith effort to resolve such claim or dispute. This thirty (30) day period will apply to each claim or dispute you notify us of. If your claim or dispute is not resolved to your satisfaction after thirty (30) days, you may make your claim in arbitration (subject to exclusions), as provided below.

b. **Arbitration Procedures.**

- i. **Electing Arbitration.** Except if you opt out as provided below, you or we may elect to arbitrate any claim or dispute between you and us arising from or related in any way to this Agreement or any account, product, or service you have or have had with us. This arbitration provision applies regardless of whether the claim or dispute is based in contract, tort, or otherwise. If arbitration is elected, any claim or dispute will be resolved by individual (not class-wide) binding arbitration instead of a lawsuit or other resolution in court. This arbitration provision does not apply to any individual action brought in small claims court (or your state court equivalent). Any arbitration hearing will be within 50 miles of your residence at the time the arbitration is commenced, unless otherwise mutually agreed.
- ii. **Arbitration Costs.** We will reimburse the amount of filing, case management, administration, and arbitrator fees you are required to pay. Notwithstanding the foregoing, we will not reimburse you for any fees if the arbitrator determines that your claim or dispute was frivolous or baseless. Each party will be responsible for its own fees, including attorneys' fees in any arbitration, except that the arbitrator is permitted to award attorneys' fees to the prevailing party under applicable law or agreement.

- iii. **Arbitrator and Arbitration Rules.** The party electing arbitration must choose between one of two organizations: the American Arbitration Association (“AAA”); or Judicial Arbitration and Mediation Services (“JAMS”). The rules and codes of procedure of the chosen organization in effect when arbitration is elected will apply. Arbitration will be conducted by a single, neutral arbitrator. The arbitrator is bound by the terms of this Agreement and will be a retired judge or attorney with experience in financial institutions.
  - iv. **Effect of Arbitration Award.** The arbitrator’s decision and award will be final and binding on all parties, except for any right to appeal provided by the Federal Arbitration Act, and may be entered in any court, state or federal, having jurisdiction. Any relief available in a court of law can be awarded by the arbitrators.
- b. **Federal Arbitration Act.** This Agreement is considered a transaction in interstate commerce. As such, the Federal Arbitration Act (Title 9 of the US Code) governs the interpretation and enforcement of this arbitration provision. Any issue concerning the validity or enforcement of this arbitration provision, or whether it applies to any specific claim or dispute will be determined by the arbitrator.
- c. **CLASS ACTION WAIVER.** **Unless prohibited by applicable law, arbitration will be solely brought in your individual capacity and be solely between you and us. Neither you nor we have the right to participate in a class action in court or arbitration, either as a class representative or class member. No arbitration between you and us may be joined or consolidated with any other arbitration. Under no circumstances shall there be any class action in arbitration. You and United Federal Credit Union acknowledge the Class Action Waiver is material and essential to the arbitration of any claims or disputes and is non-severable from this arbitration provision. If the Class Action Waiver is limited, voided or found unenforceable, then this arbitration provision (except for this sentence) shall be null and void with respect to such proceeding, subject to the right to appeal the limitation or invalidation of the Class Action Waiver.**
- d. **General.**
- i. **Severability; Survival.** Except as provided in the Class Action Waiver above, if any term of this arbitration provision is found unenforceable for any reason, it shall be severed and the remaining terms shall be enforced without regard to the invalid or unenforceable provisions. This arbitration provision shall survive termination of the Agreement.
  - ii. **Available Relief.** This arbitration provision does not preclude you from informing any federal, state or local agency or entity of your dispute. Such agency or entity may be able to seek relief on your behalf. Nothing in this arbitration provision limits your or our right, whether before, during or after the pendency of any arbitration proceeding, to exercise any self-help remedies, such as set-off, or repossession and sale of collateral, or to obtain injunctive relief or interpleader relief. The exercise of these rights will not constitute a waiver of the right to submit any dispute to arbitration.

iii. **Exclusion.** To remove any doubt, this arbitration provision does not apply to: (i) any consumer credit transaction secured by a dwelling (including a home equity line of credit secured by your principal dwelling); or (ii) to any consumer credit obtained while you were a covered borrower as defined by the Military Lending Act.

e. **RIGHT TO OPT OUT. YOU MAY OPT OUT OF THIS ARBITRATION AND THE CLASS ACTION WAIVER PROVISION BY SENDING A WRITTEN REQUEST TO US AT UNITED FEDERAL CREDIT UNION, ATTN: OPERATIONS, P.O. BOX 125, ST. JOSEPH, MI 49085. YOUR WRITTEN NOTICE MUST INCLUDE YOUR NAME, ADDRESS, ACCOUNT NUMBER, AND INDICATE YOUR CHOICE TO OPT OUT OF THIS ARBITRATION AND CLASS ACTION WAIVER PROVISION. NOTICE MUST BE RECEIVED WITHIN SIXTY (60) DAYS AFTER THIS AGREEMENT WAS DELIVERED OR OTHERWISE MADE AVAILABLE TO YOU. IF YOU FAIL TO OPT OUT WITHIN THIS SIXTY (60) DAY PERIOD, YOU WILL BE DEEMED TO HAVE PROVIDED YOUR CONSENT TO THE RESOLUTION OF CLAIMS OR DISPUTES THROUGH BINDING ARBITRATION. OPTING OUT OF ARBITRATION WILL NOT TERMINATE OR EFFECT ANY OTHER RIGHTS YOU OR WE HAVE UNDER THIS AGREEMENT. IF YOU OPT OUT, YOU MUST OPT OUT OF ALL TERMS OF THIS ARBITRATION AND CLASS ACTION WAIVER PROVISION. YOU MAY NOT OPT OUT OF ONLY CERTAIN TERMS.**

2. **Scope of Services.** Treasury management services provided by us to our members include the following Services, together with such additional treasury management services as we may provide to you from time to time: Automated Clearing House, Funds Transfer, Business Online Banking & Bill Pay, Business Remote Deposit Capture, Sweep Service, Business Mobile Check Deposit, and Positive Pay.

3. **Representations and Warranties.** You represent and warrant as of the Effective Date of the Treasury Management Services Agreement and each time a transaction is requested or performed in connection with a Service that: (i) you are duly organized, validly existing and in good standing under the laws of your jurisdiction of organization; (ii) you have all requisite power and authority to execute, deliver and perform your obligations in accordance with this TSMTC; (iii) the Treasury Management Services Agreement has been duly authorized and executed by you and constitutes your legal, valid and binding obligation; (iv) any electronic signatures used on any agreement, application, request, form, or document were duly authorized and executed by you and constitute your legal, valid and binding signature; and (v) any consent or authorization of any governmental authority or third party required to be obtained by you in connection with this TSMTC has been obtained. We make no representation or warranty, express or implied, and disclaim all warranties as to merchantability, fitness for a particular purpose or suitability of any Service, or the compatibility of Service software, equipment or communication interfaces. You represent and warrant that no Service will be used for personal, family or household purposes.

- 4. Liability.** We will be responsible for any loss sustained by you only to the extent such loss is caused solely by our willful misconduct. In no event will clerical errors or mistakes in judgment constitute willful misconduct, nor will we have any liability for any indirect, incidental, exemplary, consequential (including without limitation loss of future revenue or income, lost profits, diminution of value, loss of business reputation or opportunity, or business interruption), special or punitive damages, whether arising in contract, by statute or in tort, and whether or not the possibility of such damages was disclosed to or could have been reasonably foreseen by us. Under no circumstances will we be responsible for any liability, loss or damage resulting from any delay in performance of or failure to perform in connection with any Service that is caused by interruption of telephone, tele facsimile or communication facilities; delay in transportation, equipment breakdown or mechanical malfunction; electrical power, internet disruption or computer failure; accidents, fire, flood, explosion, theft, natural disaster or other catastrophe; acts or failure to act by you or any third party; strikes or lockouts; or emergency conditions, riots, war, acts of government or other circumstances which are unavoidable or beyond our control. We will not be liable for failure to perform any of our obligations in connection with any Service if such performance would reasonably result in breach of any court order, law, rule, regulation or requirement of any governmental authority. If we fail to credit your accounts utilized in connection with any Service in accordance with the Service-Specific Terms and Conditions of this TSMTC applicable thereto as of the date such credit was earned, upon discovery or notification of such error, we will properly credit such account; we will not incur any further cost, expenses or liability for such error, including, but not limited to, any costs associated with your failure to invest the amount of funds not properly credited to the account.
- 5. Indemnification.** You will indemnify and hold harmless UFCU and each of our Indemnitees from and against all claims, demands, expenses, liability, loss and damage of any kind (including attorneys' fees and other costs incurred in connection therewith) incurred by or asserted against Indemnitees in any way relating to or arising out of any Service, except to the extent such expenses, liability, loss or damage is caused solely by the willful misconduct of Indemnitees. You agree that reliance, without further investigation, on any oral, telephonic, electronic, written or other Communication believed in good faith to have been given by you will in no event constitute gross negligence or willful misconduct on the part of Indemnitees. This indemnity will survive the termination of this TSMTC.
- 6. Payment.** You agree to pay us for the performance of each Service in accordance with our fee schedule for the Service in effect at the time the Service is provided, which we may change from time to time. You agree to pay any sales, use or similar tax applicable to any Service. If we, in our sole discretion, pay any such tax, you will reimburse us in the amount of such payment upon demand. You agree to pay all attorneys' fees and other costs and expenses we may incur in collecting any amounts due in connection with the provision of any Service. You agree that we may charge against and deduct from any of your accounts with us any fee, tax,

or other amounts due to us now or in the future in connection with the provision of any Service without prior notice and when permitted by law. We may, in our sole discretion, debit any of your accounts with us, bill you, and/or set off against any amounts we owe you without prior notice. We will have the right to credit or debit any of your accounts with us to correct any processing error or irregularity made in connection with the provision of any Service. You will be provided with 30 days' notice of any change in the fee schedule in accordance with the notice provisions of Paragraph 17.

- 7. Security Procedures and Communications.** Certain Security Procedures, designed to verify the origination (but not errors in transmission or content) of a Communication may be used in connection with a Service. You are responsible for all transactions and activities performed on your account(s). You agree that the Security Procedures for each Service are commercially reasonable in the context of your business operations. You agree we will not be obligated to act on a Communication not transmitted in accordance with the Security Procedures and may refuse to act on any Communication where we reasonably doubt its authorization, contents, origination or compliance with the Security Procedures. You agree we will have no duty to discover, and will not be liable for, your errors or omissions. You agree that if we comply with the Security Procedures for a Service with respect to a Communication, we (i) will be entitled to act on that Communication and will not be obligated to verify the content of such Communication, establish the identity of the person giving it, or await any confirmation thereof, and (ii) will not be liable for acting on, and you will be bound by, any Communication sent in your name, whether or not actually authorized by you. If you select certain Security Procedures to use in connection with a Service and those Security Procedures provide less protection against unauthorized transactions or activity than other Security Procedures offered by us in connection with such Service, you agree that the Security Procedures you select are commercially reasonable to the same extent as the Security Procedures offered by us that provide greater protection. We reserve the right to require the use of new Security Procedures and to cancel or change any Security Procedures from time to time. We may advise you of changes to the Security Procedures to the extent they affect your use of a Service, but failure to do so will not affect your obligations or our rights. Whenever the Security Procedures include assigning any confidential password, logon identification, identification code, personal or location identification number, repetitive code, token or other security device to you, you agree you will ensure that no such security device is used by or accessible to anyone other than an Authorized User. You agree you will be solely responsible for the safekeeping of such security device and assume all risk of disclosure or use of such security device by any person whosoever, whether or not an Authorized User. You agree we will not be liable for any loss or damage resulting from fraudulent, unauthorized or otherwise improper use of any security device.
- 8. Security and Equipment.** You agree to cause a third party review of your information technology, internet, processing security and all related controls to be conducted annually. You agree to maintain commercially reasonable disaster recovery capabilities. To prevent



unauthorized use of a Service, you agree to ensure the security of the computer, mobile device, and other equipment you use to access a Service. By securing this equipment, we specifically mean (i) installing operating system patches, antivirus and malware software, and firewall and spyware detection, as applicable; (ii) keeping the security software current; and (iii) securing the physical device from theft or unauthorized use. You agree to promptly provide us with any additional information we may request regarding your security procedures for equipment.

- 9. Security and Breach.** You agree you will implement such safeguards as are reasonably necessary to ensure the confidentiality and integrity of the Security Procedures and any security device and will immediately notify us if you believe or suspect any of the following: (i) someone has means to access your account(s) without your permission; (ii) the confidentiality or integrity of any Security Procedure or security device is breached or threatened; or (iii) that any other unauthorized use or security breach has occurred. We may, in our sole discretion, change the parameters for your access to a Service without prior notice to you.
- 10. Confidentiality.** All Confidential Information is our proprietary and confidential property and/or the proprietary or confidential property of our relevant vendors, licensors or suppliers. You agree to (i) use the Confidential Information only in the ordinary course of your business in the manner specified by us for the provision of a Service to you; (ii) return the Confidential Information to us promptly upon termination of a Service; and (iii) keep the Confidential Information confidential and limit access thereto only to your employees, Authorized Users, or other agents who reasonably require access to the Confidential Information to use a Service in the normal course of their duties except in response to an order or requirement of a court or governmental body or to the extent Confidential Information is generally available to the public through no fault of yours and without breach of this TSMTC.
- 11. Intermediaries and Third Parties.** You agree we may act on any Communication and provide any Service using any payment system or intermediary organization we reasonably select and our provision of a Service is subject to the rules and regulations of any such system or organization. You agree we may provide a Service to you utilizing any third party(s), in our sole discretion. You authorize the transfer of information relating to you to our agents or any third party(s) we may utilize in connection with Services or as we may be allowed or required by court order, law, rule, regulation or any governmental authority. You acknowledge that we may have certain legal record keeping and reporting requirements with respect to a Service and consent to our disclosure to governmental authorities of information concerning you and the Services provided to you that we believe to be appropriate or necessary to fulfill such legal requirements

**12. Equipment and Software.** If any Service requires you to operate equipment or software, you agree our provision of the Service will be conditional on your proper use and maintenance of such equipment or software. If we supply equipment or software and unless the Service-Specific Terms and Conditions of this TSMTC provide otherwise, you agree we will remain the owner of such equipment or software, and you will insure it, use it solely in the manner specified by us in connection with the Service, not remove or modify any name or identifying mark on it, and return it to us upon termination of the Service. If we supply equipment or software, such equipment and software is provided by us and our licensors "**AS IS**" and on an "**AS AVAILABLE**" basis.

**13. Communications Link.** You agree it is your responsibility to obtain and maintain your online communications link to a Service and ensure that your use of such communications link is in compliance with any applicable requirements, including any requirements of telecommunications companies and authorities. You agree you are responsible for obtaining, installing, maintaining and operating any System. This responsibility includes, without limitation, your utilizing up-to-date web browsers and the best commercially available encryption, antivirus, anti-spyware, and internet security software. You are additionally responsible for obtaining internet services via the internet service provider of your choice, for any and all fees imposed by such internet service provider, and any associated communications service provider charges. You acknowledge that there are security, corruption, transmission error, and access availability risks associated with using open networks such as the internet, and you hereby expressly assume such risks, including but not limited to those we may disclose in our educational materials. You acknowledge that you are responsible for the data security of the System used to access a Service and for the transmission and receipt of information using such System. You acknowledge that you are using a Service for your convenience, have made your own independent assessment of the adequacy of the System, and are satisfied with that assessment. Downloads from our website are provided "**AS IS**" and we provide no representation, warranty or guarantee that any download will not contain a virus or other destructive device. We are not responsible for any errors or problems that arise from the malfunction or failure of the System nor are we responsible for notifying you of any upgrades, fixes, or enhancements to, or for providing technical or other support for your System.

**14. Risk of Loss.** In the event of a failure or interruption of an online communication link to a Service or a System failure or interruption, your data may be lost or destroyed. Any transaction that you initiated, were in the process of completing, or completed shortly before such failure or interruption should be verified by you through means other than via the internet to ensure the accuracy and completeness of such transaction. You assume the risk of loss of your data during any such failure or interruption and the responsibility to verify the accuracy and completeness of any transaction so affected.

**15. Advertising.** Neither you nor we will display any name, trademark or service mark of the other without prior written consent. You will not advertise or promote any Service without UFCU's prior written consent.

**16. Records.** You agree to our telephonic or electronic recording for security and quality of Service purposes. You agree we may produce telephonic or electronic recordings or computer records, including without limitation e-mail and tele facsimile transmissions, as evidence in any proceeding brought in connection with a Service. You agree our records kept in the regular course of business will be presumed to accurately reflect the contents of your Communications to us regarding a Service and, in the absence of manifest error, will be binding and conclusive. You agree all electronic media, security procedures, and related records used by us for any Service is and will remain our property. We may, at our sole discretion, make available such information upon your request and, if applicable, after your payment of any applicable fees.

**17. Notices.** Any notice you give to us must be in writing and sent to us by U.S. mail or express carrier at: United Federal Credit Union, Attn: Business Products, P.O. Box 125, St. Joseph, MI 49085-0125 and is effective when we receive it and have had a reasonable time to act on it. We will be entitled to rely on any written notice or other written communication believed by us in good faith to be genuine and to have been signed by an authorized agent; any such Communication will be deemed to have been signed by such representative. We may send you any notice or communication required under this TSMTC to your postal, e-mail, tele facsimile or other address you have provided to us. Any such notice or communication sent by us to you will be effective on the date we send it to you. You agree to notify us promptly of any change in your postal, e-mail, tele facsimile or other address you have provided to us. Except as otherwise expressly provided herein, we will not be required to act upon any notice or instruction received from you or any other person, or to provide any notice or advice to you or any other person with respect to any matter.

**18. Extensions of Credit.** You may be required to have specified amounts of Collected and Available Funds in your accounts with us in connection with a particular Service. We are not obligated to extend credit to you unless we have specifically agreed to do so in a separate writing. You agree any account shortage is due immediately and can be deducted directly from your account balance whenever sufficient funds are available. You have no right to defer payment of this liability. We may without notice refuse to honor any Communication if such Communication would create an overdraft or use uncollected funds. The fact that we may honor Communications that overdraw your available account balance or use uncollected funds does not create a course of dealing or otherwise obligate us to do so later.

**19. Discrepancies.** You agree to promptly notify us in writing of any error or discrepancy between your account information provided by us in connection with a Service and your own records and promptly provide us with any information we may reasonably request in connection

therewith. You agree that fourteen (14) calendar days from the date of the occurrence of any error or discrepancy is a reasonable time for you to notify us of any error or discrepancy, unless any other agreements, the Service-Specific Terms and Conditions of this TSMTC, or laws, rules or regulations provide for a shorter period of time.

**20. Compliance.** You agree to comply with all foreign and domestic federal, state, and local laws, rules and regulations applicable to any Service, including but not limited to the U.S.

Department of Treasury's Office of Foreign Assets Control (OFAC) regulations and similar laws and regulations. You agree to contact the OFAC toll-free hotline, when reasonable, at 1-800-540-6322. If we provide a Service to you to which the rules of the National Automated Clearing House Association (NACHA) are applicable, you agree to be bound by the NACHA Rules, as amended from time to time.

**21. Attorney Fees.** If we become involved in legal action to defend or enforce this TSMTC, you agree to pay our reasonable attorney fees and court costs to the extent not prohibited by law.

**22. Termination.** This TSMTC and any Service we provide under it may be terminated by either you or us upon 30 days' prior written notice unless otherwise provided in the Service-Specific Terms and Conditions of this TSMTC. We may also terminate or suspend any or all Services immediately without notice to you if (i) you become insolvent or file, or have filed against you, any bankruptcy or other insolvency, reorganization, liquidation or dissolution proceeding of any kind; (ii) a material adverse change in your business or financial condition occurs; (iii) we reasonably suspect that you have engaged in any fraudulent or illegal activity; (iv) you fail to maintain balances in accounts sufficient to cover overdrafts; (v) you violate the terms of this TSMTC or any financing arrangement with us; (vi) you fail to promptly provide financial information reasonably requested by us; (vii) we, in our sole discretion, determine it is impractical or illegal to provide a Service because of changes in laws, regulations or rules; or (viii) we, in good faith, are unable to determine that you have properly authorized the use of a Service. Notwithstanding any termination, the terms of this TSMTC will survive and continue to apply to transactions initiated prior to termination.

**23. Headings and Construction.** The section headings in this TSMTC are inserted for convenience of reference only and do not constitute a part hereof.

**24. Binding Effect.** This TSMTC will bind and benefit the parties and their successors and permitted assigns.

**25. Waiver.** No term of this TSMTC will be considered waived or modified, unless we expressly consent to such waiver or modification in writing. Any such waiver will not constitute a waiver of satisfaction of any other condition or nonperformance of any other obligation. No delay or omission on our part in exercising any right or power under this TSMTC will operate as a

waiver thereof, nor will any single or partial exercise of any right or power under this TSMTC preclude further exercise thereof or the exercise of any other right or power. A waiver on any one occasion will not be construed as a bar or waiver of any rights or powers on future occasions. The rights and remedies under this TSMTC are cumulative and not exclusive of any rights or remedies that we would otherwise have.

**26. Governing Law; Forum; Severability.** The terms of this TSMTC and the Treasury Management Services Agreement will be governed by and construed in accordance with the applicable federal law, rules and regulations of the United States and the internal law of the State of Michigan, except to the extent that this TSMTC and the Treasury Management Services Agreement can and does vary such laws and rules. This TSMTC is also subject to all clearing house association rules and the rules of the Consumer Financial Protection Bureau and the Board of Governors of the Federal Reserve System and their operating circulars, except to the extent that this TSMTC can and does vary such rules. Should these applicable laws or rules be amended, this TSMTC will be deemed amended to the extent necessary to comply with such amendments. If any of the terms of this TSMTC or the Treasury Management Services Agreement cannot be legally enforced, they will be considered changed to the extent necessary to comply with applicable law. The remaining provisions of this TSMTC and the Treasury Management Services Agreement and the application of the challenged provision to persons or circumstances other than those as to which it is invalid or unenforceable will not be affected thereby, and each of those provisions will be valid and enforceable to the full extent permitted by law.

**27. Assignment.** You may not assign this TSMTC or the Treasury Management Services Agreement to any other person or entity without our prior written consent. We may assign this TSMTC and the Treasury Management Services Agreement without your consent.

**28. Amendment.** From time to time, we may amend any term of this TSMTC by giving you reasonable notice in writing. You agree that your use of a Service after the effective date of such amendment provided in such notice will constitute agreement to such amendment, and you will be bound by this TSMTC as amended. You may amend your authorizations for each Service or Authorized User by completing and submitting a written request in the form and format we require, which will be effective after we have had a reasonable opportunity to act on it. You may not amend this TSMTC without our prior written consent signed by our duly authorized officer; without limiting the foregoing, no course of dealing between us and you will constitute an amendment of this TSMTC.

**29. Counterparts.** This TSMTC may be executed in counterparts, each of which will be deemed an original and all of which taken together will constitute one and the same instrument.

**30. Waiver of Jury Trial; Jurisdiction and Venue.** YOU AND WE WAIVE ALL RIGHTS TO TRIAL BY JURY IN ANY LITIGATION IN CONNECTION WITH, ARISING OUT OF, OR RELATING TO THIS

AGREEMENT OR ANY SERVICE USED BY YOU. YOU AND WE HEREBY SUBMIT TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE STATE COURTS IN BERRIEN COUNTY, MICHIGAN AND THE UNITED STATES DISTRICT COURT OF THE WESTERN DISTRICT OF MICHIGAN WITH RESPECT TO ALL SUCH LITIGATION.

**31. Cooperation in Loss Recovery Efforts.** In the event of any damages for which we or you may be liable to each other or to a third party pursuant to any Service, you and we agree to undertake reasonable efforts to cooperate with each other, as permitted by applicable law, in performing loss recovery efforts and in connection with any actions that the relevant party may be obligated to defend or elects to pursue against a third party.

**32. Electronic Signatures.** You agree that we may offer you the ability to execute or sign the Treasury Management Services Agreement, applications, amendments, modification requests, service requests, written forms, agreements, and other information, records, or documents related to the Services using an electronic signature. You understand and agree that any electronic signature will constitute your legal signature and that the electronic signature executed in conjunction with the electronic submission of information and records will be legally binding on you. You further agree that any electronically transmitted document executed or signed with an electronic signature will be deemed to have been duly and validly delivered and will be valid and effective for all purposes. You agree that you may not raise as a defense to the enforceability of this TSTMC or any electronically signed document (and you forever waive any such defense) any argument based on either (a) the use of electronic transmission to deliver a signature; or (b) the fact that any signature was signed and subsequently transmitted electronically. If you believe or have reason to believe that an electronic signature was used on a document without your consent or authorization, you agree to immediately notify us in accordance with this TSTMC.

#### SERVICE-SPECIFIC TERMS AND CONDITIONS

##### **AUTOMATED CLEARING HOUSE (ACH)**

The following sets forth the terms and conditions under which we will provide the Automated Clearing House (“ACH”) Service to you. You wish to originate debit and credit Entries to accounts maintained with us and other financial institutions by means of the Automated Clearing House Network. We are prepared to initiate certain Entries electronically, for payments (“Credit Entries”) and/or collections (“Debit Entries”), and we will act as an Originating Depository Financial Institution with respect to such Entries. The Automated Clearing House Service described herein is a “Service” within the meaning of this TSMTC.

**1. Definitions.** Unless otherwise defined herein, terms used in this Service-Specific Terms and Conditions for our ACH Service will have the meanings provided in Regulation E of the Consumer Financial Protection Bureau (“Regulation E”), in the NACHA Rules and this TSMTC.

The term "Entry" will have the meaning provided in the Rules and will also mean the data received from you if you are a Third-Party Sender from which we initiate each Entry.

- 2. Rules.** This ACH Service will be governed with respect to electronic Entries by the NACHA Rules. If there are any inconsistencies between this TSMTC and the NACHA Rules, the NACHA Rules will govern, except to the extent that this TSMTC can and does vary the NACHA Rules. You acknowledge that a copy of the NACHA Rules is available from NACHA – The Electronic Payments Association upon request at current NACHA prices and that you have access to the NACHA Rules. You agree to be bound by the NACHA Rules as in effect and amended from time to time.
- 3. Additional Third-Party Sender Rules.** For each Entry for which you are not the Originator, you (i) represent and warrant that you will not Transmit to us any Entries that violate the laws of the United States and any state laws, regulations or orders applicable to us or you; (ii) represent and warrant that the Originator of each Entry has agreed to assume the responsibilities of an Originator under these Rules and has acknowledged that the Originator may not initiate Entries that violate the laws of the United States; (iii) agree to execute an agreement with the Originator that meets our requirements and the requirements of the NACHA Rules and provide a copy of such agreement to us prior to Entries being Transmitted to us on behalf of that Originator; (iv) agree to promptly notify us of any change in Originators on behalf of which you are Transmitting Entries; and (v) agree to promptly provide any other information we may request.
- 4. OFAC Compliance and Indemnification.** You acknowledge and agree that it is your responsibility to ensure that each Entry you originate and/or Transmit complies with OFAC regulations and that no electronic payment involves a target country, target country national, or other company or individual identified by OFAC on its Specially Designated Nationals List or otherwise identified by the federal government and subject to similar restrictions ("Restricted Persons"). You agree you will follow the requirements of the NACHA Rules, laws, rules and regulations regarding Restricted Persons. You agree to indemnify and hold harmless Indemnitees from and against all claims, demands, fines, penalties, assessments, loss, liability or expense, including attorneys' fees and expenses, and damage of any kind resulting from or arising out of an Entry originated and/or Transmitted by you or any act or omission of yours and, if you are a Third-Party Sender, the Originator, that fails to comply with the requirements of OFAC or the NACHA Rules. You agree that you are responsible for obtaining information regarding the sanctions enforced by OFAC and acknowledge that you may obtain this information regarding OFAC enforcement sanctions directly from the OFAC Compliance Hotline at (800) 540-6322. This indemnity will survive the termination of this TSMTC.
- 5. Transmittal of Entries by Third-Party Sender.** If you are a Third-Party Sender, you (i) authorize us to originate Entries on behalf of the Originator to Receivers' accounts, (ii) will Transmit Entries to us in accordance with our ACH Service Processing Schedule on or before the cutoff

time in compliance with this TSMTC and the format, content and specifications contained in the NACHA Rules, (iii) agree that your ability to originate Entries under this TSMTC is subject to restrictions including without limitation exposure limits; and (iv) agree the total dollar amount of Entries Transmitted by you to us on any one day will not exceed the maximum exposure limit established by us.

## 6. Preparation and Submission of Entries.

- a. **Restrictions on Types of Transactions.** You may only Transmit Standard Entry Class codes approved by us. If you are a Third-Party Sender, for each Entry for which you are not the Originator, you agree to only Transmit to us Entries for payroll purposes, limited to PPD Credit Entries to Consumer Accounts only, CCD Debit Entries, CCD Credit Entries, and correcting Entries.
- b. **Authorization and Record Retention.** You, and if you are a Third-Party Sender, the Originator, will obtain the authorization of any Receiver before initiating any Entry to such Receiver's account. You warrant that each Entry Transmitted has been authorized in accordance with the NACHA Rules. You, if you are a Third-Party Sender, warrant (i) you have informed every Originator of Originator's responsibility to obtain all consents and authorizations required under the NACHA Rules and (ii) the Originator will retain such consents and authorizations for two (2) years after termination or revocation of the consent or authorization. You will provide us with evidence of any authorization promptly upon request.
- c. **Medium and Format.** All Entries Transmitted by you will be prepared and submitted in a mutually agreed-upon medium and in the format specified by us. We may reject or refuse to execute any Entries or files containing Entries not prepared in accordance therewith.
- d. **Content.** In Transmitting any Entry, you will be responsible for providing all information we require. As between you and us, you bear sole and exclusive responsibility for verifying that the information set forth in Entries submitted to us is authentic, accurate and conforms to the NACHA Rules. This ACH Service is only designed to respond to information provided by you. Accordingly, any inaccuracy in any information you provide may result in unintended processing by us. We bear no responsibility for detecting or reporting any error in data you supply and will not be liable for any information you provide with respect to an Entry which is inaccurate, incomplete or otherwise incorrect.
- e. **Prenotification.** To the extent required by the NACHA Rules, you will send prenotification that you intend to initiate an Entry to a particular account in accordance with the procedures set forth in the NACHA Rules or by us. The prenotification can be accepted, returned or result in a Notification of Change. If the prenotification is returned, you will research the problem and make any necessary corrections before Transmitting another Entry. If the prenotification results in a Notification of Change, you will make the required change within six (6) Banking Days of receipt or prior to initiating another Entry, whichever is later.



- f. **Supplemental Information.** You will insure that any Supplemental Information, in the form of payment, remittance or related data that you seek to Transmit electronically through us in conjunction with Entries, is accurate, in proper form, and conforms to any and all requirements of the NACHA Rules. We reserve the unrestricted right to decline to Transmit any Supplemental Information on the basis that said Information is unreadable or unprocessable as well as for any other reason contemplated in or provided for under the NACHA Rules. In the event that we agree to Transmit and/or receive any Supplemental Information, we will not be responsible for insuring and/or maintaining the confidentiality of any such Information.

## 7. Security Procedures.

- a. **Submission of Entries.** Entries must be Transmitted in compliance with transmittal controls specified by us and mutually agreed-upon Security Procedures. Such controls and Security Procedures are solely for the purpose of verifying the origination (but not errors in transmission or content) of Entries.
- b. **Release.** You must call us at (888) 982-1400 to make a request to Transmit a Reversal or other file changes and complete any forms as requested.
- c. **Responsibility.** As between you and us, you will be strictly and solely responsible for (i) establishing and maintaining security procedures to safeguard against unauthorized transmissions, (ii) insuring that no individual is allowed to initiate transfers in the absence of proper supervision and safeguards and (iii) taking reasonable steps to maintain the confidentiality of the Security Procedures and any passwords, codes, security devices and related instructions we provide in connection therewith.
- d. **Notification.** If you suspect that any such information or instructions have become known or otherwise accessed by unauthorized persons, you will notify us immediately and follow up such notice with written confirmation. The occurrence of unauthorized access will not affect any transfers made before we actually receive such notification and have had a reasonable time to act to prevent any unauthorized transfers.
- e. **Obligation.** If an Entry (or request for cancellation of an Entry) received by us purports to have been Transmitted or authorized by you and we have acted in compliance with mutually agreed-upon Security Procedures with respect to such Entry (or request), such Entry (or request) will be deemed effective as your Entry (or request), and you will be obligated to pay us the amount thereof. Regardless whether an Entry (or request for cancellation of an Entry) has been accepted by us in good faith or in compliance with the Security Procedures, the Entry (or request) will be deemed effective as your Entry (or request) and you will be obligated to us in the amount thereof if the Entry (or request) was authorized by you or you are otherwise bound thereby whether or not that Entry was erroneous in any respect or whether or not an error would have been detected if we had complied with such procedures.
- f. **Secure Storage.** You acknowledge that the Entries Transmitted by you through this ACH Service contain personal financial information, and you agree to develop and

implement commercially reasonable safeguards to control and limit access to such information. You will keep all Entries, authorization forms and other information relating to this ACH Service, whether stored or kept in electronic or printed format, safe and secure and in accordance with the safeguards and other security procedures herein described.

- g. Data Security.** You agree to develop and implement policies and procedures and establish oversight that complies with the Automated Clearing House Security Framework rule to ensure the security and integrity of sensitive Automated Clearing House data throughout its lifecycle. You agree that such policies, procedures and oversight apply to the same extent and under the same conditions to any Originator and Third-Party Service Provider as to you. You agree you, any Originator, and any Third-Party Service Provider will notify us immediately upon learning that any unauthorized person may have gained access to sensitive Automated Clearing House data as defined by the Automated Clearing House Security Framework rule.

## **8. Processing of Entries**

- a. Authorization.** You agree we are authorized to receive, process and initiate Entries for this Service as you and we may from time to time agree. Our records of such agreements will be conclusive absent obvious error. Entries may be conveyed to us by data transmission or other method agreed to by you and us.
- b. Delivery of Entries.** You will deliver Entries to us prior to the cutoff time established by us from time to time. Any Entry we receive after our cutoff time may be processed on the next Banking Day. You may convey Entries to us directly through our Business Online Banking & Bill Pay Service.
- c. Methods of Processing.** We, in our sole discretion, may process Entries that we receive from different members in any order convenient to us and may select such means and routes for the transfer of funds as we consider appropriate under the circumstances.
- d. Rejected Entries.** We have the right to reject any Entry for your failure to comply with Section 6, with the heading Preparation and Submission of Entries, or Section 7, with the heading Security Procedures, above or because such Entry does not meet the criteria for processing as set forth in the NACHA Rules or by us. Upon notification that any Entry (or group of Entries) you Transmitted has been rejected, or upon rejection by us, we will notify you and each rejected Entry will be returned, charged or credited back to the Settlement Account (defined in Section 19 below), and confirmation of the action will be sent to you. We assume no other responsibility with respect to such rejected Entry and you are responsible for remaking and resubmitting such Entry or otherwise handling the payments or charges with the Receiver. We may, in our sole discretion, remake and resubmit any rejected Entry but will have no obligation to do so.
- e. Cancellation.** You will have no right to cancel any Entry after we receive it. We will, however, use reasonable efforts to act on your request for cancellation of an Entry

prior to Transmitting it to the Automated Clearing House network, provided your request complies with the Security Procedures, but you agree we will have no liability if such cancellation is not effected. You will reimburse us for any expenses, losses or damages we may incur in effecting or attempting to affect your request for the cancellation of any Entry.

- f. Missed Deadlines.** In the event that we miss a deadline for submission of Entries to any Automated Clearing House network, whether due to our delay or your delay, we will not be liable to you for such delay, but will use good faith efforts to meet the next succeeding Automated Clearing House deadline.
- g. Termination.** If an Entry is initiated and received from you after termination of this Service, we may, at our option, choose to reject or accept such Entry. If we choose to accept such Entry, the Service-Specific Terms and Conditions of this TSMTC will govern the transaction.

## 9. Returns and Reversals

- a. Returns.** We will give you prompt notice of Return Entries. Subject to Section 10, with the heading Notifications of Change, below, you will be responsible for remaking and resubmitting any Debit Entries returned due to non-sufficient or uncollected funds. Neither you nor we will knowingly retransmit Debit Entries returned due to stop payment, revocation or termination of a Receiver's authorization. You will be responsible for collecting any such funds due to you or, if you are a Third-Party Sender, the Originator, by other means. We may debit the Settlement Account (defined in Section 19 below) for all funds that you have received for Entries that are subsequently returned. Entries returned as 'Stop Payment', 'Revoked', or 'Unauthorized' may not be retransmitted until the Receiver provides a new authorization.
- b. Reversals.** We may initiate reversing Entries as permitted by the NACHA Rules in the event that previously originated data is erroneous or duplicated. Call us at (888) 982-1400 to make a request to Transmit a Reversal; you have up to five (5) Business Days after the Settlement Date of the Erroneous Entry to Transmit a Reversal. You will need to allot time to complete any forms as requested.

**10. Notifications of Change.** We will promptly notify you of all Notifications of Change received by us from any Receiving Depository Financial Institution ("RDFI") relating to any Entries you Transmitted to us. You will ensure that all changes requested and data corrections designated within the Notification of Change are made within six (6) Banking Days or prior to initiating another Entry to the Receiver's account, whichever is later.

**11. Inconsistency of Name and Account Number.** You specifically acknowledge and agree that, for any Entry that describes the Receiver inconsistently by name and account number, payment of the Entry may be made on the basis of the account number even if it identifies a person different from the named Receiver. You agree that your obligation to pay the amount

of such Entry to us is not excused even if it identifies a person different from the named Receiver. You agree we have no duty to detect any such inconsistency in identification.

- 12. Contingency.** You agree to comply with our contingency policy and ensure that any system backups, system redundancies and alternative delivery location(s) to be used in the event of processing interruptions will be tested annually.
- 13. Data Retention.** You will retain data on file adequate to permit the remaking of Entries for ten (10) Business Days following the date of their Transmission to us as provided herein and will provide such data to us upon request and within a reasonable time after such request. Without limiting the foregoing, you specifically agree to be bound by and comply with all applicable provisions of the NACHA Rules regarding the retention of documents or any record, including, without limitation, your responsibilities to retain all items, source documents, and records of authorization, in accordance with the NACHA Rules.
- 14. Right to Audit.** You will allow us to audit your and, if you are a Third-Party Sender, the Originator's, compliance with this TSMTC and the NACHA Rules at any time. You will provide any information we request to conduct such audit(s) and will provide the information we request (i) in the manner requested; (ii) within a reasonable time of your receipt of such request; and (iii) within a time period not to exceed ten (10) calendar days from the date you received such request.
- 15. Third-Party Sender and Audit.** If you are a Third-Party Sender, you (i) agree to audit the Originator's compliance with this TSMTC and the NACHA Rules on at least an annual basis and promptly provide a copy of the results of such audit to us and (ii) agree to audit your compliance with this TSMTC and the NACHA Rules on at least an annual basis, prior to December 31 of each year, and promptly provide a copy of the results of such audit to us.
- 16. Provisional Payment.** Pursuant to the NACHA Rules and applicable law, payment of any electronic Credit Entry by an RDFI to a Receiver is provisional until receipt of final settlement by such RDFI for that Entry. If the RDFI does not receive final settlement, (i) such RDFI will be entitled to a refund from the Receiver and (ii) the Originator of the Entry will not be deemed to have paid the amount of such Entry to the Receiver. If you are a Third-Party Sender, you agree to provide notice of this NACHA Rule to the Originator.
- 17. Notices of Varying Transfer Amounts and Changes in Billing Date.** Where a Receiver is a Consumer and has authorized you or the Originator to initiate Debit Entries and the amount changes from the amount of the immediately preceding Debit Entry or the billing date changes from the immediately preceding billing date, you will notify the Receiver in writing of the change in accordance with the NACHA Rules and Regulation E.

- 18. Right to Refund for Debit Entries.** When Transmitting a Debit Entry, you acknowledge the right of a Receiver to stop payment on such Entry to a Consumer's account or to obtain a return of the funds withdrawn from a Consumer's account in accordance with the procedures set forth in the NACHA Rules and pursuant to Regulation E. You will promptly reimburse us for all funds you have received when a Receiver follows these procedures.
- 19. Settlement Account.** You will maintain with us a business checking account ("Settlement Account") for settlement purposes. The Settlement Account will be adjusted for any float costs we incur as a result of processing Automated Clearing House Entries, Returns, or Reversals.
- 20. Funding.** You will maintain Collected and Available funds in the Settlement Account in an amount sufficient to cover all Credit Entries Transmitted by you no later than the opening of business on the Settlement Date. Funds will be credited or debited to the Settlement Account as of the Settlement Date. The "Settlement Date" is the date an exchange of funds with respect to an Entry is reflected on (i) the books of the Automated Clearing House Operator, for an Entry Transmitted through the Automated Clearing House network or (ii) our books, for an Entry we exchange with the RDFI other than through the Automated Clearing House network.
- 21. Prefunding.** We may, in our sole discretion, require you to maintain Collected and Available Funds in the Settlement Account in an amount sufficient to cover all Credit Entries Transmitted by you no later than the date such Entries are delivered to us ("Prefund"). If you are a Third-Party Sender, you are required to Prefund; otherwise, we will notify you if we require you to Prefund. To Prefund, you authorize us, prior to Transmitting Credit Entries, to deduct from the Settlement Account the amount needed to Prefund all Credit Entries initiated. You agree that if, for any reason, the Credit Entries are not Prefunded, the Entries delivered to us will not be Transmitted. You may choose to Prefund by selecting this option on your Application.
- 22. Account Reconciliation.** Entries we process will be reflected on the periodic statement we issue to you with respect to the Settlement Account. You will notify us promptly of any discrepancy between your records and the information shown on any such periodic statement. If you fail to notify us of any such discrepancy within fourteen (14) calendar days of receipt of a periodic statement containing such information, we will not be liable for any loss, including loss of dividends, resulting from your failure to give such notice. You agree that fourteen (14) calendar days from the date of receipt of the periodic statement is a reasonable time for you to notify us of any errors or discrepancies, unless any laws, rules or regulations provide for a shorter period of time.
- 23. ACH Indemnification.** You will fully indemnify and hold harmless Indemnitees from and against all fines, penalties and/or assessments imposed on Indemnitees by NACHA in

connection with or arising out of any and all acts or omissions of you or any person or entity acting on your behalf in the provision of a Service to you. You will indemnify and hold harmless Indemnitees from and against all claims, demands, expenses, liability, loss and damage of any kind (including attorneys' fees and other costs incurred in connection therewith) arising out of or in connection with (i) breach of any warranty set forth herein; (ii) debiting or crediting the amount of any Entry to the account of any Receiver as requested by you; (iii) delay of any institution other than us in debiting or crediting, or the failure of such institution to debit or credit, the amount of any Entry as requested by you; (iv) your delay in initiating or your failure to initiate any Entry; and (v) effecting or attempting to effect your request for the Reversal or cancellation of an Entry. This indemnity will survive the termination of this TSMTC.

**24. Obligations of Third-Party Sender as a Third-Party Sender.** Except for any Entry initiated by you as an Originator, in addition to any other duties, responsibilities, warranties, representations and liabilities under this Agreement, for each and every Entry Transmitted by you as a Third-Party Sender to us, you represent and warrant to us and agree that you will (i) perform all of the duties, including, but not limited to, the duty to identify Originators; (ii) assume all of the responsibilities, including, but not limited to, the responsibilities of ODFIs and Originators; (iii) make all of the warranties, including, but not limited to, the warranties of ODFIs and the warranty that Originators have agreed to assume the responsibilities of Originators under the NACHA Rules; (iv) make all of the representations and assume all of the liabilities, including, but not limited to, liability for indemnification for failure of an Originator to perform its obligations as an Originator of a Third-Party Sender in accordance with the NACHA Rules. This Section will survive the termination of this TSMTC.

**25. Third-Party Sender Representations and Agreements: Indemnity.** With respect to each and every Entry Transmitted by you as a Third-Party Sender, you represent and warrant to us and agree that (i) each Entry is accurate, is timely, has been authorized by the party whose account will be credited or debited, and otherwise complies with the Rules; (ii) such authorization is operative at the time of Transmittal or crediting or debiting by us as provided herein; (iii) each Debit Entry is for a sum which, on the Settlement Date with respect to it will be owing to the party whose account will be debited, is for a sum specified by such party to be paid to the party whose account will be debited, or is a correction of a previously transmitted erroneous Credit Entry; (iv) Entries transmitted to us by you are limited to those types of Credit and Debit Entries permitted in accordance with this TSMTC; and (v) the Originator has agreed to undertake reasonable efforts to cooperate, as permitted by applicable law, in performing loss recovery efforts in connection with any actions that we may be obligated to defend or elect to pursue against a third party. Further, if you are a Third-Party Sender, you agree (a) we will be entitled to rely solely on the information, representations, and warranties provided by you pursuant to this TSMTC, and will not be responsible for the accuracy or completeness thereof; (b) we will not be responsible for your acts or omissions (including, without limitation, the amount, accuracy, timeliness of

Transmittal, or authorization of any Entry received from you) or those of any other person, including, without limitation, any Federal Reserve Bank, ACH Operator or transmission or communications facility, any Receiver or RDFI (including, without limitation, the return of an Entry by such Receiver or RDFI), and no such person will be deemed our agent; (c) Indemnitees will not be liable for any damages or other losses to you due to claims made by any Originator in connection with any arrangement or agreement under which you Transmits Entries pursuant to this TSMTC; (d) to indemnify Indemnitees against any loss, liability, or expense (including attorneys' fees and costs) resulting from or arising out of any claim or any person or any act or omission of you or any other person as described in this Section 25; (e) any liability of Indemnitees is subject to the limitations and qualifications set forth in this TSMTC and any other applicable agreement, including without limitations any limitation on damages set forth therein. This indemnity will survive the termination of this TSMTC.

**26. Credit Reports and Re-evaluation of ACH Service.** You authorize us to obtain business credit bureau reports in your name. If you are a sole proprietorship, you also authorize us to obtain personal credit bureau reports in your name. You agree to promptly submit current financial information in your name and the names of any guarantor(s) to us at any time upon request. Such information will be used for the purpose of evaluating or re-evaluating the ACH Service in regards to you. Upon determination, in our sole discretion, that your financial condition has changed adversely or does not satisfy our current Service standards, we may lower the maximum exposure limit or terminate or suspend this ACH Service. We may report our credit experience with you and your account(s) to third parties.

**27. ACH Termination.** You may terminate this ACH Service at any time. Such termination will be effective on the tenth (10) Business Day following the day of our receipt of written notice of such termination. We will be entitled to rely on any written notice believed by us in good faith to be signed by your duly authorized representative. You agree we have the right to terminate or suspend this ACH Service for breach of the NACHA Rules in a manner that permits us to comply with the NACHA Rules. You agree we have the right to terminate or suspend this ACH Service at any time, and such termination will be effective on the fifth (5) Business Day following the day we send written notice of such termination to you. You agree we will have no obligation to Transmit Entries if you are in default of any of your obligations under this TSMTC, including but not limited to the obligation to pay us for each Credit Entry. Any termination of this ACH Service will not affect any of our rights or your obligations with respect to Entries initiated by you prior to such termination, or our payment obligations with respect to this Service performed by us prior to termination, or any other obligations that survive termination of this TSMTC.

**28. Data Passing.** You agree you will not disclose Consumer Account numbers or routing and transit numbers to any other party for use in initiating a Debit Entry that is not part of the original authorization.

**29. Warranties.** You warrant (which warranties will be deemed reaffirmed by you with respect to each Entry we receive) that: (a) each Debit Entry submitted to us is for a sum due and owing to you from a Receiver on the specified effective entry date of the Entry (the date that you intend the Automated Clearing House transactions to be posted to the Receiver's account); (b) each Entry submitted to us is authorized by you and the party whose account will be credited or debited and prepared in accordance with instructions set forth by us and in the NACHA Rules; (c) each Entry submitted to us is accurate, in proper form, timely and in compliance with the NACHA Rules and federal and state laws and regulations governing electronic funds transfer, including Regulation E; (d) the Receiver to whom each Entry pertains has authorized and consented to such Entry to the extent contemplated or required under the NACHA Rules prior to the submission of such Entry to us and such authorization and consent is in effect at the time of submission of the Entry to us and will remain so until such Entry is fully processed; and (e) you will maintain written evidence of such authorization in accordance with the requirements of any applicable laws and regulations and the NACHA Rules.

**30. Third-Party Sender; Entity Restrictions.** You acknowledge that we restrict the types of entities we permit to act as Third-Party Senders to entities that provide accounting, bookkeeping, payroll and similar services.

## **FUNDS TRANSFER**

The following sets forth the terms and conditions under which we will provide the Funds Transfer Service to you. You wish to send funds transfer payment orders as sender through our Business Online Banking & Bill Pay Service. We are prepared to receive funds transfer payment orders through our Business Online Banking & Bill Pay Service issued in your name as sender. The Funds Transfer Service described herein is a "Service" within the meaning of this TSMTC.

- 1. Definitions.** Unless otherwise defined herein, terms used in this in this Service-Specific Terms and Conditions for our Funds Transfer Service will have the meanings provided in Michigan's Uniform Commercial Code Article 4A, and capitalized terms will have the meanings provided in this TSMTC and the Application.
- 2. Security Procedures and Funds Transfer Payment Orders.** You agree to follow the Security Procedures described below for payment orders delivered through our Business Online Banking & Bill Pay Service. You agree that the Security Procedures are commercially reasonable. We may at any time require additional verification of your identity by any reasonable method in our sole discretion. Provided we comply with the Security Procedures described below, you will be liable to us for the amount of the funds transfer payment order plus the amount of any expenses and charges for our services in execution of your payment order, even if the funds transfer payment order was not actually authorized by you. If we do



not follow the Security Procedures described below, but can demonstrate the funds transfer payment order was otherwise authorized by you, you will be liable for the amount of the payment order plus the amount of any expenses and charges for our services in execution of your payment order. You agree that we, in our sole discretion, may record any oral, electronic or telephone payment order or communication of cancelation or amendment.

- a. For recurring payment orders of twenty-five thousand dollars (\$25,000) or less to which we have assigned a recurring wire authorization number, the following Security Procedures apply:

**Recurring Authorization Form:** We may in our sole discretion assign a recurring wire authorization number to a payment order if you provide us with a signed recurring authorization form with such information that we require, including without limitation the receiving bank's name, routing number or Society for Worldwide Interbank Financial Telecommunication (SWIFT) code, beneficiary's name and address, and beneficiary's account number. If we assign a recurring wire authorization number to a payment order, you may request that a funds transfer be made using this Service by entering the recurring wire authorization number in the Message to Beneficiary field within our Business Online Banking & Bill Pay Service, and we will execute the payment order using the information contained in the signed recurring authorization form associated with that recurring wire authorization number. If you request a funds transfer be made using this Service but do not enter the recurring wire authorization number in the Message to Beneficiary field within our Business Online Banking & Bill Pay Service, the recurring wire authorization number you provide does not match a recurring wire authorization number assigned to you, or your payment order does not match the information on the signed recurring authorization form, the Security Procedures that apply to payment orders that are not recurring payment orders to which we have assigned a recurring wire authorization number will apply.

- b. For recurring payment orders of more than twenty-five thousand dollars (\$25,000), for expired or otherwise invalid recurring payment orders of any amount, for recurring payment orders of any amount without a valid recurring wire authorization number assigned, and for payment orders of any amount that are not recurring payment orders, the following Security Procedures apply:

**Callback Password:** Upon receiving a funds transfer payment order or communication of cancelation or amendment, we will telephone you at the Callback Phone Number listed in your Application to receive your final verification of each funds transfer payment order or communication of cancelation or amendment by requesting the Callback Password also listed therein.

3. **Records.** You will maintain records of each funds transfer payment order and communication of cancelation or amendment for six (6) months following the funds transfer date and agree to provide such records to us upon request.
4. **Timing.** Funds transfer payment orders must be received by us on a funds transfer business day before the cutoff time and in time to complete the security procedures described above. You may cancel or amend a payment order only if we receive the communication of cancelation or amendment before our cutoff time, in time to complete the security procedures described above, and in time to have a reasonable opportunity to act on the communication of cancelation or amendment before the payment order is accepted. Funds transfer payment orders and communications of cancelation or amendment received on a funds transfer business day and after the cutoff time or without sufficient time to complete the security procedures described above will be treated as being received on, and may be executed on, the following funds transfer business day. Funds transfer payment orders and communications of cancelation or amendment received on a day that is not a funds transfer business day will be treated as being received on, and may be executed on, the following funds transfer business day. Our cutoff time is 3:00 p.m. ET, but it may vary at our discretion. Funds transfer business days are Mondays through Fridays, except federal holidays.

## **BUSINESS ONLINE BANKING & BILL PAY**

The following sets forth the terms and conditions under which we will provide the Business Online Banking & Bill Pay Service to you. You wish to access account information and conduct certain account transactions electronically. We are prepared to provide account information and certain bill payment and presentment services electronically and support certain electronic account transactions. The Business Online & Bill Pay Service described herein is a “Service” within the meaning of this TSMTC.

1. **Definitions.** Unless otherwise defined herein, terms used in this Service-Specific Terms and Conditions for our Business Online Banking & Bill Pay Service will have the meanings provided in 12 C.F.R. Part 1005 of the Consumer Financial Protection Bureau regulations (“Regulation E”) and Michigan’s Uniform Commercial Code Article 4A, and capitalized terms will have the meanings provided in this TSMTC.
2. **Access.** The Online Access Agreement, as amended from time to time (including without limitation by the Bill Pay Service Terms and Conditions and/or Mobile Check Deposit Service Terms and Conditions), is hereby incorporated into this Service-Specific Terms and Conditions in its entirety. As modified by this TSMTC, the Online Access Agreement will remain in full force and effect and applicable to the Service described herein. You may obtain a paper copy of such agreement(s) from us at any time upon request.

- 3. Hardware and Software.** We will provide you with the specifications for any hardware and software which we have determined to be compatible with this Service. You will be responsible for acquiring the required hardware and/or software and installing and maintaining it in good working condition, including but not limited to any costs associated therewith. If you choose to use hardware and/or software that differs from that recommended by us, we will not be liable to you for any malfunction, nonfunction, inaccuracy or other failure of the Service to operate as expected. If we provide you with software to access the Service, you will have a non-exclusive, non-transferable sublicense to use the software, and by using the software, you agree to comply with our sublicensed software services terms and conditions. Upon termination of the sublicense, your right to use the software will terminate immediately without notice.
- 4. Accuracy and Timeliness of Information.** We will use reasonable efforts to provide the information requested through this Service in a prompt fashion, but will not be liable for temporary failure to provide timely information. In such event, you will be responsible for carrying out banking business through alternative delivery channels. We will not be liable for any inaccurate or incomplete information regarding transactions which have not been completely processed or posted to our system prior to being made available pursuant to this Service. Information with respect to all transactions is provided solely for your convenience, and you will have no recourse to us as to your use of such information.
- 5. Transfers of Funds.**

  - a.** Requests for the transfer of funds will be made in accordance with mutually-agreed upon Security Procedures. Such Security Procedures are solely for the purpose of verifying the origination (but not errors in transmission or content) of such requests. You agree that any such Security Procedures are commercially reasonable. Provided we comply with such Security Procedures, you will be liable to us for the amount of the funds transferred plus the amount of any expenses and charges for the Service in execution of your request, even if the request was not actually authorized by you. If we do not follow such Security Procedures, but can demonstrate the request was otherwise authorized by you, you will be liable for the amount of the funds transferred plus the amount of any expenses and charges for the Service in execution of your request.
  - b.** We will not be liable for failure to execute any request for the transfer of funds for which you have not provided us with complete information or which would violate this TSMTC, the user manual or any other agreement between you and us. You will submit requests for the transfer of funds to us prior to any cutoff time established by us from time to time. Any request for the transfer of funds received by us after any cutoff time may be processed on the next banking day. You assume responsibility for verifying the availability of funds at the time your request for a transfer of funds is made.

- c. If you utilize the funds transfer or automated clearing house Services through this Service, please refer to those Service-Specific Terms and Conditions for additional terms and conditions applicable to the provision of those Services.
  
- 6. **Accounts at Other Banks.** You authorize every other financial institution at which you maintain accounts that you have designated as covered by this Service to release all such account information to us for release via the Service. Neither we nor such other financial institutions will be liable to you for providing such information to us and you through the Service. All of the provisions of this Service-Specific Terms and Conditions will apply to such accounts.
  
- 7. **Limited Use.** You may use this Service and any software provided in connection with this Service for business use and for as long as we provide this Service to you. You represent and warrant that this Service will not be used for personal, family or household purposes.
  
- 8. **Important Disclaimer and Intellectual Property Notice.** We endeavor to provide you with quality Service availability. We cannot and do not guarantee the completeness or accuracy of the information provided herein. Online bill payment is provided to you for your convenience. The actual payment of such bills is handled by an independent third party, and we cannot and will not guarantee or be held responsible for the completion and accuracy of such transactions.

## BUSINESS REMOTE DEPOSIT CAPTURE

The following sets forth the terms and conditions under which we will provide the Business Remote Deposit Capture (“BRDC”) Service to you. You wish to deposit paper checks remotely. We are prepared to receive remotely deposited checks to credit your account(s). The BRDC Service described herein is a “Service” within the meaning of this TSMTC.

- 1. Definitions.** Unless otherwise defined herein, terms used in this Service-Specific Terms and Conditions for our Business Remote Deposit Capture Service will have the meanings provided in Michigan’s Uniform Commercial Code Articles 3 and 4, and capitalized terms will have the meanings provided in this TSMTC.
- 2. Use of the Services.** The BRDC Service is used to remotely deposit paper checks to the accounts listed on your Application (“Account”) by electronically transmitting a digital image of the paper checks for deposit. You understand and agree that credit for the deposit will occur upon email notification from us after you have transmitted a deposit to us. We are not responsible for any remote deposit that we do not successfully receive. We reserve the right to accept or reject any item for remote deposit into your Account. You understand that any amount credited to your Account through the Service is provisional credit. You agree that you will not (i) modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile the technology or Service; (ii) copy or reproduce all or any part of the technology or Service; or (iii) interfere, or attempt to interfere, with the technology or Service.
- 3. Compliance with Law.** You agree to only transmit acceptable items for deposit and handle the original items in accordance with applicable laws, rules and regulations.
- 4. Check Requirements.** Any image of a check that you transmit to us must accurately and legibly provide all the information on the front and back of the check at the time presented to you by the drawer. Prior to capturing the original check, you will endorse the back of the original check. At minimum, your endorsement will include “For Deposit Only”. The image of the check transmitted to us must accurately and legibly provide, among other things, the following information: (i) the information identifying the drawer and the paying bank that is preprinted on the check, including complete and accurate MICR information and the signature(s); and (ii) other information placed on the check prior to the time an image of the check is captured, such as any required identification written on the front of the check and any endorsements applied to the back of the check. You agree the image quality for the check will meet the standards for image quality established by the American National Standards Institute (“ANSI”), the Board of Governors of the Federal Reserve, and any other regulatory agency, clearing house or association.

- 5. Rejection of Deposit.** We are not liable for any service or late charges levied against you due to our rejection of any item. In all cases, you are responsible for any loss or overdraft plus any applicable fees to your account due to an item being returned.
- 6. Items Returned Unpaid.** A written notice will be sent to you of transactions we are unable to process because of returned items. With respect to any item that you transmit to us for remote deposit that credits your account, in the event such item is dishonored, you authorize us to debit the amount of such item from your account.
- 7. Email Address.** You agree to notify us immediately if your email address changes, as this is the email address where we will send notifications of the receipt of remote deposits.
- 8. Unavailability of Services.** In the event the Service is not available to you, you acknowledge that you can deposit an original check at a branch office location, through a participating ATM or by mailing the check to: United Federal Credit Union, P.O. Box 125, Saint Joseph, MI 49085. It is your sole responsibility to verify that items deposited using this Service have been received and accepted for deposit by us. However, we will email you notification of items that are rejected no later than the next Business Day following the rejection.
- 9. Cut-Off Time and Availability Disclosure.** Remote deposits may be made Monday through Sunday, until 8:00 PM EST. If a remote deposit is made prior to the cut-off time and unless it is flagged for review, the deposit will be credited on the next calendar day. Any remote deposits transmitted after the cut-off time will be treated as having been transmitted the next calendar day and will not be received earlier than the next calendar day. Any remote deposit that is flagged for review will be reviewed on the next Business Day, and, if accepted, the deposit will be credited on the following calendar day or, if rejected, we will notify you of the rejected items in accordance with Section 8 above. The cut-off time is determined by the time displayed on our internal system clocks and may not necessarily be synchronized with the internal clock displayed on your device. For this reason, we suggest that you transmit an item for remote deposit to us sufficiently in advance of any cut-off time to eliminate the possibility of missing the cutoff.
- 10. Method of Presentment.** The manner in which items are cleared, presented for payment, and collected will be in our sole discretion. You agree to be bound by any clearing house agreements, operating circulars, and image exchange agreements to which we are a party.
- 11. Retention and Disposal of Items.** You agree to retain each deposit no fewer than sixty (60) days after funds have been posted to your account. You agree to store each retained item in a secured locked container until proper disposal is performed. You will promptly provide any retained item to us as requested to aid in the clearing and collection process or to resolve claims by third parties with respect to any item.

**12. Statements.** Your remote deposits will be included on the periodic statements we provide or make accessible to you for your Account with us. We may provide or make accessible to you statement information electronically or by some other means. You agree to notify us promptly if you change your mailing address, your e-mail address or if you believe there are any errors or unauthorized transactions on any statement or in any statement information.

**13. BRDC Indemnification.** You will indemnify and hold harmless Indemnitees from and against all claims, demands, expenses, liability, loss and damage of any kind (including attorneys' fees and other costs incurred in connection therewith) arising out of or in connection with your use of the Service or breach of the warranties in Section 14. This indemnity will survive the termination of this TSMTC.

**14. User Warranties and Indemnification.** You warrant to us that:

- a. You will only transmit eligible items that are properly endorsed;
- b. Images meet the image quality standards;
- c. You will not deposit or re-present the original item once it has been scanned and sent through the Service unless specifically requested to do so by us;
- d. All information you provide to us is accurate and true;
- e. We will not sustain a loss because you have deposited an image;
- f. You will comply with this TSMTC and all applicable rules, laws and regulations; and
- g. Items you transmit do not contain viruses.

**15. Charges or Fees.** We may charge a fee for this Service, as disclosed on our applicable fee schedule. We reserve the right to change the fee for this Service at any time. We will try to charge a fee to your Preferred Charge Account, but you agree that we may debit any account maintained by you with us in order to obtain payment of your obligations relating to this Service.

## **SWEEP SERVICE**

The following sets forth the terms and conditions under which we will provide the Sweep Service to you. You wish to utilize sweep transactions. We are prepared to conduct sweep transactions. The Sweep Service described herein is a "Service" within the meaning of this TSMTC.

**1. Definitions.** Unless otherwise defined herein, capitalized terms will have the meanings provided in this TSMTC and the Application.

- 2. Debit or Credit Authorization.** You authorize us to debit and/or credit your Checking Account in accordance with the sweep arrangement described in this Service-Specific Terms and Conditions and designated on your Application.
- 3. Sweep Service, Generally.** On each Business Day, we will determine the Collected Balance in your Checking Account for the previous Business Day and conduct sweep transactions in types and incrementally as specified in your Application. All sweep transactions will be effective as of and will be posted to your Checking Account the Business Day the transaction was made.
- 4. Loan Sweep.** By completing the information required for the Loan Sweep arrangement in your Application, you authorize and direct us to complete bi-directional sweep transactions in the following order:
  - a.** The Collected Balance in the Primary Checking Account in total increments in excess of the Maximum Balance is first transferred to pay down your Loan Account.
  - b.** When the outstanding loan balance on the Loan Account is zero, no Loan Sweep transactions will be made from a Checking Account to the Loan Account.
  - c.** When the Collected Balance in the Primary Checking Account is less than the Minimum Balance, you authorize us to advance funds up to the credit limit on the Loan Account and transfer advanced funds from the Loan Account to the Primary Checking Account in an amount, in total increments, sufficient to restore the Collected Balance in the Primary Checking Account to the Minimum Balance.
  - d.** The Collected Balance in the Secondary Checking Account in total increments in excess of the Maximum Balance is next transferred to pay down your Loan Account.
  - e.** When the Collected Balance in the Secondary Checking Account is less than the Minimum Balance, you authorize us to advance funds up to the credit limit on the Loan Account and transfer advanced funds from the Loan Account to the Secondary Checking Account in an amount, in total increments, sufficient to restore the Collected Balance in the Secondary Checking Account to the Minimum Balance.
  - f.** The Collected Balance in the Tertiary Checking Account in total increments in excess of the Maximum Balance is next transferred to pay down your Loan Account.
  - g.** When the Collected Balance in the Tertiary Checking Account is less than the Minimum Balance, you authorize us to advance funds up to the credit limit on the Loan Account and transfer advanced funds from the Loan Account to the Tertiary Checking Account in an amount, in total increments, sufficient to restore the Collected Balance in the Tertiary Checking Account to the Minimum Balance.

Loan Account pay downs and advances are subject to the terms and conditions of the loan documents between you and us for the Loan Account. There are restrictions on the types of loan products that are eligible for use with a Loan Sweep. You remain liable for making all payments due to your Loan Account even if the Loan Sweep does not function as described.



- 5. Draft Sweep.** By completing the information required for the Draft Sweep arrangement in your Application, you authorize and direct us to complete bi-directional sweep transactions in the following order:
- a. The Collected Balance in the Primary Checking Account in total increments in excess of the Maximum Balance is transferred to your Draft Sweep Share Account.
  - b. When the Collected Balance in the Primary Checking Account is less than the Minimum Balance, you authorize us to transfer funds up to the Collected and Available Funds balance from the Draft Sweep Share Account to the Primary Checking Account in an amount, in total increments, sufficient to restore the Collected Balance in the Primary Checking Account to the Minimum Balance.
  - c. The Collected Balance in the Secondary Checking Account in total increments in excess of the Maximum Balance is next transferred to your Draft Sweep Share Account.
  - d. When the Collected Balance in the Secondary Checking Account is less than the Minimum Balance, you authorize us to transfer funds up to the Collected and Available Funds balance from the Draft Sweep Share Account to the Secondary Checking Account in an amount, in total increments, sufficient to restore the Collected Balance in the Secondary Checking Account to the Minimum Balance.
  - e. The Collected Balance in the Tertiary Checking Account in total increments in excess of the Maximum Balance is next transferred to your Draft Sweep Share Account.
  - f. When the Collected Balance in the Tertiary Checking Account is less than the Minimum Balance, you authorize us to transfer funds up to the Collected and Available Funds balance from the Draft Sweep Share Account to the Tertiary Checking Account in an amount, in total increments, sufficient to restore the Collected Balance in the Tertiary Checking Account to the Minimum Balance.
- 6. Statements.** Sweep transactions will be reflected on the periodic statement we issue to you with respect to your accounts. You will notify us promptly of any discrepancy between your records and the information shown on any such periodic statement. If you fail to notify us of any such discrepancy within fourteen (14) calendar days of receipt of a periodic statement containing such information, we will not be liable for any loss, including loss of dividends, resulting from your failure to give such notice. You agree that fourteen (14) calendar days from the date of receipt of the periodic statement is a reasonable time for you to notify us of any errors or discrepancies, unless any laws, rules or regulations provide for a shorter period of time.

## **BUSINESS MOBILE CHECK DEPOSIT**

The following sets forth the terms and conditions under which we will provide the Business Mobile Check Deposit Service to you. You wish to deposit paper checks remotely through use of your Compatible Mobile Device. We are prepared to receive remotely deposited checks to credit your eligible accounts. The Business Mobile Check Deposit Service described herein is a “Service” within the meaning of the TSMTC.

- 1. Definitions.** Unless otherwise defined herein, capitalized terms will have the meanings provided in the TSMTC.
- 2. Access.** The Online Access Agreement, as amended from time to time (including without limitation by the Mobile Check Deposit Service Terms and Conditions), is hereby incorporated into this Service-Specific Terms and Conditions in its entirety. As modified by this TSMTC, the Online Access Agreement will remain in full force and effect and applicable to the Service described herein. You may obtain a paper copy of such agreement(s) from us at any time upon request.

## **POSITIVE PAY**

The following sets forth the terms and conditions under which we will provide the Positive Pay Service to you. You wish to identify properly payable checks or authorized ACH Entries on certain accounts held with us. We are prepared to match your list of properly payable checks against items presented to us for payment and permit you to establish rules for ACH Entries posted to such accounts. The Positive Pay Service described herein is a “Service” within the meaning of the TSMTC.

- 1. Definitions.** Unless otherwise defined herein, terms used in this in this Service-Specific Terms and Conditions for our Positive Pay Service will have the meanings provided in Michigan’s Uniform Commercial Code Article 3 and 4, Regulation E of the Consumer Financial Protection Bureau (“Regulation E”), the NACHA Rules, this TSMTC and the Application.
- 2. Use of the Service.** This Service allows you to submit electronic files to us that identify checks that are properly payable against your Eligible Account. As checks are presented for payment, we will match the incoming checks against your list of properly payable items. This Service also allows you to establish rules for ACH Entries received for your Eligible Account. We will provide a report to you, electronically, of (i) checks that are presented for payment on your Eligible Account but may not match the list of properly payable items you provided to us or, if you do not provide a list of properly payable items, all checks that are presented for payment on your Eligible Account; and (ii) ACH Entries received for your Eligible Account that fail a rule you have established. This will enable you to instruct us to return an unauthorized

ACH Entry or return a check presented for payment on your Eligible Account that appears to be counterfeit, altered, or are otherwise not properly payable or authorized. The Service is accessible only through our Business Online Banking service for which you must separately enroll.

- 3. Eligible Accounts.** An Eligible Account means your business checking account(s) that is a Non-Profit Checking, IOLTA Checking, Business Checking, Business Growth, Public Funds Checking, or Public Funds Non-Interest Bearing Checking maintained with us and identified in the Application to which the Service will apply.
- 4. Issued Check File.** To use the Service for a check, you may submit an Issued Check File to us for each Eligible Account. The Issued Check File must, at a minimum, accurately state the check number, date and the exact dollar amount of each properly payable check drawn on that Eligible Account since your last Issued Check File was submitted. We may make optional information fields available for the Issued Check File, in our sole discretion. You agree to send the Issued Check File to us on the same day that the checks identified therein are issued in the format and medium we require, which requirements may change from time to time. In the event of system failure and the Issued Check File cannot be received by us or we cannot process such file, such file will be considered as not received, even if we have possession of such file.
- 5. ACH Entry Rules and Reporting Exceptions.** To use the Service for an ACH Entry, you must establish at least one (1) rule for each Eligible Account against which ACH Entries received for such Eligible Account will be run each Business Day. You may establish more than one (1) rule and remove or change any rules established. You must provide us with certain ACH Entry information to establish a rule for a transaction, such as:
  - a. Company ID
  - b. SEC code
  - c. Debit or credit Entry indicator
  - d. Max dollar amount

You may leave one (1) or more of such ACH Entry information blank when establishing a rule, however, a debit or credit Entry indicator must be identified. Unless you direct us otherwise, we will establish your first ACH Entry rule for each Eligible Account by leaving the Company ID blank, leaving the SEC code blank, selecting the credit indicator, and leaving the max dollar amount blank, which will mean that (i) each ACH Entry received for your Eligible Account that is a credit Entry will not be an Exception and, will for purposes of this Service, post to your Eligible Account for which it was received; and (ii) each debit Entry will be an Exception described in an Exception Report.

- 6. Payment of Presented Checks and Reporting Exceptions.** For each Issued Check File that we receive through the Service and that meets our current format and medium requirements,

we will compare each Presented Check by check number and amount against such Issued Check File for each Eligible Account. On each Business Day, we:

- a. will pay and charge to the Eligible Account each Presented Check that is matched by check number and amount to a check, in addition to any optional information fields we make available, listed on any Issued Check File; and
- b. will provide you with electronic notification of any Exception presented for payment that does not exactly match to the Issued Check File items in an Exception Report.

**7. Pay Request/Return Request.** You must review each Exception Report and access the Service to electronically communicate to us Pay Requests and Return Requests for each Exception by 2:00 p.m. ET on the same business day that the Exception was generated (“Cut-Off Time”). We may impose restrictions and additional requirements to complete a Return Request for an Exception that is an ACH Entry, including without limitation by restricting SEC codes for which we will accept a Return Request and completion and return of a separate return authorization form by the Cut-Off Time. If we do not receive a Pay Request or Return Request for any Exception by the Cut-Off Time, you will be conclusively presumed to have explicitly authorized us to make final payment or settlement of the Exception and, as applicable, charge it to your Eligible Account. We are under no obligation to return an Exception if a Return Request is received by us after the Cut-Off Time. We are not obligated to comply with any Pay Request or Return Request received other than through use of the Service, in a non-standard format or medium, or after the Cut-Off Time, but may instead treat such a Pay Request or Return Request as though it had not been received. The Cut-Off Time is determined by the time displayed on our internal system clocks and may not necessarily be synchronized with the internal clock displayed on your electronic device. For this reason, we suggest that you send Pay Requests and Return Requests to us sufficiently in advance of any Cut-Off Time to reduce the possibility of missing the cutoff.

**8. Receipt of Items.** We are not liable for any Issued Check File, Pay Request, or Return Request we do not receive. An Issued Check File is considered received when each of the properly payable checks written on an Eligible Account provided by you to us included in such Issued Check File appear in the “Issued Check Processing Log”, which you can access through the “Launch Advanced Options” tab then selecting “Issued Check Processing Log”. A Pay Request is considered received when the status is “Pay” in the list of exceptions in a transaction report, which you can access through the “Launch Advanced Options” tab, then selecting “Transaction Reports”, then selecting “Exception Items”. A Return Request is considered received when the status is “Return” in the list of exceptions in a transaction report, which you can access through the “Launch Advanced Options” tab, then selecting “Transaction Reports”, then selecting “Exception Items”. You are responsible for verifying and confirming an Issued Check File, Pay Request, or Return Request has been received by us. You understand and agree the terminology and status indicators used within this section to describe receipt

are subject to change without notice to you and that you will be able to view the applicable status and current terminology and status indicators within the Service.

- 9. Errors.** We are not responsible for detecting or correcting any error of yours contained in any rule for ACH Entries or any Issued Check File, Pay Request, or Return Request you send to us.
- 10. Limitation of Liability.** Any check or ACH Entry that we return in accordance with the terms of this Service will be deemed to be not properly payable or unauthorized. Any Presented ACH that does not fail a rule, any Presented Check that is matched to a check listed on any Issued Check File, any Exception you authorize us to pay by communicating a Pay Request to us, or any Exception for which a Return Request was not received by the Cut-Off Time on the same business day that the Exception was generated is authorized by you. Any such authorized check or ACH Entry may be paid or settled without our performing any other verification procedures. You hereby agree that, once you have authorized the payment of an item or ACH Entry utilizing the Service, we will have no liability whatsoever for paying or posting the item or ACH Entry, regardless of whether or not the item or ACH Entry was validly issued or authorized by you and whether or not we have performed any additional verification procedures for the item or ACH Entry.
- 11. Wrongful Dishonor.** Our liability for wrongful dishonor of an Exception will be limited to the extent damages for wrongful dishonor are recoverable under Michigan's Uniform Commercial Code Article 3 and 4. Notwithstanding the forgoing, we will have no liability for wrongful dishonor of an Exception when we, acting in good faith, return an Exception:
  - a. that we reasonably believed was not properly payable;
  - b. if the available balance in the Eligible Account is insufficient to pay the item or Entry;  
or
  - c. if required to do so by the service of legal process or the instructions of regulatory or government authorities or courts.
- 12. Indemnification.** You agree to indemnify and hold Indemnitees harmless from any losses or liabilities you may suffer or incur as a result of our returning or paying an item, ACH Entry, or other authorized transaction on the Eligible Account and release and forever discharge Indemnitees from any and all manner of action or actions, suits, claims, damages, judgments, levies, executions, expenses, costs, interest, attorney's fees and legal expenses, whether known or unknown, liquidated or unliquidated, fixed, contingent, direct or indirect, which you have, or ever can, may or will have or claim to have against us in connection with, arising out of or relating to the payment or return of any check, ACH Entry, or transaction pursuant to the provisions of this TSMTTC.
- 13. Ineligible Checks/ACHs.** You agree this Service will not apply to an item or ACH Entry if we have cashed the check or are otherwise committed to honor or pay the item or ACH Entry under applicable laws, regulations or rules.

- 14. Stop Payments and Returns.** The Service will not be used as a substitute for our stop payment procedures. You agree to follow our standard stop payment procedures if you desire to return a check that is properly payable. Nothing in this TMSTC will limit (i) your right to stop payment on any check that is properly payable; (ii) our right to return or reject any check or ACH Entry that you have authorized us to pay if we determine, in our sole discretion, that the check or ACH Entry is not properly payable or authorized for any reason; or (iii) our right to return any check, ACH Entry, or other transaction that would exceed the available balance in the Eligible Account. Nothing in this TSMTC will be construed as obligating us to perform any verification procedures on any check, ACH Entry or other transaction that you have authorized us to pay, although we may choose to perform certain verification procedures in our sole discretion.
- 15. Charges or Fees.** We may charge a fee for this Service, as disclosed on our applicable fee schedule. We reserve the right to change the fee for this Service at any time. We will try to charge a fee to your Preferred Charge Account, but you agree that we may debit any account maintained by you with us in order to obtain payment of your obligations relating to this Service.
- 16. Electronic Media.** All electronic data or media and records used by us for the Service are and will remain our property. We may, in our sole discretion, make available such information upon your request. You agree to pay any expenses incurred by us in making any such information available to you, as disclosed on our applicable fee schedule.
- 17. Electronic Mail Address.** You are responsible for providing us with and maintaining an accurate, valid email address for communication in connection with the transactions contemplated for this Service.
- 18. Termination.** The Service will automatically terminate immediately if your Business Online Banking access is cancelled by either you or us or all Eligible Accounts are closed for any reason by either you or us.
- 19. Limitations of Service.** For security reasons, we may implement limits on this Service. We reserve the right to change, suspend, or revoke this Service immediately and at any time without prior notice to you.

## **GLOSSARY OF TERMS**

**Authorized User** means a person you have authorized to act for you with respect to a Service as designated on your Application or other means acceptable to us.

**Application** means the Treasury Management Services Application and any other service application(s) for treasury management services.

**Biller** means a provider of a billing statement that you have requested to receive electronically through the Business Online Banking & Bill Pay Service.

**Business Day** means a day that we are open for general business other than a Saturday, Sunday or a legal holiday.

**Checking Account** means the checking account(s) designated by you on your Application, including those designated as a Primary, Secondary, or Tertiary Checking Account.

**Collected and Available Funds** means funds in your account equal to the ledger balance minus float which, in our reasonable determination, are not subject to hold, dispute, or legal process preventing their withdrawal.

**Collected Balance** means a Checking Account ending ledger balance less float.

**Communication** means an instruction, request, order, information, input, or other communication received by us pertaining to your use of a Service.

**Compatible Mobile Device** means an Android™ or iPhone® phone with a rear-facing camera.

**Confidential Information** means user guides, manuals, data, software, processes, fee, pricing and other information of a confidential nature provided to you in connection with a Service.

**Delivery Date** is the Business Day you want your Payee to receive your bill payment and is also the day your Funding Account will be debited through the Business Online Banking & Bill Pay Service. It may be referred to in the Business Online Banking & Bill Pay Service as the "Due By" or "Deliver By" date. You determine this date, based upon the Due Date.

**Draft Sweep** means the portion of our Sweep Service that authorizes us to make sweep transactions between your Checking Account and your Draft Sweep Share Account to assist in maintaining the Minimum and Maximum Balances of your Checking Account, as provided in your Application. You have the option to use the Draft Sweep to assist in maintaining the Minimum and Maximum Balances of a Secondary Checking Account and Tertiary Checking Account.

**Due Date** is the date on which the payment is due, as reflected on your Payee bill or statement through the Business Online Banking & Bill Pay Service. It is not the late date or grace period date.

**Effective Date of the Treasury Management Services Agreement** means the Effective Date as defined in the Treasury Management Services Agreement signed by you.

**Exception** means a Presented Check that does not match a check included in an Issued Check File or a Presented ACH that fails a rule you establish in connection with our Positive Pay Service.

**Exception Report** means a record that we provide to you for our Positive Pay Service describing each Exception.

**Funding Account** is the account that you designate as the account to which each bill payment should be charged for the Business Online Banking & Bill Pay Service.

**Indemnitees** means United Federal Credit Union, our directors, officers, employees, agents, affiliates, successors and assigns.

**Issued Check File** means a record describing properly payable checks written on an Eligible Account that is provided by you to us in accordance with our Issued Check File requirements for our Positive Pay Service, as they may change from time to time.

**Loan Sweep** means the portion of our Sweep Service that authorizes us to make sweep transactions between your Checking Account and your Loan Account to assist in maintaining the Minimum and Maximum Balances of your Checking Account. You have the option to use the Loan Sweep to assist in maintaining the Minimum and Maximum Balances of a Secondary Checking Account and Tertiary Checking Account.

**NACHA Rules** means the rules of the National Automated Clearing House Association (including any other clearing house rules applicable to automated clearing house transactions), as amended from time to time.

**Payee** is the person or entity to which you wish a bill payment to be directed through the Business Online Banking & Bill Pay Service.

**Payment Instruction** is the information provided by you to us through the Business Online Banking & Bill Pay Service for a bill payment to be made to the Payee (such as, but not limited to, Payee name, Payee account number, and Delivery Date).

**Pay Request** means your instructions requesting us to pay an Exception that we receive through our Positive Pay Service.

**Pending Payment** is a payment that has been scheduled through the Service but has not begun processing.



**Presented Check** means, for our Positive Pay Service, a check drawn on an Eligible Account and presented to us for payment through the check collection system on an Eligible Account.

**Presented ACH** means, for our Positive Pay Service, an ACH Entry received for an Eligible Account.

**Processing Center Billing Address** is the unique P.O. Box number at our mail processing center that you are assigned upon enrollment in the Service. For bills you have redirected to us, this is your billing address.

**Providers** means any third party we use to provide the Business Online Banking & Bill Pay Service for you.

**Return Request** means your instructions to us not to pay an Exception that we receive through our Positive Pay Service.

**Security Procedure** means the applicable security procedures related to, arising out of, or used in connection with a Service, including without limitation enrolling in a Service, accessing a Service, making transactions using a Service, or verifying the origination of Communications purporting to be sent by you; such security procedures may include without limitation the use of identification codes, encryption, passwords, logon identifications, personal or location identification numbers, repetitive codes, tokens and other security devices, systems and software.

**Service** means a treasury management service provided by us to our members.

**Service Guarantee** means our performance guarantee for the Business Online Banking & Bill Pay Service as it relates to late payments, as described in the Service-Specific Terms and Conditions.

**Service Website** means <https://unitedfcu.com/www.UnitedFCU.com>

**System** means all software, hardware, equipment, communications network, internet service, or other products or services necessary for you to access a Service.

**Trust Check** means a check issued from our own account or an account of our Providers, payable to your Payee for the Business Online Banking & Bill Pay Service.

**Website** means any internet website and/or online access channel for use in accessing one or more Services.