

THIS REMOTE DEPOSIT SERVICES AGREEMENT is made and entered this _____ day of _____, _____, by Columbia Bank (herein the "Bank"), and _____ (the "Customer").

WITNESSETH:

WHEREAS, the Customer has authorized the Bank to provide certain electronic capture services ("Remote Deposit Services" or "RDS") to the Customer as herein described; and

WHEREAS, the Customer receives payments by paper checks from its customer (the "Indirect Customers"); and

WHEREAS, the Bank has agreed to provide Remote Deposit Services to the Customer on the terms and conditions herein described:

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties agree as follows:

1. General

The RDS to be provided by the Bank to the Customer, consisting of a check scanning device (the "Scanner"), access to a browser based software program, and all related materials and documentation (collectively herein the "Program"), permits the Customer to conduct certain check-related activities with the Bank by electronic means. RDS activities include the ability to scan the Customer's paper checks (the "Images") and electronically transmit to the Bank and for the Bank to use electronic information, including images, captured from these checks to process transactions through the Federal Reserve Bank or a correspondent check clearing network or as Image Replacement Documents (IRDs) as permitted under the Check Clearing for the 21st Century Act ("Check 21 Transactions") (collectively, the "Services"). The Services are provided by the Bank and its vendors for access and use by Customer.

2. Laws, Rules, and Regulations.

Customer agrees to comply with all existing and future operating procedures used by the Bank for processing of transactions. Customer further agrees to comply with all applicable state or federal laws, rules and regulations affecting the use of checks and drafts. These laws, procedures, rules, and regulations, (collectively the "Rules") shall be incorporated herein by reference.

3. Use of Scanner and Program by Customer

The Bank is providing the Scanner and Program to the Customer to allow the Customer to create Images of the paper checks received from Indirect Customers and to then transmit these Images electronically for the purpose of having Check 21 Transactions initiated. (The scanner and required hardware must be maintained and cleaned periodically to ensure clarity of the images, and must not be placed in a location that is accessible to non-authorized individuals. All deposited checks must be payable to the subject account, must be in US dollars and payable through a Bank that is a member of the Federal Reserve system.) As such, the Indirect Customers will not receive their original cancelled paper checks through the check clearing system. These paper checks will be endorsed by the Customer and remain with the Customer for a period of ninety (90) days before being destroyed. The images of these checks will be maintained by the Bank for a period of seven (7) years. Should Customer or Indirect Customers need a check researched, Bank will provide the image from its archive during the record retention period. The Bank reserves the right to mandate specific internal controls at the Customer's location(s), audit Customer's operations and IT infrastructure, or to request additional Customer information.

4. Customer's Obligations to Indirect Customers

As the Customer will be receiving the Indirect Customers' paper checks, and creating Images from these checks to process as Check 21 Transactions, and as the Customer will be retaining and then destroying the Indirect Customers' paper checks, the Customer must comply and agree to comply with the following duties and responsibilities.

- a. Retain Paper Checks after Converting to Images. Paper checks will be retained by Customer for a period of ninety (90) days after conversion to images. The checks must be stored in a secure location accessible only to authorized individuals.

b. **Compliance with Rules: No-Disclosure and Confidentiality.** Customer agrees both to (i) comply with and (ii) cooperate and assist the Bank and its vendors in complying in a complete and timely manner with the Rules. Customer agrees to execute and deliver to the Bank all such instruments, as Bank may from time to time reasonably deem necessary. Customer shall not disclose to any third party other than the Bank, or any agent of Customer for the purpose of assisting Customer in completing a transaction, or as specifically required by law, any account information or other personal information. Customer shall destroy in a manner rendering data unreadable all material containing account information after it has been retained for the period specified by the Rules.

5. Right to Use Program/Limited Sublicense

The Bank hereby grants to the Customer a non-transferable and non-exclusive sublicense for the use of the Program subject to the terms and conditions set forth in this Agreement. Customer acknowledges and agrees that the Program is valuable, confidential, and proprietary property of the Bank and the vendor and agrees not to, in whole or in part, or directly or indirectly, transfer, distribute, copy, reverse compile, modify or alter the Program.

6. Right to Use Program/Limited Sublicense

The Bank hereby grants to the Customer a non-transferable and non-exclusive sublicense for the use of the Program subject to the terms and conditions set forth in this Agreement. Customer acknowledges and agrees that the Program is valuable, confidential, and proprietary property of the Bank and the vendor and agrees not to, in whole or in part, or directly or indirectly, transfer, distribute, copy, reverse compile, modify or alter the Program.

7. Maintenance

After delivery and installation of the Scanner and Program and until the termination of this Agreement pursuant to Section 8, the Bank will assist the Customer in obtaining technical support and other information for the operation and use of the Scanner and Program, and will provide to the Customer any modifications, refinements and enhancements to the Scanner or Program which its vendors may hereafter implement and which the Bank has received notification from its vendors.

8. Term

This Agreement is effective from the date the Scanner and the Program are received by the Customer and shall remain in force until termination. This Agreement shall be terminated (i) upon thirty (30) days prior written notice by either party to the other at the then current address of record, (ii) upon termination of the account relationship between the parties, (iii) upon failure of the Customer to comply with the terms and conditions of this Agreement, (iv) upon termination of the Software License Agreement, or (v) any other event which causes Bank's vendors to be unable to provide the Program to the Bank or the Customer. The Customer agrees to return the Scanner, if provided by the Bank, and all written and/or electronic documentation related to the Scanner and/or Program to the Bank, together with all copies thereof, upon termination. The provisions of this Agreement protecting the proprietary rights of the vendor and the Bank will continue in force after termination.

9. Fees

Customer agrees to pay the fees for access to and use of the Scanner and the Program at the rates specified in Schedule A of the Agreement provided to the Customer. The Bank may change the fees charged to the Customer any time during the term of this Agreement after providing (thirty) 30 days written notice to the Customer. The Bank may deduct all fees due from any account of the Customer at the Bank.

10. Account

The Customer will maintain with the Bank at least one demand deposit or commercial checking account (the "Account(s)") for the purpose of providing available funds and for deposit of received funds in connection with the use of the Services. In addition to the terms of this Agreement, the Account will be subject to a separate Account Agreement which is incorporated herein by reference. Unless the Bank otherwise requires the Customer to maintain collected funds, the Customer agrees to maintain sufficient available funds in the Account(s) to support any transaction initiated under the Services and to cover any fees the Customer is obligated to pay under this Agreement. If at any time there are not sufficient collected funds in the Account to cover all outstanding transactions and other payment obligations of the Customer under this Agreement, the Customer agrees to immediately pay the Bank, on demand, the amount of any deficiency in such outstanding transactions and obligations. The Bank may, without prior notice or demand, obtain payment from the Customer for any of its obligations under this Agreement by debiting any account of the Customer of the Bank.

11. Settlement Reserve

Customer may be required to maintain a reserve ("Settlement Reserve") of an amount to be solely determined by the Bank. Customer hereby acknowledges and agrees that any Settlement Reserve will be deposited in a Bank account

at the Bank for exclusive use by the Bank for purposes of offsetting any Customer obligations under this Agreement. If Customer's Settlement Reserve falls below the required amount, Customer authorizes the Bank to immediately replenish the Settlement Reserve to an amount to be determined by the Bank via an ACH debit to the Customer Account or by a direct deposit to the Settlement Reserve. No interest will be paid on the Settlement Reserve. Customer grants the Bank a security interest in any Settlement Reserve so that the Bank may enforce any obligation owed by Customer under this Agreement without notice or demand to Customer. Customer agrees to execute such documents as may be required by Bank to effect or enforce the security interest. Customer's obligation to maintain a Settlement Reserve shall survive the termination of this Agreement for the duration of the Termination Period during which time the Bank's security interest shall continue.

12. Right of Setoff

Customer hereby acknowledges and agrees that the Bank shall have a right of setoff against any and all fees, Returns and Refunds owed to the Bank by the Customer under this Agreement.

13. Authorization

The Customer will provide to the Bank properly executed authorizations from the Customer (which may be designated by resolution executed in conjunction with the establishment of the Customer's deposit account), in form and substance acceptable to the Bank identifying by name and title the officers of the Customer who are authorized to sign this Agreement and perform the obligations of the Customer under this Agreement. In the absence of such authorizations, the Customer agrees that any individuals authorized to sign the Customer's deposit account agreement or perform any transaction with respect to said deposit account are authorized to sign this Agreement and perform the obligations of the Customer under this Agreement. From time to time hereafter, the Customer may identify other persons who are authorized to provide instructions or directions to the Bank, to sign any document or instruction on behalf of the Customer relating to this Agreement, and to take any action on behalf of the Customer; provided, however, that the Bank may rely upon, as authentic and duly authorized, any written or other communication from any person purporting to be an officer of the Customer or other representative of the Customer regardless of whether the Customer shall have provided to the Bank any evidence of such person's authority.

14. Account Reconciliation

All transactions which result in a debit or credit to the Account initiated by the Customer using the Services will be reflected on the Customer's monthly account statements. The Customer will notify the Bank, within ten (10) days after the mailing of the account statements by the Bank, of any discrepancies between the account statements and the Customer's records of transactions initiated through the Services. Failure of the Customer to notify the Bank within said time period of any such discrepancies will preclude the Customer from asserting any claims for damages or other liabilities against the Bank by reason of such discrepancies.

15. Entries

Customer is and shall be responsible for the accuracy, clarity and propriety of all images ("Entry" or "Entries") submitted to the Bank for processing. Customer is and shall be liable for each Entry and does and shall warrant that each entry complies with the terms of this Agreement.

16. Discrepancies

In the event of any conflicts in the instructions received by the Bank, in whatever form from any and all sources, regarding the Customer or any Entries, the Bank may at its option and with or without notice to the Customer may choose which instruction, if any, to follow; which instruction, if any, to disregard; and to limit access by the Customer, in whole or in part, to the funds in the account and/or to proceeds or funds related to any entry.

17. Processing Deadline

The Bank has specific processing deadlines. Files received by the 6:00 pm deadline will be transmitted that day to the Federal Reserve Bank or correspondent check clearing network for settlement on the effective entry day. Files received after the deadline will be processed the next business day.

18. Unauthorized Access: Security Procedures

The Customer shall be solely responsible for protecting against unauthorized access to the Scanner and the Program and any and all losses and damages arising from any unauthorized access to the Scanner and the Program. The Customer shall establish physical security, passwords and other security procedures necessary to ensure the confidentiality of access features. The Customer shall make such procedures and security features known only to those authorized representatives of the Customer who will use the Scanner and the Program. The list of authorized representatives must not exceed four (4). The Bank shall have no obligation, liability, or control, either directly or indirectly over said procedures or the failure of the Customer to maintain said procedures. The Customer shall be solely responsible for designating its authorized representatives and disclosing the identity of said representatives,

and all changes thereof, to the Bank, provided, however, the Bank shall not be responsible for verifying the authenticity of any person claiming to be a representative of the Customer or the authenticity of any instruction, direction or information provided to any said person. Any instructions, directions or other information provided by the Customer, any representative of the Customer, or any person claiming to be a representative of the Customer, under the Services shall be deemed to have been authorized by the Customer, and the Bank shall be indemnified and held harmless by the Customer for acting upon any such direction, instruction or information.

- a. The Bank will provide the Customer with an Administrative and Gateway User Name and Password. Customer may appoint an individual ("Administrator") with the authority to: (a) determine who will be authorized to use the Services; (b) establish separate Passwords for each user; and (c) establish limits on each user's authority to access information and conduct transactions. Customer is responsible for the actions of its Administrator, the authority the Administrator gives others to act on its behalf, and the actions of the persons designated by the Administrator to use the Bank service. Customer agrees to: (a) take reasonable steps to safeguard the confidentiality of all Passwords; (b) limit access to its Passwords to persons who have a need to know such information; (c) closely and regularly monitor the activities of employees who access the Bank service; (d) prohibit its employees and agents from initiating Entries without proper supervision and adequate controls; and (e) remove users deemed no longer authorized to use the Services.
- b. Customer understands that the use of Passwords and the Bank service instructions are confidential and agrees to assume all risks of disclosure or use by any party whatsoever, whether such disclosure or use are on account of the Customer's negligence, gross negligence, misfeasance, malfeasance, deliberate acts, or otherwise. Customer acknowledges that no person from the Bank will ever ask for any Passwords and that the Bank employees do not need and should not ask for Passwords.
- c. Customer shall change its Passwords periodically and whenever anyone who has had access to a Password is no longer employed or authorized to use the Bank service. The Bank may require the Customer to change its Passwords at any time. The Bank may deny access to the Bank's service without prior notice if it is unable to confirm (to its satisfaction) any person's authority to access the service or if the Bank believes such action is necessary for security reasons.

19. Customer Representations and Warranties

With respect to each and every check that the Customer scans into an Image using the RDS system, the Customer represents and warrants to the Bank that: (a) the Customer is and shall be bound by and comply with all procedures, requirements, and operating guidelines established by the Bank, or subsequently created, included but not limited to paragraphs 25 and 26 hereof contained herein, (b) the Customer assumes responsibility for any paper check that is transmitted which for any reason is not paid, (c) the Customer warrants that the image sent to the Bank is an accurate representation of the front and back of the original check and has not been altered in any fashion by the Customer, (d) the Customer warrants that check images created by the Customer are made payable to the Customer, (e) all signatures contained on each check image are authentic and authorized, and (f) all check images meet the standards for image quality as established by the Board of Governors of the Federal Reserve, the American National Standards Institute and any other regulatory agency, clearing house or association.

20. Indemnification

- a. All disputes between the Customer and any Indirect Customer relating to any debit/credit transaction shall be settled between them. Customer agrees to indemnify and hold the Bank and its processors harmless from any claim, liability, loss, or expenditure relating to any such transaction or from Customer's breach of any of its obligations under this Agreement. The Bank retains the right to offset the Customer's account for amounts the Bank is damaged by the Customer's actions.
- b. The Customer will defend, indemnify and hold harmless the Bank and its processors against and in respect to any and all losses, liabilities, expenses, and damages, including consequential, special and punitive damages, directly or indirectly resulting from: (i) the processing of any request received by the Bank under the RDS system; (ii) any breach of the provisions of this Agreement or the Rules; (iii) any dispute between the Customer and any third party in connection with the use of the RDS system; (iv) any breach of the Customer's representations for any transaction submitted by the Customer described in this agreement; (v) any loss or expenditure which results from any transaction submitted by the Customer caused by the Indirect Customer's inability to fund the transaction; and (vi) any and all actions, suits, proceedings, claims, demands, judgments, costs and expenses (including attorney's fees) incident to the foregoing, arising from this Agreement, or any transaction effected or sought to be effected hereunder. The terms of this Section shall survive termination of this Agreement.

21. LIMITATIONS OF LIABILITY

THE BANK'S ENTIRE LIABILITY AND THE CUSTOMER'S EXCLUSIVE REMEDY WITH RESPECT TO THE BANK'S DISCLAIMER OF WARRANTY IS LIMITED TO THE REPLACEMENT OF ANY SCANNER OR DISKETTE THAT IS RETURNED TO THE BANK. IN NO EVENT SHALL THE BANK BE LIABLE TO THE CUSTOMER FOR ANY DAMAGES, INCLUDING LOST PROFITS, LOST SAVINGS OR OTHER DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE PROGRAM AND DOCUMENTATION OR FOR ANY CLAIM BY ANOTHER PARTY. THE BANK'S DUTIES AND RESPONSIBILITIES IN CONNECTION WITH CHECK 21 TRANSACTIONS ARE LIMITED TO THOSE DESCRIBED IN THIS AGREEMENT. THE BANK WILL BE DEEMED TO HAVE EXERCISED ORDINARY CARE AND TO HAVE ACTED REASONABLY IF THE BANK HAS ACTED IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT AND WILL BE LIABLE FOR LOSS SUSTAINED BY THE CUSTOMER ONLY TO THE EXTENT SUCH LOSS IS CAUSED BY THE BANK'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. THE BANK WILL NOT BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES, REGARDLESS OF THE BANK'S ACT OR OMISSION. THE BANK WILL HAVE NO LIABILITY FOR ANY LOSS OR DAMAGE: (A) RELATED TO THE DISHONESTY OF THE CUSTOMER'S EMPLOYEES, OFFICERS OR AGENTS; (B) RESULTING FROM ANY RECEIVING BANK'S FAILURE TO ACCEPT ANY CHECK 21 TRANSACTIONS; OR (C) RESULTING FROM ANY DELAY IN THE PERFORMANCE OF THIS AGREEMENT, WHICH IS CAUSED BY AN ACT OF GOD, FIRE OR OTHER CASUALTY, ELECTRICAL OR COMPUTER FAILURE, DELAYS OR FAILURE TO ACT BY ANY CARRIER, MEDIUM OR AGENT OPERATING BETWEEN THE BANK AND THE CUSTOMER OR BETWEEN THE BANK AND THIRD PARTIES OR ANY OTHER CONDITION OUTSIDE THE BANK'S CONTROL. NO THIRD PARTY WILL HAVE RIGHTS OR CLAIMS AGAINST THE BANK UNDER THIS AGREEMENT. THE TERMS OF THIS SECTION SHALL SURVIVE TERMINATION OF THIS AGREEMENT

22. DISCLAIMER OF WARRANTY

NO WARRANTIES WITH RESPECT TO THE SCANNER AND THE PROGRAM ARE MADE BY THE BANK NOR DOES THE BANK WARRANT THAT THE SCANNER AND THE PROGRAM WILL MEET SPECIFIC REQUIREMENTS OF THE CUSTOMER. NEITHER THE BANK NOR THE VENDOR MAKE ANY WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE USE OF THE SCANNER AND/OR THE PROGRAM. THE BANK DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF THE CUSTOMER'S ABILITY AND FITNESS FOR A PARTICULAR PURPOSE

23. Equipment

The Bank is not responsible for any loss, damage or injury resulting from (i) an interruption in Customer's electrical power or telephone service; (ii) the disconnecting of Customer's telephone line by Customer's local telephone company or from deficiencies in Customer's line quality; or (iii) any defect or malfunction of the Scanner or telephone line.

24. The Bank's Liability for Failure to Complete Transactions

The Bank will process and complete all transfers (to and from eligible accounts) properly initiated through the RDS system in accordance with the terms on the Image and the terms of this Agreement. If the Bank or its processors do not complete a Check 21 Transaction on time or in the correct amount in accordance with terms on the Image and under the terms of this Agreement, the Bank's liability for Customer's losses and damages will be limited to those directly and proximately caused by the Bank's failure, said damages not to include indirect, consequential, special or exemplary damages. Further, the Bank will not be liable if:

- a. Through no fault of the Bank, the Indirect Customer does not have enough money in his, her, or its account to make the transfer or payment.
- b. The Scanner or the Program is not working properly and the Customer knew about the malfunction when the Customer initiated use of the Services.
- c. The Indirect Customer's depository institution mishandles or delays handling Check 21 Transactions initiated by the Bank.
- d. There is an error on the Indirect Customer's paper check.
- e. Circumstances beyond the Bank's control (such as fire, flood, or delay in the U.S. Mail) prevent the proper completion of the transaction despite reasonable precautions by the Bank to avoid these circumstances.

25. Endorsements

Customer agrees to properly endorse all original checks including the Customer's name and Bank's name prior to processing checks through Scanner.

26. Controls

Customer agrees to have controls in place to ensure that all checks successfully processed through image capture equipment are not presented a second time causing funds to be debited twice from the account of the Indirect Customer. Customer agrees to be responsible for all consequential damages resulting from lack of controls or failure to comply with the controls over processed checks.

27. Check Holds

Customer agrees that all imaged checks will be subject to Bank's check hold policies regarding Reg. CC funds availability.

28. Contingency Plans

Customer agrees that if it is not able to transmit images to the Bank for deposit, it is the Customer's responsibility to take original checks to the nearest branch office of the Bank or to use overnight delivery to the Bank.

29. Entire Agreement: Severability

This Agreement together with all exhibits, schedules and attachments hereto, the Account Agreement and the Rules (as incorporated herein) represent the entire agreement and understanding of the parties. If any portion of this Agreement is found to be unenforceable, all remaining portions shall remain in full force and effect. In the event of any inconsistency or conflict between the terms of this Agreement and any present or future statute, regulation or governmental policy to which the Bank is subject and which governs or affects the transaction contemplated by this Agreement, then this Agreement shall be deemed amended to the extent necessary to comply with such statute, regulation or policy and the Bank shall incur no liability to the Customer as a result of such violation or amendment.

30. Assignment: Sublicense

Customer agrees not to assign, transfer or dispose of its rights and obligations under this Agreement and not to further sublicense, assign or transfer the Program, except as expressly provided in this Agreement.

31. Governing Law

This Agreement is governed by the laws of the State of New Jersey unless superseded, in whole or in part, by Federal law.

32. Signatures

By signing this Agreement, the undersigned acknowledge that they have read and accepted the terms and conditions of this Agreement, and agree to be bound by its terms.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

COLUMBIA BANK

By: [X _____] Date:

CUSTOMER

By: [X _____] Date:

By: [X _____] Date: