

TotalDirectBank

DEPOSIT AGREEMENT

Effective September 1, 2019

To learn more about TotalDirectBank, visit: www.totaldirectbank.com

Member FDIC

INTRODUCTION

Thank you for choosing TotalDirectBank, a division of City National Bank of Florida. We welcome the opportunity to serve you. Our Deposit Agreement (hereinafter the "Agreement") contains the following important sections:

- I. DEPOSIT ACCOUNT AGREEMENT
- II. SUBSTITUTE CHECKS AND YOUR RIGHTS
- III. WIRE TRANSFERS AND AUTOMATED CLEARING HOUSE (ACH) TRANSACTIONS
- IV. IDENTITY THEFT AND PRETEXT CALLING

Please **READ** and **RETAIN** this Agreement so that you can refer to it whenever you have a question about your account. If you have any questions after reading this Agreement, we will be happy to answer them. You may obtain an additional copy of this Agreement online or by calling 1-888-682-2881.

I. DEPOSIT ACCOUNT AGREEMENT

1. **Legal Effect of Agreement / Binding Contract.** This Agreement governs all deposit account(s) (hereinafter referred to as "account" whether singular or plural) established with TotalDirectBank, and replaces and supersedes any previous deposit agreement(s). The words "we", "our", "us", "Bank" or "TDB" refer to TotalDirectBank, a division of City National Bank of Florida. The words "you", "your", "customer", "client", and "depositor" refer to the deposit account owner, authorized signer(s), each joint owner identified on the Signature card or other account documents (including our system) and each of their legal representatives (e.g., court appointed custodians / receivers, bankruptcy trustees, attorneys-in-fact, etc.), including legal entities (e.g., corporations, LLCs, partnerships, trusts, etc.). Please **READ** this information carefully and **KEEP** it with your other account records, as this is a BINDING CONTRACT between the Bank and the depositor. By signing our Signature card, other applicable account authorization document, or by otherwise opening or maintaining a checking, savings / money market, or certificate of deposit (including retirement certificates of deposit) account with us, you (and any and all successors, heirs, executors and other legal representatives of the depositor) accept and agree to be bound by the terms and conditions of this Agreement, including the applicable *Disclosures & Schedule of Fees, Privacy Policy, Funds Availability Policy, and as applicable, the Electronic Fund Transfers and Truth in Savings Disclosures*. Our deposit relationship with you is that of debtor and creditor. This Agreement and the deposit relationship do not create a custodial, fiduciary, quasi-fiduciary or special relationship between us. We owe you only a duty of ordinary care. Our internal policies and procedures are solely for our own purposes and do not impose on us a higher standard of care than otherwise would apply by law without such policies or procedures. Depending on the context in which it is used, the term "item" means a check, negotiable order of withdrawal, draft or other written order or instruction for the payment of money (e.g., wire) or a point-of-sale authorization request, ATM withdrawal, Automated Clearing House ("ACH") entry or other electronic transaction.
2. **Scope of the Agreement - Deposit Products.** This Agreement covers all types of deposit accounts offered by the Bank, now or in the future, including demand deposit accounts, money market / savings accounts, and certificates of deposit, including Individual Retirement Accounts ("IRA"). These deposit products are described in detail in separate brochures available at the Bank (e.g., *Disclosures & Schedule of Fees for Personal / Commercial Accounts*). This Agreement does not cover products such as loans, safe deposit boxes, land trust services, MasterCard, Visa, etc. Product specific disclosures / agreements for systems / services such as Office Deposit® System, E-Partner® System, lockbox services, land trusts, ACH, fraud protection services, wire transfer, etc., are found in separate agreements (e.g., *Electronic Services Agreement* or *Wire Transfer Agreement*, etc.), the terms and conditions of those systems / services are contained in those separate agreements and where any inconsistencies between those agreements and this Agreement are found, the system / service specific agreement shall prevail.
3. **Opening Accounts.** Accounts are opened subject to approval through satisfactory reference. The Bank reserves the right to refuse to open an account, and the Bank may at any time at its sole discretion refuse any deposit, limit the amount which may be deposited, return all or any part of any deposit, or close any account. By your request to open an account with the Bank, or by agreeing to be a signer on an account or obtaining any other service from us, you (and, if acting in a representative capacity, individually and for such entity or principal) agree that we may obtain credit information from check or credit reporting agencies, and/or by any other means. We may also obtain your credit information at any time while your account is open or service is available, or after your account has been closed, if you owe us any amounts related to your account or service which may be used for any purpose, at our discretion. You authorize us to disclose this information to affiliates and nonaffiliated third parties as permitted by applicable law, except as you or we limit such disclosures under the terms of our consumer *Privacy Policy*.
4. **Customer Identification.** The USA PATRIOT Act and federal law, requires all financial institutions to obtain, verify and record information that identifies each customer who opens an account with that financial institution. When you apply for an account, we will ask for your legal name, address, date of birth (not applicable to entities) and your Tax Identification Number ("TIN"). We

may require one or more forms of unexpired photo identification. We may validate the information you provide to us to ensure we have a reasonable assurance of your identity and customer agrees that Bank can use any reasonable means, for example credit reporting agency or other bureau. We may contact you for additional information. If your account is funded before we verify your information, you may not have access to your funds. If we are not able to verify your identity to our satisfaction, as required by federal law, we will not open your account or we may close the account if it was previously funded. In addition, from time to time, the Bank may need to update information on customer identification or transactions performed. In this event, the customer agrees to provide information within a reasonable time upon the Bank's request.

5. **Internal Revenue Service (“IRS”) Requirements.** The IRS requires us to obtain the TIN applicable to an account. For individuals, this is your social security number (“SSN”), if you are eligible for a SSN. If you are not eligible for a SSN, this is your Individual Taxpayer Identification Number (“ITIN”). For legal entities, this is your Employer Identification Number (“EIN”). IRS requires depositors to certify under penalty of perjury that the TIN provided is correct and they are not subject to backup withholding. This certification is completed on our signature card, a similar substitute W-9 or an IRS Form W-9 Request for Taxpayer Identification Number and Certification. If this information is not provided, we are required to withhold a percent of the interest earned on the account, referred to as “backup withholding”. Additionally, the IRS may assess a fine for not complying with its requirements. Lastly, for those accounts wherein an “applied for” or missing TIN / SSN / ITIN or EIN is not provided timely, TDB is required under the USA PATRIOT Act to discontinue service and shall close your account.

Foreign Account Tax Compliance Act (FATCA). Under Sections 1471 through 1474 of the Internal Revenue Code of 1986, as amended, (the “Code”), or any amended or successor version that is substantively comparable, any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code (collectively, “FATCA”), U.S. financial institutions (“USFI”), including TDB, and other types of U.S. withholding agents are required to withhold thirty percent (30%) on certain U.S. source payments made to foreign entities, including foreign financial institutions (“FFIs”) if they are unable to document such entities' status for purposes of FATCA. USFIs and U.S. withholding agents must also report to the IRS information about certain non-financial foreign entities with substantial U.S. owners.

For purposes of FATCA, there are two types of U.S. source payments subject to withholding: (1) beginning July 1, 2014 (or such other date designated by FATCA from time to time), U.S. source fixed or determinable, annual or periodical (hereinafter “FDAP”) income and (2) beginning January 1, 2017 (or such other date designated by FATCA from time to time), gross proceeds from the sale or disposition of any property of a type that can produce interest or dividends from sources within the U.S. By way of example: (1) FDAP includes but is not limited to the following U.S. source: compensation for personal services, interest, dividends, original issue discount, pensions & annuities, alimony, real property rents, royalties, scholarships and fellowship grants, prizes, awards, taxes, mortgage interest, or insurance premiums paid to a landlord by a tenant, prizes awarded to artists for pictures exhibited in the U.S., purses paid for boxing in the U.S., prizes awarded to golfers for U.S. tournaments, etc. and (2) gross proceeds includes but is not limited to the following, sale of: U.S. stock, U.S. corporate bonds, U.S. treasury bills, etc. It is important to note, FDAP and gross proceeds do not include income that is (or is deemed to be) effectively connected with the conduct of a trade or business in the U.S. and is includible in the beneficial owner's gross income for the taxable year. In light of the foregoing, you hereby represent, warrant, acknowledge and agree as follows:

- a. **FATCA: General Exculpation of Liability.** You hereby acknowledge and agree that if a payment made to Customer by TDB in connection with an account, this Agreement, or any products or services provided by TDB to the Customer would be subject to U.S. federal withholding tax imposed by FATCA, Customer shall deliver to TDB at the time or times prescribed by law and at such time or times requested by TDB such documentation requested by TDB as may be necessary for TDB to comply with its obligations under FATCA to determine that Customer has complied with its obligations under FATCA or to determine the amount to deduct and withhold from such payment. In accordance with Section I, paragraph 21 of this Agreement, TDB and each Indemnified Party (as defined in Section I, paragraph 21) shall not at any time incur any liability to you and you hereby expressly waive and release any and all claims and causes of action which you may at any time have against any Indemnified Party (as defined in Section I, paragraph 21) in connection with any acts, omissions, or circumstances at any time or times arising out of or relating to any of TDB's or its affiliates obligations with respect to FATCA, including, as applicable, reporting of information or withholding on any payments received or originated by you.
- b. **CUSTOMER OBLIGATIONS.** You are in the best position to determine your U.S. or foreign status, Chapter 4 status (as such term is defined in FATCA) and the status of your payees in connection with your account (each, as applicable, "FATCA status"). Accordingly, you hereby agree to provide the Bank with such documentation or information it may request or deem necessary (in its sole discretion) from time to time to comply with its obligations under FATCA, including, but not limited to, any one or more of the following:
- i. A true and correct withholding certificate (e.g., W-8BEN, W-8BEN-E, W-9, etc.) for the account or the payee;
 - ii. With respect to an account held by or payee that is a FFI, a true and correct withholding certificate that identifies the FFI as a participating FFI (“PFFI”), deemed-compliant FFI, registered deemed-compliant FFI, certified deemed-compliant FFI or such other FATCA classification applicable to such FFI;

- iii. With respect to an account held by or payee that is a FFI required to obtain a Global Intermediary Identification Number (“GIIN”), documentary evidence that the FFI has registered with the IRS and obtained a valid GIIN;
- iv. With respect to an account held by or payee that is a non-financial foreign entity (“NFFE”) or an exempt beneficial owner, a true and correct withholding certificate identifying the account holder or payee as an excepted NFFE, passive NFFE or an exempt beneficial owner. Examples of excepted NFFEs, include, but are not limited to: publicly traded companies, affiliates of publicly traded companies, non-profits, and active NFFE (means a foreign business whose passive income is less than 50% of gross income). Examples of exempt beneficial owners, include, but are not limited to: any foreign government, any political subdivision of a foreign government, or any wholly owned agency or instrumentality of any one or more of the foregoing, foreign central bank of issue (e.g., such banks are generally the custodian of the banking reserves of the country, Bank for International Settlements, etc.), Governments of U.S. Territories, and certain retirement funds;
- v. Any other written documentation or certification reflecting the nature of payment (i.e., showing it is not a withholdable payment under FATCA) or the FATCA status of the payee consistent with the provisions of the Code and/or regulations promulgated under FATCA;
- vi. Documentary evidence regarding the nature of the payment as not U.S. source FDAP or U.S. source gross proceeds, as those terms are defined in FATCA;
- vii. A certificate of residence issued by an appropriate tax official of the foreign country claimed by you or the payee as the country of residence that indicates that such party has filed its most recent income tax return as a resident of that country;
- viii. With respect to an individual, valid identification issued by an authorized government body (e.g., a government or agency thereof, or a municipality) that is typically used for identification purposes;
- ix. With respect to an account maintained in a jurisdiction with anti-money laundering rules that have been approved by the IRS in connection with a Qualified Intermediary agreement (a “QI Agreement”), any of the documents other than a withholding certificate referenced in the jurisdiction’s attachment to the QI Agreement for identifying individuals or entities;
- x. With respect to an entity, any official documentation issued by an authorized government body (e.g., a government or agency thereof, or a municipality);
- xi. For a payment made with respect to an offshore obligation to an individual, a third-party credit report;
- xii. With respect to an entity other than a PFFI or registered deemed-compliant FFI, any organizational document (e.g., articles of incorporation or a trust agreement), financial statement, third-party credit report, letter from a government agency, or statement from a government Web site, agency, or registrar (such as an SEC report) depending on the FATCA status of the entity; or
- xiii. A letter from an auditor or attorney with a location in the United States that is not related to the withholding agent or payee and is subject to the authority of a regulatory body that governs the auditor’s or attorney’s review of the FATCA status of the payee, any bankruptcy filing, corporate resolution, copy of a stock market index or other document depending on the FATCA status of the payee.

In the absence of the provision of the information / documentation summarized above (i.e., FATCA status), TDB may be required under FATCA to withhold thirty percent (30%) on payments to or from your account.

- c. **Due Diligence Obligations.** In the event TDB establishes an account for a foreign legal entity, it shall perform due diligence in order to determine if any substantial U.S. ownership exists. Further, TDB may ask you questions with respect to your U.S. tax payer status and will require you to complete a W-9 or W-8, as applicable. In addition, TDB will inquire as to the nature of your payments (foreign and domestic), the payee, and/or the status of the foreign beneficiary bank / financial institution in order to comply with its obligations under FATCA.
- d. **FATCA Withholding Obligation.** In the event that TDB is unable to determine that a payment made to or from your account is subject to withholding under FATCA or you have not met the CUSTOMER OBLIGATIONS, as summarized above, you hereby acknowledge and agree that TDB will withhold thirty percent (30%) of the gross amount of such payment. Therefore, it is incumbent upon you to meet the CUSTOMER OBLIGATIONS, as summarized above, or TDB shall meet its legal obligations under FATCA and will withhold thirty percent (30%) of such payment.
- e. **Reporting.** TDB, as a USFI, must report to the IRS information about certain non-financial foreign entities with substantial U.S. owners and payments made to nonparticipating FFIs.
- f. **Change in Circumstances.** For purposes of FATCA the Customer is considered to have a “change in circumstances” only if such change results in the addition of information (i.e., U.S. indicia that is not otherwise cured by documentation on file and that is relevant to the Customer’s FATCA status claimed) relevant to a person’s claim of foreign status or otherwise conflicts with such person’s status under FATCA. As defined in the FATCA regulations, U.S. indicia includes but is not limited to: U.S. address or U.S. residence address, a U.S. person serving as agent under a power of attorney over an non-resident alien / foreign legal entity account, U.S. telephone number, U.S. place of birth, an “in-care-of” address or “hold mail” that is the sole address of the Customer, etc. A change of address or telephone number is a change in circumstances for purposes of a “change in circumstances” only if it changes to an address or telephone number in the United States. A change in circumstances affecting the withholding information provided to the Bank will terminate the validity of the withholding certificate (i.e., W-8 or W-9) with respect to the information that is no longer reliable, until the information is updated. You have an obligation to

notify the Bank of a change in circumstances. If a change in circumstances makes any information on a withholding certificate or other documentation incorrect, then the person whose name is on the withholding certificate or other documentation must inform TDB (the withholding agent) within thirty (30) days of the change and furnish a new withholding certificate, as may be deemed necessary, and, as applicable, provide new documentary evidence to document the validity of a claimed exemption where U.S. indicia is reflected.

- g. Protection Under FATCA and this Agreement for Withholding and Reasonable Delay in Executing a Payment Order. With respect to foreign payments, in the event you fail to meet CUSTOMER OBLIGATIONS, as outlined above, the Bank is required under FATCA to withhold thirty percent (30%) of the gross payment amount and FATCA holds it harmless for doing so. In addition, you agree and authorize the Bank to withhold said thirty percent (30%) of the payment amount and remit to the IRS as required by law. You agree that TDB will have a reasonable period of time to investigate and inquire with you as to the nature of the payment or the FATCA status of the payee and that you will promptly cooperate with TDB to avoid any undue delay in processing the payment order. Customer acknowledges the importance of meeting the CUSTOMER OBLIGATIONS, as outlined above, and in relation with this Section I, paragraph 5, shall excuse a reasonable delay in executing a payment order for its failure to meet those obligations and for TDB employing its best efforts to ascertain the FATCA status of the foreign payment. Lastly, in connection with this delay, fees or charges assessed by any paying bank or beneficiary bank as a result of initiating a second foreign payment order to remit the incorrectly withheld thirty percent (30%), or the withholding of thirty percent (30%) for your failure to meet the CUSTOMER OBLIGATIONS, you agree that to the greatest extent permitted by law you shall hold the Bank harmless and indemnify it consistent with Section I, paragraph 21.
- h. Withholding Agent Liability (FATCA & non-FATCA Withholding). TDB, as a withholding agent, is liable for any tax required to be withheld that is not properly withheld. The withholding agent also becomes liable for interest and applicable penalties. In the event a withholdable payment, including interest, penalties, and any associated costs (e.g., attorney, CPA, or other professional, court costs, fees, etc.) is made or required to be made by TDB on your behalf, then Customer agrees that said payment shall be an Indebtedness of Customer and as such it shall be subject to the provisions of Section I, paragraph 19, Security Interest / Right of Setoff. The rights conferred herein by Customer and this Agreement are in addition to any the Bank may have at law or equity.
6. Nonresident Aliens / Foreign Legal Entities. Your accounts will be classified as belonging to a nonresident alien (“NRA”) account should you be a foreign national (national of a country other than United States) or a foreign legal entity (“FLE”). An FLE is defined as an entity (e.g., corporation, limited liability company, partnership, limited partnership, trust, or any similar business structure/entity) formed in a jurisdiction outside of the U.S. Account owners meeting such definitions must certify their foreign status and beneficial ownership at the time the account is opened on IRS: Form W-8 BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding; W-8 BEN-E, Certificate of Status of Beneficial Owner for United States Tax Withholding and Reporting (Entities); or other applicable W-8. NRAs and/or FLEs must re-certify their foreign status every three (3) calendar years or as made applicable by the IRS. If you do not re-certify, we are required to withhold a percentage of the interest earned on the account. Funds remitted to the IRS as backup withholding or any other form of withholding is nonrefundable by the Bank. You will be required to file with the IRS for refund. You agree to hold the Bank harmless consistent with Section I, paragraph 21, for any and all losses associated with your failure to re-certify your foreign status.
7. Signature Cards and Authorized Signatures / Signers. Upon opening an account, customer and all authorized signers will be required to sign a Signature Card. The authorized signatures for an account are those reflected on the Signature Card, any resolution or other separate written authorization relating to the account received by TDB. We shall be entitled to rely upon any Signature Card or other resolution or designation of authorized signatories delivered by you in respect of an account, until the depositor has delivered to TDB an appropriately executed resolution or other written document revoking or modifying the authorizations contained therein and TDB has had a reasonable time to act thereon. For the payment of funds and for other purposes relating to any account you have with TDB, we are authorized to recognize those signatures, but we will not be liable to you for refusing to honor a check or other signed instructions if we believe, in good faith, that the signature appearing on such checks or instructions is not genuine. If the Signature Card is not returned, you agree that we will not be liable to you for honoring checks or other signed instructions if we believe in good faith that the signature appearing on such checks or instructions is authorized. We may pay any check that bears a signature or endorsement (including a facsimile signature) resembling an authorized signature on file with us. Moreover, you guarantee and warrant that any unsigned draft that you deposit into your account is authorized. Should any conflicts in the terms of the Signature Card and this Agreement occur, then the terms of this Agreement shall control.

ALTHOUGH YOUR SIGNATURE CARD OR RESOLUTION MAY INDICATE THAT MORE THAN ONE SIGNATURE IS REQUIRED ON CHECKS AND FOR THE WITHDRAWAL OR TRANSFER OF FUNDS, THAT NOTATION IS PRINCIPALLY FOR YOUR OWN CONVENIENCE AND INTERNAL CONTROL PURPOSES. WE DO NOT ASSUME A DUTY TO SUPPORT MULTIPLE SIGNATURE REQUIREMENTS. AS SUCH, WE ASSUME NO DUTY TO CONFIRM THAT TWO OR MORE (OR ANY COMBINATION) OF AUTHORIZED SIGNERS HAVE APPROVED ANY TRANSACTION. UNLESS WE ENTER INTO A SEPARATE WRITTEN AGREEMENT TO THE CONTRARY, WE SHALL ACT UPON THE INSTRUCTIONS OF ANY ONE AUTHORIZED SIGNER. IF WE AGREE

IN WRITING TO ENFORCE A MULTIPLE SIGNATURE REQUIREMENT FOR CHECK WITHDRAWALS, YOU AGREE TO ORDER CHECKS THAT BEAR A LEGEND ABOVE THE SIGNATURE LINES THAT TWO SIGNATURES (OR MORE, IF APPLICABLE) ARE REQUIRED.

8. **Facsimile Signatures.** If the depositor's items are signed using any facsimile signature, electronic identifier, or other non-manual form of signature, the depositor acknowledges that its use is solely for their benefit and convenience. The depositor accepts sole responsibility for maintaining security over any device for affixing the signature or electronic identifier. Such signature or electronic identifier will be effective as the depositor's signature regardless of whether the person affixing it was authorized to do so and regardless of the means by which the actual or purported facsimile signature or electronic identifier may have been affixed if such signature resembles the facsimile signature or electronic identifier duly certified to or filed with us, or if such facsimile signature or electronic identifier resembles any facsimile signature or electronic identifier previously affixed to any item drawn on your account which was accepted and paid without timely objection.

You acknowledge and agree that, unlike face-to-face banking transactions, most transactions occurring with us via the Internet (including, but not limited to accessing account records, making withdrawals, and giving payment instructions) will be authorized and/or initiated by the use of an electronic identifier as we may implement from time to time. Different types of transactions may require a different electronic identifier. You accept sole responsibility for maintaining security over any electronic identifier issued to, selected by, or utilized by you and any device for affixing any of the foregoing. You acknowledge and agree that any request, instruction or transaction (including, but not limited to, giving payment and withdrawal instruction) received by us, which includes your electronic identifier, will be deemed to be authorized by you. Such electronic identifier will be effective as your electronic identifier regardless of whether the person affixing it was authorized to do so and regardless by what means the actual or purported electronic identifier may have been affixed if such matches your electronic identifier.

You agree to hold us harmless and indemnify us for any liability (not limited to all claims, costs, losses and damages, including attorneys' fees), we may incur for reasonably acting upon such requests, instructions or transactions which bears your facsimile signature or electronic identifier. You agree to keep confidential, and to take all reasonable precautions and make all reasonable efforts to protect the secrecy of all electronic identifiers issued to, selected by or utilized by you. If your electronic identifier becomes lost or known to another person, you agree to notify us immediately so that a replacement may be issued for temporary use.

9. **Service Charges / Fees.** Depositor agrees to pay service, maintenance and other charges / fees in accordance with the applicable *Disclosures & Schedule of Fees*, as amended from time to time. Notice of any changes affecting the service charges / fees, will be provided in writing to you at the address shown on our records or by any other method permitted by law and a reasonable period of time will be given before any changes become effective.
10. **Pledges.** Unless we agree otherwise in writing, each owner / authorized signer of an account may pledge all or any part of the funds in it for any purpose to which we agree. Any pledge of an account must first be satisfied before the rights of any surviving account owner or account beneficiary become effective. For example, if an account has two owners and one of the owners pledges the account (i.e., uses it to secure a debt) and then dies, (1) the surviving owner's rights in this account do not take effect until the debt has been satisfied and (2) the debt may be satisfied with the funds in this account.
11. **Form of Account Ownership.** When you open an account you may choose one of several types of ownership. The classification of your account as a personal or commercial and the form of ownership for your account are designated on the Signature Card when you open the account. In the absence of a Signature Card, our system of records shall be conclusive. Unless your Signature Card or account opening documents so designate, where two or more individuals are designated or appear on a Signature Card as owners of such account, then as between them, we will treat the owners as joint tenants with rights of survivorship. For any joint account or account with POD (as defined below) designation, where a joint owner or last owner has died, we reserve the right not to release funds in the account until all necessary legal documents and other requested information are delivered to us. You agree to notify us of the death of any joint owner and to reimburse us for any tax we may be required to pay by reason of our payment or release of funds in the account to you. You agree that if your account is identified as one offered only to individuals or unincorporated non-business associations, it shall not be used for a business purpose. At the sole discretion of the Bank, any such account may be closed and a commercial account required to be opened.

NOTE: Because decisions concerning whether an account should be held in a particular capacity may have significant legal, tax and estate planning consequences, consultation with your attorney or tax advisor is recommended.

- a. **Personal Accounts.** The forms of ownership for personal accounts, include, but may not be limited to, the following:
- i. **Individual Accounts (Single Party Account).** An account may be opened in the name of one natural person / individual who has the sole right to deposit or withdraw funds from the account.

ii. **Joint Accounts.** Irrespective of the form of joint ownership you have chosen, you hereby authorize the Bank to honor any deposit, withdrawal or transfer of funds by only one owner and authorize each owner to act for the other. As a joint account, each of the joint tenants owns an undivided interest and has total control of the account. The Bank is not required to inquire as to the source, ownership or pro rata interest of any funds received for deposit to an account or the proposed application of any payments made from an account. Any joint owner may close the account. Should an account be opened in the name of more than one person, the balance to the credit thereof at any time shall belong to such persons, or the survivor(s) of them, as joint tenants with right of survivorship and not as tenants in common (unless specifically selected on the Signature Card) and the Bank may pay the same, or any part thereof, to any one or more of such persons and this right shall not be affected by the death, mental incompetence or other disability of any one or more such persons. All joint owners will be jointly and severally liable for all activity related to the joint account, including responsibility for paying overdrafts created by any authorized signer(s) or party to the joint account, whether or not they participate in the transaction or benefit from its proceeds. Each joint owner guarantees the signatures of the other joint owners and authorizes the others to endorse checks for deposit if they are payable to any of the joint owners, or to honor checks signed by any one of the authorized signers of the account. Although the Bank shall have no obligation to notify any one or more of you regarding any change to or other action concerning the joint account made or taken by another of you, the Bank may, notwithstanding any other provisions of this paragraph, require the signatures of all of you in order to pay any item or take any other action relating to the joint account if the Bank (i) has received conflicting demands or instructions from any two or more of you, (ii) has received an instruction signed by less than all of you seeking to change the title of (or restrict the payment or transfer of funds in) the joint account, or (iii) has concluded for any other reason, in the Bank's discretion, that it is prudent to require the signatures of all of you.

- Multiple Party (Joint) Account with Right of Survivorship (also-known-as (AKA): Joint Tenancy with Right of Survivorship). Right of survivorship means that when a co-owner dies, the funds in the account belongs to the surviving co-owner(s), subject to our right to charge the account for any amount the deceased co-owner or a surviving co-owner owes us. Creditors can levy, garnish or judicially withdraw (hereinafter collectively "Levy") 100% of the funds in the account, regardless of contribution. You agree to hold the Bank harmless for its execution of any such Levy on your account.
- Multiple Party (Joint) Account - Tenancy by the Entirety with Right of Survivorship. Only available to married couples and must be specifically designated as such on the Signature Card, otherwise, you agree the account shall be a Joint Tenancy with Right of Survivorship. Upon death of a spouse the account passes to the survivor spouse. Upon divorce, you agree the account becomes a Joint account with Right of Survivorship and all rights and privileges of such designation apply. As long as the joint account holders are married, only creditors of both account holders can Levy funds from the account. You agree to hold the Bank harmless for its execution of any such Levy on your account. You acknowledge that the Bank's Security Interest / Right of Setoff, as described in Section I, paragraph 18, of this Agreement, is, in no way limited by this account designation and you agree to hold the Bank harmless for any exercise thereof.
- Multiple Party Account without Right of Survivorship (AKA: Tenancy in Common). A Tenancy in Common account is also in the name of two or more individual owners, with no right of survivorship. Consistent with the "Ownership" presumption designated below, upon a Levy by a creditor and absent a clear articulation of the ownership percentages of the account, you agree the Bank has acted reasonably and to hold the Bank harmless for Levying an equal share (50% / 33% / 25%, etc.) of the balance in the account as of the date such Levy is received by the Bank. Withdrawal rights are summarized in the section titled "Joint Accounts". Until we receive notice of the death of any joint tenant and have a reasonable period of time to act, any tenant in common will have complete withdrawal rights to the entire account balance. For purposes of your estate, we encourage you to agree and tell us in writing of the percentage of the deposit contributed by each of you. This information will not, however affect the "number of signatures" necessary for withdrawal. If more than one tenant in common survives the death of another tenant in common, such survivors remain as tenants in common between them. Each tenant in common reserves the right to change the ownership of the account to the extent of that owner's withdrawal rights.

Ownership. Each Tenant in Common is presumed to "own" the funds in proportion to that person's net contribution to the account. However, because of the extreme difficulty in determining such proportions over time, you agree that upon the death of one tenant in common or a Levy on the account, the balance in the account at the time immediately before the death of the tenant in common or the date of the Levy, each Tenant in common will be deemed to own an equal share (50% / 33% / 25%, etc.) of the balance in the account. You agree to hold the Bank harmless for its execution of any such Levy on your account. After death and our receipt of notice of such death, the decedent's equal share will be set aside for the estate of the decedent, and the survivor's share in the account balance will be at the disposal of the surviving tenant in common.

iii. **Minor Accounts.** Account opened by a custodian for a minor to receive funds owned by the minor. In the State of Florida, a minor is any individual under 18 years of age. Minors may make withdrawals if consented to in writing by the custodian by allowing minor's signature to be recorded on Signature Card document. ATM or debit cards cannot be issued on these accounts. Eligibility for the Bank's Youth Savings Accounts is for customers under 18 years of age. Once the age limitations have been exceeded, current account charges for regular savings accounts will apply, and the account will be subject to all applicable terms and conditions.

b. **Personal Account Beneficiary designations / Terms for "Payable on Death" Accounts.** For an individual or joint account, you may choose to make your account payable on your death to one or more payable on death ("POD") beneficiaries. You can make your account a POD account by instructing us to list each POD beneficiary on the account and complying with the applicable state law. The applicable state law usually imposes requirements that must be met to create a POD account. Reference to any of the following: words or letters in the account title systemically or on the Signature Card such as: "payable on death" or "POD", "in trust for" or "ITF", "as trustee for" or "ATF", "transfer on death" or "TOD", or "Totten Trust", are agreed upon by you and the Bank to mean POD as defined in Florida law and you hereby direct the Bank to act consistent with applicable Florida law on POD accounts. If the applicable requirements are not met, we may treat your account as though there is no POD beneficiary.

During your lifetime, a POD account belongs to you. You may close the account, remove or add one or more POD beneficiaries, change the account type or ownership, and withdraw all or part of the funds in the account. When the account owner or last co-owner dies, we may pay any funds remaining in the account to the then surviving (if any) POD beneficiary(ies), subject to our right to charge the account for any amount a deceased owner, co-owner or POD beneficiary owes us. We shall pay each then surviving POD an equal amount, unless you instructed us otherwise in writing (e.g., on the Signature Card, executed letter, or other acceptable form of written communication), and you agree to indemnify and hold the Bank harmless for any such distribution. A POD beneficiary does not acquire an interest in the account until after the death of the account owner or the last co-owner. A POD beneficiary may acquire an interest in the account at that time but only if the POD beneficiary is alive. In the case of a minor beneficiary, the legal guardians of the minor should be the payee of the balance of the account (e.g., Mary Smith and John Smith as guardians for Susie Smith, minor). A copy of the beneficiary's birth certificate should be obtained and the guardians validated against it or other legal documentation along with a confirmation of the beneficiary's age. The Bank may request any supporting documentation it reasonably believes provides proof of custodianship. A beneficiary's receipt of payment, either directly or through payment to a guardian or executor, shall be a valid release and shall discharge the Bank of any responsibilities for all such payments. If no beneficiary survives the account owner(s), sums on deposit belong to the estate of the last surviving account owner. POD account shall be governed by Florida law regarding pay-on-death accounts, including without limitation Florida Statutes §655.82, as such may be modified from time to time.

c. **Business / Commercial Accounts.** If the account owner is a corporation, unincorporated association, limited liability company, limited liability partnership, fiduciary, partnership, sole proprietorship or other entity holding an account in any capacity other than a personal capacity, each person signing the Signature Card or completing other account opening requirements represents and agrees that they:

- Are fully authorized to execute all documents or otherwise complete our requirements in their stated capacity;
- That all resolutions and/or other documentation delivered to us in connection with the account are true, accurate, complete, and will be kept up to date and may be conclusively relied upon by us;
- Withdrawals are paid on the signature of any one authorized person, officer, partner, etc., as specified in the business' resolution with the Bank;
- Authorized Agents/Directors/Partners/Members, etc., as provide in the then existing resolution, are duly authorized to add or remove any authorized signer by written notice to Bank;
- Have furnished all documents or other information necessary to demonstrate that authority;
- Will furnish other documents and complete other requirements as we may request from time to time;
- Any change in authorized signers will not be effective until five (5) business days after our receipt of the documents effecting the change, provided that we may, at our option, recognize such changes earlier; and
- You agree to notify us in advance of any change in your form of ownership or authorized signers.

We may refuse to recognize any resolution affecting the account that is not on our form or that appears to us to be incomplete or improperly executed. You may also give another person authority over your account by your conduct or failure to act and, although we may recognize such authorization, we may refuse to do so without liability to you.

d. **Attorney-in-fact / Guardian / Representative, etc.** If the account owner is a natural person, corporation, unincorporated association, limited liability company, limited liability partnership, fiduciary, partnership, sole proprietorship or other entity

holding an account in any capacity other than an individual capacity or is acting on behalf of another or in a representative capacity including, without limit, as an attorney-in-fact, guardian, or representative, each person signing the Signature Card or any other documents, individually and in such capacity, represents and agrees that: (i) such person is fully authorized to execute all documents in the capacity stated therein; (ii) such person has furnished all documents necessary to evidence that authority; (iii) such person and account owner will furnish any other documents in such a form as we may request from time-to-time; and (iv) any instructions from such person, whether oral, electronic, or in writing, shall be assumed to be given in such capacity, whether or not such capacity is indicated at the time of the instruction. We are not required to recognize any resolution affecting the account that is not on our form. Any change in authorized signers will not be effective until five (5) business days after our receipt of the documents effecting the change, provided that we may, at our option, recognize such changes earlier.

- e. **Fiduciary Account.** An account involving a legal arrangement or capacity in which one person or entity (the fiduciary) acts on behalf of another. Examples include, but are not limited to: personal representative, guardian, or conservator for a minor or other legally incompetent person, and Trustee under Trust Agreement or under Will. Upon request of the Bank, the fiduciary will supply to the Bank an affidavit, certification or other documentation, including, without limit, copies of excerpts of any agreement, instrument or order pertaining to the account or fiduciary relationship.
- f. **UTMA Account.** Under the Uniform Transfers to Minors Act, the funds in the account are owned by the child who has unconditional use of the account when he or she reaches the age of majority, as provided in applicable law. Before that time, the account may be accessed only by the custodian (or successor custodian), and the funds must be used for the benefit of the child. We, however, have no duty or agreement whatsoever to monitor or insure that the acts of the custodian (or successor custodian) are for the child's benefit. Further, the custodian and/or any person opening this type of account, in their individual capacity, agree to indemnify and hold us harmless from and against all loss, costs, damage, liability, or exposure, including reasonable attorney's fees we may suffer or incur arising out of any action or claim by any beneficiary or other custodian with respect to the authority or actions taken by the custodian in handling or dealing with this type of account.
- g. **Transfer of Accounts and Account Ownership.** Your personal and/or commercial account is for your use only. It is non-transferable and non-negotiable. Ownership of your account is transferable only on our records with our consent. We may, in our sole and absolute discretion, withhold such consent.
 - You may not grant, transfer or assign any of your rights to your account without our written consent.
 - Even if we consent, we may require that you close the account and that the new account owner open a new account in their name.
 - We may refuse to acknowledge or accept your attempted pledge or assignment of your account or any interest in it, including a notice of security interest.
 - No assignment by you of your account will become effective on the Bank until we consent, have documented the transfer consistent with the Bank policies and procedures and applicable law, and make appropriate changes to documents and systems/records of the Bank.

12. Checking, Interest Checking, NOW, Savings / Money Market, and Certificate of Deposits.

- a. **Types of Accounts.** We offer several different types of accounts for personal and business customers. For a listing of such account types, please see the following:
 - *Disclosures & Schedule of Fees for Personal Accounts*
 - *Disclosures & Schedule of Fees for Commercial Accounts*
- b. **Eligibility for Interest Checking.** Personal and commercial accounts are eligible for interest checking, as provided for in the product description contained in the applicable *Disclosures & Schedule of Fees*.
- c. **Limitations on Withdrawals from NOW and Savings / Money Market Accounts.** We are required by federal regulation to retain the right to ask for seven (7) days written notice before you may withdraw money from interest-bearing NOW, savings and money market accounts. Other withdrawal limitations include:
 - **Savings & Money Market Accounts.** You may make unlimited withdrawals or transfers to another TDB account in person or at an ATM from your savings & money market account. However, federal regulations limit the total of third party transfers (such as automatic drafts and debit card purchases), pre-authorized transfers (including overdraft transfers), and online or telephone transfers to six (6) per statement cycle. If this limitation is exceeded on a regular basis (generally defined as more than three (3) times per year), TDB is required to close your account and to open another account that permits unlimited transactions.

Charges may apply when transfer limits are exceeded; see applicable *Disclosures & Schedules of Fees* for details.

13. **Fraud Detection / Deterrence.** There are several precautions that you can and should take to decrease the risk of unauthorized transactions from your account. Such precautions include, but are not limited to:
- a. Safeguarding and not disclosing to third parties information about your account, such as your account number(s);
 - b. Safeguarding materials and information which can be used to access your account including, but not limited to, your check book, withdrawal tickets, blank or unused checks, electronic passwords or other access-related information, to prevent them from being misused by an unauthorized party;
 - c. Reviewing carefully your checkbook and unused checks for unauthorized activity if you suspect that any of these items may have been stolen or tampered with or if you are the victim of theft or your property is burglarized;
 - d. Promptly and carefully reviewing your statement each month for unauthorized activity or missing deposits;
 - e. Closing your account immediately upon discovery of any known or suspected unauthorized activity. When you report missing, stolen, or unauthorized checks, we may recommend that any account that has been compromised by unauthorized or fraudulent activity be closed. If you decline this recommendation and elect to leave your account open, the Bank shall not be liable to you for subsequent losses on the account due to unauthorized activity and we may require you to indemnify us for any losses we incur as well;
 - f. Safeguarding your facsimile signature devices (*see* Section I, paragraph 8), if any; and
 - g. Authorizing third parties (e.g., your employees, vendors, etc.) to be authorized signers on the account increases the risk of fraud substantially and a much higher level of vigilance and oversight with respect to monitoring the proper handling of the account is necessary. You and TDB herein agree that TDB shall not be responsible for the wrongful or criminal acts of depositor's employees / authorized account signers and you agree to indemnify and hold us harmless from any claim or liability whatsoever arising from any misconduct by said individuals on your account.
 - h. We make our Positive Pay service available to all business customers. Positive Pay can be extremely helpful in preventing fraudulent checks from being charged against your account. If you choose not to use our Positive Pay service, you agree to assume a heightened degree of responsibility for safeguarding your checks, supervising persons who have access to your checks and statements, reviewing all returned checks and statements, and immediately reporting any unauthorized check transactions involving your account.

You agree that if you fail to follow these and other precautions prudent to your particular circumstances, you will be precluded from asserting any claims against us for paying any unauthorized, altered, counterfeit or other fraudulent item and we will not be required to re-credit your account or otherwise have any liability for paying such items.

14. **Statement of Account.** Your statement will be mailed or will be made available to you electronically (Online Banking and E-Partner® System customers) monthly, quarterly or annually, depending on the type of account and the services you have with us and, if applicable, will include the amount of interest earned for the statement period. We will mail your statements to the address we have for you in our records. If you elect to have statements mailed to another address, you are still responsible for careful and prompt examination of the statement and the timely reporting of any problems or unauthorized transactions as outlined below.

You agree to notify us if you change your address and/or any contact telephone information. You also agree that if the U.S. Postal Service or one of its agents notifies us of a change in address for you, we may change your address based on this information. We will have no liability to you for changing your address based on such information, even if the information provided by the U.S. Postal Service or one of its agents is in error. If any statement is returned to us because of an incorrect address, we may stop sending statements to you until a valid address is provided to us, but for all purposes it shall be considered as if we made your statement of account available to you, as of five (5) calendar days after the statement end date. If you had previously requested us to hold rather than mail your statements, you must call for them promptly. You will be responsible for the same care in reviewing these statements as if they were mailed.

Your statement will be deemed to be received by you five (5) calendar days after the statement end date. You are responsible for notifying us promptly if you do not receive your statement(s). If you do not receive your statement contents (or you receive illegible copies of imaged checks or imaged substitute checks) we will provide to you, to the best of our ability and the industry standards under the Check Clearing for the 21st Century Act (Check 21), legible copies of the imaged checks within a reasonable time after your written request (that sufficiently identifies the checks requested). The Bank will provide copies of statements, checks, deposit or withdrawal slips or other account records for a service charge as set forth in the applicable *Disclosures & Schedule of Fees*.

15. **Reviewing Statements and Reporting Problems.** You are in the best position to discover a forged, unauthorized or missing signature or endorsement, a material alteration, a missing or diverted deposit, illegible image or any other error or discrepancy relating to a check, deposit or other credit or debit entry to your account, or any other errors in your account statement (hereinafter

collectively referred to as “Discrepancy(ies)”). Therefore, you should carefully examine your account statements, cancelled checks, and/or copies thereof, when you receive them. If you discover (or reasonably should have discovered) any Discrepancies, you must promptly notify us of the relevant facts. If you fail to review your statements and/or report problems timely, you will have to either share the loss with us, or bear the loss entirely yourself, depending on whether we exercised ordinary care and, if not, whether the Bank substantially contributed to the loss. The loss could be not only with respect to items on the statement, but other items forged or altered by the same wrongdoer. If the previous sentence applies, but you are able to prove that we failed to exercise ordinary care in paying the item in question and that our failure substantially contributed to the loss, then the loss will be allocated between us based on the extent to which our respective failures to exercise ordinary care contributed to the loss. In that regard, and as is disclosed elsewhere in this Agreement, we process checks and other items by automated means and do not visually examine all checks or other items. You agree that we do not fail to exercise ordinary care because we use these automated procedures. You also agree that we do not fail to exercise ordinary care if the items were forged or altered so cleverly (as by unauthorized use of a facsimile machine, photocopy machine, computer equipment or otherwise) that a reasonable person would not detect the forgery or alteration.

You agree that the time you have to examine your statement and report to us will depend on the circumstances, but that such time will not, in any circumstance, exceed a total of thirty (30) days from when the statement is mailed or first made available to you. As stated above, you agree that the statement is deemed to be received by you five (5) calendar days after the statement end date.

YOU FURTHER AGREE THAT IF YOU FAIL TO REPORT ANY DISCREPANCIES RELATING TO A CHECK, DEPOSIT OR OTHER CREDIT OR DEBIT ENTRY TO YOUR ACCOUNT WITHIN THIRTY (30) DAYS OF WHEN WE MAKE THE STATEMENT AVAILABLE, YOU CANNOT ASSERT A CLAIM AGAINST US ON ANY ITEMS IN THAT STATEMENT AND THE LOSS WILL BE ENTIRELY YOURS. THIS THIRTY (30) DAY LIMITATION IS WITHOUT REGARD TO WHETHER WE EXERCISED ORDINARY CARE. FOR CONSUMERS, REGULATIONS GOVERNING ELECTRONIC FUNDS TRANSFER (“EFT”) PROVIDE UP TO SIXTY (60) CALENDAR DAYS FOR REPORTING “ERRORS”. The depositor also agrees to return immediately to the Bank any check images, or other items which do not belong to the depositor.

In addition, the depositor must immediately report missing, stolen or unauthorized checks, cards, preprinted withdrawal slips or other account related material to us. For stolen checks reported, the Bank may close the account. **IF THE DEPOSITOR DOES NOT REPORT TO US ANY MISSING CREDIT OR DEBIT ITEMS, UNAUTHORIZED SIGNATURES, ANY ALTERATIONS, OR OTHER SUSPECTED MISUSE OF THEIR ACCOUNT, IN ADDITION TO ANY RIGHT WE HAVE BY LAW, THE BANK WILL NOT BE RESPONSIBLE FOR ANY SUBSEQUENT FORGERIES, ALTERED CHECK OR OTHER FRAUDULENT USE OF THE DEPOSITOR’S ACCOUNT BY THE SAME PERSON THAT OCCUR AFTER THE DEPOSITOR HAS BEEN AFFORDED A REASONABLE PERIOD OF TIME NOT EXCEEDING THIRTY (30) CALENDAR DAYS FROM THE CLOSING DATE OF THE STATEMENT CONTAINING INFORMATION ABOUT THE FIRST FORGERY, ALTERATION OR FRAUDULENT TRANSACTION TO EXAMINE THE ITEM OR STATEMENT AND NOTIFY THE BANK.**

If your statements are retained at the Bank until you request them, each statement will be deemed to have been made available to you for purposes of this Agreement five (5) calendar days after the statement end date. If you have elected not to receive copies of cancelled checks with your statements, and the Bank permits such an election, the cancelled checks or legible copies will be provided to you within a reasonable time after the receipt of your written request that sufficiently identifies the checks requested. You agree to pay the applicable service charge for retrieval and copying of the requested checks.

If the depositor reports to us any Discrepancy or missing, stolen or unauthorized checks, cards, preprinted withdrawal slips or other account related material on their account, the depositor agrees to cooperate with us in the investigation of their claim. This includes giving us an affidavit containing whatever reasonable information we require concerning your account, the transaction or issue in question and the circumstances surrounding the loss. The depositor also agrees upon the Bank’s request to file a criminal report with appropriate law enforcement officials against any suspected wrongdoer.

The depositor agrees to pursue all rights he/she may have under any insurance coverage they maintain before making a claim against the Bank in connection with any account transaction, and to provide us with all reasonable information about their insurance coverage. Our liability, if any, is reduced by the amount of all insurance proceeds you receive, or are entitled to receive.

The depositor agrees that we have a reasonable period of time (thirty (30) days) to investigate the facts and circumstances surrounding any Discrepancies or missing, stolen or unauthorized checks, cards, preprinted withdrawal slips or other account related material that the depositor has claimed, and that we have no obligation to provisional credit your account during our investigation except as set forth in the *Electronic Fund Transfers Disclosure*, and only if the account is held as a consumer account (i.e., accounts held for personal, family or household purposes).

16. **Terminating the Account / Agreement.** The Bank reserves the right, at its sole discretion, to discontinue or limit transaction account services, to refuse further deposits or withdrawals, to decline to collect any item or to process any transaction or to terminate the account relationship at any time. We will provide written notice to you in advance if we decide to terminate your account relationship for any reason other than abuse of the account relationship or to prevent a loss. In the event the Bank decides to close your account, for any reason other than abuse of the account relationship or to prevent a loss, and, in our sole discretion, grant you a time frame to close your account, you agree that ten (10) days is a reasonable time period. Notwithstanding the foregoing, you agree that we may close your account without advance notice (or any notice at all) under certain circumstances such as, for example, we believe in good faith that your account is being used to facilitate a fraud, to prevent a loss or other crime, or your account remains overdrawn for ninety (90) days or more. You agree that in instances of account abuse, suspected fraud, or to prevent a loss, notice is reasonably given by us if mailed immediately upon account closure. Further, for security concerns, we may require you to close your account and to open a new account if: (i) there is a change in authorized signers; (ii) there has been a forgery or fraud reported or committed involving any of your accounts; (iii) any account checks are lost or stolen; (iv) you have too many transfers from your account; or (v) any other provision of our Agreement with you is violated. After the account is closed, we have no obligation to accept deposits or pay any outstanding checks. You agree to hold us harmless for refusing to honor any check drawn on a closed account. In the event that the account is closed, the Bank will mail to the depositor a check for the balance in the account, after any applicable service charges have been deducted, at the last address shown in our account records. If your account balance is insufficient to pay applicable account fees and charges owed to us, you will continue to be liable to us for the unpaid amount and interest thereon until it is paid in full. The depositor shall be responsible and liable for any service charges and transactions initiated prior to an account closing. You may close any of your accounts by notifying us in writing. Whether you close your account or we do, the account closing will not affect your obligations under this Agreement, even if we allow any transactions to be completed after the account is closed. Termination of savings or NOW accounts are subject to the provision of withdrawals from interest-earning accounts. In addition, termination of the account by either party will not release you from any fees or other obligations incurred before the termination. This Agreement continues to govern matters related to your account even after your account closes.

17. **Processing Deposit and Withdrawal Items (including Cashed Items).**

- a. **Automated Processing of items.** You recognize that the Bank has adopted automated collection and payment procedures so that it can process the greatest volume of items at the lowest possible cost to all customers. These automated procedures rely primarily on information encoded onto each item in magnetic ink. In recognition of this fact, you agree that in paying or taking an item for collection, the Bank may disregard all information on the item other than the drawer's signature, the identity of the drawee bank, the amount of the item, and any other information encoded onto the item in magnetic ink according to general banking standards, whether or not that information is consistent with other information on the item. You agree to reimburse the Bank for any loss or expense it incurs because you issue or deposit an item containing such extra information. Furthermore, you agree that the Bank does not fail to exercise ordinary care in paying an item solely because its procedures do not provide for the sight examination of items with a face amount below an amount specified by the Bank from time to time.
- b. **No sight review of drawer signature.** You agree that the Bank does not fail to exercise ordinary care in paying an item solely because its procedures don't provide for sight review or provide for sight review only for items above a threshold level, or on a sample basis, at the discretion of the Bank. The Bank reserves the right not to sight review drawer signatures because it pays items on an automated basis to reduce costs for all customers.
- c. **Deposits.** Except as otherwise herein provided, all items received for deposit or collection are subject to the provisions of the Uniform Commercial Code in effect in the State of Florida and the terms and conditions of this Agreement. The Bank acts only as the depositor's collection agent and assumes no responsibility beyond its exercise of due care. All items received by the Bank for credit or collection are taken at the depositor's risk and subject to the actual receipt of proceeds by the Bank. All items are credited subject to final payment and to receipt of final payment in cash or solvent credits by this Bank at its own office. This Bank may forward items to correspondents and shall not be liable for default or negligence of correspondents selected with due care nor for losses in transit, and each correspondent shall not be liable except for its own negligence. Items and their proceeds may be handled by any Federal Reserve Bank in accordance with applicable Federal Reserve rules, and by this Bank or any correspondent, in accordance with any common bank usage, with any practice or procedure that a Federal Reserve Bank may use or permit another bank to use, or with any other lawful means. This Bank or its correspondents may send items directly or indirectly to any bank including the payor, and accept its draft or credit as conditional payment in lieu of cash. This Bank may charge back at any time any item drawn on this Bank which is ascertained to be drawn against uncollected and/or insufficient funds or deemed otherwise not good or payable. Fees may apply to items paid/returned for uncollected funds, please refer to the appropriate *Disclosures & Schedule of Fees*. An item received after this Bank's cutoff hour, provided upon request, shall be considered received the next business day.

The following terms apply to deposits made to your account: (a) **Endorsements.** You authorize us to accept transfers, checks, and other items for deposit to your account if they are made payable to, or to the order of, any one or more of you, whether or

not they are endorsed by you. You authorize us to supply missing endorsements, and you warrant that all endorsements are genuine. All checks and other items deposited to your account should be endorsed payable to the order of you or the Bank for deposit only, followed by your signature and account number. All endorsements must appear on the back of the check or other item within the first 1 1/2 inches from the left side of the item when looking at it from the front. While we may, at our sole discretion, accept non-conforming endorsements, you will be responsible for any loss incurred by us due to the delay in processing or returning the item for payment. (b) Final Payment. All non-cash items (for example, checks) deposited to your account are posted subject to our receipt of final payment by the payor bank. Upon receipt of final payment, the item becomes a collected item. If final payment is not received or if any item you have deposited or cashed is charged back to us for any reason, you authorize us to charge any of your accounts, without prior notice and at any time, for the amount of the returned item, our returned item fee, any interest paid on that item, and any other fee we pay or incur. We reserve the right to refuse any item for deposit into your account. (c) Direct Deposits. If we offer direct deposit services for automatic preauthorized deposits to your account of Social Security or other regularly scheduled payments or automatic transfers from your other accounts with us, you must notify us at least thirty (30) days prior to the next scheduled direct deposit or preauthorized transfer if you wish to cancel the direct deposit or transfer service. If any amount deposited must be returned to the Federal Government or any other payor, for any reason, you authorize us to deduct the amount from your account as provided in (b) above. (d) Crediting of Deposits. The *Funds Availability Policy Disclosure* provided to you reflects our policies relating to the availability of deposited funds, including restrictions applicable to new accounts.

- d. **Large cash withdrawals.** We reserve the right to require advance notice for certain large cash withdrawals. In addition, for your protection we may require armored car or other adequate security measures in the event we believe your safety may be compromised based on a large cash withdrawal. You agree Bank has no obligation whatsoever to provide personal security under such circumstances.
- e. **Item Processing, Posting, and Payment.** We may not process and post credits, debits, and holds to your account in the order they occur or we receive them. When multiple items are presented on a banking day, the Bank generally processes all credit items deposited (e.g., deposited checks, incoming wire transfers, etc.) first, followed by debit items (e.g., outgoing wires, checks, etc.). You agree that we may credit items to and debit items from your account by posting such items arriving to your account on the same day by order of posting and category which we choose in our sole discretion. Typical categories of payment / debit types include: ACH, cashed out items, ATM transactions, point-of-sale (POS), Wires, inter-day transfers between your accounts, and checks. In choosing processing priorities for checks and other debit items, the posting order for all categories of debits, except fees, will be handled in the same manner, posting lowest-to-highest dollar amount. For example, in the category of check processing, we will process checks received on a given day from lowest-to-highest. We may change the priority or order of any category, at any time, without notice to you; however, for your benefit, we will not change the lowest-to-highest payment of items within a category without prior notice. We further reserve the right to change the order of posting / payment priority without notice to you if we suspect fraud or possible illegal activity affecting your account. If the dollar amount of the debit items received exceeds the amount available, at the time those items are presented, the Bank, at its discretion, may pay or return those items. For each item presented in excess of the amount available in the account, the Bank may impose a fee. Please refer to the Bank's applicable *Disclosures & Schedule of Fees* for the current amount of those fees.
- f. **Overdrafts.** You are obligated to maintain sufficient available funds in your account at all times to cover checks, withdrawals, debits, returned deposit items or any other instruments negotiated or accepted by us on your behalf. If there are insufficient funds in your account or if sufficient funds are not available for withdrawal when an item is presented for payment, the Bank may, but is not required to, pay the item and create an overdraft without prior notice to you. We are not obligated to pay an item presented, whether by check, in-person withdrawal, ATM withdrawal, or other electronic means, if your account does not contain sufficient collected funds. If an overdraft has occurred, you agree to pay the service charge as noted in the Bank's applicable *Disclosures and Schedule of Fees*. At the Bank's option, it may pay the overdraft and charge you a service charge. (Note: If you do not have enough funds to pay an everyday debit card transaction or an ATM withdrawal, the Bank will refuse to authorize the transaction and will not charge you a fee.) The Bank is authorized to dishonor any such item (including post-dated items), without liability to you. The Bank's policy on Overdrafts for personal / consumer accounts provides for the following (the below bullets are **not** applicable to business / commercial accounts) (see *Disclosures & Schedule of Fees for Personal Accounts* for current fees with respect to the below):
- The Bank will waive the *Non-Sufficient Funds (NSF)/Overdraft (OD)/Uncollected Funds Paid Item Fee* ("Paid Item Fee") for personal accounts if the 'end of day' overdrawn balance calculated on an automated basis is \$0 to negative \$20. In other words, TDB will not charge you for a simple mistake which overdraws your account (e.g., you have \$20 available and accidentally wrote a check for \$25). This automated waiver of the Paid Item Fee shall **not apply** in the event that checks/items presented for payment to your account would have created an overdraft in excess of negative \$20.00 if all items were paid. For example, you write three (3) checks/items, as follows: \$500, \$200, and \$25 but only have \$20 available/collected balance in your account and TDB returns the \$500 and \$200 checks/items but pays the \$25 item leaving an end of day balance of negative \$5. Because the sum of all items presented would have exceeded negative \$20

(\$20 less (\$500 + \$200 + \$25) = negative \$705) had all items been paid, the \$0 to negative \$20 automated waiver of the Paid Item Fee **does not apply**. In the above example, you would be charged two (2) *Non-Sufficient Funds (NSF)/Uncollected Funds Returned Item Fees* ("Returned Item Fee") and one (1) Paid Item Fee.

- The Bank will charge a maximum of five (5) Paid Item Fees per day.
- The Bank will charge a maximum of three (3) Returned Item Fees per day.
- If your overdraft is not satisfied promptly, a *Sustained Overdraft Balance Fee* will be charged to your account in the event the overdraft remains outstanding for five (5) consecutive business days. This fee will apply to each new overdraft that remains outstanding for five (5) consecutive business days.
- The Bank will provide periodic notifications based on the number of overdraft occurrences to help you manage your account, and offer you an alternative option to reduce your fees.

Please inquire with your account officer as we offer you the ability to link an account or establish a line of credit (subject to qualification) and link them to your checking account in order to avoid overdraft or insufficient funds fees being assessed. Other fees may apply to linked accounts in connection with overdraft protection, please refer to the applicable *Disclosures and Schedule of fees* for details. Lastly, in the event your account is overdrawn for ninety (90) days or more, we may close your account without any notice, consistent with paragraph 16 (Terminating the Account / Agreement).

- g. **Preauthorized Checks or Drafts.** The depositor should guard information about their account (such as the Bank's routing number and their account number) as carefully as they would guard blank checks. If depositor voluntarily gives such information about their account to a party which is seeking to sell them goods or services, without physically delivering a check to it, any debit to or withdrawal from the depositor's account initiated will be deemed authorized by them.
- h. **Postdated Items.** Unless otherwise required by law, the Bank reserves the right to honor or dishonor postdated items. An item is considered postdated if it is dated after the date it is presented for payment. Unless otherwise required by law, the Bank will not be liable for any damages caused by premature payment of a postdated item or for any damages resulting from dishonor of a postdated item presented for payment before the date of the item.
- i. **"Stale-dated" Items.** The Bank is not required to pay any item presented more than six (6) months after its date. However, the Bank may pay such item if they do so in good faith. The depositor agrees that the Bank is acting in good faith as long as there is not a stop payment order in effect when the Bank pays the item.
- j. **Electronic Presentment.** The depositor's account may be debited on the day an item is presented by electronic or other means, or at an earlier time based on notification received by the Bank that an item drawn on their account has been deposited for collection in another financial institution. A determination of the depositor's account balance for purposes of making a decision to dishonor an item for insufficiency of available funds may be made at any time between the receipt of such presentment or notice and the time of return of the item, and no more than one such determination need be made.
- k. **Remote Captured Checks.** The Bank may charge back any deposited remote captured checks if returned on a warranty claim, if the warranty claim was entered within one year of the date the check was deposited with you.
- l. **Good Faith Disbursement.** Depositor agrees that the Bank may disburse funds from their account in good faith reliance on documentation presented to us which purports to give any individual or entity the right to receive such disbursement and that the Bank shall not be liable to the depositor for any such good faith disbursement.
- m. **Bank-by-Mail.** Envelopes may be furnished for the depositor's convenience in mailing deposits. No currency shall be included in mail deposits. The Bank assumes no liability for currency claimed to be included in mail deposits. The Bank shall not be construed to have received items sent by mail for deposit and collection until the Bank has actual receipt of the items. Deposits may be made in person at any of our Bank locations, at the Bank's night depositories or by mail at the depositor's risk.
- n. **Night Depository.** The Bank will open the night deposit bag or envelope placed in the night depository on the next banking day following the night of deposit. The night deposit bag or envelope should contain a deposit slip that correctly lists the money, check, draft or other items included in the deposit. The Bank will verify the deposit and credit to the account the amount of the deposit actually received, in accordance with the Bank's *Funds Availability Policy*. If there is any discrepancy between the amount of the deposit as shown on the deposit slip and the amount of the deposit actually received, Bank will notify customer of such discrepancy. No relationship of debtor or creditor shall arise between customer and the bank until we open the package and credit the deposit to customer's account. We will only be liable for the deposit actually received and credited to your account.

The joint findings and records of any two employees of the Bank as to the presence or absence of any package in the night depository and as to the contents of the package shall be conclusive and binding upon you. Customer agrees that the use of the night depository is at its sole risk to the extent permitted by law. We will not be responsible for any loss or damage sustained in the use of the night depository resulting from any cause whatsoever, including mechanical defects or a malfunction of the facility itself, unless such damage is caused by our gross negligence. We will not be liable for damages resulting from causes beyond our control. In no event will we be an insurer of the contents of the night deposit bag or envelope deposited by customer in the night depository.

- o. Collection Items (Foreign & Domestic).** The Bank may accept certain items – such as certain securities and checks payable in foreign currencies or at foreign locations – on a collection basis only. The Bank processes collection items separately and differently than checks. Collection items are credited to your account only after we receive payment for them. However, if we do credit your account and then do not receive payment, we may debit your account for the amount of the item, even if this causes your account to become overdrawn. Fees are charged for collection items and they are listed in the applicable *Disclosures & Schedule of Fees*. In addition, financial institutions in the collection process and the financial institution on which the collection item is drawn may also charge fees. If a financial institution requires payment of a fee before that institution will process the collection item, we may pay the fee and charge your account. A financial institution may subtract its fee from the amount of the payment we receive. You have to pay these fees even if the collection item is returned unpaid.
- p. Checks / Negotiable Orders of Withdrawal.** The Bank may refuse to honor any check or other item signed in form that does not match the name of the account or the authorized signature. The Bank is not responsible for errors or losses that may occur due to improper printing on forms. The Bank reserves the right to return unpaid any other form of order presented or any order incompletely or defectively drawn. We are not required to honor any restrictive legend on your checks and may disregard information on any check or item other than the signature of the drawer, the identification of the drawee bank and payee, the amount, the endorsements, and any other information that appears on the magnetic ink character recognition (MICR) line. Such legends cannot be caught and examined by us, because of automatic check processing. We may, at our sole discretion, agree to adhere to extraneous legends if you notify us of such legends and we have agreed in writing to honor such legends.

The Bank reserves the right to refuse payment of checks or Negotiable Orders of Withdrawal drawn by the depositor against deposits, either of cash or checks, made the same day and will not be liable in so doing. Checks and other items are sometimes lost or truncated (i.e., converted into electronic images) during the collection process. Items that have been truncated may also be reconverted into substitute checks. The Bank, when paying or taking a check for collection may disregard information on the check other than the signature of the drawer, the identification of the drawee bank and payee, the amount, endorsements and any other information coded onto the MICR line according to general banking standards.

18. **Security Interest / Right of Setoff.**

- a.** In consideration of any extension(s) of credit or other financial accommodation(s) now or hereafter given or continued by the Bank to you or any of you, and as security for the payment of all debts, obligations and liabilities (whether direct or indirect, several or joint, matured or unmatured, liquidated or unliquidated, absolute or contingent, original or arising by purchase or assignment, and whether for principal, interest, attorneys' fees, other expenses or any other amounts) which are now or hereafter owing to the Bank or any affiliate of the Bank by you or any of you (with or without other obligors) (all of such obligations and liabilities being the "Indebtedness"), you hereby assign transfer and pledge to the Bank all of the following, whether now or hereafter existing: (i) the accounts, deposits (whether general or special, including, without limitation, deposits owned jointly or by the entireties) and interest on said accounts / deposits, (ii) balances, credits, monies and items maintained with the Bank (or any affiliate thereof) by you or any of you, (iii) any and all other assets (including without limitation all notes, instruments, bonds and securities) held at the Bank (or any affiliate thereof) on behalf of you or any of you, and (iv) any and all proceeds of any of the foregoing (collectively hereinafter "Collateral").
- b.** Upon any default by you or any of you in the payment when due of any Indebtedness, the Bank or any of its affiliates is hereby authorized to setoff and apply any Collateral constituting funds or the equivalent of funds against such Indebtedness, and to sell or otherwise realize upon any other Collateral and apply the proceeds thereof against such Indebtedness pursuant to any applicable codification of Article 9 of the Uniform Commercial Code (or in any other manner authorized by law), all at such time or times, to such extent and in such order as the Bank in its sole discretion may elect. The lien, pledge, security interest and assignment made hereunder shall be irrevocable until such time as all Indebtedness (including any and every contingent obligation) is paid or otherwise discharged in full and the Bank (or its affiliate) is satisfied that no further Indebtedness shall thereafter arise.
- c.** In addition to any general banker's lien or right of setoff or similar right to which the Bank may be entitled by law, the Bank may, at any time and without prior notice to you (such notice being hereby expressly waived by you), combine or consolidate (i) all or any of the Indebtedness which are now or hereafter due and payable to the Bank or any affiliate of the Bank by you or any of you (with or without other obligors), together with (ii) all or any of the accounts or deposits (whether general or special, including without limitation deposits or other assets owned jointly or by the entireties), interest thereon, balances, credits,

monies and items maintained with the Bank by you or any of you (and any obligations of any other types owing by the Bank to you or any of you), thereby setting off and applying those assets of yours described in clause (ii) herein, in such order as the Bank may elect, against those obligations and liabilities of yours described in clause (i) herein. The rights of the Bank under this provision shall be in addition to, and not exclusive of, any similar rights, including any setoff rights, afforded the Bank by law or other contract. The Bank shall not be liable for dishonoring items where such setoff results in insufficient funds in the account to honor items drawn on their account.

- d. If the account is designated a joint account, including account held by husband and wife as “tenants by the entirety”, on the Signature Card or system of record, each depositor agrees that the Bank may setoff the entire amount in the account against the Indebtedness to the Bank of any depositor on the account, notwithstanding the interest of other depositors in the account. Each joint depositor agrees to hold the bank harmless and indemnify the Bank for any losses, expenses and costs, including attorney’s fees, incurred by the Bank in enforcing the Agreement to be jointly and severally liable for overdrafts and to permit setoff of the account against one another’s debts or liabilities to the Bank.
- e. If, for any reason, the Bank is required to reimburse the Federal Government or any other payor for all or any portion of any payment deposited into the depositor’s account through a direct deposit plan, depositor agrees that the Bank may, without prior notice to the depositor, deduct the amount to be returned from the depositor’s account or from any other account the depositor has with the Bank, unless the deduction is prohibited by law. This right is in addition to any other rights the Bank may have.
- f. The rights described in this paragraph are in addition to and apart from any other rights, including any rights granted under any security interest that you may have granted the Bank.

19. Stop Payment Orders.

- a. **Check.** If we have not already paid a check or other item drawn on your account, then at your request and risk we may accept a stop payment order (“SPO”) on it. An SPO on a check or Negotiable Order of Withdrawal is subject to the conditions in Sections 674.303 and 674.402 through 674.404 of the Florida Statutes, as such may be modified from time to time. SPOs will be accepted upon the payment of the fee as indicated in the applicable *Disclosures & Schedule of Fees*, and will be kept in force for a period of six (6) months. SPOs must be re-submitted every six (6) months, prior to said time period, or the item may be paid. Applicable fees apply at each six (6) month resubmission. The Bank shall not be responsible or liable for failure to comply with any SPO received within twenty four (24) hours of receipt of same check/Negotiable Order of Withdrawal. SPOs, including any re-submissions, are not valid unless received in writing, signed by a person properly authorized and served at the Bank. The Bank’s Stop Payment Form must be signed even when customer makes a written declaration of loss. However, authorized users of the Bank’s E-partner System and Online Banking may submit an SPO as provided for therein, consistent with the *Electronic Services Agreement* and *Online Banking and Automated Bill Payment Service Agreement*, as amended or revised from time to time.

Depositor agrees to furnish the Bank in writing with the exact amount, date, check number, name of payee and such other information pertaining to the item as the Bank may request in a declaration of loss. Our liability for carrying out SPOs is limited to that required by law. Any failure to furnish such information will relieve the Bank of any liability for any payment made contrary to the request. If you give us incorrect or incomplete information, we will not be liable for failing to stop payment on the item. Our acceptance of an SPO will not constitute a representation that the item has not already been paid or that we have a reasonable opportunity to act upon the SPO.

SPOs on a money order or check (such as an official, certified, cashier’s, or teller’s check) issued by us, or requests for us to stop payment if we have otherwise become accountable for the item, are not permitted. If such an item has been lost, stolen or destroyed, you must provide a declaration of loss and affidavit and request the item be re-issued. The Bank may require that you wait ninety (90) days (or provide a bond where permitted by law) from the date the executed and fully completed affidavit is provided to the Bank before honoring your claim and will not be liable to you if such check is cashed prior to the ninety (90) days (or receipt of bond, if applicable). In addition, you may not stop payment on checks governed by separate agreement, such as a check guaranty agreement. Further, you may not stop payment on an item after acceptance of the item by us.

- b. **For electronic fund transfer stop payment orders.** The depositor must notify the Bank within three (3) business days before the scheduled date of the transfer and must complete the Bank’s applicable affidavit. The depositor agrees to reimburse the Bank for all expenses and loss resulting from refusing payment pursuant to the depositor’s order, or if by reason of such payment order checks or items drawn by the depositor is returned unpaid because of insufficient or uncollected funds.

In accordance to the National Clearing House Association (NACHA) Operating Rules, stop payments can be placed on other transfers that include:

- RCK – Resubmitted (bounced) check
- POP – Point of Purchase check conversion
- ARC – Accounts Receivable Check (conversion)

- TEL – Telephone single authorization payment
- WEB – Web (internet) single authorization payment

If you have authorized a transfer from your account by telephone or via the Internet by providing information about your account number at this Bank, or if you believe that a check you have issued on your account has been converted to an electronic funds transfer, you may stop payment on any of these transfers by contacting us before the transfer is completed. We will require the exact dollar amount of the transfer, the name of the party to whom you gave the check or authorization, and the check number (if any). We may charge you for each stop payment order you give, consistent with the applicable *Disclosures & Schedule of Fees*.

20. **Limitation of Liability.** This Bank in no case shall be responsible for or be subject to any liabilities to depositor other than those imposed by law for its own lack of good faith to exercise ordinary care. The obligation to exercise ordinary care in the handling of cash and cash items, including stop payment requests, shall be measured by the standard of reasonableness, the procedures established for the transaction involved, and mere clerical error, inadvertence, or oversight without malice, or an honest mistake of judgment, shall not be or constitute as to any transaction, a failure to perform such obligations or to exercise ordinary care and in no case shall be deemed wrongful. The Bank shall not be responsible or liable due to any other entity's (not under our direct control) acts or omissions, including without limitation, any Federal Reserve Bank, Clearing House, correspondent bank, or transmission or communication facility, and we shall not be liable to you for any failure, delay, omission, interruption or error with respect to the Bank's performance of any of its obligations under this Agreement or under any related account opening documentation or Signature Card, if the same results from any cause beyond the Bank's control, including, without limitation, power failures, equipment malfunctions, suspensions of payment by other financial institutions, labor disputes, bank moratoriums, currency restrictions, trading suspensions, acts of God, natural disasters, fire, adverse weather conditions, wars, civil commotions or disturbances, insurrections, acts of terrorism, legal compulsion, negligence of other financial institutions and any other actions or restrictions of any governmental, supervisory or monetary authorities or other third parties, or other circumstances beyond our reasonable control. **YOU AGREE THAT WE SHALL NOT BE LIABLE FOR INDIRECT, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES REGARDLESS OF THE FORM OF ACTION AND EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IF WE FAIL TO STOP PAYMENT ON AN ITEM, OR PAY AN ITEM BEARING AN UNAUTHORIZED SIGNATURE, FORGED DRAWER'S SIGNATURE OR FORGED ENDORSEMENT OR ALTERATION, OUR LIABILITY, IF ANY, SHALL BE LIMITED TO THE FACE AMOUNT OF THE ITEM.**

In addition, the Bank will not be held liable for enforcing the requirements imposed by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"), which may include blocking (freezing) your account or restricting access to those funds as it conducts required due diligence to insure compliance with OFAC rules and regulations.

21. **Indemnification of Bank.** You agree to indemnify and hold the Bank, its affiliates, and each of their respective directors, officers, employees and agents (each of the foregoing, including the Bank and its affiliates, being an "Indemnified Party") harmless from any and all losses, claims, demands, causes of action, liabilities, damages, costs, interest, fines, penalties, and expenses (including without limitation any attorneys', Certified Public Accountant, or any other professional fees, whether incurred at trial, on appeal or without litigation) which may at any time or times be imposed upon, incurred or suffered by, or asserted against such Indemnified Party in connection with any acts, omissions or circumstances arising out of or relating to this Agreement, or any breach of this Agreement by you, or the presentation, payment or dishonor of any item drawn on any account of yours, or the acceptance of any item for deposit in any such account, or any other matter or transaction contemplated by this Agreement (other than any such acts or omissions amounting to gross negligence or willful misconduct on the part of any such Indemnified Party). Even if liability is established for actual damages, consistent with Section I, paragraph 20, **IN NO EVENT SHALL ANY INDEMNIFIED PARTY OR YOU BE LIABLE TO ONE ANOTHER FOR INDIRECT, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE FURNISHING, PERFORMANCE OR USE OF THE SERVICES PROVIDED FOR UNDER THIS AGREEMENT, EVEN IF YOU OR AN INDEMNIFIED PARTY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES UNLESS REQUIRED BY APPLICABLE LAW.** The limitations and exclusions in this paragraph shall apply to all claims of every kind, nature, and description whether arising from breach of contract, breach of warranty, negligence or other tort, and shall survive the termination of this Agreement.

22. **Dispute Resolution.**

PLEASE READ THIS PROVISION OF THE AGREEMENT. THIS PARAGRAPH 22 CONTAINS IMPORTANT INFORMATION REGARDING YOUR ACCOUNT, AND THE SERVICES RELATED THERETO. IT PROVIDES THAT EITHER YOU OR WE CAN REQUIRE THAT ANY CLAIMS OR DISPUTES BE RESOLVED BY BINDING ARBITRATION. ARBITRATION REPLACES THE RIGHT TO GO TO COURT, INCLUDING THE RIGHT TO PARTICIPATE IN A CLASS ACTION OR SIMILAR PROCEEDING. IN ARBITRATION, THE DISPUTE IS SUBMITTED TO A NEUTRAL PARTY, AN ARBITRATOR, INSTEAD OF A JUDGE OR JURY. ARBITRATION

PROCEDURES ARE SIMPLER AND MORE LIMITED THAN RULES APPLICABLE IN COURT, AND ARBITRATION IS FINAL AND BINDING ON THE PARTIES.

- a. **What does “claim and/or dispute” mean?** The term “claim” or “dispute” means any controversy (whether under a statute, in contract, tort (including intentional tort), fraud agency, negligence, statutory or regulatory provisions, or any other source of law and whether for money damages, penalties or declaratory or equitable relief) by either you or the Bank against the other, or against the employees or agents of the other, arising from or relating in any way to this Agreement (including any renewals, extensions or modifications) or the deposit relationship between us.
- b. **Claims / Disputes on Your Account.** Except with respect to claims or disputes described in paragraph (c) below, the depositor and the Bank acknowledge and agree that all claims / disputes arising from or relating to this Agreement are subject to binding arbitration, no matter what theory they are based on or what remedy they seek, whether legal or equitable. A party seeking arbitration shall submit written notice of its request for arbitration to the other party, setting forth the specifics of the claim being made. The parties will refer the issue (to the exclusion of a court of law) to final and binding arbitration in Miami-Dade County, Florida in accordance with the Commercial Arbitration Rules of the American Arbitration Association (“AAA”) in effect at the time of the arbitration, except as they may be modified herein or by mutual agreement of the parties. The arbitration and this provision shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1 et seq. (the “FAA”). The arbitration shall be conducted by a single arbitrator appointed in accordance with the rules of the AAA. The arbitrator, sitting alone without a jury, will decide questions of law and fact and will resolve the dispute or claim. This includes the applicability of this paragraph 22 and the validity of this Agreement, except that the arbitrator may not decide or resolve any claim / dispute challenging the validity of the class action and jury trial waiver. The validity of the class action and jury trial waiver will be decided only by a court. The arbitrator will follow applicable substantive law to the extent consistent with the FAA. The arbitrator will give effect to the applicable statutes of limitation and will dismiss barred claims. Arbitrations will be governed by the rules of the AAA to the extent those rules do not conflict with this paragraph 22. In addition, you or we may submit a written request to the arbitrator to expand the scope of discovery normally allowable. The award of the arbitrator shall be in writing, and state the reasons for the award. Judgment on the award rendered may be entered in any state or federal court having jurisdiction. The arbitrator’s decision is final and binding, except for any right of appeal provided by the FAA or under this Agreement.

After a decision is given by an arbitrator, and where the amount of the claim exceeds \$200,000, either you or the Bank can appeal the arbitrator’s decision to another arbitrator. If the amount of the claim exceeds \$1,000,000, either you or the Bank can appeal the arbitrator’s decision to a panel of three arbitrators. No decision may be appealed under this paragraph unless the arbitrator that heard the matter first makes a finding that the claim could reasonably have exceeded either \$200,000 or \$1,000,000. Any arbitrator who hears an appeal under this paragraph will be selected according to the rules of the AAA.

- c. **Exception to Arbitration.** Claims or disputes filed by you or by the Bank individually in a small claims court are not subject to arbitration, so long as the disputes remain in such court and advance only an individual claim of relief. The parties agree that any such small claims court actions must be commenced only in a court of competent subject-matter jurisdiction in Miami-Dade County, Florida, and the parties hereby waive any defense of lack of venue or personal jurisdiction in any such suit, action, or proceeding.
- d. **Provisional Remedies.** Nothing herein shall be deemed to limit or constrain our right to resort to self-help remedies, such as the right to setoff or the right to restrain funds in an account, to interplead funds in the event of a dispute, to exercise any security interest or lien we may hold in property, or to comply with legal process, or to obtain provisional remedies such as injunctive relief, attachment or garnishment by a court having appropriate jurisdiction; provided, however, that we may, at our sole discretion, elect to arbitrate any dispute related to such provisional remedies.
- e. **CLASS ACTION AND JURY TRIAL WAIVER. YOU AND THE BANK AGREE AND UNDERSTAND: (1) THAT YOU AND THE BANK ARE BOTH GIVING UP THE RIGHT TO TRIAL BY JURY AND (2) THAT PARAGRAPH 22 PRECLUDES YOU AND THE BANK FROM PARTICIPATING IN OR BEING REPRESENTED IN ANY CLASS OR REPRESENTATIVE ACTION OR JOINING OR CONSOLIDATING THE CLAIMS OF OTHER PERSONS. THIS PROVISION IS A MATERIAL INDUCEMENT FOR EACH PARTY TO ENTER INTO THIS AGREEMENT AND PERFORM HEREUNDER. THIS PROVISION IS REFERRED TO BELOW AS THE “CLASS ACTION AND JURY TRIAL WAIVER”.**
- f. **Limitation and Non-Severability.** Notwithstanding anything to the contrary in paragraph 22, you and the Bank both acknowledge and agree that the validity and effect of the *Class Action and Jury Trial Waiver* may be determined only by a court and not by an arbitrator. You and the Bank acknowledge and agree that the *Class Action and Jury Trial Waiver* is material and essential to the arbitration of any disputes between you and the Bank and is nonseverable from the agreement to arbitrate claims. If the *Class Action and Jury Trial Waiver* is limited, voided or found unenforceable, then the agreement to

arbitrate (except for this sentence) will be null and void with respect to such proceeding and paragraph 22; will be read as if the provisions regarding arbitration were not present. You and the Bank both have the right to appeal the limitation or invalidation of the *Class Action and Jury Trial Waiver*. You and the Bank acknowledge and agree that under no circumstances will a class action be arbitrated.

- g. **Prevailing Party.** The prevailing party in any arbitration initiated pursuant to paragraph 22 shall be entitled to recover its reasonable legal fees and expenses of the arbitration and the arbitrator shall be authorized to issue an award for such fees and expenses.
 - h. **Jurisdiction and Venue.** Subject to the arbitration provisions in this Agreement, to the extent that any legal action is commenced with respect to the enforcement of an arbitration award under this Agreement, or in the event that either you or Bank commences legal action that is not subject to arbitration seeking monetary, declaratory, or injunctive relief with respect to enforcement, interpretation, or violation of this Agreement, the parties (i) agree that any such action may be commenced only in a court of competent subject-matter jurisdiction in Miami-Dade, Florida; (ii) consent to venue and personal jurisdiction in such a court; and (iii) waive any defense of lack of venue or personal jurisdiction in any such suit, action, or proceeding. The parties further (a) agree that process in any such suit, action, or proceeding may be served by mailing a copy thereof by certified mail, return receipt requested, to the other party at the address set forth in the account records and for the Bank: City National Bank of Florida, Attn: Legal Department, 25 West Flagler, Miami, FL 33130, and (b) waive any defense of insufficiency of service of such process.
23. **Source of Funds / Compliance with Law.** You understand and acknowledge that the Bank is required under applicable law and its own policies and procedures to take steps to combat the use of the Bank's products, services and facilities in furtherance of money laundering and other illegal activities. The depositor represents, warrants and covenants that all funds now or hereafter deposited in an account shall have a lawful source, and that the depositor shall not conduct or initiate any transaction in or through the account or the Bank that is unlawful under the laws of the United States, the State of Florida or any other jurisdiction the laws of which are applicable to such transaction. You agree not to violate the laws of the United States or any foreign jurisdiction, including without limitation, the economic sanctions administered by the U.S. Treasury's OFAC, through the use of the account. You agree to comply with all applicable law. You may not use your account or any account-related service to process Internet gambling transactions or conduct any activity that would violate applicable law, U.S. or otherwise. If we are uncertain regarding the legality of any transaction, we may refuse the transaction or freeze the amount in question while we investigate the matter and you agree to hold the Bank harmless consistent with the provisions of this Agreement.
24. **ATM / Check Cards.** Intentionally left blank.
25. **Miscellaneous Terms and Conditions.**
- a. **Governing Law.** Without giving effect to the principles of comity or conflicts of law thereof, the validity, interpretation, performance and enforcement of this Agreement shall be governed by and interpreted according to federal law and the laws of the State of Florida. If state and federal law are inconsistent, or if the state law is preempted by federal law, federal law governs.
 - b. **Conflicts Involving the Account.** If we receive an actual or potential claim from a third party regarding your account, any deposit, transfer, debit, credit or other transaction involving your account, or conflicting instructions or claims from authorized signers, you hereby grant to us full discretion to freeze your account and not honor any further transactions until the claim is resolved, or we may, at our discretion, choose not to pay out any money from your account until we receive consistent instructions from all parties or a court order, all without liability to you. We may also, without liability to you, close the account and issue a check made payable to you and each authorized signer or you and each claimant, as we deem necessary, or we may interplead the funds into court. You agree to reimburse us for any loss, costs or expenses including, without limitation, attorneys' reasonable fees and the costs of litigation (to the extent permitted by law) that we incur as a result of any dispute involving your account, and you authorize us to deduct any such loss, costs, or expenses from your account without prior notice to you. This obligation includes any dispute between you and us involving the account and situations where we become involved in any dispute between you and an authorized signer, another joint owner, or a third party claiming an interest in the account. It also includes any situation where you, an authorized signer, another joint owner, or a third party takes action with respect to the account that causes us, in good faith, to seek the advice of counsel, whether or not we actually become involved in a dispute.
 - c. **"Business Day".** For purposes of this Agreement, a "business day" means any day that is not a Saturday, a Sunday or other day on which commercial banks are required or authorized to be closed under applicable Federal or State law.

- d. **Notices.** Written notices sent to the Bank shall not be effective until actual receipt. Written notice given to the depositor shall be effective when mailed to the address shown on statement. If you provide the Bank with an e-mail address to which the Bank may send electronic communications, then you agree that the Bank may send you by e-mail any information that it may have sent via regular mail, for example: notices, alerts, changes in terms of Agreement, etc. You agree to notify the Bank in the event you no longer desire to receive content through this delivery procedure and will allow a reasonable amount of time to permit proper delivery to you as requested or by other means.
- e. **Amendments and Alterations to this Agreement.** The Bank in its sole discretion may amend or alter the terms and conditions of this Agreement, from time to time, by mailing you at the address appearing on the records of the Bank, delivering by other authorized method (e.g., email, posting on our Internet page with notice to you, etc.) or by posting in each of its locations, a prominent copy of said alteration or amendment, which shall become effective thirty (30) calendar days later. However, interest rates and the earnings credit rate are subject to change at any time at our sole discretion. Notice of such changes will be reflected on branch signage, our Internet page, your bank or analysis statement. You are free to terminate your relationship with us if you do not agree with any change. If you continue to use your account, all changed / modified terms will apply, they shall apply whether the issue arose in the past or in the future. Any attempted alteration or modification of this Agreement or the terms and conditions of your account shall not be effective unless and until agreed to in writing by TDB.
- f. **Changes to Your Account.** You must notify us of any change to your name or address. If you do not provide notice of change of address, we may send notices, statements and other correspondence to you at the address maintained on our records for your account and you agree to indemnify us and hold us harmless for doing so. You agree to notify us in writing of any change in ownership or authorized signers of your account or if an owner or authorized signer on the account dies or is adjudicated incompetent. If there is more than one owner and/or authorized signer on the account, any one account holder or authorized signer may request the account be closed without consent of any other account holder or authorized signer. Further, any one account holder may request, and we may, at our option, permit removal of any account holder or authorized signer without consent of any other account holder or authorized signer on the account. You acknowledge that we may, but need not, require a new Signature Card to be completed before any change in ownership or authorized signers becomes effective and each time you open a new account, we may require a Taxpayer Identification Number certification(s). You also acknowledge that we may require you to close your account in the event of any change in ownership or change in the authorized signers. After we receive notice of a change and all documents we require regarding the change, we may take a reasonable period of time to act on and implement the change in your account.
- g. **Currency Transaction Reporting (“CTRs”).** The Bank is required by 31 CFR Chapter X (formerly 31 CFR 103) to report certain transactions to the Federal Government. The depositor agrees to provide all information required, including, but not limited to, the presentation of identification of the conductor(s) of any such transaction and the identification of the beneficial owners of any account affected by reportable transactions, including attorney trust accounts, to satisfy these reporting requirements. Agents or employees of the depositor are also bound by these requirements. The Bank reserves the right to refuse any reportable transaction, if the depositor, any agent of the depositor, or employee of the depositor does not provide sufficient information for the Bank to fulfill the reporting obligations of 31 CFR Chapter X (formerly 31 CFR 103). Customers who structure or appear to structure transactions in a manner so as to cause or attempt to cause the Bank to fail to file reports required under 31 CFR Chapter 1010.311 - 1010.315 (formerly 31 CFR 103.22) or which may contain material omissions or statements of fact, may have their account closed.
- h. **Unlawful Internet Gambling.** In accordance with Regulation GG (promulgated pursuant to the Unlawful Internet Gambling Enforcement Act of 2006), you agree that by establishing an account with the Bank, you certify that: (i) you shall not conduct "restricted transactions" (as defined below) through any Bank account, (ii) you do not engage in unlawful internet gambling, and (iii) you agree to be bound by the terms of the Bank's Deposit Agreement. A "restricted transaction" is a transaction or transmittal involving any credit, funds, instrument, or proceeds in connection with any person engaged in the business of betting or wagering or in participation with another person involving unlawful internet gambling. You acknowledge that the Bank may reject transactions we reasonably believe are tied to unlawful Internet gambling and, in addition, to restricting such transactions, the Bank in its sole discretion may elect to close any such account for which it has reasonable belief of such activity. You agree to hold us harmless with regard to any such actions conducted in good faith.
- i. **Privacy.** We will not reveal your information to any external organization unless we have previously informed you in disclosures or agreements, have been authorized by you, or are required by law. For complete information regarding our privacy practices, please refer to our consumer *Privacy Policy*.
- j. **Power of Attorney.** If the depositor wishes to name another person to act as their attorney in fact or agent in connection with their account, the Bank must approve the form of appointment. All revocations must be submitted in writing and will not be effective until the Bank has had a reasonable time to process request.

- k. **Attachments and Legal Process.** If legal action such as a tax levy, attachment, garnishment, writ of execution or similar legal process is brought against you or your account, the Bank may be required to pay all or a portion of your account to another party and/or may refuse to pay out any money from your account. In such event, the Bank will not be liable to you for complying with such levy, attachment, garnishment, writ or other legal process, even if paying the funds from the account leaves insufficient funds to pay an item you have written. The Bank may also charge your account the applicable fee set forth in the applicable *Disclosures & Schedule of Fees*. If the Bank incurs any expenses, fees or other costs, including, but not limited to, attorney's fees and the costs of litigation, arbitration or other dispute resolution to the extent permitted by law, in responding to the levy, attachment, garnishment, writ of execution or similar legal process that is not otherwise reimbursed, the Bank may charge or collect such expenses, fees or other costs from your account without prior notice to you. Any tax levy, attachment, garnishment, writ of execution or similar legal process is subject to the Bank's right of setoff and security interest.

The Bank may also charge your account the applicable fee set forth in the applicable *Disclosures & Schedule of Fees* for records and research provided on your account in response to a valid request by you or another account owner or person or entity having a legal interest in your account that the Bank perform research or produce records. Similarly, the Bank may also charge your account the applicable fee set forth in the applicable *Disclosures & Schedule of Fees* for records and research provided on the account in response to a summons, subpoena, or other court or governmental agency order or requirement that the Bank perform research or produce records. You agree that the Bank has no duty to challenge or otherwise defend the adequacy or propriety of any legal process served on the Bank.

- l. **Death or Incompetence.** You agree to notify us promptly if any owner or authorized signer on your account dies or is declared incompetent by a court. Until we receive a notice of death or incompetency, we may act with respect to any account or service as if all owners, signers or other persons are alive and competent and we will not be liable for any actions or inactions taken on that basis. If you give us instructions regarding your account, and you or another owner of the account subsequently dies or is declared incompetent, we may act on the instructions unless we receive written notice of death or incompetency prior to honoring such instructions. When we receive a notice that an owner has died or been declared incompetent, we may place a hold on your account and refuse to accept deposits or permit withdrawals. We may hold any funds in your account until we know the identity of the successor, and unless and until we are fully satisfied, in our sole judgment, that we will have no resulting liability or potential liability for any estate tax, gift tax or similar tax under the federal law of the United States or under any other applicable law of any jurisdiction. If a deposit, including salary, pension, Social Security and Supplemental Security Income, payable to the deceased owner is credited to the account after the date the deceased owner died, we may debit the account for the deposit and return it to the payer.

m. **Inactive / Dormant Accounts.**

- i. If you do not make any deposits or withdrawals from your account (passive ACH debits and credits are not deemed transactions, examples include, but are not limited to Social Security payments, Veterans payments, established automated payments of third parties through ACH, etc.), or you fail to maintain contact with the Bank (e.g., return of mail to the last known address for the account, etc.) your account will be deemed dormant after eighteen (18) months of inactivity for checking accounts, savings / money market accounts and five (5) years from the 1st renewal for CDs, if no activity (meaning deposit, withdrawal, other accounts, etc.) on the account has taken place. Based on the foregoing, your account will be classified as dormant and will remain classified as dormant until you make a deposit or withdrawal or otherwise notify the Bank of your interest in the account. You may be required to sign a form to return your account to active status. After a specified period of time, if the customer has not responded to the Bank's dormancy notifications, the accounts will be considered "abandoned" and will be escheated in accordance with the State of Florida Statutes (see "*Escheatment*" below). Charges imposed for dormant accounts cannot be reversed. Refer to the Bank's current applicable *Disclosures & Schedule of Fees* for related charges. If the balance in your account reaches zero (0) after the assessment of dormant account fees or other service fees, the Bank may close your account.

- ii. Escheatment. Under applicable state law, any account which has not had activity for a certain period is deemed to be escheatable. Any and all funds in your account that are determined to be escheatable will be withdrawn and paid to the applicable government entity. An escheat fee may be deducted from your account prior to payment being made to the state. The Bank is relieved from all responsibility to any party if your account is escheated.

- n. **FDIC Sweep Repurchase (Repo) Account Information.** This provision is only applicable to account owners who also have a sweep repurchase agreement with the Bank. Pursuant to Section 360.8 of the FDIC's Rules and Regulations, the Bank is required to notify its sweep repo account owners that your funds invested in our overnight repurchase investment account are not deposits and therefore not insured by the Federal Deposit Insurance Corporation. In the event of the Bank's failure, the investor would be considered a secured creditor of the Bank.

- o. **Negative Information Reported to Consumer Reporting Agencies.** We may report information about your account to credit bureaus. For example, late payments, missed payments, overdrafts, in-sufficient funds (AKA: NSF's) checks written on

your account and returned, or other defaults on your account may be reflected in your credit report. Under the Fair Credit Reporting Act you have the right to notify us if you believe we have reported inaccurate information about your account to any Consumer Reporting Agency. Such notices should be sent in writing and include your complete name, current address, social security number, telephone number, account number, type of account, specific item of dispute and the reason why you believe the information reported is in error. Send your notice to:

City National Bank of Florida
25 West Flagler Street
Miami, FL 33130
ATTN: Loan Services

- p. **Counterparts.** This Agreement or any agreement entered into with the Bank relating to a deposit product or service may be executed in one or more counterparts, each of which will be considered an original, but all of which together will constitute one and the same instrument. The parties agree that an executed facsimile (fax) or electronically transmitted copy of this Agreement (e.g., scanned image) or any agreement entered into with the Bank relating to an account or service (in counterparts or otherwise) shall be sufficient to bind the parties to the terms and conditions of this Agreement or the specific product or service and said copies shall be considered for all purposes as originals.
- q. **Construction.** Any ambiguity in this Agreement shall not be construed against the Bank and shall be construed equally against each party.
- r. **Gender, Singular and Plural.** Any references in this agreement to gender include masculine, feminine and neutral party, unless otherwise indicated by the context. Any singular references include the plural and any plural references include the singular.
- s. **Headings.** Any heading in this Agreement is for convenience of reference only and does not constitute a part hereof or thereof.
- t. **E-mail Security.** Customers should not use unencrypted e-mail to send confidential information, such as social security numbers, account numbers, etc., to the Bank as these are not secure.
- u. **Enforcement of Rights.** No delay or omission on the part of the Bank in the enforcement or exercise of any of its rights in connection with an account shall operate as a waiver of such rights, nor shall same prejudice the Bank in the later enforcement or exercise of such rights or any other of its rights.
- v. **Severability.** Any provision of this Agreement that is unenforceable shall be ineffective to the extent of such provision, without invalidating the remaining provisions of this Agreement. If performance of any of the obligations under the Agreement would result in violation of applicable law, this Agreement shall be deemed amended to the extent necessary to comply therewith.
- w. **Signatures Received via Facsimile (Fax) or Scanned Images.** If Customer faxes or e-mails any scanned document to the Bank signed, Customer agrees that it was its intention that: (i) Customer's fax/scanned signature is an electronic signature under applicable federal and state law; (ii) the fax/scan be an original document; (iii) Customer intends on conducting business with the Bank by electronic records, electronic contracts, and electronic signatures; and (iv) Customer's consent under (iii) to be electronically given under applicable federal and state law.
- x. **Third Party Account Aggregation Services.** If the customer contracts to use a third-party account aggregation service (e.g. Full View, from Fidelity Investments), the customer shall assume the responsibility for any use of their access devices, personal identification codes, and/or passwords by such third parties. Any inquiries and transactions made by such services shall be deemed as transactions authorized by the customer.
- y. **Recording and Monitoring.** You agree that we may tape record, monitor or create a digital record of any conversation or electronic correspondence you have with us regarding your account. However, we are not obligated to do so and may choose not to at our sole discretion.
- z. **Records.** We may, at our option, retain records in any form including, without limitation, paper, film, fiche, digitized or other electronic medium. Unless prohibited by law, if we are unable to produce your original Signature Card or any other document relating to your account or service or a copy of such document(s), our records, including, without limit, electronic records, shall be deemed to be conclusive. The parties further agree that our imaged copies (including scanned images) of any account documents or related documents (e.g., Signature Cards, customer written instructions, system / services specific agreements,

scanned email communications, scanned letters, etc.) shall be deemed for all purposes originals. Unless prohibited by law, if there is a discrepancy between your records and the Bank's records, the Bank's records shall be deemed to be conclusive.

- aa. **Force Majeure.** Neither party shall be liable for the non-performance hereunder to the extent such performance is prevented by any of the following: fire, earthquake, hurricane, tornado, flood, explosion, embargo, war, terrorism, riot, government restriction(s), act of God, act of public enemy, or by reason of any other cause beyond such party's reasonable control ("Force Majeure Event"). Each party's obligation to perform timely shall be excused to the extent such performance is prevented by a Force Majeure Event.
- bb. **Employee Account.** If you have established an employee account as an employee of the Bank and your employment ends, the charges applicable to your account as described in the Bank's current *Disclosures & Schedule of Fees* will be imposed.
- cc. **Check Cashing Fee.** If you issue a check drawn on the Bank and a noncustomer of the Bank seeks to cash it at the Bank, we reserve the right to charge a service fee as a condition of cashing the check. This fee helps the Bank cover the additional costs and risks involved in cashing such a check.
- dd. **Waiver of Rights.** We reserve the right to waive the enforcement of any of the terms of this Agreement with respect to any transaction or series of transactions. Any such waiver will not affect our right to enforce any of our rights with respect to other customers or to enforce any of our rights with respect to later transactions with you and you agree such actions by us are not sufficient to modify the terms and conditions of this Agreement.
- ee. **Sub-Accounts.** For regulatory accounting purposes we may classify checking accounts as two sub-accounts: a checking subaccount and a savings sub-account. For interest-bearing checking accounts, we calculate and pay interest at the same rate and in the same way on both sub-accounts. For non-interest bearing checking accounts, we do not pay interest on either sub-account. We may transfer funds between these sub accounts. We record the sub-accounts and any transfers between them on our internal accounting records only. Otherwise, the sub-accounts are subject to the same terms as the checking and savings accounts described in this Agreement.
- ff. **Entire Agreement.** This Agreement and the documents to which it refers constitute your and our entire agreement and understanding and supersede all prior agreements and understandings.
- gg. **Binding Agreement; Restriction on Assignability.** This Agreement shall be binding upon you, your heirs, legal representatives, successors and assigns. Notwithstanding the foregoing, your rights and obligations under this Agreement shall not be assignable by you without the prior written consent of the Bank, and any purported assignment of the same without such prior written consent shall be null and void.
- hh. **Survival.** Upon the termination of this Agreement for any reason, the following paragraphs of Section I shall survive: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 17, 19, 20, 21, 22, 23, 24 and 25; all of Section II, and all of Section III.

II. SUBSTITUTE CHECKS AND YOUR RIGHTS

This section helps explain some of the rights a consumer has under a federal law commonly referred to as Check 21. Check 21 was enacted to increase the efficiency of the U.S. check clearing system. The check clearing system relied heavily on the physical transport of checks between banks. Check 21 allows banks to create substitute checks and present them to other banks instead of the original check. This reduces the transport of checks among banks and helps enable the electronic collection of checks.

1. **What is a substitute check?** To make check processing faster, federal law permits banks to replace original checks with "substitute checks." These checks are similar in size to original checks with a slightly reduced image of the front and back of the original check. The front of a substitute check states: "This is a legal copy of your check. You can use it the same way you would use the original check." You may use a substitute check as proof of payment just like the original check. Some or all of the checks that you receive back from us may be substitute checks. This notice describes rights you have when you receive substitute checks from us. The rights in this notice do not apply to original checks or to electronic debits to your account. However, you have rights under other law with respect to those transactions.
2. **What are my rights regarding substitute checks?** In certain cases, federal law provides a special procedure that allows you to request a refund for losses you suffer if a substitute check is posted to your account (for example, if you think that we withdrew the wrong amount from your account or that we withdrew money from your account more than once for the same check). The losses you may attempt to recover under this procedure may include the amount that was withdrawn from your account and fees that were charged as a result of the withdrawal (for example, bounced check fees/non-sufficient funds (NSF) fees).

The amount of your refund under this procedure is limited to the amount of your loss or the amount of the substitute check, whichever is less. You also are entitled to interest on the amount of your refund if your account is an interest bearing account. If your loss exceeds the amount of the substitute check, you may be able to recover additional amounts under other law.

If you use this procedure, you may receive up to \$2,500 of your refund (plus interest if your account earns interest) within 10 business days after we received your claim and the remainder of your refund (plus interest if your account earns interest) not later than 45 calendar days after we received your claim. We may reverse the refund (including any interest on the refund) if we later are able to demonstrate that the substitute check was correctly posted to your account.

How Do I Make a Claim for a Refund? If you believe that you have suffered a loss relating to a substitute check that you received and that was posted to your account, please write to us at: City National Bank, 25 West Flagler, Miami, FL 33130 or call 305-577-7333 or 1-800-435-8839. You must contact us within 40 calendar days of the date that we mailed (or otherwise delivered by a means to which you agreed) the substitute check in question or the account statement showing that the substitute check was posted to your account, whichever is later. We will extend this time period if you were not able to make a timely claim because of extraordinary circumstances.

Your claim must include:

- A description of why you have suffered a loss (e.g., you think the amount withdrawn was incorrect);
- An estimate of the amount of your loss;
- An explanation of why the substitute check you received is insufficient to confirm that you suffered a loss; and
- A copy of the substitute check and/or the following information to help us identify the substitute check (e.g., the check number, the name of the person to whom you wrote the check, the amount of the check).

III. WIRE TRANSFERS AND AUTOMATED CLEARING HOUSE (ACH) TRANSACTIONS

The Bank offers both incoming and outgoing wire transfer services for which the following provisions apply. These rules do not apply to transactions governed by the Electronic Fund Transfers Act or transfers by check, draft or other written item. Generally, it is required that you contract with the Bank to conduct wire transfers and similar types of electronic fund transfers. If you have entered into such a contract with the Bank for electronic funds transfer services, the provisions set forth below should be considered a supplement to that agreement and do not nullify any terms of that agreement. In addition, applicable payment orders are subject to Article 4A of the Uniform Commercial Code as adopted by the State of Florida. Fees applicable to wire transfers and other electronic transfers of funds are detailed in the Schedule of Fees, which is applicable to your account. Lastly, with respect to ACH transactions you have authorized, you agree to be bound by the National Automated Clearing House Association ("NACHA") Operating Rules and any local ACH operating rules then in effect.

1. **Sending Fund Transfers.** This Section applies to wire transfers that the Bank sends to other financial institutions and to payment orders, subject to Article 4A, we make between accounts maintained by the Bank. "Payment Order" means Bank shall be deemed to have accepted your wire transfer instructions when it executes such a wire transfer by issuing a payment order intended to carry out the wire transfer instructions provided by you and received by the Bank.
 - a. **Processing Requests and Cut-off Times.** We have cut-off times for processing payment orders and we process payment orders on a same-day basis until such cut-off times. We treat payment orders we receive after the cut-off time as received on the next business day. We will provide you with our cut-off times upon request. To process a wire transfer request, the originator must provide a transmittal order that includes a payment order and is an instruction of a sender to a receiving financial institution. It can be transmitted orally, electronically (e.g., email), fax, or in writing, to pay, or cause another financial institution or foreign financial agency to pay, a fixed or determinable amount of money to a recipient.
 - b. **Security Procedures.** Means a procedure established by you and the Bank for the purpose of verifying that a payment order or communication amending or canceling a payment order is that of the Depositor. You hereby agree that the Bank shall have no obligation or responsibility to detect errors in the transmission or the content of the payment order or a communication amending or canceling a payment order, and you acknowledge that the security procedures are not designed to detect errors contained in any payment order. A security procedure may require the use of algorithms or other codes, identifying words or numbers/transactions, encryption, callback procedures, presentation of personal identification (e.g., driver's license, passport, cédula, or comparable form of government issued identification), establishment through interaction of your identity (e.g., customer known to a Bank officer for a reasonable period of time) or similar security devices/process. You acknowledge and agree that the security procedures established by the Bank are commercially reasonable and shall be communicated to you directly for your consideration, selection (where applicable), and approval (e.g., Wire Transfer Agreement (non-partner) or

Electronic Services Agreement) or are made part of our operating procedures (e.g., wires conducted in person). At our discretion, we may change the security procedures upon written notice to you; thereafter, your continued use of the amended security procedure shall evidence your agreement that the amended security procedure is also commercially reasonable. You agree that we will not process a requested payment order or be liable to you or any third party, in anyway, for not processing a payment order unless the agreed upon security procedures are met to the satisfaction of the Bank. You further agree that if the Bank follows the agreed upon security procedures, then the payment order is effective as your payment order, whether the payment order was authorized by you or not. The details of the security procedure on your Account shall be safeguarded by you and any authorized person(s) having such security procedures, and you shall indemnify and hold us harmless with respect to any and all damages, losses, claims, actions liabilities, costs and expenses (including any attorneys' fees) which may be incurred by or asserted against you, us or any third party as a result of any unauthorized disclosure of such security procedures.

- c. **Amendment or Cancellation of Requests.** You have no right to amend or cancel a payment order after we receive it. If you ask us to do this, we may, at our sole discretion, act on your request prior to the time that we execute such payment order, and in any event, we may condition such action upon (i) receipt of information reasonably identifying the original payment order, (ii) compliance with applicable security procedures, (iii) receipt of an indemnity and bond or other security acceptable to the Bank, under which the Bank is made whole for all losses, expenses (including attorneys' fees) and other liabilities that may result from execution of the amendment to or cancellation of a payment order, and (iv) receipt of the applicable cancellation or amendment request no later than the applicable cut-off time (as from time to time established by the Bank) on the funds transfer business day preceding the date on which the Bank is to execute or pay the original payment order. A fee may be imposed at the Bank's discretion; however, we are not liable to you if, for any reason, a request is not amended, cancelled, or the Bank is unable to perform, as requested.
- d. **Identifying Beneficiaries and Banks.** The beneficiaries' bank may make payment to the beneficiary based solely on the account or other identifying number, which you have provided to us, even if the name on the payment order differs from the name on the account. We or an intermediary bank may send a payment order to an intermediary bank or beneficiaries' bank based solely on the bank's identifying number, even if the payment order indicates a different bank name. The Bank shall have no duty to detect any inconsistency between the name and any such number contained in a payment order. The depositor shall be responsible for such inconsistencies and shall indemnify and hold the Bank harmless from any loss, liability, expense or damage it may incur as a result of such inconsistency, including without limitation, attorneys' fees and expenses.
- e. **Transmission of Requests.** You authorize us to select any intermediary bank, funds transfer system or means of transmittal to send your payment order. You acknowledge that our selection may differ from that indicated in your instructions and you agree to indemnify the Bank for such selection, and any errors, mutilations, delays, or failure of transmission in the transmission of any payment order in connection with such selection by the Bank.
- f. **Rejection of Requests.** The Bank may reject for any reason a payment order. We will notify you of any rejection of a payment order from your account orally, electronically (e.g., email) or in writing. The depositor agrees that any of the foregoing constitutes a commercially reasonable means of notice. We are not liable to you for any rejection of a payment order, and the Bank shall not be obligated to pay you interest for the period before you receive notice of rejection.
- g. **Notices of Your Payment Orders.** We ordinarily notify you about payment orders by listing them on your account statement or, at our option, by a customer email or fax advice.
- h. **Interest Compensation.** If we are obligated to pay for a loss of interest that results from our error or delay regarding your payment order, we will calculate the interest as follows: With an account subject to analysis and earnings credits, we adjust the account under our account analysis procedures to recalculate earnings credits for the period involved. With a non-analyzed account, we will use a rate equal to the average of three (3) months of the Federal Funds Rates as set by the Federal Reserve Bank of Atlanta.
- i. **International Payments.** Payment orders for the transfer of U.S. Dollars shall be paid in U.S. Dollars if transferred to a beneficiary located in the United States. If transferred to a beneficiary located in a foreign country, the beneficiary's bank may elect to pay the beneficiary in foreign currency at the bank's buying rate of exchange for wire transfers. It is your responsibility to advise the beneficiary of this possibility. Additional charges/fees may apply to international payments, consult the applicable *Disclosures & Schedule of Fees* for such charges.

We may send any message relative to this order in explicit language, code or cipher. Foreign currency transfer orders are final when made to us. However, pursuant to the request of the originator, and, if possible, we may cancel or amend any order before the transfer is made. We shall incur no liability if we are unable, for any reason, to cancel or amend an order as requested. Refunds of U.S. Dollar orders shall be in the U.S. Dollar amount. Refunds of foreign currency orders shall be in

the amount of U.S. Dollars that can be bought for the foreign currency amount at our then current rate of exchange. The originator bears all risk of loss due to fluctuation in the rate of exchange. No transfer shall be refunded.

2. **Receiving Funds Transfers.** We may receive funds transfers directly from a sender, through a funds transfer system or through some other communications system. We may reject an incoming funds transfer for any reason. We are not obligated to notify you if we reject a payment order on your account. In addition, you agree to hold the Bank harmless for such rejection of incoming funds.

We will notify you that we have received an incoming funds transfer by listing them on your account statement. Generally, we do not send you a separate notice or advice regarding our receipt of an incoming funds transfer unless you make a request for such a notice. When we provide a notice, in response to your request, it does not obligate us to send notices for any future incoming funds transfers that you may receive thereafter.

- a. Any credit we give you resulting from a funds transfer will normally be deemed final payment. However, if we credit your account by mistake, you agree that we may reverse the credit to your account or that you will otherwise reimburse us if funds in your account are not sufficient. If we receive satisfactory documentation that a credit was made in error, for an erroneous amount, in connection with fraud or for other commercially reasonable circumstances, we may debit your account for the said amount or you agree to otherwise reimburse us if funds in your account are insufficient. You agree to hold the Bank harmless for such commercially reasonable reversals of funds transfers from your account.
3. **Errors and Questions about ACH Transactions and Your Statement.** You must notify us at once if you think an ACH credit or debit shown on your account statement or customer advice is incorrect. For consumers, you must send us a written notice describing any discrepancy no later than sixty (60) calendar days after the date you receive the first notice or statement on which the ACH problem or error appears. For consumers, if you fail to notify us within this sixty (60) calendar day period, the Bank may not be liable for any loss of interest because of an unauthorized or erroneous ACH debit. For business customers, please refer to Section I, paragraph 15 for applicable timeframes to report unauthorized or erroneous entries.
 4. **ACH.** If your payment order or other funds transfer is sent or received through an ACH system, you will be subject to all applicable rules of such clearinghouse, and any applicable rules set forth in Federal Reserve Operating Circulars. These rules provide, among other things, that payments made to you, or originated by you, are provisional until final settlement is made through a Federal Reserve Bank or payment is otherwise made as provided in Article 4A-403(a) of the Uniform Commercial Code (as modified or then in effect). If we do not receive such, we are entitled to a refund from you in the amount credited to your account and the party originating such payment will not be considered to have paid the amount so credited. If we receive a credit to an account you have with us by ACH, we are not required to give you any notice of the payment order or credit.

Any credit we give you resulting from an ACH credit is provisional until we receive final payment. If we do not receive final payment or if we credit your account by mistake, you agree that we may reverse the credit to your account or that you will otherwise reimburse us if funds in your account are not sufficient. If we receive satisfactory documentation that a credit was made in error or for an erroneous amount, we may debit your account for the amount erroneously credited, or you agree to otherwise reimburse us if funds in your account are insufficient. In the event that the payment does not become final, the originator will not be deemed to have paid you the amount of the credit.

- a. **International ACH System Entries.** ACH Entries coming from an originator or going to a recipient outside the United States jurisdictional are subject to greater scrutiny and verification against OFAC's list of Specially Designated Nationals ("SDNs"). This action may delay and/or prevent settlement of funds. Customer will assist Bank to clear any such matches against the SDN list, consistent with its obligations under U.S. law and this Agreement. In addition, specific data entry elements will be required in order to complete an international ACH transaction ("IAT") in accordance with the Bank Secrecy Act.

IV. IDENTITY THEFT AND PRETEXT CALLING

Identity theft affects thousands of consumers annually. It involves the fraudulent use of a person's personal identifying information, such as a social security number, mother's maiden name, date of birth, or account number to open fraudulent new credit card accounts, charge existing credit card accounts, write checks, open bank accounts, or obtain new loans. They may obtain this information by:

1. Stealing wallets that contain personal identification information and credit cards.
2. Stealing bank statements from the mail.
3. Diverting mail from its intended recipients by submitting a change of address form.
4. Rummaging through trash for personal data.
5. Stealing personal identification information from workplace records.

6. Intercepting or otherwise obtaining information transmitted electronically.

To prevent identity theft, the bank is advised to verify customer account information by using third party sources, such as consumer reporting agencies, by verifying change of address requests on existing accounts, and by maintaining adequate security standards. The bank also offers additional safety system software to protect customer account from identity theft.

Pretext calling is another fraudulent means of obtaining a person's personal information. Pretext callers may contact bank employees, posing as customers, to access customers' personal account information. Information obtained from pretext calling may be sold to debt collection services, attorneys, and private investigators to use in court proceedings. Identity thieves may also engage in pretext calling to obtain personal information to create fraudulent accounts. The following are a few basic steps outlined by the Office of the Comptroller of the Currency to avoid becoming a victim of identity theft and pretext calling:

- Do not give personal information such as account numbers or social security numbers, over the telephone, through the mail, or over the Internet, unless you initiated the contact or know with whom you are dealing.
- Store personal information in a safe place and tear up old credit card receipts, ATM receipts, old account statements, and unused credit card offers before throwing them away.
- Protect your PINs and other passwords. Avoid using easily available information, such as your mother's maiden name, your birth date, the last four digits of your social security number, your phone number, etc.
- Carry only the minimum amount of identifying information and number of credit cards that you need.
- Pay attention to billing cycles and statements. Inquire of the Bank, if you do not receive a monthly bill. It may mean that the bill has been diverted by an identity thief.
- Check account statements carefully to ensure all charges, checks, or withdrawals were authorized.
- Guard your mail from theft. If you have the type of mailbox with a flag to signal that the box contains mail, do not leave bill payment envelopes in your mailbox with the flag up. Instead, deposit them in a post office collection box or at the local post office. Promptly remove incoming mail.
- Order copies of your credit report from each of the three major credit bureaus once a year. The law permits the credit bureaus to charge \$8.50 for a copy of the report (unless you live in a state that requires the credit bureaus to provide you with one free copy of your report annually).
- If you prefer not to receive preapproved offers of credit, you can opt out of such offers by calling (888) 5 OPT OUT.
- If you want to remove your name from many national direct mail lists, send your name and address to the Direct Mailing Association (DMA) below:

DMA Mail Preference Service
P.O. Box 643
Carmel, NY 10512

- If you want to reduce the number of telephone solicitations from many national marketers, send your name, address, and telephone number to the Direct Mailing Association (DMA) below:

DMA Telephone Preference Service
P.O. Box 1559
Carmel, NY 10512

To safeguard against pretext calling, banks are encouraged to limit telephone disclosures of customer information, train employees to recognize fraudulent attempts to obtain customer information, and to test information security systems. In addition, if the bank is informed of such type of activity, it must report it to the regulators using Suspicious Activity Reports (SARs).

The following are recommendations outlined by the Office of the Comptroller of the Currency if someone has stolen your identity:

- Contact the police to file a report with your local law enforcement. If your identity was stolen when you were away from home, you will need to contact the police in that jurisdiction, too.
- Contact the fraud department of each of the three major credit bureaus to report the identity theft and request that the credit bureaus place a fraud alert and a victim's statement in your file. The fraud alert puts creditors on notice that you have been the victim of fraud, and the victim's statement asks them not to open additional accounts without first contacting you.

The following are the telephone numbers for the fraud departments of the three national credit bureaus:

Trans Union: 1-800-680-7289
Equifax: 1-888-766-0008

Experian: 1-888-397-3742

You may request a free copy of your credit report. Credit bureaus must provide a free copy of your report, if you have reason to believe the report is inaccurate because of fraud and you submit a request in writing.

- Review your report to make sure no additional fraudulent accounts have been opened in your name, or unauthorized changes made to your existing accounts. Also, check the section of your report that lists “inquiries” and request that any inquiries from companies that opened the fraudulent accounts be removed.
- Contact any bank or other creditor where you have an account that you think may be the subject of identity theft. Advise them of the identity theft. Request that they restrict access to your account, change your account PIN or password, or close your account, if there is evidence that your account has been the target of criminal activity. If the bank closes your account, ask them to issue you a new credit card, ATM Card, Check Card, or checks, as appropriate.
- It is also good to contact other authorities that specialize in identity theft. The Federal Trade Commission (FTC) runs the ID Theft Hotline and the ID Theft Data Clearinghouse.
 - FTC Identity Theft Hotline: (877) IDTHEFT (438-4338)

If your social security number has been comprised, report it immediately to the Social Security Administration.

- Social Security Fraud Hotline: (800) 269-0271

If mail service was used in the fraud, contact the U.S. Postal Inspection Service. This agency is helpful if any fraudulent utility bills or apartment leases show up on your credit report.

- U.S. Postal Inspectors: (800) 275-8777