



Master Treasury Management Services Agreement

1. Introduction

Client identified in the Acceptance of Master Treasury Management Services (“Acceptance”) has engaged Preferred Bank (“Bank”) to perform the services (collectively, the “Services”) selected by Client in the Acceptance and approved by Bank, signed by one or more Executing Representatives (as defined below) and delivered to Bank. The Services are more specifically described in the following, as updated from time to time: (i) the service descriptions to the Master Treasury Management Services Agreement (“Master Agreement”), including any schedules, and exhibits to the same (collectively, “Service Descriptions”); and (ii) user guides, user manuals, set-up forms and other user materials, including online terms and information (collectively, “Supporting Documents”). The Master Agreement and each Service Description may include exhibits, appendices, schedules or similar materials, which form a part of the Master Agreement and Service Description, respectively. Any reference to the Master Agreement shall be deemed to include the Master Treasury Management Services Agreement, the Acceptance, the respective Service Descriptions, and the Supporting Documents, unless otherwise stated. Unless otherwise agreed in writing, the Master Agreement including the Service Descriptions and Supporting Documents will be deemed accepted by Client upon provision by Bank of a Service to Client.

The terms and conditions of the Master Agreement apply to the Services, and Client’s deposit accounts held at Bank which Client uses for transactions associated with the Services, in addition to the account deposit terms and conditions otherwise applicable to Client’s accounts with Bank. Unless otherwise provided, to the extent any provision of the Master Agreement conflicts with a Service Description, the provision of the Service Description will control. To the extent any term or provision of the Master Agreement conflicts directly with any term or provision of the applicable deposit account terms and conditions or the Supporting Documents, the provision of the Master Agreement (including any Service Description) will control. All transfers to and from an account will be subject to the terms and conditions applicable to the account as set forth in the deposit account terms and conditions governing the account, including but not limited to transfer limitations, as amended by the Master Agreement. The term “may,” when used in reference to action by Bank, is permissive and means that Bank reserves the right or is allowed, but not required, to take any action or inaction.

2. Security Procedures; Communications

- (a) Client and Bank may agree to certain procedures and security devices, which may include without limitation, codes, encryption, passwords, and other security devices, systems and Software (referred to individually and collectively, “Security Device(s)”) designed to verify the authenticity of information (including without limitation transaction information), instructions, orders (including without limitation payment orders) and other communications relating to a Service (each a “Communication”). The term “payment order(s) includes payment orders, as defined in Division 11 of the California Commercial Code. In this regard, application of the procedures and Security Devices to authenticate a Communication will be collectively referred to as the “Security Procedures” in the Master Agreement. If Bank takes any action not provided in the Security Procedures in connection with any Communication, such additional action shall not be deemed to become a mandatory part of the continuing Security Procedures. Client understands and agrees that Bank will use the Security Procedures to verify the authenticity of Communications and that the Security Procedures are not designed to, and are not used for the



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purpose of, detecting errors in transmission or content of Communications, including discrepancies between account names and numbers.

- (b) Before using a Service and before sending a Communication to Bank, Client will review the Security Procedures and determine whether the Security Procedures will provide a commercially reasonable method for verifying whether a Communication is that of Client. As part of the review, Client will consider the size, type, and frequency of Communications Client normally makes or anticipates making, along with such other factors as Client may deem relevant or appropriate.
- i) *Commercially Reasonable Procedures.* If the size, type or frequency of Communications made by Client changes such that the Security Procedures in use by Client no longer provide a commercially reasonable method of providing security against unauthorized Communications, Client shall immediately notify Bank.
 - ii) *Supplemental Security Devices.* Bank may offer to Client or require Client to use additional authentication tools or methods from time to time (for example, challenge questions and phrases for employees). If Client chooses not to implement supplemental authentication tools, Client's access to some or all of the Services may be limited. The term "Security Devices" will include any supplemental authentication tools that are used by Client. Client's continued use of any modified Security Procedures will evidence Client's agreement that the modified Security Procedures are commercially reasonable for Client.
 - iii) *Client Responsible for Verified Communications, Even if Unauthorized.* If Bank acts on a Communication in compliance with the Security Procedures, then Client will be obligated on the Communication, and it will be treated as Client's Communication, whether or not authorized by Client.
 - iv) *Client Responsible for Communications Actually Authorized.* Regardless of whether or not Bank complied with the Security Procedures, any Communication received by Bank will be treated as Client's and will bind Client if the Communication is delivered to Bank directly or indirectly by any Authorized Representative (as defined below), or if Client would otherwise be legally bound by the Communication, regardless of whether the Communication was erroneous in any respect or that any loss would have been prevented if Bank had complied with the Security Procedures.
- (c) Client will use and safeguard the Services, Security Devices, Security Procedures, Supporting Documents, and the Software (if applicable) in accordance with the Master Agreement. In connection with such safeguarding obligations, Client will implement and maintain physical, technical, and administrative controls and procedures sufficient to prevent impermissible or unauthorized access to or use of any Service, Supporting Document, Security Device or Security Procedures. Without limiting the foregoing and to the extent any of the Services utilize an electronic interface, Client agrees to use and maintain at all times up-to-date anti-viral software, properly configured firewalls and otherwise to use commercial "best practices" to prevent Client's computers or other electronic interfaces from being compromised, including by virus,



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trojan horse or other malware. Client expressly acknowledges that any wireless access to the Services initiated by Client may not be secure and, in such cases, Client assumes the risk associated with unauthorized access to the Services and any information contained therein, resulting from such wireless connectivity. Client agrees to immediately notify Bank if Client knows or suspects that a Security Device or other information pertaining to the Security Procedures is stolen, compromised, or misused.

- (d) Client assumes all risks associated with disclosure of any part of the Security Procedures, including a Security Device, to its employees. Client agrees to limit disclosures of Security Devices to those employees or agents it will authorize to access the Services on Client's behalf, or who have a specific need to know. Client agrees to follow all requirements and guidance that may be outlined in the Service Descriptions or Supporting Documents provided or made available to Client, including but not limited to password change policies and practices. Without limiting the foregoing, Client further agrees to require authorized persons to create new passwords at reasonably frequent periods, based on Client's assessment of the security requirements appropriate for the Services utilized by Client. Client agrees to promptly change security codes and level of authority, as applicable, in the event of any change in personnel or when reasonably prudent to do so.
- (e) If applicable, Client may be required to select in the Acceptance, or Supporting Documents, a means of communicating with Bank in connection with a particular Service (each, a "Communication Link"). Multiple Communication Links may be selected for certain Services, as more specifically described in the Service Description and/or Supporting Documents. Information and instructions may be sent and received by Client through those Communication Links.
- (f) Bank may act on a Communication by reference to the account number only, even if the name on the account is also provided and even if the account number does not actually correspond to the name.
- (g) Bank is not obliged to act on a Communication that is not transmitted in accordance with the Security Procedures. Bank may act on an incomplete Communication at its sole discretion, including but not limited to if in Bank's reasonable opinion, it contains sufficient information. Bank has no duty to discover, and shall not be liable for, errors or omissions made by Client or the duplication of any Communication by Client.
- (h) Bank may delay or refuse to execute any Communication or process any requested Service. Bank may do so for any reason or for no reason. Bank may provide notice to Client of such delay or refusal, but is not obligated to do so. Bank may delay or refuse processing of a Communication, for example, if: (A) processing would or may exceed the available funds in Client's affected account; (B) the Communication is not authenticated to Bank's satisfaction or Bank believes the Communication may not have been authorized by Client; (C) the Communication contains incorrect, inconsistent, ambiguous, or missing information; (D) processing would or may involve funds which are subject to lien, security interest, claim, hold, dispute, or legal process prohibiting withdrawal; (E) processing would or may cause a violation of any laws or rules applicable to Client or to Bank; (F) for any reason determined by Bank in its sole discretion; or (G) for any



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other reason under the Master Agreement. In addition, Bank shall be excused from failing to transmit or delay a transmittal of a transaction or Communication if such transmittal would result in Bank's having exceeded any limitation upon Bank's intra-day net funds position established pursuant to present or future Federal Reserve Board ("FRB") guidelines or in Bank's reasonable judgment otherwise violating any provision of any present or future risk control program of the FRB or any rule or regulation of any other U.S. governmental regulatory authority. Client agrees that Bank will have no liability to Client or to any other person for any loss, damage or other harm caused by or arising out of any such delay or refusal.

- (i) If Client informs Bank that it wishes to recall, cancel or amend a Communication after it has been received by Bank, Bank may, but will not be required to, use its reasonable efforts to assist Client to do so; however, Bank shall not be liable for any loss, cost or expense suffered by Client if Bank does not, or is unable to, amend, cancel or recall a Communication. Client hereby agrees to indemnify Bank against any loss, liability, claim or expenses (including legal fees) it may incur in connection with assisting Client to recall, cancel or amend a Communication, and Client agrees to immediately reimburse Bank for any monies paid by Bank associated with such losses, liability, claims or expenses incurred by Bank.
 - (j) Client assumes the sole responsibility for providing Bank with accurate Communications in the form and format that Bank requires. Bank is not responsible for confirming Communications or for failing to detect and reject duplicate Communications. If Client provides Bank with a Communication that is incorrect in any way, Client agrees that Bank may charge Client's accounts for any transactions related to the Communication whether or not the error could have been detected by Bank. Bank is not obligated to detect errors in Client's transfer or payment instructions or other Communications.
 - (k) Any person identified by Client in the Acceptance, Supporting Documents or any subsequent written notice delivered to Bank as authorized by Client to receive from Bank information, communications and notices regarding the Services, and authorized by Client to submit to Bank any Communications, or otherwise transact business via the Services is Client's "Authorized Representative." Additionally, the person identified by Client in the Acceptance, Supporting Documents or any subsequent written notice delivered to Bank, as authorized by Client to make all agreements and sign and deliver all documents in connection with the Services is Client's "Executing Representative." If the identity of such an Authorized Representative or Executing Authorized Representative changes, Client will promptly notify Bank in writing. Bank will have a reasonable time after receipt of a notice or other communication to act on it.
 - (l) Bank's internal compliance, fraud control and other Bank procedures are for the benefit of Bank and create no duty to Client. Bank has no duty or obligation under this Master Agreement to inform Client if Bank is suspicious of activity, including possible breach of security by Client's Authorized Representative(s) or Executing Representative(s) or unauthorized disclosure or use of Security Devices.
3. **Software and Equipment.** The Service Description and/or Supporting Documents for each Service shall describe the various means by which Client may communicate with Bank in connection with such Service. Those means may include, without limitation, the use of computer software



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("Software") licensed or sublicensed by Bank to Client ("License") or the use of an Internet connection. To the extent any of the Services involve Bank having granted Client software License usage rights, such grant shall be a non-exclusive, non-transferable right to access and use the Service in connection with Client's own business operations in accordance with the Supporting Documents. Client agrees to comply with the terms of any Software License(s) provided to Client in connection with the Services. Client may not transfer, distribute copy, reverse engineer, decompile, modify or alter such Software. Unless otherwise agreed by Bank in writing, the computer programs, Service guides, Security Procedures, equipment, software, and systems provided by Bank to Client in connection with the Services represent Bank's proprietary property, including intellectual property, and must be returned to Bank upon request. Client acknowledges and agrees that the Software and content used by Bank in the operation and provision of the Services, and the copyright patent, trademark, trade secret and all other rights in and to the technology, software, content, designs, graphics, and trademarks included as part of the Services and Bank's name and product names and the website's URL (collectively, by the "Intellectual Property"), are owned by Bank and Bank's licensors. As such, Client will not gain any ownership or other right, title or interest in or to such Intellectual Property by reason of the Agreement or otherwise.

Unless otherwise provided in the Master Agreement, Client is responsible for providing and maintaining any equipment that is necessary for the Services, such as telephones, terminals, modems, computers, and software (collectively "Equipment"). Client agrees to use Equipment that is compatible with Bank's programs, systems, and equipment, which Bank may change from time to time. Bank assumes no responsibility for the defects or incompatibility of any Equipment that Client uses in connection with the Services, even if Bank has previously approved their use. **BANK MAKES NO WARRANTY, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR OF MERCHANTABILITY, WITH RESPECT TO THE SERVICES, OR ANY COMPUTER PROGRAMS, EQUIPMENT OR SOFTWARE MADE AVAILABLE BY BANK TO CLIENT OR OTHERWISE USED BY CLIENT.** Client agrees to notify Bank promptly if any Software or equipment Bank provides to Client becomes defective. Bank's sole responsibility (if any) in such instances will be to use best efforts to repair or replace the defective Software or equipment that Bank provided to Client.

4. **Client Conduct.** Client agrees not to use the Services or the content or information in any way that would: (i) infringe any copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy; (ii) be fraudulent including, but not limited to, use of the Service to impersonate another person or entity; (iii) violate any law, statute, ordinance or regulation (including, but not limited to, those governing export control, consumer protection, unfair competition, anti-discrimination, false advertising or illegal Internet gambling); (iv) be false, misleading or inaccurate; (v) create liability for Bank or its affiliates or service providers, or cause Bank to lose (in whole or in part) the services of any of its service providers; (vi) be defamatory, trade libelous, unlawfully threatening or unlawfully harassing; (vii) potentially be perceived as illegal, offensive or objectionable; (viii) interfere with or disrupt computer networks connected to the Service; or (ix) use the Service in such a manner as to gain unauthorized entry or access to the computer systems of others. Without limiting the generality of the foregoing, Client agrees not to: (a) make the Service available, or allow use of the Service, in a computer bureau service business, or on a timesharing basis; or (b) otherwise disclose or allow use of the Service by or for the benefit of any third party.



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5. Client Representations. Client represents and warrants to Bank that:
- (a) It is duly organized and validly existing, and is in good standing in every jurisdiction where required;
 - (b) Client's execution, delivery, and performance of this Master Agreement and the transactions contemplated herein have been duly authorized by all necessary action and do not: (A) violate any provision of any applicable law, rule or regulation (including but not limited to any licensing requirement(s) or of Client's charter or bylaws or other governing documents, as applicable), or (B) result in the breach of, constitute a default under, or require any consent under any agreement or instrument to which Client is a party or by which Client is bound;
 - (c) The Executing Representatives executing and delivering the Master Agreement and the Acceptance for and on behalf of Client, are duly authorized to do so;
 - (d) Any Communication or authorization required in connection with the Master Agreement and each Service Description has been provided by an Authorized Representative. Bank may rely upon the authority of each Authorized Representative for purposes of the Master Agreement and Service Descriptions until Bank has received written notice acceptable to Bank of any change of persons designated by Client as an Authorized Representative, and Bank has had a reasonable time to act thereon (after which time Bank shall rely upon the change);
 - (e) Any act required by any relevant governmental or other authority in connection with the Master Agreement has been or will be done (and will be renewed if necessary);
 - (f) Client's performance under the Master Agreement and use of the Services will not violate any applicable law, regulation or other requirement;
 - (g) The Master Agreement is a legal, valid, and binding obligation;
 - (h) Unless otherwise agreed to in writing by Bank, the accounts established by Client with Bank and the Services Client establishes or uses in connection with the accounts will only be used for business purposes and not for personal, family or household purposes; and
 - (i) Client agrees that it shall be deemed to make and renew each representation and warranty made in this Section on and as of each day on which it uses the Services. Client will inform Bank in writing immediately upon Client's becoming aware of facts or circumstances that cause (or with the passage of time would result in) any representation or warranty given by Client to cease to be true and correct. Client will provide such information or documentation as Bank may request from time to time to demonstrate compliance by Client with Client's representations and warranties, or other obligations of Client under this Master Agreement.
6. Service Limitations. Client acknowledges that the Services may be subject to system and other limitations, including Bank imposed limitations. Client agrees not to exceed or otherwise violate any Service limitations, including dollar, frequency, activity or other limits.



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7. Compliance. Client agrees to comply with all state and federal laws, rules, and regulations, as may be amended from time to time, applicable to Client and to its use of the Services (collectively, "Laws"), including the operating rules of all systems and networks, as may be amended from time to time, used to provide Services to Client (collectively, "Rules"), and to promptly provide evidence reasonably satisfactory to Bank of the same if requested by Bank. Without limitation, Client agrees and acknowledges that the Services may not be used by Client in violation of, and must comply with, the Laws and Rules, including sanctions laws administered by the Office of Foreign Asset Controls. Client agrees that the Services will not be used to facilitate any illegal activity, including but not limited to illegal Internet gambling. Client acknowledges and agrees that the Software used to access the Services may be subject to restrictions and controls imposed by the Export Administration Act and the Export Administration Regulations, as may be amended from time to time (collectively, "Acts"). Client agrees and hereby certifies that the Software or any product thereof or any Service is being or will be used by or on behalf of Client for any purpose prohibited by these Acts.

Nothing in the Master Agreement relieves Client of any obligation Client may have under the Laws, Rules or Acts. If the Master Agreement is in conflict with the Laws, Rules or Acts, as may be amended from time to time, then the Master Agreement is deemed modified only to the extent necessary to allow or require Client to comply with the Laws, Rules, and Acts. Client will implement and maintain procedures, including retention of legal or compliance services, to ensure that Client is able to comply with all current and future Laws, Rules, and Acts, including any changes to them. Bank is not obligated to provide information, updates or notice of or regarding the Laws, Rules, or Acts even if Bank is aware of the same and of the potential for material impact on Client and Client's use of the Services, and Client's indemnification and other obligations to Bank are not relieved or reduced by Bank's not providing the same to Client. If Bank does provide information, updates or notices of or regarding the Laws, Rules or Acts to Client, Bank is not responsible for the accuracy of the same and may discontinue doing so at any time.

8. Delayed Processing. In addition to any allowances provided to Bank in any other agreement Bank has with Client, Client agrees that Bank may delay posting of an inbound credit to Client's account(s) held at Bank, or delay the processing of an outbound transaction from Client's account(s) held at Bank, when the delay is due to a suspicion that the transaction may be in violation of applicable Law, Rule or Act, or the transaction is otherwise under review by Bank.
9. Account Designations. For certain Services, Client may be required to designate one or more accounts to facilitate the particular Service.
10. Sufficient Funds. Client agrees to maintain sufficient available funds (as determined under Bank's funds availability policy) in Client's accounts accessible via the Services to cover all transactions requested through the Service and applicable fees, or such higher amounts as Bank may specify from time to time. Client acknowledges that Bank does not control intermediary banks or other third parties, including intermediary banks chosen by Bank, and that Bank does not control whether intermediary banks deduct fees as part of the processing of transfer requests. Client agrees that Client's funds may be held by Bank for a period of time during the term of a Service Description and following termination of the Services, to protect Bank against any possible losses relating to the use by Client of the Services. If Bank does hold funds, Bank may treat the held funds as not available for other purposes, and reject other transactions (for example, checks or other transfer instructions) in



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accordance with the applicable deposit account terms and conditions. Bank may, in its sole discretion, allow overdrafts, overlimits or negative balances, and Bank also may discontinue the practice at any time with or without prior notice to Client. Bank may prevent or reverse any payments or other service in any order that Bank chooses as a means of preventing or recovering any overdrafts or other exposures. If Client does not have sufficient or available funds or credit in Client's account for which a particular transaction was requested, Bank may charge any account of Client's held at Bank to cover the cost of the transaction, as well as any corresponding fees. Alternatively, and in Bank's sole discretion, Bank may overdraw Client's accounts held at Bank and Client may be charged an overdraft or other fee (such as fees for returned checks or other electronic items), and Client agrees to immediately pay Bank such overdraft and fee(s). Client's obligation to pay Bank remains immediately due and payable whether or not the rejected, returned or adjustment entry was processed in accordance with any requirement of any applicable laws or rules applicable to any party other than Bank and notwithstanding Bank or Client may have a claim against another third party for breach of the applicable laws or rules. Nothing in the Master Agreement shall be construed as Bank's commitment or obligation to lend Client money.

11. Fees. Client agrees to pay Bank the fees prescribed in Bank's current fee schedule for each of the Services, a copy of which is available upon request (each a "Fee Schedule"). Unless other arrangements are made for payment of such fees, Bank will automatically debit any account maintained by Client with Bank in the amount of such fees. Bank does not in any way extend credit to Client under the Master Agreement. Bank may amend the Service pricing from time to time. Certain prices are subject to change without prior notice. Special or additional Services performed at Client's request will be subject to additional terms and fees. If accounts are analyzed, Client may be able to use available earnings credit to offset certain charges related to the Services. If analyzed accounts contain funds belonging to third parties, Client represents that use of any related earnings credit is not limited by law, regulation or agreement with such third parties. In addition to the fees for the Services, Client agrees to pay for all taxes, tariffs, and assessments levied or imposed by any government agency in connection with the Services, the Master Agreement, and any Software or equipment made available to Client (excluding any income tax payable by Bank). Client is also responsible for the costs of any communication lines and any data processing charges payable to third parties. If Client is required by the laws of any relevant jurisdiction to make any deduction or withholding from any fees, interest or other amounts, on account of tax or other charges, Client shall withhold the same and pay it to the relevant authority, and shall pay Bank such additional amount as may be necessary to ensure Bank receives an amount equal to the amount it would have received had no such deduction been made.
12. Fines or Penalties. Client will reimburse Bank for any fines or penalties (and any associated costs, including reasonable attorneys' fees and costs) imposed on or assessed against Bank by any Federal Reserve Bank, any network operator, any state or federal regulatory agency or other US or foreign governmental body, or any clearinghouse or other third party having oversight or rulemaking authority over transactions facilitated using the Services, when the fine, penalty or other expense is caused by or related to Client's data or use of the Services. Such amounts shall be immediately due and payable by Client. Client's obligation to pay Bank remains immediately due and payable whether or not the fine or penalty was imposed or assessed in accordance with any requirements of the Rules or Laws or any laws applicable to any party other than Bank and notwithstanding Bank or Client may have a claim against another for breach of the same.



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13. Notices. Except as otherwise provided in the Master Agreement, all notices and other communications by Client to Bank shall be in writing and, addressed to:

Preferred Bank
601 S. Figueroa Street, 29th Floor
Los Angeles, California 90017

or at such other address as Bank may specify in writing. Notices and communications to Client may be mailed or sent to Client electronically at the statement, email or mailing address shown for Client in Bank's records. Any notice or communication sent by Bank to Client will be deemed given and effective when sent or otherwise made available to Client, or as otherwise stated in the notice or communication. Client further acknowledges and agrees that certain notices and communications may be provided to Client by telephone, facsimile or electronic transmission at the telephone number, facsimile number or other location or number as shown in Bank's records.

Any notice, instruction, Communication or other communication sent by Client to Bank will be effective when Bank has actually received and has had a reasonable time to act on the notice, instruction, Communication or other communication. Notwithstanding anything to the contrary herein, Bank may rely on all notices, instructions, Communications, and other communications sent to Bank via facsimile or electronic transmission as though they are originals. Without limiting the foregoing, Bank is entitled to rely on any notice, instruction, Communication or other communication believed by Bank in good faith to be genuine or to have been signed or authorized by an Authorized Representative of Client.

Client agrees to access the Services from time to time, in no event less than monthly, to access notices, communications, and information made available by Bank.

14. Content.

- (a) Bank reserves the right, but shall have no obligation, to reject, move, or delete content that Bank, in Bank's sole discretion, believes violates the Master Agreement, or contains content, including viruses, that may interfere with the operation of Bank's website or other systems. Bank shall have the right, but not the obligation, to disclose content to any third party if required or permitted by law or if Bank believes reasonably necessary, including but not limited to: (a) comply with legal process; (b) enforce the Master Agreement; (c) respond to claims that any content violates rights of third parties; or (d) protect Bank's rights, properly, or personal safety, or those third parties.
- (b) The Services may allow Client to access content originally provided or operated by third parties acting on Client's behalf (collectively referred to as "third party content," unless otherwise provided herein). Unless Bank tells Client otherwise in writing, Bank does not operate or monitor any such content including any of the information, products or services provided or operated by third parties. Client acknowledges and agrees that: (i) Client accesses and relies on such third party content at Client's own risk; (ii) Bank makes no endorsement of, and assumes no responsibility for, third party content uploaded or inputted to the Services by third parties; (iii) although Bank may have a contractual or other relationship with the providers of third party



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content, Bank will not be responsible for the content, accuracy, integrity, availability, timeliness or operation of their website or the data they make available. Client agrees to hold Bank harmless in connection with all of the foregoing.

Without limiting the foregoing, Bank assumes no responsibility for determining the accuracy, reliability, timeliness, ownership, legality, appropriateness or completeness of any third party content that Client or others upload to the Services or otherwise provide to Bank, nor for any mistakes, defamation, slander, libel, omissions, falsehoods, obscenity, pornography or profanity associated with the same. Bank will not have a duty to interpret or evaluate any third party content transmitted to Bank or through Bank's website or the Services, except to the limited extent, if any, set forth in the Master Agreement. Bank will not be required (by means of any security procedure or otherwise) to detect errors or illegality in the transmission or content of any third party content Bank receives from Client or third parties. Bank will not have a duty to notify Client about any inaccuracy, unreliability, ownership, incompleteness or other problem that may be associated with third party content, even if Bank has reason to know of its existence.

15. Limitation on Liability; Indemnification. Bank's duties and responsibilities shall be limited to those set forth in the Master Agreement. In no event shall Bank be liable for: (i) any punitive, indirect, consequential or special damages or lost profits, even if Bank has been advised of the possibility of such damages; (ii) the acts or omissions of a contractor, vendor, processor, third-party servicer or vendor used by Client or Bank, or any loss, cost, damage or expense incurred by any person or entity in connection therewith; (iii) Client negligence or breach of any agreement with Bank; (iv) any loss, cost, expense, or damage to Client in connection with any Communication Link, Software, or any technical computer service, including Software installation or de-installation performed by Bank or Client or any third party designated by Bank or Client, or Client's or Bank's use thereof; (v) any ambiguity, inaccuracy or omission in any instruction or information provided to Bank; (vi) the application of any government or funds-transfer system rule, guideline, policy or regulation; (vii) the lack of available funds in Client's account to complete a transaction; (viii) Bank's inability to confirm to its satisfaction the authority of any person to act on Client's behalf; (ix) Client's failure to follow any applicable software manufacturer's recommendations or Bank's Service instructions; or (x) any Internet sites related to the Services or maintained or operated by Bank or the use thereof or the inability to use such sites by any party, or in connection with any failure or performance, error, omission, interruption, defect, delaying in operation or transmission, computer virus or line or system failure, even if Bank, or representatives thereof, are advised of the possibility of such damages, losses or expenses. There may be other exceptions to Bank's liability, as stated in Client's account or other service agreements with Bank. Bank will not be responsible for determining the compatibility of any installed Software with other system components or for any failure of any technical servicing or Software installation to provide access to the particular Service which the technical servicing or Software installation was intended to make available.

Bank's liability and Client's remedy for actual costs and losses resulting from Bank's actions and/or omissions, whether the claim is in contract or tort, will not exceed three times the average monthly charge for the Service(s) in question for the three months immediately preceding the cost or loss. Any claim, action or proceeding by Client to enforce the terms of the Master Agreement or to recover for any Service-related loss must be commenced within one year from the date that the event giving rise to the claim, action or proceeding first occurs. Client agrees to cooperate with Bank in any loss



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recovery efforts Bank undertakes to reduce any loss or liability that arises in connection with the Services. Client acknowledges that Service fees have been established in contemplation of: (A) these limitations on Bank's liability, (B) Client's agreement to review statements, confirmations, and notices promptly and to notify Bank immediately of any discrepancies or problems; and (C) Client's agreement to assist Bank in any loss recovery effort.

Client agrees to indemnify and hold Bank, its affiliates, licensors, processors, third-party contractors and vendors, and their respective directors, officers, shareholders, employees and agents, harmless from and against any and all claims, loss or damage of any nature whatsoever (including but not limited to attorneys' fees and court costs) arising directly or indirectly out of: (i) the wrongful acts or omissions of Client, or any person acting on Client's behalf in connection with Client's use of the Services, including without limitation (A) the breach by Client of any provision, representation or warranty of the Master Agreement, (B) the negligence or willful misconduct (whether by act or omission) of Client or its clients or any third party on behalf of Client, (C) any misuse of the Services by Client, or any third party within the control, or on behalf, of Client, (D) the failure by Client to comply with applicable state and federal laws and regulations, or (E) any fine, penalty or sanction imposed on Bank by any clearing house, or any governmental entity, arising out of or connected with the Services; (ii) any act or omission of Bank that is in accordance with the Master Agreement or instructions from Client; (iii) actions by third parties, such as the introduction of a virus that delay, alter or corrupt the transmission of an image or communication to Bank; (iv) any loss or corruption of data in transit from Client to Bank; (v) any claim by any third party claiming that such third party incurred loss due to the Service; or (vi) any claims, loss or damage resulting from Client's breach of, or failure to perform in accordance with, the terms of the Master Agreement. This indemnity will survive the termination of the Master Agreement. Client agrees that it will not assert any claims against Bank based on theories of negligence, gross negligence, strict liability, misrepresentation, or fraud based on or relating to any Communication Link, Software or Client's possession or use thereof or any technical computer service including, but not limited to, Software installation or de-installation performed by Bank.

16. **EXCLUSION OF WARRANTIES.** CLIENT ACKNOWLEDGES THAT THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. BANK IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN OR TO ANY INFORMATION RESULTING FROM CLIENT'S USE OF THE SERVICES. BANK MAKES NO, AND EXPRESSLY DISCLAIMS ALL, WARRANTIES (EXPRESS OR IMPLIED) REGARDING CLIENT'S USE OF THE SERVICES AND THE EQUIPMENT, INCLUDING THE WARRANTY OF TITLE AND THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, BANK DISCLAIMS ANY WARRANTIES REGARDING ANY SOFTWARE, ANY COMMUNICATION LINK, THE OPERATION, PERFORMANCE OR FUNCTIONALITY OF THE SERVICES AND THE EQUIPMENT, INCLUDING ANY WARRANTY THAT THE SERVICES AND THE EQUIPMENT WILL OPERATE WITHOUT INTERRUPTION OR BE ERROR FREE. CLIENT ACKNOWLEDGES THAT THERE ARE CERTAIN SECURITY, TRANSMISSION ERROR, AND ACCESS AVAILABILITY RISKS ASSOCIATED WITH USING THE SERVICES AND ASSUMES ALL RISKS RELATING TO THE FOREGOING.



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17. Force Majeure. Notwithstanding any other provisions of the Master Agreement, Bank shall not have any responsibility or liability for any failure, error, malfunction or any delay in carrying out any of its obligations under the Master Agreement if such failure, error, malfunction or delay results from events due to any cause beyond its reasonable control, including, without limitation, unavailability of any communications system, sabotage, fire, flood, explosion, acts of God, civil commotion, strikes, stoppages of labor or industrial action of any kind, riots, insurrection, war or acts of government, power or equipment failure (including that of any common carrier, transmission line or software), emergency conditions, adverse weather conditions or any other factor, medium, instrumentality, condition or cause not in Bank's control. Bank will not be liable or responsible for the acts or omissions of any other financial institution or any third party or for any inaccuracy or omission in a notice or communication received by Bank from Client, another financial institution, or any other third party. In addition, Bank shall be excused from failing to transmit, or delaying the transmission of, any transaction, if such transmittal would result in Bank's having exceeded any limitation upon its intra-day net funds position established pursuant to present or future FRB guidelines or in Bank's otherwise violating any provision of any present or future risk control program of the FRB or any rule or regulation of any other U.S. governmental regulatory authority. Bank shall not be liable for any failure to perform any of its obligations under the Master Agreement if such performance would result in it being in breach of any law, regulation, requirement or provision of any government, government agency, banking or taxation authority in accordance with which Bank is required to act, as shall be determined in Bank's sole discretion.
18. Cutoff Hours. A number of Bank's Services are subject to processing cutoff hours. The cutoff hours applicable to each Service are reflected in the Supporting Documents. Communications received after the cutoff hour or on a non-business day may, in Bank's discretion, be deemed received as of the next business day. Alternatively, some Services may require Client to resubmit a Communication when it is received after the cutoff hour or on a non-business day.
19. Reconciliation. Client will inspect all information made available by Bank in connection with the Services. Client agrees to promptly, by telephone and in writing, notify Bank of any errors in such information or any discrepancies between its records and the information, statements or confirmations of transactions made available by Bank. To the extent not expressly prohibited by applicable law, if Client fails to promptly notify Bank of any such error or discrepancy, in any case no more than 30 days of the date on which such information is made available to Client, then Client agrees that Bank will not be liable for any losses resulting from Client's failure to give such notice or any resulting loss of interest relating to any transactions. Without limiting the foregoing: (i) if Client fails to notify Bank of any such error or discrepancy within one year of the date on which such information is made available to Client, then Client shall be precluded from asserting such error or discrepancy against Bank; and (ii) Bank reserves the right to, in its sole discretion, adjust transaction records for good cause after the expiration of said one year period.
20. Provisional Credit. Client acknowledges that credit for a payment order is provisional until the receiving financial institution obtains final settlement. If final settlement does not occur, the originator of the payment order is not deemed to have made payment to the beneficiary, and the beneficiary's bank is entitled to a refund of the provisional credit. Client agrees that when Bank gives Client credit for an incoming payment order, including but not limited to, returned credited transactions or credit reversals, it is provisional until Bank receives final settlement for the payment



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order. Bank may delay availability of provisional funds at its discretion. If Bank does not receive final settlement, Client must return the funds previously credited to Client's account to Bank, and the person who sent the payment order will not be treated as having paid Client. Bank may refuse to permit the use of any amount credited for an incoming payment order, including but not limited to a debit entry or credit reversal if Bank believes in its sole discretion that there may not be sufficient funds in Client's account to cover chargeback or return of such transaction.

21. Arbitration. Bank and Client expressly agree that any legal proceeding, any action, dispute, claim, or controversy of any kind (e.g., whether in contract or in tort, statutory or common law, legal or equitable) now existing or hereafter arising between the parties in any way arising out of, pertaining to or in connection with the Master Agreement shall be resolved by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (AAA). The foregoing matters shall be referred to as a "Dispute." Any of the parties to the Master Agreement may, by summary proceedings (e.g., a plea in abatement or motion to stay further proceedings), bring an action in court to compel arbitration of any Dispute. Any such arbitration shall proceed in Los Angeles County, California, and shall be governed by the substantive laws of the state of California. The decision of the arbitrator shall be final and binding upon all parties and judgment upon the award may be entered in any court having jurisdiction thereof by an party. Any arbitrator chosen to preside over the dispute must be a member of the California State Bar either actively engaged in the practice of law or a retired member of the California state or federal judiciary, and, unless otherwise agreed in writing, must have expertise in the process of deciding disputes in the deposit account and/or electronic banking services context. Any party who fails to submit to binding arbitration following a lawful demand of the opposing party shall bear all costs and expenses, including reasonable attorney fees, incurred by the opposing party in compelling arbitration. In Disputes involving indebtedness or other monetary obligations, each party agrees that the other party may proceed against all liable persons, jointly and severally or against one or more of them without impairing rights against other liable persons. Nor shall a party be required to join the principal obligor or any other liable persons in any proceeding against a particular person. A party may release or settle with one or more liable persons as the party deems fit without releasing or impairing rights to proceed against any persons not so released. This Section shall survive any termination, amendment or expiration of any provision of the Master Agreement, unless otherwise expressly agreed in writing.

UNLESS SPECIFICALLY PROVIDED OTHERWISE UNDER LAW, THE PARTIES UNDERSTAND THAT THEY ARE WAIVING THEIR RIGHT TO BOTH A JURY TRIAL OR A TRIAL BEFORE A JUDGE IN A PUBLIC COURT.

22. Confidential Information. Unless otherwise provided in the Service Descriptions, all Supporting Documents and Software provided pursuant to the Master Agreement constitute Bank's, its contractors or vendors, or Bank's agent's confidential information ("Confidential Information"). Bank, its contractors or vendors, or Bank's agent (as applicable) will remain the sole owner of all such Confidential Information, and Client will not acquire any interest in or rights to the Confidential Information as a result of Client's use of any Service except as expressly set forth in the Service Description. Client will maintain the confidentiality of the Confidential Information, and will not permit its employees or agents to, disclose, copy, transfer, sublicense or otherwise make any of it available to any person or entity, other than Client's employees who have a need to use the Confidential Information in connection with the applicable Service. Client shall notify Bank



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immediately if Client knows or suspects that there has been any unauthorized disclosure, possession, use or knowledge (each, an "Unauthorized Use") of any Confidential Information, and if Client is responsible for the Unauthorized Use, it will, at its expense, promptly take all actions, including without limitation initiating court proceedings to recover possession or prevent further Unauthorized Use of the Confidential Information and obtain redress for any injury caused to Bank as a result of such Unauthorized Use. In addition, Client must not decompile, reverse engineer, disassemble, modify, or create derivative works of any computer program provided pursuant to the Master Agreement.

Client authorizes the transfer of any information relating to Client to and between the branches, subsidiaries, representative offices, affiliates, contractors, vendors and agents of Bank and third parties selected by any of them, wherever situated, for confidential use in connection with the provision of products or Services to Client (including for data processing purposes), and further acknowledges that any such branch, subsidiary, representative office, affiliate, contractor, vendor or agent or shall be entitled to transfer any such information as required by any law, court, regulator or legal process.

23. Audit and Inspection. Bank reserves the right, with prior notice to Client, to enter upon Client's premises from time to time during regular business hours to verify that Client's operations and procedures are in compliance with the terms of the Master Agreement.

In connection with any such audit, Client agrees to furnish Bank with any documentation or information as is reasonably necessary to establish Client's compliance with the terms of the Master Agreement. If it is determined by Bank that additional procedures or controls need to be implemented by Client, Client agrees to implement such procedures or controls within a reasonable period of time to be agreed upon by the parties.

In connection with Bank's entry on the premises of Client for the purpose of conducting an on-site audit or inspection, or in connection with providing support to Client, Bank shall not be liable or responsible to Client or any third party for any loss, bodily harm, property damage, claims of the introduction of a virus or other malicious code into Client's system, including any which allegedly delay, alter or corrupt the data of Client, whether related to the transmission of check images or other data to Bank or whether caused by the equipment, software, Bank Internet service providers, Internet browsers, or other parties providing communication services to or from Bank to Client.

24. Security Interest. Client grants Bank a security interest in Client's accounts to secure the repayment of any obligation that Client incurs under the Master Agreement. The security interest provided under the Master Agreement is in addition to any other security interest Bank may have in Client's accounts or other assets. This security interest will survive termination of Master Agreement.
25. Reserve Account. Client agrees that it will, if requested by Bank at any time, establish one or more reserve accounts to be maintained with Bank in type (including time deposits) and amount satisfactory to Bank, to serve as collateral for and to secure Client's obligations to Bank under the Master Agreement. Bank may restrict or prohibit Client's access to any reserve account(s) and the funds on deposit in them, and may hold such accounts following termination of the Master Agreement for a period of time sufficient to protect Bank against loss. Bank may increase or



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decrease the required reserve account amount from time to time, upon notice to Client and Client agrees to provide immediately available funds to cover a reserve amount requested by Bank. In addition, Bank may transfer funds from another account of Client's, or use funds payable to Client or owed by Bank to Client under the Master Agreement or due to a Service, and credit such funds to a reserve account if a deficiency exists between the available funds in Client's reserve account(s) and the amounts specified by Bank as the required reserve amount.

26. Term and Termination. The term of the Master Agreement will commence upon full execution of the Master Agreement and will continue in full force and effect thereafter until terminated as follows:

- (a) Client may terminate some or all of the Services under the Master Agreement, with or without cause, upon 30 days prior written notice to Bank; and
- (b) Bank may terminate, suspend or restrict some or all of Client's access to the Services under the Master Agreement, with or without cause, at any time immediately upon notice to Client.

Any termination will not affect any obligations arising prior to termination. Upon termination, Bank may terminate Client's access to the Services, and Client will terminate its access to and use of the Services, except to the extent necessary to process transactions that were in process prior to the termination date. Within 30 days after termination of the Master Agreement, Client will, at its expense, promptly uninstall and remove all software provided for the Services from its computers and return to Bank any Software, hardware and equipment provided by Bank for the Services, including the Supporting Documents, procedures, documentation and any materials relating to the Services in its possession or under its control, destroy all copies of the Supporting Documents and materials relating to the Supporting Documents that cannot be returned, and upon request from Bank certify in writing to Bank that all such copies have been returned or destroyed. Client will be responsible and liable to Bank for the replacement cost of all lost, stolen or damaged equipment that was provided by Bank to Client in connection with the Services. Upon termination of the Master Agreement, all Services and any Licenses shall automatically terminate.

27. Client Records; Not Backup Service. The Master Agreement and the Services are not intended to relieve Client of any obligation imposed by law or contract regarding the maintenance of records or from employing adequate audit, accounting, and review practices as are customarily followed by similar businesses. The Services do not include, and Bank does not act as, a backup, data recovery or disaster contingency service. Except as otherwise stated in the Master Agreement, Client agrees to retain and provide to Bank, upon request, all information necessary to remake or reconstruct any deposit, file, entry, transmission, transaction request or order until at least three years following receipt by Bank of the deposit, file, entry, transmission, transaction request or other order affecting an account.

28. Services Not Substitute for Legal, Tax, or Financial Advice or Planning. Client acknowledges that the Services, Bank, its employees and service providers are not intended to provide legal, tax or financial advice or planning. The Services are merely a tool for use to assist Client's independent decision-making and have not been designed in contemplation of Client's specific business needs or risk tolerances. Prior to making any financial decisions, communicating or taking any action with



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respect to information made available using the Services, Client represents that it will have obtained appropriate and independent legal and tax advice regarding the same.

29. Business Days. For the purpose of the Master Agreement, Bank's business days are Monday through Friday, excluding Saturdays, Sundays, bank holidays, and any other day that Bank chooses to be closed.
30. Assignment. Bank may assign its rights and delegate its duties under the Master Agreement to a company affiliated with it or to a third party. Client may not assign any right or delegate any obligation under the Master Agreement without Bank's prior written consent.
31. Relationship of Parties. Nothing in the Master Agreement creates a joint venture, partnership, principal agent or mutual agency relationship between the parties. No party has any right or power under the Master Agreement to create any obligation, expressed or implied, on behalf of the other party.
32. Third Parties. Client acknowledges and agrees that Bank may arrange to provide Software, if required, and/or may arrange for the Services covered by the Master Agreement to be performed or provided by third parties, including its affiliates. Client further agrees that any such party is a third-party beneficiary of the Master Agreement and as such is entitled to rely on, and avail itself of, the provisions of the Master Agreement as if it was Bank, including, without limitation, the limitations on liability and the indemnities described in the Master Agreement. Bank's ability to provide certain Services may be dependent upon Bank's ability to obtain or provide access to third-party networks. In the event any third-party network is unavailable or Bank determines in its sole discretion, that Bank cannot continue providing any third-party network access, Bank may discontinue the related Service or may provide the Service through an alternate third-party network. In such situations, Bank will have no liability for the unavailability or delay of access.

Notwithstanding the limitations described above pertaining to third parties, if Client authorizes a third party to access the Services on Client's behalf, Client will be solely responsible and liable for all actions and inactions of said third party. Client expressly assumes the risks associated with providing Service access rights to its agents or third-party vendors, including but not limited to the risk of unauthorized or erroneous transactions. Bank will not be responsible, nor have any liability whatsoever for any services Client receives from Client's agents or third-party vendors. Bank reserves the right to require Client to agree to additional terms and conditions as a condition precedent to Client's use of any agent or third-party vendor in connection with Client's access to the Services.

33. Credit Criteria. Bank, in its sole discretion, may, and Client hereby authorizes Bank to, perform credit reviews of Client in accordance with Bank's credit criteria. Client shall, upon Bank's request, provide Bank with any credit-related information and assistance as Bank may require to perform any such review. Client agrees to provide Bank with financial statements or other information regarding Client's financial condition upon Bank's request.
34. Waiver. No party's failure or delay in exercising any right or remedy under the Master Agreement will operate as a waiver of such right or remedy, and no single or partial exercise of any right or



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remedy under the Master Agreement will preclude any additional or further exercise of such right or remedy or the exercise of any other right. No waiver by either party of any breach of the Master Agreement will operate as a waiver of any prior, current or subsequent breach. No waiver, breach, right or remedy will be effective unless made in writing.

35. Electronic Signatures, Contracts and Records. When any payment order or other Service generates items or transactions to be charged to an account of Client, Client agrees that Bank may charge the affected account without requiring Client's signature and without prior notice to Client. Any transactions resulting from Client's instructions which Bank receives in Client's name and under Client's credentials shall be deemed to have been "a writing" and authenticated by Client "in writing" for purposes of any law in which a writing or written signature is needed or required. All records maintained by Bank of transactions under Client's credentials shall be deemed to have been "signed" and will further constitute an "original" when printed from records established and maintained by Bank or Bank's authorized agent in the normal course of business.

Client agrees that Bank may contract and communicate electronically with Client, including execution and retention of contracts, documents, and certifications electronically. Client agrees not to contest the authorization for, or validity or enforceability of, Bank's electronic records and documents, or the admissibility of copies thereof, under any applicable law relating to whether certain agreements, files or records are to be in writing or signed by the party to be bound thereby. Records and "signed" documents, if introduced as evidence on paper in any judicial or other proceedings, will be admissible to the same extent and under the same conditions as other documentary business records. Upon Bank's written request, Client agrees to manually sign or place Client's signature on any paper original of any record or "signed" document which Bank provides to Client containing Client's purported signature.

36. Monitoring, Recording and Retaining. Client authorizes Bank (but Bank is not obligated) to monitor, record electronically and retain telephone conversations and electronic communications between Client (including its purported Authorized Representatives) and Bank. Accordingly, Client agrees on behalf of itself, its employees and agents that Bank may monitor and record Client's telephone and electronic communications in connection with the Services at any time, without further notice. Bank and Client hereby agree that Bank may produce the telephonic or electronic recordings or computer records as evidence in any proceedings brought in connection with the Master Agreement, and Client hereby acknowledges the validity and enforceability of such telephonic or electronic recordings.

37. Final Agreement; Amendments. The Master Agreement constitutes the final and complete agreement between Bank and Client with respect to the Services, and supersedes all other oral or written agreements, understandings, and representations. Bank may amend, add, delete or change the terms of the Master Agreement, including but not limited to the terms of any Service Description, and the applicable fees. Bank may make such amendments, additions, changes or deletions, at any time and at Bank's sole discretion. If Bank deems it reasonably practicable to do so and if the change adversely affects Client's usage of the Service, Bank may notify Client of the change in advance. Otherwise, Bank will notify Client of the change as soon as reasonably practicable after it is implemented, which notice may be given electronically. Client's continued use of the Services will evidence Client's consent to any amendments, including additions, changes or deletions.



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38. Availability. Bank may cause a Service to be temporarily unavailable to Client, either with or without prior notice, for site maintenance, security or other reasons, and Client acknowledges that factors beyond Bank's reasonable control, such as telecommunications failure or equipment failure, may also cause the Service to be unavailable to Client. In such event, Client must make alternative arrangements for scheduled and other anticipated transactions and Client will be responsible for maintaining procedures and facilities to enable Client to do so if any of the Services are unavailable to Client. Upon notice from Bank of a failure of any software, hardware or other equipment necessary for Bank to perform in accordance with a Service Description, Client will as soon as reasonably possible deliver to Bank all data in Client's possession or under its control which Bank reasonably requests in order for Bank to continue to provide the Service.
39. Headings. Headings are for reference only and are not part of the Master Agreement.
40. Successors and Assigns. The Master Agreement is binding upon and shall inure to the benefit of Bank and Client and their respective successors and assigns. However, in all cases the applicability of the Master Agreement to any of Client's successors and assigns must be approved in an advance writing by Bank.
41. Applicable Law; Severability. The Master Agreement shall be construed and interpreted in accordance with federal law and regulations, and to the extent such law and regulations do not apply, with the laws of the state of California, without regard to its conflict of law provisions. Even if a provision of the Master Agreement is held to be invalid, illegal or unenforceable, the validity, legality, or enforceability of the other provisions of the Master Agreement will not be affected or impaired by such holding.