



Corporate Remote Deposit Service Agreement

CLIENT: _____
STREET ADDRESS: _____
CITY, STATE, ZIP: _____
PHONE: _____
CONTACT NAME/TITLE: _____
ACCOUNTS PAYABLE FAX: _____
EMAIL ADDRESS: _____

This Remote Deposit Service Agreement (“Agreement”) is made and entered into this ____ day of _____, 20____ (“Effective Date”) by and between Affinity Bank (“Bank”), and the above named Client (“Client”). Bank and Client agree as follows:

1. **SERVICE:** Subject to the terms and conditions of this Agreement, Bank shall provide the Client remote deposit service (“Remote Deposit Service”) to allow Client to capture images of “Checks” (as defined in Regulation CC, 12 CFR Part 229) and transmit those images to Bank for processing and deposit into Client’s deposit account(s) maintained at Bank listed on Attachment 1, attached hereto, (“Account”). If Client is approved by Bank to transmit Checks to Bank to be cleared as ACH entries, an executed and approved ACH Origination Agreement (“ACH Agreement”) will be required. Unless otherwise provided, all ACH entry transactions will be governed by the ACH Agreement. Client agrees that the manner (i.e. substitute check, ACH, image exchange) in which Checks are cleared or presented for payment shall be determined by Bank in its sole discretion. Client shall closely and regularly monitor activities of employees who access the Remote Deposit Service and shall limit access to any Equipment (as defined below), user IDs, and passwords to individuals who have a need for such access. Client agrees that Bank may modify, upgrade, supplement, change, or terminate the Remote Deposit Service or Client’s access to or use of the Remote Deposit Service, at any time, in Bank’s sole discretion.
2. **EQUIPMENT:** Bank may provide Bank equipment and software (“Equipment”) to Client to allow Client to scan (capture) images of Checks and transmit those images to Bank for processing. If provided, Bank will deliver or ship such Equipment to Client at the address designated by Client in this Agreement. Client agrees to comply with any license terms or restrictions on use that accompany any Equipment provided by Bank. Client further agrees to use Equipment only for the purposes of processing Checks and information in the manner permitted by this Agreement.
 - a. **INSPECTION:** Client shall inspect any Equipment within 24 hours after receipt thereof. Unless Client, within this period of time, gives written notice to Bank specifying any defect in or other proper objection to the Equipment, Client agrees that it shall be conclusively presumed, as between Bank and Client, that Client has fully inspected and acknowledged that the Equipment is in good condition and repair, and that Client is satisfied with and has accepted the Equipment in such good condition and repair.
 - b. **OWNERSHIP; USE:** Client understands that Bank will retain ownership of the Equipment and any and all user guides, instructions, and other documentation provided by Bank for the Remote Deposit Service and that Bank hereby grants Client a nontransferable, non-exclusive license (“License”) to use the Equipment. Client agrees that nothing in this License shall give Client any right, title, or interest in the Equipment other than the right to use the Equipment in accordance with this Agreement. Client accepts the License subject to the terms and conditions set forth in this Section 2 (Equipment). Client agrees not to (i) encumber Bank’s title to, transfer, distribute, license, sell, copy, reverse compile, modify, or alter any Equipment; (ii) relocate or use Equipment outside the United States; (iii) use the Equipment to process

Checks through other institutions; (iv) use the Equipment at a location other than Client's regular place of business; (v) perform or allow others to perform alterations or repairs to the Equipment without Bank's written consent; or (vi) attempt to bypass, disable, circumvent, impair, or interfere with any security feature of the Equipment or any security feature enabled by Bank with respect to the Remote Deposit Service or transmissions to Bank via the Remote Deposit Service. Client shall follow all security-related instructions provided with the Equipment or Remote Deposit Service. Client may utilize the Equipment only at the location approved by Bank for initial installation. After the initial installation of the Equipment, any relocation of the Equipment must be approved in writing by Bank and/or performed by an authorized Bank representative. ***Failure to comply with any of the conditions in this Section 2(b)(Ownership; Use) will constitute grounds for immediate termination of this Agreement and immediate repossession of all Equipment.*** Upon termination of this Agreement by either party for any reason, Client must return the Equipment to Bank in the condition as originally provided to Client excepting ordinary wear and tear resulting from proper use.

- c. **EQUIPMENT WARRANTY:** Bank warrants that, upon delivery, any Equipment provided will conform to Bank's then current applicable standards. Client agrees to notify Bank promptly if any Equipment Bank provides to Client becomes defective. During the initial term of this Agreement, Bank, at its own expense, will repair or replace any nonconforming Equipment within seven (7) business days from the receipt of Client's notice, provided that: (1) the deficiency is attributable solely to Bank and (2) Client notifies Bank of the alleged deficiency within fifteen (15) days of its occurrence. Bank will not be responsible in any manner for any deficiency caused in whole or in part by (a) Client's improper use or care of the Equipment or (b) inaccurate or otherwise deficient data programs, equipment or communication facilities provided by Client or third parties other than Bank. Client shall bear the entire risk of loss, theft, damage or destruction of Equipment from the date of installation until return shipment FOB to Bank. Any such loss, theft, damage or destruction of equipment shall not relieve Client of the obligation to make payments or to comply with any other obligation under this Agreement. **THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
- d. **MAINTENANCE; COMPATIBILITY; AUDIT:**
- i. Bank reserves the right to service, repair, exchange, test, and perform reasonable and occasional quality assurance exams on all Equipment and to observe the use of the Equipment, as deemed necessary by Bank, both on and off Client's premises throughout the duration of this Agreement. Such exams shall not exceed a frequency of one (1) per month unless mutually agreed upon by both parties. Bank reserves the right to process test system inquiries on Client's behalf and at Client's expense in order to monitor network performance and quality assurance.
 - ii. Client will be solely responsible for obtaining and maintaining any hardware, equipment, materials or supplies, other than Equipment provided by Bank, necessary for the Remote Deposit Service such as computer(s), modem, secure and encrypted Internet connectivity, consumables (e.g. ink cartridges and other supplies), and any other equipment necessary to use the Remote Deposit Service. Any hardware, equipment, materials or supplies Client obtains from a third party must conform to Bank's Remote Deposit Service specifications and requirements and security procedures, as described below, as these specifications and procedures may change from time to time. Except for Equipment Bank provides to Client and agrees in writing to maintain, Bank will not be responsible for replacing nonconforming hardware, equipment, materials or supplies.
- e. **SECURITY PROCEDURES:**
- i. Client understands it must, and hereby agrees to, at its sole cost and expense, use computer hardware and software that meets all technical requirements for the proper delivery of the Remote Deposit Service and that fulfills Client's obligation to obtain and maintain secure access to the Internet, including, without limitation, a secure, encrypted internet connection, state of the art firewall, and adequate anti-virus, spyware, keylogger and malware protection programs or software on any and all computers used to access and utilize the Remote Deposit Service ("Host Computer"). Client agrees to promptly perform, or cause to be performed, all vendor recommended maintenance, repairs, upgrades, and replacements of such hardware, software and

programs. Client further agrees, to scan its computer hardware and software on a regular basis using a reliable computer virus detection product in order to detect and remove any such computer viruses, spyware, malware or similar device. Client shall notify Bank immediately if Client has any reason to believe the confidentiality of information on or the security of the Host Computer has been or may be breached.

- ii. Access to the Host Computer should be limited to employees or agents authorized to act for Client in connection with the Remote Deposit Service. Such persons should only be authorized to access the Host Computer under proper supervision and adequate safeguards.
- iii. Bank may also provide Client with, or require Client to establish, a User ID, a personal identification number ("PIN") and/or passwords and other procedures to access the Remote Deposit Service ("Log-in Procedures"). Client agrees to, at all times, (a) comply with the Log-in Procedures; (b) limit access to any User ID, PIN and passwords, and any other procedures to persons who have a need for such access and to closely and regularly monitor the activities of employees who access the Remote Deposit Service; (c) exercise due care in safeguarding the confidentiality and security of the, Log-in Procedures; and (d) immediately change the passwords and to notify Bank immediately if Client has any reason to believe the security or confidentiality required by this provision has been or may be breached. Client acknowledges, understands and agrees that the Log-in Procedures are not designed for the detection of errors. Bank is not, and will not be, obligated to detect errors by Client or others, even if Bank takes certain actions from time to time to do so.
- iv. Bank may from time to time amend these security procedures at which time Bank will notify Client of such change in writing. Client agrees to implement and be bound by such new security procedures.
- v. ***Failure to comply with the foregoing security procedures will constitute grounds for immediate termination of this Agreement and immediate repossession of all Equipment.***
- vi. Client acknowledges, understands and agrees that the foregoing security procedures are not designed for the detection of errors. Bank is not, and will not be, obligated to detect errors by Client or others, even if Bank takes certain actions from time to time to do so.
- vii. Client has carefully analyzed the security procedures applicable to this Agreement and acknowledges the security procedures identified herein are commercially reasonable and are a satisfactory method of verifying authorization to access the Remote Deposit Service provided thereunder.

3. **DEPOSITED CHECKS:** All Checks transmitted through the Remote Deposit Service will be processed subject to the terms of this Agreement, or if cleared as an ACH entry, the ACH Agreement, and Bank's then current deposit account agreement and disclosure pertaining to the Account(s) into which the deposit is to be made ("Deposit Agreement"). Client agrees that it will only scan and deposit checks as that term is defined in Federal Reserve Board Regulation CC (12 CFR, Part 229) (each such check and other item a "Check"). Client agrees that the image of a Check that is transmitted to Bank shall be deemed an "Item" within the meaning of Article 4 of the Uniform Commercial Code ("UCC").

- a. **PROHIBITED CHECKS:** Client agrees that, unless Bank otherwise agrees in writing, it will not deposit any Check that: (a) is payable to any person or entity other than Client, (b) is drawn, or otherwise issued, by Client or any affiliate of Client on any account of Client or of such affiliate, (c) is in violation of any law, rule or regulation, (d) Client knows or suspects, or should know or suspect, is fraudulent or otherwise not authorized by the owner of the account on which the Check is drawn, (e) has not been previously endorsed by a bank and are "Substitute Checks" (as defined in Regulation CC or other applicable federal law or regulation), without Bank's prior written consent, (f) is drawn on a financial institution located outside the United States or Territories of the United States, (g) is a Remotely Created Check, (h) is irregular in any way (e.g. where the numerical and written amounts are different), (i) has previously been returned unpaid for any reason, (j) is postdated or is more than six (6) months old, (k) exceeds the transaction limitations as Bank may establish from time to time, or (l) is not acceptable to Bank for deposit into a deposit account as provided in the Client Deposit Agreement with Bank, which is

incorporated herein by reference and made a part hereof (Checks described in clauses (a) through (l) each a "Prohibited Check" and, collectively, "Prohibited Checks"). Client should refer to the Account Agreement for other restrictions on deposits. Bank may refuse any Check for deposit, with or without cause.

b. IMAGE QUALITY AND MICR QUALITY:

- i. Client shall properly install and use all Equipment required for use of the Remote Deposit Service. Client shall (i) endorse each Check and clearly mark above the endorsement "For Deposit Only to Account [insert Client Account number]"; (ii) scan the front and back of each Check to be deposited and thereby capture the image of the front and back, the MICR encoding on, and any required data from, each Check; (iii) view each Check as it is scanned to ensure that the images (front and back) are being captured properly and clearly; and (iv) transmit the file containing the images of, the MICR line from, and all other required data and information from or pertaining to such Checks and all batched ACH data and other information to Bank (the "File").
- ii. The Images contained in the File transmitted by Client to Bank shall be of such quality that the following information can clearly be read by sight review of the Images:
 1. The amount of the Check
 2. The payee
 3. The drawer's Signature
 4. The date of the Check
 5. The Check number
 6. The information identifying the drawer and the paying bank that is preprinted on the Check, including the MICR line
 7. 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.
- iii. Images shall also meet any standards for image quality established by American National Standards Institute (ANSI), the Board of Governors of the Federal Reserve System, or any other regulatory agency, clearing house or association.
- iv. Client shall also capture and transmit to Bank the full-field MICR encoding on each Check and shall ensure that the following information is captured from the MICR line of the Check:
 1. the American Bankers Association routing transit number
 2. the number of the account on which the Check is drawn
 3. the amount of the Check
 4. when encoded, the serial number and the process control field

c. TRANSMISSION & RECEIPT OF FILE; ACCEPTANCE; REJECTION:

- i. Client shall transmit images and Files only from the Host Computer, which computer shall, at all times during the term of this Agreement, contain hardware and software that meets all technical requirements for the proper delivery of the Remote Deposit Service and that fulfills Client's obligation to obtain and maintain secure access to the Internet, including, without limitation, a secure, encrypted internet connection, state of the art firewall, and adequate anti-virus, spyware, keylogger and malware protection programs or software on any and all computers used to access and utilize the Remote Deposit Service.
- ii. To ensure accuracy, Client shall balance the dollar amount of each deposit to the sum of the Checks prior to transmitting the File.
- iii. Client may send multiple Files to Bank or Processor throughout the day, not to exceed the number of Files specified in Attachment 1.
- iv. The total dollar value of the Files sent by Client to Bank on any day shall not exceed the dollar amount specified in Attachment 1 (the "Deposit Limit"). If the total dollar value of the Files sent

by Client to Bank on any day exceeds the Deposit Limit, Bank may, at its option, refuse to accept the File that exceeds the Deposit Limit.

- v. A File is "Received" by Bank for deposit when all of the following have occurred: (i) the imaged Checks are actually received and accepted at the location where Bank or its designated agent posts the credit to the Account; (ii) Bank has preliminarily verified that the image quality of the Checks is acceptable to Bank, all Check information is complete, and the deposit totals are balanced to the Check information provided for the deposit; and (iii) Bank has successfully performed all further validation routines, Bank in its sole discretion deem appropriate. Notwithstanding the fact that Bank has accepted a File for deposit, any credit made to Client's Account shall be provisional, and Client shall remain liable to Bank for any errors, inaccuracies, breach of warranties and any other loss sustained by, or claim made against, Bank. Notwithstanding the foregoing, imaged Checks received by Bank for deposit may be rejected by Bank in its sole discretion.
 - vi. To be eligible for processing on the day transmitted, Files must be **Received** by Bank no later than 6:00 PM EST (the "Cut-Off Time," which may change from time to time) on any day, Monday through Friday, excluding Saturdays, Sundays, and Federal Reserve Bank holidays as provided on Attachment 1, attached hereto, on which day Bank is open to the public for carrying on substantially all of its banking functions ("Banking Day"). Client is aware that it will not receive credit on days that are not Banking Days. To meet the Cut-Off Time, the entire File must be received by Bank on a Banking Day, prior to the Cut-Off Time, and the File must successfully pass the edits for conformity with Bank's technical requirements. For purposes of determining when a File has been delivered and received, Bank's records shall be determinative. A File which is not balanced or which is received after the Cut-Off Time shall be deemed to have been received on the Banking Day following the Banking Day on which the File is actually received by Bank. Client acknowledges and agrees that, at the Bank's discretion, deposits may be subject to Regulation CC funds availability requirements.
 - vii. Bank reserves the right to change the number of Files that may be transmitted in a day, the Deposit Limit and the Cut-Off Time. All such changes shall be effective immediately and may be implemented prior to Client's receipt of notice thereof. Client may contact Bank at any time to verify the current number of Files that may be transmitted in a day, the Deposit Limit and the Cut-Off Time.
 - viii. Client agrees that Client shall be solely liable for, and Bank shall not have any liability whatsoever to Client for, any File or the images or other information contained therein that are not received by Bank or for any File or the images or other information contained therein that are intercepted or altered by an unauthorized third party.
 - ix. Client agrees that Bank has no obligation to accept a File and, therefore, may reject any File or the images or other information contained therein submitted by Client. Bank has no obligation to notify Client of the rejection of a File or the images or other information contained therein. Bank shall have no liability to Client for the rejection of a File or the images or other information contained therein or for the failure to notify Client of such rejection.
- d. **PROVISIONAL CREDIT AND AVAILABILITY OF FUNDS.** Upon acceptance of a File, Bank shall grant Client's Account provisional credit, subject to final settlement, for the total amount of the File. If the drawee of a Check, the clearing agent or another third party makes a claim against Bank or seeks a recredit with respect to any Check processed through the Remote Deposit Service, Bank may provisionally freeze or hold aside a like amount of funds in Client's Account pending Bank's investigation and resolution of the claim. Bank also may charge Client's Account for any Check that is dishonored or otherwise returned unpaid for any reason, including but not limited to issues relating to the quality of the image. Client understands and agrees that Bank will provide Client with images or substitute checks of any returned Checks, rather than the paper originals. For the purpose of determining availability of funds and the period of time for which funds may be held by Bank under Regulation CC, the place of deposit shall be Atlanta, Georgia. This Section 3(d) (Provisional Credit and Availability of Funds) shall survive termination of this Agreement.

e. **COLLECTION OF CHECKS.** Bank, in its sole discretion, shall determine the manner in which images shall be presented for payment to the drawee and shall select the clearing agents used to collect and present the image(s). Bank's selection of the clearing agents shall be deemed to have been designated by Client. Bank shall not be liable for the negligence of any clearing agent. Collection of Checks is also subject to the terms of Client's Deposit Agreement with Bank.

f. **RETENTION AND DESTRUCTION.**

i. Client shall stamp the Check "Processed" before or during the process of scanning the Check in accordance with Section 3(b) of this Agreement. Unless otherwise agreed to in writing by the parties, Client shall store the original Check for a period of sixty (60) days after Client has received notice from Bank that the File containing the image of such Check has been accepted (the "Retention Period"). During the Retention Period, Client shall take commercially reasonable security measures to ensure that (i) only authorized personnel shall have access to the original Check, (ii) the information contained on the Check shall not be disclosed, (iii) the Check will not be duplicated or scanned more than one (1) time, and (iv) the original Check will not be deposited or negotiated in any form. Commercially reasonable measures may include, without limitation, storing the original Check, account information, any copies of Checks and any other nonpublic personal information retained by Client in a safe or lockbox accessible only by authorized personnel.

ii. Upon expiration of the Retention Period, Client shall use commercially reasonable methods to destroy original Checks. Commercially reasonable methods may include shredding, burning, or pulverizing the Checks so that information contained thereon cannot be read or reconstructed. Client should maintain a locked or secure trash bin for the disposal of shredded Checks.

iii. During the Retention Period, Client will promptly, but in all events within five (5) business days, provide any retained Check (or if the Check is no longer in Client's possession, a sufficient copy of the Check) to Bank as requested to facilitate investigations related to unusual transactions or poor quality transmissions, to resolve disputes or claims by third parties with respect to any Check, or for use for any other legal purpose. A sufficient copy of a Check is a paper reproduction of an original Check that accurately represents all the information on the front and back of the original Check as of the time the image was transmitted through the Remote Deposit Service.

iv. This Section 3(f) shall survive termination of this Agreement.

4. **FEES, COSTS, AND PAYMENTS:** For the duration of this Agreement, Client shall pay to Bank the following fees. Such fees are subject to change at anytime upon thirty (30) days prior written notice to Client.

a. **NETWORK ACCESS FEES:** Client shall pay to Bank the initial setup fee and monthly access fee assessed to the Client, pursuant to Bank's Fee Schedule, which Fee Schedule is available on Bank's website at www.myaffinitybank.com, as compensation to Bank for the provision of training and installation of the Equipment, access to the Remote Deposit Service through Bank's remote deposit service vendor, and Bank's Client support ("Network Access Fees"). Client acknowledges that the Network Access Fees are in addition to any Other Costs and any Transaction Fees, each as defined below, the Client may incur.

b. **TRANSACTION FEES:** A transaction fee will be assessed to the Client for each Check processed through the Remote Deposit Service, pursuant to Bank's Fee Schedule ("Transaction Fee").

c. **OTHER COSTS:** Client will be responsible for all telecommunications-related costs, including communications lines and data processing charges, as well as the costs of any hardware or supplies necessary to access the Remote Deposit Service ("Other Costs"). Bank will not be obligated to supply any special equipment (e.g., electrical outlets, telephone outlets, surge protectors, extension cords) necessary to operate any Equipment or hardware.

d. **TAXES:** In addition to the Network Access Fees, Transactions Fees, and Other Costs, Client shall be responsible for all taxes, tariffs and assessments levied or imposed in connection with the Remote Deposit

Service, this Agreement, and the Equipment made available for Client.

e. **PAYMENT:**

- i. Invoices are payable upon receipt. If not paid within thirty (30) days from date of invoice, Bank may, in its sole discretion, immediately terminate this Agreement and Client's access to the Remote Deposit Service without prior notice. Regardless of whether Bank exercises this termination right, Bank will assess and Client agrees to pay a finance charge equal to 1.5% per month, (18%) per year on all outstanding balances thirty one (31) days and older. Client shall be responsible to Bank for all costs incurred by Bank to collect any outstanding balances due Bank including, without limitation, reasonable attorney's fees and court costs.
- ii. In the event any dispute arises involving any of the items contained on Bank's invoice, Client agrees to promptly notify Bank of said dispute but will not withhold payment. Bank shall investigate such disputed items within fifteen (15) days and promptly notify Client of the findings of its investigation.

5. **TERM/TERMINATION:** This Agreement shall be effective from the Effective Date and shall continue in effect for an initial term of one (1) year, except as set forth below. Thereafter, this Agreement will automatically renew for successive one (1) year terms, unless earlier terminated by either party pursuant to the termination provisions provided below.

- a. Client may terminate this Agreement for cause during the initial term upon at least sixty (60) days prior written notice.
- b. During any successive term, either party may cancel the Agreement, with or without cause, upon at least sixty (60) days prior written notice. Notification of cancellation must be by registered or certified mail and if to Bank, at the address set forth in Section 26 (Notice) below and if to Client, at the address provided in this Agreement or the most recent address shown for Client in Bank's records.
- c. Bank may immediately terminate this Agreement or suspend the Remote Deposit Service at any time if:
(i) Bank has reason to suspect that Client has engaged in fraudulent, unlawful, or illegal activity; (ii) Bank otherwise reasonably determines that such suspension or termination is necessary to protect Bank or the Remote Deposit Service from harm or compromise of integrity, security, reputation, or operation; (iii) Client causes a system malfunction or fails to make changes to Equipment or other hardware, materials or supplies, which Bank determines, in its sole discretion, would prevent future malfunctions; (iv) Client fails to maintain balances in Accounts sufficient to cover overdrafts; (v) Client becomes insolvent; (vi) Client fails to provide financial information requested by Bank or Bank otherwise concludes, in its sole discretion, that the risk of Client is unacceptable; (vii) Client fails to comply with the security procedures and limitations on use of Equipment as provided in Section 2 (Equipment); (viii) Client refuses to give Bank access to Client's premises for the purpose of ensuring that Client is in compliance with this Agreement or to perform an audit of Client's operational controls, risk management practices, staffing and the need for training and ongoing support, and IT infrastructure; or (ix) Bank determines it is impractical to provide the Remote Deposit Service due to changes in laws, rules, or regulations.
- d. Upon termination of this Agreement, Client will promptly pay to Bank all sums due or to become due under this Agreement and Client shall have no further right to make use of the Remote Deposit Service or any system or software which may have been provided in connection with any Remote Deposit Service.
- e. No later than fifteen (15) days after the termination of this Agreement, Client shall return to Bank the Equipment in the condition as originally provided to Client excepting ordinary wear and tear resulting from proper use, packed for proper shipment, shipped FOB to such place or carrier as Bank shall specify. Client shall be liable to Bank for the replacement cost of any lost, stolen, or damaged Equipment or any Equipment that has not been returned to Bank within fifteen (15) days of the termination of this Agreement.
- f. Within (15) days after termination of this Agreement, Client shall, at its own expense, promptly uninstall and remove any software provided for the Remote Deposit Service from its computers and return to Bank, any documentation and materials relating to the Remote Deposit Service and destroy any copies of such

documentation and materials. Client shall certify in writing, within fifteen (15) days of termination of the Agreement, that all copies of documentation and materials have either been returned or destroyed.

- g. Termination of this Agreement shall not effect either party's rights or obligations with respect to deposits initiated by Client prior to termination or any payment obligations of Client for Remote Deposit Service provided or transactions processed prior to termination.

6. **CONFIDENTIALITY:**

- a. Client, its employees, vendors and clients each recognize, acknowledge, and hereby agree that all information or data, including user guides, manuals, software, processes, and other information, provided to Client in connection with the Remote Deposit Service and all fee and pricing information with respect to the Remote Deposit Service ("Information") is the proprietary and confidential property of Bank and/or its licensors or suppliers. Client agrees to use the Information only in the manner specified by Bank and in the ordinary course of Client's business, to return the information to Bank upon termination of this Agreement, and to keep the Information confidential and to limit access thereto only to Client's agents and employees who require access in the normal course of their duties or as otherwise provided for in this Agreement or as required by law.
- b. Client acknowledges that any specifications or programs developed by Bank in connection with this Agreement, or supplied or made available to Client by Bank, are the exclusive property of Bank, its agents, suppliers or contractors, and agrees that such material shall not be copied or used in any manner or for any purpose without the express written consent of Bank. Client agrees to hold confidential, and to use only in connection with the Remote Deposit Service, all information furnished to Client by Bank including, but not limited to, Bank's product and service pricing structure, system design, programming techniques or other unique techniques.
- c. If Client maintains or possesses any consumer information in connection with transmission and storage of Checks through the Remote Deposit Service, Client hereby agrees to implement proper and commercially reasonable security measures and internal controls to ensure the confidentiality of any nonpublic personal information retained by Client. Commercially reasonable measures may include, but are not limited to, storing any nonpublic personal information retained by Client in a safe or lockbox or on a password protected and encrypted computer accessible only by authorized personnel. Client shall also use commercially reasonable methods to destroy such nonpublic personal information. Commercially reasonable methods may include shredding, burning, or pulverizing paper copies so that information contained thereon cannot be read or reconstructed and destroying or erasing any electronic media containing such consumer information.
- d. All information of a business nature relating to the assets, liabilities or other business affairs disclosed to Bank by Client in connection with this Agreement is confidential. Except as required by applicable law, Bank shall not disclose or permit access to any such information by any person, firm or corporation. Bank shall cause its officers, employees and agents to take all reasonably necessary actions to preserve and protect the confidentiality of such information and shall disclose such information only to persons needing to have access thereto for the performance of Bank's obligations under this Agreement or to any other party to which Bank may be required by law to report such information.
- e. Bank's and Client's obligations and agreements under this paragraph shall not apply to any information supplied that was known to either party prior to the disclosure by the other, is or becomes generally available to the public other than by breach of this Agreement or otherwise becomes lawfully available on a non-confidential basis from a third party who is not under an obligation of confidence to either party. Notwithstanding anything to the contrary contained herein, it is understood and agreed by the parties hereto that the performance of the Remote Deposit Service is or might be subject to regulation and examination by authorized representatives of the Georgia Department of Banking and Finance, the Federal Deposit Insurance Corporation and/or other federal or state regulatory agencies, and Client agrees to the release by Bank of Client's reports, information, assurances and other data and information as may be required under applicable laws and regulations.
- f. This Section 6 (Confidentiality) shall survive termination of this Agreement.

7. **THIRD PARTY SERVICES:** Client acknowledges and agrees that, in providing the Remote Deposit Service hereunder, Bank may utilize and rely upon certain third party service providers (“TPSPs”) to provide database storage, database access, switching and other data communications services to Bank. The Client further acknowledges and agrees that the Client’s rights under this Agreement shall be solely and exclusively against Bank, and the Client shall have no right or recourse against any TPSP hereunder whatsoever, and hereby waives any and all such rights or recourse, directly or indirectly, against any TPSP.
8. **LAWS, RULES, AND REGULATIONS:** Client agrees to comply with and be bound by all existing and future operating procedures used by Bank for processing of transactions and to otherwise perform its obligations under this Agreement in accordance with the UCC and all other applicable state or federal laws, rules, regulations, orders, guidelines, operating circulars and pronouncements, affecting checks and drafts and ACH transactions, including, but not limited to, all rules and procedural guidelines established by the Federal Trade Commission (“FTC”), the Board of Governors of the Federal Reserve, National Check Exchange (“NCE”), Small Value Payments Company (“SVPCo”), Viewpointe, Endpoint Exchange, the National Automated Clearing House Association (“NACHA”), Electronic Check Clearing House Organization (“ECCHO”), and any other clearinghouse or other organization in which Bank is a member or to which rules Bank has agreed to be bound; Title V of the Gramm-Leach-Bliley Act of 1999, and the rules and regulations thereunder, concerning the protection and privacy of non-public personal or private information; the Check 21 Act (12 USC 5001, et. seq.), including all procedures, rules and regulations promulgated thereunder, including but not limited to Subpart D of Regulation CC; and shall not, among other things, violate any prohibitions of the restrictions imposed under the Unlawful Internet Gambling Enforcement Act of 2006 (“UIGEA”); the U.S.A. Patriot Act, the Bank Secrecy Act, or violate any prohibitions promulgated or enforced by the Office of Foreign Assets Control, or act on behalf of, or transmit funds to or from, any party subject to such prohibitions. These procedures, rules, and regulations and laws (collectively the “Rules”) are incorporated herein by reference. In the event of conflict between the terms of this Agreement and the Rules, the Rules will control.
9. **SECURITY INTEREST:** Client grants Bank a security interest in all Accounts or other deposits (whether general or special) of Client’s at Bank, and in all funds in such Accounts or other deposits, to secure Client’s obligations to Bank under this Agreement. This security interest will survive termination of this Agreement.
10. **SETTLEMENT RESERVE:** Client may be required to maintain a reserve (“Settlement Reserve”) of an amount to be solely determined by Bank to secure Client’s obligations hereunder. Client acknowledges and agrees that any Settlement Reserve will be deposited in a Bank account for exclusive use by Bank for purposes of offsetting any of Client’s obligations under this Agreement. Client grants Bank a security interest in any Settlement Reserve to enable Bank to enforce any obligation owed by Client under this Agreement without notice or demand to Client. Client’s obligation to maintain a Settlement Reserve shall survive the termination of this Agreement, with such obligation lasting until all of Client’s obligations under this Agreement have been fully paid.
11. **CONTINGENCY PLAN.** Client agrees that in the event that Client is not able to capture, balance, process, or otherwise transmit a File to Bank for any reason, including but not limited to communications, equipment or software outages, interruptions or failures, Client will transport the physical Checks to the closest office of Bank or mail in the original Check(s) to Bank, until such time that the outage or other interruption can be identified and resolved. The deposit of original Checks at an office of Bank shall be governed by the terms and conditions contained in the Client’s Deposit Agreement and not by the terms of this Agreement.
12. **CLIENT’S REPRESENTATIONS AND WARRANTIES.** Client hereby represents and warrants as of the date hereof and upon the submission of each image to Bank using the Remote Deposit Service:
 - a. Client is not a consumer and the Remote Deposit Service will be used for business purposes only.
 - b. Client will use the Remote Deposit Service only for its own internal business use in accordance the terms and conditions of this Agreement. Without limiting the Generality of the foregoing, Client agrees not to make the Remote Deposit Service available or allow use of the Remote Deposit Service in a computer bureau service business, timesharing, or otherwise disclose, allow use of or resell the Remote Deposit Service to, or for the benefit of any third party.
 - c. Client is authorized to enter into, and perform its obligations under, this Agreement; the person signing this Agreement on behalf of Client is duly authorized to execute this Agreement; this Agreement is valid and enforceable against Client in accordance with its terms; and the entry into, and performance of, this Agreement by Client will not violate Client’s organizational documents, or any law or other agreement to

which Client is subject.

- d. Client is not bankrupt, insolvent, has not made an assignment for the benefit of creditors, and has not sought protection of any bankruptcy, insolvency or similar proceeding.
- e. There is no action, suit or proceeding pending or, to Client's knowledge, threatened which, if decided adversely, would impair Client's ability to carry on its business substantially as now conducted or which would adversely affect Client's financial condition or operations.
- f. Client shall only deposit Checks that are authorized by this Agreement and the Bank Deposit Agreement.
- g. Each image delivered to Bank is for a payment obligation validly due and owing to Client.
- h. Client has taken and knows of no action that would obscure, alter, or impair the capture or transmission of information on the front or back of the Check or that otherwise may prevent Bank or another institution from capturing or processing such information and the images and information that are transmitted accurately represent all of the information on the front and back of the original Check, including without limitation, all endorsements at the time of transmission.
- i. The Check bears all endorsements applied by parties that previously handled the check in any form (including the original check, a substitute check, or another paper or electronic representation of such original check or substitute check) for forward collection or return.
- j. Client will not attempt, directly or indirectly, to negotiate, deliver, transfer, or deposit any paper Check or Check image or data to Bank or any other institution for processing and settlement, after the image or Check has already been transmitted to Bank. Client acknowledges and agrees that Bank will not, and is not responsible for, checking or verifying that Client has not submitted duplicate copies of the same paper Check, whether through the Remote Deposit Service or any other means.
- k. No Files or Checks submitted by Client contain any computer viruses or other harmful, intrusive or invasive codes. All Files and Checks have been submitted only from the Host Computer(s), which computer(s) meets all technical requirements for the proper delivery of the Remote Deposit Service and that fulfills Client's obligation to obtain and maintain secure access to the Internet.
- l. Client, to the fullest extent permitted by law, makes all warranties and indemnifications set forth in Check 21, including, without limitation, all encoding, transfer, presentment, and other warranties that Bank (or any correspondent bank) are deemed to provide others (as a Reconverting Bank or Truncating Bank); all warranties and indemnities that would otherwise apply to the Check if it had been a paper Item deposited with Bank, including, without limitation, those warranties and indemnities in Articles 3 and 4 of the UCC and those warranties set forth in Section 4-207 of the UCC.
- m. All information provided by Client to Bank is true, complete and accurate and properly reflects the business, financial condition and principal partners, owners or officers, of Client. Client is not engaged in, or affiliated with, any businesses, products or methods of selling other than those disclosed by Client to Bank.

This Section 12 (Client's Representations and Warranties) shall survive termination of this Agreement.

13. **FINANCIAL INFORMATION AND AUDIT.**

- a. Bank may from time to time request information, including but not limited to financial statements, from Client in order to evaluate continuation of the Remote Deposit Service to be provided by Bank hereunder and/or adjustment of any limits set by this Agreement. Client agrees to provide the requested financial information immediately upon, but in no case later than five (5) days from, request by Bank, in the form required by Bank. Client authorizes Bank to investigate or reinvestigate at any time any information provided by Client in connection with this Agreement or the Remote Deposit Service and to request reports from credit bureaus and reporting agencies for such purpose.
- b. Upon request by Bank, Client hereby authorizes Bank to enter Client's business premises for the purpose of

ensuring that Client is in compliance with this Agreement and Client specifically authorizes Bank to perform an audit of Client's operational controls, risk management practices, staffing and the need for training and ongoing support, and IT infrastructure. Client hereby acknowledges and agrees that Bank shall have the right to mandate specific internal controls at Client's location(s) and Client shall comply with any such mandate. In addition, Client hereby agrees to allow Bank to review available reports of independent audits performed at the Client location in relation to information technology, the Remote Deposit Service and any associated operational processes. Client agrees that if requested by Bank, Client will complete a self-assessment of Client's IT infrastructure, operations, management, staff, systems, internal controls, training and risk management practices that would otherwise be reviewed by Bank in an audit of Client.

- c. **If Client refuses to provide the requested financial information, or if Bank concludes, in its sole discretion, that the risk of Client is unacceptable, or if Client refuses to give Bank access to Client's premises for the purpose of ensuring that Client is in compliance with this Agreement or to perform an audit of Client's operational controls, risk management practices, staffing and the need for training and ongoing support, and IT infrastructure, Bank may immediately terminate this Agreement and the Remote Deposit Service provided hereunder.**

14. RESPONSIBILITIES; LIMITATION OF LIABILITY.

- a. Bank's duties and responsibilities are limited to those described in this Agreement, the Bank Deposit Agreement and any other agreements governing the Accounts. Bank will use commercially reasonable care in performing its responsibilities under this Agreement.
- b. Bank will provide periodic statements of Client's Accounts, which statements will show any deposits processed through the Remote Deposit Service. Client agrees to monitor its Account balances and charges and to promptly notify Bank if any such information conflicts with Client's records. If Client does not notify Bank of such a discrepancy within fourteen (14) days of Client's receipt of any computer printout, mailed report or periodic statement whichever is received first, then such transactions shall be considered correct, and Client shall be precluded from asserting such error or discrepancy against Bank or any TPSP. In all instances, Bank's, and any TPSP's, if such services are utilized in the provision of the Remote Deposit Service, sole liability to Client shall be limited to correction of any errors made.
- c. In no event will Bank have any responsibility or liability for any damages caused by Client's breach of any provision, or failure to perform Client's responsibilities under the terms, of this Agreement.
- d. Client is solely responsible, and Bank shall have no responsibility or liability, for the quality, accuracy, and authenticity of all images, data, and other information submitted to Bank by Client or on Client's behalf by any third party.
- e. Client is solely responsible, and Bank shall have no responsibility or liability, for the consequences of any misuse or unauthorized use, including fraudulent use, of or access to the Remote Deposit Service or disclosure of any confidential information by Client, Client's employees, Client's agents or any other third parties.
- f. Client shall be solely liable for, and Bank shall not have any liability whatsoever to Client for, any File or the images or other information contained therein that are not received by Bank or for any File or the images or other information contained therein that are intercepted or altered by an unauthorized third party.
- g. Bank shall have no liability for acts, omissions or errors of any carrier and/or agent operating between Client and Bank or Bank and any Federal Reserve Bank or other agency utilized to exercise transfers or any recipients of transferred funds; or any incorrect, unauthorized or fraudulent use or other fraud by any person other than Bank's employees.
- h. Bank shall in no event be liable for any damages of any kind (whether in contract, tort or otherwise) that are attributable or in any way related to the Internet infrastructure or Client's or Bank's ability or inability to connect to the Internet.
- i. Bank is not responsible for, and Client hereby releases Bank from any and all claims or damages resulting from or related to, any computer virus, spyware, malware or similar device that affects Client's computer or

software while using the Remote Deposit Service.

- j. Except as expressly set forth in this agreement, Bank shall not be responsible or liable for any errors or failures resulting from defects in, or malfunctions of Equipment, Client's computer hardware or software, for the quality of performance or lack of performance of any computer software or hardware or internet delivered services, whether supplied by Bank or not, in connection with this Agreement, or for the transmission or failure of transmission of any information from Client to Bank, from Bank to Client, from Client to any processor, from any processor to Bank, or otherwise. Bank shall not be responsible for notifying Client of any upgrades or enhancement to any of Client's computer hardware or software. Bank is not responsible for, and Client hereby releases Bank from any and all claims or damages resulting from, or related to, any computer virus or related problems that may be associated with using electronic mail or the Internet.
- k. Bank shall have no liability for and shall be excused from any failure to carry out, or delay in carrying out, any of its obligations under this Agreement if such failure or delay results from circumstances beyond Bank's control, including but not limited to acts of God, strikes, and other labor disputes, stoppages of the U.S. Postal Service and commercial carriers, electric or power disruption or shortage, telecommunications failure or computer failures, civil disorder, catastrophes of nature, fire, explosion, natural or man-made floods or any severe weather, war, failure of a communications or computer system, nuclear attack, embargoes, actions or inactions of governmental authorities affecting either Bank or suppliers to Bank, or any other cause or circumstance beyond Bank's control or other conditions or circumstances not wholly controlled by Bank, which would prohibit, delay or otherwise affect Bank's complete or partial performance under this Agreement.
- l. WITHOUT LIMITING THE FOREGOING, EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT OR WHERE REQUIRED BY LAW, UNDER NO CIRCUMSTANCES SHALL BANK HAVE ANY LIABILITY FOR ANY CLAIM, DAMAGES, LOSSES, LIABILITIES OR EXPENSES UNLESS SUCH SHALL BE DIRECTLY AND SOLELY ATTRIBUTABLE TO BANK'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT IN CARRYING OUT ITS OBLIGATIONS UNDER THE TERMS OF THIS AGREEMENT. TO THE FULLEST EXTENT ALLOWED BY LAW, AND SUBJECT TO THE FOREGOING, Bank'S LIABILITY TO CLIENT UNDER THIS AGREEMENT SHALL BE LIMITED TO CORRECTING ERRORS RESULTING FROM Bank'S FAILURE TO EXERCISE ORDINARY CARE.
- m. WITHOUT LIMITING THE FOREGOING, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO NEGLIGENCE, BANK'S LIABILITY SHALL IN NO EVENT EXCEED THE LESSER OF (i) TWENTY-FIVE THOUSAND DOLLARS (\$25,000) OR (ii) THE TOTAL FEES PAID BY CLIENT TO Bank FOR THE REMOTED DEPOSIT SERVICE FOR THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE ALLEGED GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OR (iii) CLIENT'S ACTUAL DAMAGES.
- n. IN NO EVENT SHALL BANK BE RESPONSIBLE OR LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR INCIDENTAL DAMAGES, LOSSES OR INJURIES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF USE, OR LOSS OF DATA) ARISING OUT OF, OR RELATED TO, THE USE BY CLIENT OF THE REMOTE DEPOSIT SERVICE OR THE FAILURE OF BANK TO PROPERLY PROCESS AND COMPLETE TRANSACTIONS THEREUNDER, EVEN IF BANK SHALL HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- o. No action, regardless of form, arising out of this Agreement may be brought by either party hereto more than one (1) year after the event giving rise to the cause of action except in the case of nonpayment, in which case the applicable statute of limitation for collection actions will be applicable.
- p. This Section 14 (Responsibilities; Limitation of Liability) shall survive termination of this Agreement.

15. **INDEMNIFICATION:**

- a. Client hereby indemnifies Bank and each of Bank's officers, directors, employees, members, partners,

agents, insurers and attorneys (each and “Indemnified Party” and, collectively, the “Indemnified Parties”) for, and holds each of the Indemnified Parties harmless from and against, all actions, causes of action, claims, damages, liabilities and expenses (including court costs and reasonable attorneys’ fees) of any nature or kind (including those by third parties) arising out of, or related to, this Agreement, including all actions, causes of action, claims, damages, liabilities and expenses arising out of, or resulting from (i) the wrongful acts or omissions of Client, or any person acting on Client’s behalf (including, without limitation, Client’s authorized processor, if any), in connection with Client’s use of the Remote Deposit Service, including, without limitation, (a) the breach by Client of any provision, representation, or warranty, or failure to perform under the terms, of this Agreement, (b) the negligence or willful misconduct (whether by act or omission) of Client or its Clients or any third party on Client’s behalf, (c) any misuse of the Remote Deposit Service by Client, or any third party within Client’s control or on its behalf, (d) the failure by Client to comply with the 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 connection with any Check processed by Bank for Client or at Client’s instruction; (ii) any act or omission of Bank that is in accordance with this 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 imaged Check to Bank; (iv) any loss or corruption of data in transit from Client to Bank; or (v) any claim by any recipient of the substitute check instead of the original Check.

- b. Client is not obligated to indemnify Bank for any damages caused solely and directly by Bank’s gross negligence or willful misconduct.
- c. This indemnification provision shall survive the termination of this Agreement.

16. DISCLAIMER OF WARRANTIES:

- a. CLIENT ACKNOWLEDGES AND AGREES THAT CLIENT’S USE OF THE REMOTE DEPOSIT SERVICE SHALL BE AT CLIENT’S SOLE RISK, AND THAT THE REMOTE DEPOSIT SERVICE IS PROVIDED BY Bank ON AN “AS IS” AND “AS AVAILABLE” BASIS.
- b. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, Bank MAKES ABSOLUTELY NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, IN LAW OR IN FACT, TO CLIENT OR TO ANY OTHER PERSON, AS TO THE REMOTE DEPOSIT SERVICE OR ANY ASPECT THEREOF INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, OR SUITABILITY, AND Bank HEREBY DISCLAIMS ANY AND ALL OF THE SAME. CLIENT AGREES THAT NO ORAL OR WRITTEN ADVICE OR REPRESENTATION OBTAINED FROM ANY Bank EMPLOYEE OR REPRESENTATIVE SHALL CREATE A WARRANTY OR REPRESENTATION FOR PURPOSES OF THIS AGREEMENT OR THE REMOTE DEPOSIT SERVICE TO BE PERFORMED PURSUANT HERETO.
- c. Bank MAKES ABSOLUTELY NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, IN LAW OR IN FACT, TO CLIENT OR TO ANY OTHER PERSON AS TO ANY COMPUTER HARDWARE, SOFTWARE OR EQUIPMENT IN CONNECTION WITH THE REMOTE DEPOSIT SERVICE, INCLUDING, BUT NOT LIMITED TO, CLIENT’S COMPUTER SYSTEMS OR RELATED HARDWARE, CLIENT’S SOFTWARE, OR CLIENT’S INTERNET SERVICE PROVIDER OR ITS EQUIPMENT, OR AS TO THE SUITABILITY OR COMPATIBILITY OF Bank’S SOFTWARE, INTERNET DELIVERED SERVICE, EQUIPMENT OR COMMUNICATION INTERFACES WITH THOSE THAT CLIENT USES, OR AS TO WHETHER ANY SOFTWARE OR INTERNET DELIVERED SERVICE WILL PERFORM IN AN UNINTERRUPTED MANNER, INCLUDING (WITHOUT LIMITATION) ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, OR SUITABILITY, AND Bank HEREBY DISCLAIMS ANY AND ALL OF THE SAME.

- 17. NOTICE OF CHANGES.** Client shall provide written notice to Bank of any changes to the information previously provided by Client to Bank, including, but not limited to, any additional locations, any change in business, any new business, the identity of principals and/or owners, the form of business organization, type of goods and services provided and method of conducting sales. Such notice must be received by Bank within five (5) business days of the change. Client shall provide any additional information requested by Bank within five (5) days of such request.

Bank retains the right to: (i) review Client's Checks, Files and business activities from time to time to confirm Client is conducting business as stated by Client at the time of the execution of this Agreement and (ii) re-price or terminate the Remote Deposit Service based on changes to information previously provided to Bank by Client.

18. **USE OF TRADEMARKS AND COPYRIGHTED MATERIALS.** Client may not use Bank's name, trademarks, or promotional materials without the express written consent of Bank. Client will not indicate, directly or indirectly, that Bank endorses, or is connected in any way with, any of Client's goods or services. This Section 18 (Use of Trademarks and Copyrighted Materials) shall survive termination of this Agreement.
19. **RECORDING AND USE OF COMMUNICATIONS.** Client agrees that all telephone conversations or data transmissions between the parties or their agents made in connection with this Agreement may be electronically recorded and retained by Bank by use of any reasonable means.
20. **SUCCESSORS.** This Agreement and all the terms and conditions herein shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns.
21. **ASSIGNMENT.** Client may not assign this Agreement or any of the rights or duties hereunder to any person without Bank's prior written consent.
22. **NO THIRD PARTY BENEFICIARIES.** This Agreement shall not be construed to confer any rights or remedies upon any person not a party to this Agreement, whether as a third party beneficiary or otherwise, against Client or Bank, their respective successors, assigns and affiliates.
23. **HEADINGS.** Headings are used for reference purposes only and shall not be deemed a part of this Agreement, nor shall they affect in any way the meaning or interpretation of any provision of this Agreement.
24. **ENTIRE AGREEMENT.** The terms of the Deposit Agreement, all other agreements with Bank pertaining to the Accounts and the Rules, are incorporated by reference and made a part of this Agreement. In the event of any conflict between the terms of such other agreements, the Rules and the provisions of this Agreement, the terms of this Agreement shall control to the extent necessary. Client agrees that this Agreement is the entire statement of the terms and conditions which apply to the subject matter hereof and supersedes all prior written or oral communications between the parties relating to the Remote Deposit Service.
25. **AMENDMENTS.** Bank may amend the terms of this Agreement at any time, in its sole discretion, by giving notice to Client. If required by this Agreement or by applicable law, notice will be given the applicable required number of days in advance of each such amendment. Client's continued use of the Remote Deposit Service shall constitute Client's agreement to such amendments. No amendments requested by Client shall be effective unless received, and agreed to in writing, by Bank.
26. **NO WAIVER.** No delay or failure on the part of Bank in exercising any of Bank's rights under this Agreement shall constitute a waiver of such rights, and no exercise of any remedy hereunder by Bank shall constitute a waiver of its right to exercise the same or any other remedy hereunder. Except for changes made in accordance with this Agreement, no deviation, whether intentional or unintentional, will constitute an amendment of this Agreement or will constitute a waiver of any right or duty of either party.
27. **SEVERABILITY.** Any provision of this Agreement, which is prohibited or unenforceable by operation of law, shall be ineffective to the extent of such prohibition or unenforceability without invalidating or affecting the remaining provisions hereof.
28. **CONSTRUCTION.** This Agreement is an agreement between parties who are experienced in sophisticated and complex matters similar to the transactions contemplated by this Agreement, is entered into by both parties in reliance upon the economic and legal bargains contained herein, and shall be interpreted and construed in a fair and impartial manner, without regard to such factors as the party which prepared the instrument or drafted any provision thereof, the relative bargaining powers of the parties or the domicile of any party.
29. **GOVERNING LAW.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Georgia, without reference to its conflict of laws provisions, and applicable federal law.

30. **NOTICES.** Except as otherwise required in this Agreement, any notice required hereunder shall be given by first class U.S. Mail, postage prepaid, by receipted hand delivery, electronically or by any other means agreed upon by both parties and if to Bank, at the address set forth below and if to Client, at the address provided in this Agreement or the most recent address shown for Client in Bank's records. Notice will be effective when received, or five (5) days after being mailed by U.S. mail or one (1) day after being sent by electronic mail, whichever is earlier.

If to Bank:

Attention: Deposit Operations
Affinity Bank
400 Galleria Parkway SE, Suite 900
Atlanta, GA 30339

31. **CONSTRUCTION AND INTERPRETIVE RULES.** The meanings given to terms defined herein will be equally applicable to both the singular and plural forms of such terms. The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement, and all section references are to this Agreement unless otherwise specified. The words "include," "includes" and "including" will be deemed to be followed by the phrase "without limitation." The word "days" means calendar days unless otherwise specified herein. The word "or" shall not be exclusive. Whenever the context may require, any pronoun includes the corresponding masculine, feminine and neuter forms. Except as otherwise expressly provided herein, all references to "dollars" or "\$" will be deemed references to the lawful money of the United States of America. No provision of this Agreement shall be construed to require a party or its respective officers, directors, or affiliates to take any action that would violate or conflict with any applicable law.

32. **COUNTERPARTS.** This Agreement may be executed and delivered (including by facsimile transmission) in one or more counterparts, and by the different parties in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement through their duly authorized officers.

Affinity Bank

Client: _____

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Attachment 1

1. **Account(s):** _____

2. **Transmission Limitations**

The total dollar amount per day transmitted by Client shall not exceed \$ _____.
The maximum item amount transmitted by Client shall not exceed \$ _____.

3. **Federal Reserve Bank Holiday Schedule**
(Non-processing days)

- New Year's Day
- Martin Luther King JR's Birthday
- Presidents' Day Memorial Day
- Independence Day
- Labor Day
- Columbus Day Veteran's Day
- Thanksgiving Day
- Day After Thanksgiving (Friday)
- Christmas Day
- Weekends (Saturday and Sunday)

Affinity Bank Client Risk Management Set Up Form

Business Client: _____

RDC clients who are set up for the RDC delivery system must sign and date the checklist provided to them at the time of the training by the bank representative. This checklist must also be signed by the bank representative and a copy placed in the client file. This form serves the purpose of ensuring appropriate risk management controls are communicated with the business client in accordance with the RDC agreement.

- Review Agreement (ensure clear communication of agreement has been provided by the Bank Representative and/or if they have questions, provide the contact information for them)
- Physical Location of Scanner (explain to Client if the scanner changes physical location, the client MUST communicate this change to the bank contact immediately)
- Importance of Secured Storage of checks
- Retention of Check Copies for 60 days (provide information on HOW images would be provided if these are requested)
- Destruction of Checks
- Proper placement of check into scanner
- Reports to review on RDC system (showing report to ensure deposit is approved, return/exception report, etc.) – Submitted report and Approved Report
- Exception Procedures (receiving deposited check(s) back and reinitiating procedures)
- Contingency Procedures
- Contact information at bank and Back-Up contact information (The phone number for Support (866) 736-8194).
- Personal account linked to business account (if applicable)
- RDC On-site Inspection – An inspection of the business client operations may be required if there are spikes in activity that are suspect in nature.
- Provide copy of Reference/User Guide
- Procedures for replacing a scanner
- Exposure limit procedures (if applicable)

By signing below, I (authorized business client) acknowledge that the bank has clearly communicated the usability of the Affinity Bank RDC delivery system and communicated risk management controls that I am required to incorporate for use of this system.

Authorized Signers Name/Title (Please Print): _____

Authorized Signature: _____

Bank Representatives Name/Title (Please Print): _____

Bank Representatives Signature: _____