

TOWN OF WEST SENECA



SHEILA M. MEEGAN
TOWN SUPERVISOR

To: Fellow Town Board Members
From: Sheila M. Meegan, Town Supervisor
Date: November 28, 2012
Re: **Automated Clearing House (ACH) Agreement with Evans Bank**

Kindly move to authorize Supervisor Sheila M. Meegan of the Town of West Seneca to sign and submit the attached Automated Clearing House (ACH) Agreement with Evans Bank for payroll deductions.

DEC 03 2012

EVANS BANK, N.A.

MASTER CASH MANAGEMENT SERVICES AGREEMENT

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Evans Bank, N. A.
Cash Management Services Agreement

Customer Information

| | |
|---------------|-----------------------|
| Company Name: | Town of West Seneca |
| Address: | 2001 Union Rd |
| Address: | West Seneca, NY 14224 |
| Phone Number: | 716-674-5600 |

You (the "Customer" or "you") have requested that Evans Bank, N. A. (the "Bank") provide certain commercial cash management services (the "Services" or "Service") pursuant to the terms of the Bank's Master Cash Management Services Agreement. The Master Cash Management Services Agreement consists of this Cash Management Services Agreement, the Cash Management Services Request Form, the Cash Management Services Customer Designation Form, the Master Fee Schedule, the Cash Management Services Terms and Conditions and each applicable Service Addendum, as the same may be amended from time to time (hereinafter, collectively the "Agreement"). The Agreement constitutes the entire agreement between the Bank and Customer with respect to the Services and no statement, warranty, representation or commitment not contained in the Agreement shall have any force or effect.

Upon executing the Cash Management Services Agreement, the Customer may request that the Bank provide some or all of the Services by completing a Cash Management Services Request Form. Customer may from time to time request additional Services by executing a revised Cash Management Services Request Form. Each time Customer uses a Service or permits any other person to use a Service, Customer is agreeing to the terms of the Agreement, including the Cash Management Services Terms and Conditions and any Service Addendum. The Bank may add or delete Services that are available hereunder.

Customer represents and warrants that (i) it is duly authorized to execute and deliver this Agreement and to perform its obligations thereunder and has taken all necessary action to authorize such execution, delivery and performance, (ii) the person signing this Agreement on its behalf is duly authorized to do so on its behalf, (iii) the execution, delivery and performance of this Agreement shall not violate any law, ordinance, charter, bylaws or rule applicable to it or any agreement by which it is bound or by which any of its assets are affected, and (iv) there is no action, suit or proceeding pending or to Customer's knowledge threatened which, if decided adversely, would impair Customer's ability to carry on its business substantially as now conducted or which would adversely affect Customer's financial condition or operations. The Customer further represents and warrants that (i) it has the power and authority to engage in each transaction contemplated under this Agreement and (ii) that in utilizing the Services it will in all events comply with all federal and state laws and regulations applicable to its business operations. The Customer agrees (i) to provide such additional evidence of authorization to enter into this Agreement or to engage in a transaction contemplated by this Agreement as may be requested by the Bank and (ii) to designate an officer or employee of Customer to undertake and initiate certain functions with respect to the Bank's delivery of the Services upon request by the Bank.

The Bank's agreement to provide certain of the Services is conditioned upon its evaluation of Customer's creditworthiness. The undersigned authorizes Bank to request a credit report from a national credit reporting agency. It is understood that providing false information or failing to properly grant this authorization may void all or part of this Agreement.

SSN / Tax ID #:

Authorized by (print): Shiela Meegan _____

Authorized Signature: x

Signer must be principal/owner of a partnership or DBA. If a corporation, the signer must be authorized by the bylaws as an appropriate signer.

By signing below, the Customer acknowledges receiving a copy of the Cash Management Services Terms and Conditions and the applicable Service Addendum which are part of this Agreement and incorporated herein by reference. The Bank will perform such Services as requested by the Customer on the Cash Management Services Request Form, as may be amended from time to time as agreed to by the Customer and the Bank.

| | |
|-----------|--|
| Name: | Shiela Meegan _____ |
| Signature | <input checked="" type="checkbox"/> x _____ |
| Title: | _____ |
| Date: | _____ |

Evans Bank, N.A.

Cash Management Services Request Form

Company Name: Town of West Seneca

By signing below Customer requests that the Bank provide the Services listed below and authorizes the person so designated to act on behalf of and in the name of the Customer with respect to such Services.

| | |
|--|------------------------------|
| Service: | ACH Origination Services |
| Name and Title of Authorized Individual: | Shiela Meegan, Jodie Wysocki |
| Telephone Number: | 716-674-5600 |
| E-Mail | |
| Facsimile Number: | |
| Service: | |
| Name and Title of Authorized Individual: | |
| Telephone Number: | |
| E-Mail | |
| Facsimile Number: | |
| Service: | |
| Name and Title of Authorized Individual: | |
| Telephone Number: | |
| E-Mail | |
| Facsimile Number: | |
| Service: | |
| Name and Title of Authorized Individual: | |
| Telephone Number: | |
| E-Mail | |
| Facsimile Number: | |

Customer Authorization and Request for Services:

Name and Title: Shiela Meegan _____

Signature: x _____ Date: _____

Name and Title: _____

Signature: _____ Date: _____

Bank Acknowledgment of Request for Services:

Name and Title: Valerie Muka _____

Signature: _____ Date: _____

**Cash Management Services
Customer Designation Form**

Account Designation

The term "Account" whenever used in the Cash Management Services Terms and Conditions or any Service Addendum for a Service chosen by Customer, shall mean the account(s) designated by Customer set forth below:

| Service | Account No. |
|-----------------|-------------|
| ACH Origination | |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

ACH Debit Filter Service Designation

| Originator | ACH Company ID No. |
|------------|--------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

ACH Originator Service Designation

Authorized Representative

Name: _____
Address: _____
Telephone: _____
Signature: _____

Authorized Representative

Name: _____
Address: _____
Telephone: _____
Signature: _____

Authorized Processor

Name: _____

Address: _____

Telephone: _____

Daily Limit: \$x _____

60 Day Limit: \$x _____

Frequency of Submission: Weekly Bi-Weekly Monthly
Other: As needed _____

Scheduled Business Day: M T W Th F

ACH Origination Authorization

Customer requests that Bank establish the following ACH Origination on Cash Manager Service for the initiation of all ACH Originations:

Sole Authorization Dual Authorization

Armored Courier Service Location Designation

The term "Location" when used in the Armored Courier Service Addendum, shall mean the location designated by Customer set forth below:

The terms "Delivery Schedule" and "Pick-Up Schedule" when used in the Armored Courier Service Addendum, shall be as designated by Customer and agreed to by Bank set forth below:

Delivery Schedule

Pick-Up Schedule

CD-ROM Check Image Service Designation

Customer requests that Bank mail CD-ROM statements to Customer monthly,
 quarterly, yearly (check one) to the following address:

Address:

Credit Sweep Service Designation

The terms "Account" and "Note" when used in the Credit Sweep Service Addendum shall mean the account and promissory note designated by Customer set forth below:

Account No.

Promissory Note

Facsimile Signature Service Designation

The term "Authorized Party" when used in the Facsimile Signature Service Addendum, shall mean the person(s) designated by Customer, set forth below:

Name

Title/Capacity

Signature

Sample Facsimile Signature

Night Depository Service Location Designation

The term "Location" when used in the Night Depository Service Addendum shall mean the location designated by Customer set forth below:

Remote Deposit Capture Service Designation

The terms "Deposit Limit" and "Item Limit" when used in the Remote Deposit Capture Service Addendum, shall mean the dollar amounts designated by Customer and agreed to by the Bank set forth below:

Deposit Limit: \$ _____

Item Limit: \$ _____

The term "Equipment" when used in the Remote Deposit Capture Service Addendum, shall mean the following designated equipment (the "Equipment List"):

Zero Balance Account Service Designation

The terms "Master Account" and "Zero Balance Account" when used in the Zero Balance Account Service Addendum shall mean the account(s) designated by Customer set forth below:

Master Account

Zero Balance Account

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

Positive Pay Service Designation

If Customer fails to provide Bank with such pay or return instruction within the designated timeframe, the customer requests the Bank shall:

Return and not pay such Non-Issued Check Pay such Non-Issued Check

Authorized Representative

Name: _____

Evans Bank, N. A.

Cash Management Services Terms and Conditions

You (the "Customer" or "you") and Evans Bank, N. A. (the "Bank") have entered into a Master Cash Management Services Agreement (hereinafter the "Agreement") pursuant to which you have requested that the Bank provide certain commercial cash management services (each a "Service" and, collectively, the "Services"). These Cash Management Services Terms and Conditions (the "Terms and Conditions") set forth the general obligations of the parties with respect to the provision of such Services. Additional terms and conditions shall be applicable to the provision of specific Services requested by you, pursuant to the terms of the Service Addendums attached hereto. By signing the Cash Management Services Agreement and a Cash Management Services Request Form, or by using any of the Bank's Services or by allowing any other person to use a Service, you agree to be bound by these Terms and Conditions, including the provisions of any applicable Service Addendum. The term "Business Day" whenever used in a Service Addendum shall mean Monday through Friday, excluding federal holidays and any day that the Bank is authorized to be closed.

1. **Account Relationship.** All of the terms and conditions of the Bank's Deposit Account Disclosures and Privacy Policy ("Deposit Account Agreement") applicable to an Account shall remain in full force and effect and are not altered or modified by the Agreement. Customer agrees to pay to the Bank all normal fees associated with an Account as established by the Bank from time to time and, in addition thereto, the fees and charges with respect to a Service, as set forth herein.

2. **Fees and Costs.** So long as the Agreement remains in effect, Customer agrees to pay to the Bank the fees and charges with respect to the Services as set forth in the Bank's Master Fee Schedule, as such may be amended by the Bank, which shall be made available to Customer upon request. Customer authorizes the Bank to deduct any charges for Services from any account (including an Account) maintained by Customer with the Bank, even if the deduction causes an overdraft to the account. Should Customer fail or refuse to pay any charges under the Agreement, the Customer agrees to pay any collection costs (including reasonable attorney's fees) which may be incurred by the Bank. The Bank shall have the right to increase or decrease charges imposed for Services rendered hereunder pursuant to the Agreement in its sole discretion. Customer may also incur additional related expenses when using a Service, including but not limited to telephone service or Internet service charges. Customer is responsible for any costs or expenses associated with meeting and maintaining any technical requirements or additional items necessary to use a Service. Customer also agrees to pay for all taxes, tariffs and assessments levied or imposed by any government agency in connection with a Service, and for the software or equipment made available to Customer (excluding any income tax payable by Bank). Customer is also responsible for the costs of any communication lines and any data processing charges payable to third parties in connection with its use of a Service.

3. **Commercial Purposes.** Customer represents, warrants and agrees that it will use the Services provided by the Bank solely for business or commercial purposes and not for personal or consumer purposes.

4. **Amendments.** The Bank may at any time amend any of these Terms and Conditions and the terms of a Service Addendum. Such amendments shall become effective upon receipt of notice by the Customer or such later date as may be stated in the Bank's notice to Customer.

5. **Notices.** Any notice to the Bank required hereunder shall be given by first class U.S. mail, by receipted hand delivery, at the following address: Evans Bank, N. A., 1 Grimsby Drive, Hamburg, New York 14075, Attention: Cash Management Department. Notice to Customer shall be deemed delivered three days after deposit in the U.S. mail to the most recent address shown for the Customer in Bank's records.

6. Termination. Customer may terminate the Agreement or a specific Service at any time by written notice to the Bank which such termination shall become effective on the later of the date the Bank receives actual notice or the date by which the Bank has had reasonable time to act on such notice. Customer shall remain liable for all fees and charges incurred for Services provided until the Bank has had time to act on such notice of termination. The Bank may terminate the Agreement or a Service at any time in its sole discretion which said termination shall take effect immediately upon notice to the Customer. The Bank may terminate the Agreement or a Service immediately, without notice to Customer, if Customer is in breach of the Agreement or any other agreement between the Bank and Customer or if the Bank determines that the Agreement conflicts with any law, rule, regulation or agreement applicable to the Bank or the Customer. Any reinstatement of Services under the Agreement will be at the Bank's sole discretion and must be agreed upon in writing by the Bank.

Upon termination of the Agreement or a Service, Customer shall have no further right to make use of the terminated Service(s) or any system, equipment or software utilized in connection with the terminated Service(s) and all equipment, software or other tangible or intangible property of the Bank shall be returned to the Bank at Customer's expense within thirty (30) days of such termination.

Bank and Customer agree that Sections 2, 6, 7, 8, 11, 15, 16, 17, 18, 20, 21, and 22 hereof shall survive the termination of the Service.

7. Dissolution of Customer. Notwithstanding the dissolution or termination of existence of the Customer or any change in the identity of, or any modification or termination of any authority of any party authorized by Customer to act on behalf of Customer with respect to a Service, the Bank may rely upon and act in accordance with the Agreement until it receives and has a reasonable time to act on a written notice to the contrary from any officer, member or manager of the Customer.

8. Bank's Duties/Standard of Care/Limitation of Liability. The Bank's duties and responsibilities pursuant to the Agreement are limited to those described in these Terms and Conditions and in a Service Addendum. The Bank may utilize certain third parties to process information or to otherwise assist Bank in delivering Services ("Service Provider"). The Bank will use ordinary care in performing its duties under the Agreement and makes no representations or warranties with respect to provision of the Services. The Bank shall have no liability to Customer with respect to the Services or the Agreement absent it gross negligence or willful misconduct.

9. Confirmation/Account Reconciliation. Customer agrees to monitor Account balances and charges of any Account utilized in connection with a Service, to promptly notify the Bank if any report or statement it receives is grossly greater or less than Customer's expectation of the information, and to refrain from acting on information it has reason to believe is erroneous. Bank will provide notice of withdrawals from and receipt of deposits to an Account made in connection with a Service on Customer's periodic Account statement ("Statement"). Customer is responsible for detecting and reporting to Bank any discrepancy between Customer's records and the Statement or other records Bank provides to Customer. If Customer does not detect and notify Bank of such a discrepancy within 30 days of Customer's receipt of any terminal printout, mailed report or Statement, whichever is received first, then such transactions shall be considered correct and Customer shall be precluded from asserting such error or discrepancy against Bank.

10. Laws, Rules and Regulations. In connection with its use of the Services, 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 and be bound by all applicable state or federal laws, rules and regulations affecting the use of checks, drafts and ACH transactions, including but not limited to, rules and procedural guidelines established by the Federal Trade Commission, the Board of Governors of the Federal Reserve, National Check Exchange, Small Value Payments Customes, Viewpointe, Endpoint Exchange, the National Automated Clearing House Association, Electronic Check Clearing House Organization and any other clearinghouse or other organization in which Bank is a

member or to which rules Bank has agreed to be bound. These laws, procedures, rules, regulations, and definitions (collectively, the "Rules") shall be incorporated herein by reference. In the event of conflict between the terms of this Addendum and the Rules, the Rules will control.

11. Indemnification. Customer shall indemnify and hold the Bank and its officers, directors and employees harmless from any and all claims, losses, costs, damages, liabilities, actions, causes or action, or any other amounts whatsoever (including attorneys' fees and disbursements), charged to, or paid by Bank in connection with (i) the Bank's action, conduct or omissions with regard to or related to or arising from, directly or indirectly the Agreement, or by reason of any other contracts or agreements entered into by Bank in compliance herewith, (ii) a breach of the Agreement by Customer, (iii) Bank's action or inaction in accordance with or reliance upon any instructions or information received from any person reasonably believed by Bank to be an authorized representative of the Customer or authorized user, or (iv) any negligence or willful misconduct of Customer. This paragraph shall not apply to claims, losses, costs, expenses, fees, charges, damages, liabilities, actions or causes of action caused by the gross negligence or willful misconduct of Bank.

12. Force Majeure. Bank shall not be responsible for suspension of performance of all its obligations, responsibilities and covenants hereunder, whether expressed or implied, if at any time, or from time to time, compliance therewith should be prevented or hindered by, or be in conflict with, any federal or state law, regulation or rule, the order of any court of competent jurisdiction, any act of God or of the public enemy, war, epidemic, strike, or work stoppages of the U. S. Postal Service and commercial carrier(s), or electric power disruption or shortage, telecommunications failure or computer failures; acts, omissions or errors of any carrier and/or agent operating between Customer and Bank and Federal Reserve Bank or other agency utilized to exercise transfers, or recipients of transferred funds; any incorrect, unauthorized or fraudulent use or other fraud by any person other than Bank's employees; or, without limiting the generality of the foregoing, any other cause or circumstance beyond Bank's control or other conditions or circumstances not wholly controlled by the Bank and which would prohibit substantial performance under the Agreement.

13. Third Party Services. Customer may be using special equipment, services or software provided by a third party with respect to its utilization of a Service ("Third Party"). Customer (i) agrees that any Third Party is acting as Customer's agent in connection with Customer's utilization of a Service, and (ii) agrees to assume full responsibility and liability for any failure of that Third Party to comply with the laws, Rules or these Terms and Conditions. Bank will not be liable for any losses or additional costs incurred by Customer as a result of any error by a Third Party or a malfunction of equipment provided by a Third Party with respect to Customer's utilization of a Service. Customer shall provide at least 10 days advance written notice to Bank in the event it uses any such Third Party. Customer is solely responsible for maintaining compliance with the requirements of any Third Party, including obtaining any software updates.

14. Equipment Maintenance. Customer shall be ultimately responsible for obtaining and properly maintaining its equipment and system requirements, including computer equipment, Internet connectivity, scanning terminals (unless contracted with Bank) and any other equipment or items necessary as a prerequisite to receive Services. Bank shall not be liable to Customer, in any manner whatsoever, for any type of errors, losses, damages or other claims related to Customer's failure to do so.

15. Bank Intellectual Property. All right, title and interest in and to any and all computer programs including without limitation, the object and source codes therefore, and any updates, upgrades, fixes, and enhancements thereto, together with the Procedures and any other documentation, user guide, or instructions (collectively, the "Software Program") used by Bank and Customer in performing a Service shall be and remain the property of Bank or any third party software provider, as applicable. Unless otherwise expressly authorized, Customer may not copy, reproduce, retransmit, disseminate, display, publish, sell, broadcast, circulate, distribute, transfer, assign, commercially exploit, or create derivative works of the Software Program in any form. Customer further agrees not to reverse engineer or reverse compile any Software Program.

16. Use of Trademarks. Customer may not use Bank's name or trademarks without the express written consent of Bank. If Customer is permitted to use any of Bank's promotional materials, Customer will not indicate, directly or indirectly, that Bank endorses, or is connected in any way with, any of Customer's goods or services.

17. Internet Disclaimer. For any Services provided pursuant to the Agreement utilizing the Internet, Bank does not and cannot control the flow of data to or from Bank's network and other portions of the Internet. Such flow depends in large part on the performance of Internet Services provided or controlled by third parties. Actions or inactions of such third parties can impair or disrupt Customer's connections to the Internet (or portions thereof). Bank cannot guarantee that such events will not occur. Accordingly, Bank disclaims any and all liability resulting from or related to such events and in no event shall Bank be liable for any damages (whether in contract or in tort) that are attributable to the public Internet infrastructure, Customer's ability to connect to the Internet, or Bank's ability to connect on the Internet on Customer's behalf.

Bank is not responsible for any computer virus or related problems that may be associated with using electronic mail or the Internet to deliver Services. Bank advises Company to scan its computer hardware and software on a regular basis using a reliable computer virus detection product in order to detect and remove computer viruses.

18. Limit of Liability. CUSTOMER AGREES THAT IN NO EVENT SHALL BANK OR BANK'S SERVICE PROVIDERS BE RESPONSIBLE OR LIABLE TO CUSTOMER FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR INCIDENTAL DAMAGES, LOSSES OR INJURIES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF USE, LOSS OF DATA OR COST OF COVER) ARISING OUT OF THE USE BY CUSTOMER OF ANY SERVICE OR THE FAILURE OF BANK OR ITS SERVICE PROVIDERS TO PROPERLY PROCESS AND COMPLETE TRANSACTIONS THEREUNDER, EVEN IF BANK OR BANK'S SERVICE PROVIDERS HAVE BEEN SPECIFICALLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES OR INJURIES.

CUSTOMER ACKNOWLEDGES AND AGREES THAT CUSTOMER'S USE OF THE SERVICES SHALL BE AT CUSTOMER'S SOLE RISK AND THAT THE SERVICES ARE PROVIDED BY BANK ON AN "AS IS" BASIS.

EXCEPT AS EXPRESSLY SET FORTH IN THE AGREEMENT, BANK MAKES NO, AND HEREBY DISCLAIMS ANY AND ALL, REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, IN LAW OR IN FACT, WHATSOEVER TO CUSTOMER OR TO ANY OTHER PERSON AS TO THE SERVICES OR ANY ASPECT THEREOF, INCLUDING (WITHOUT LIMITATION) ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, OR SUITABILITY. CUSTOMER AGREES THAT NO ORAL OR WRITTEN ADVICE OR REPRESENTATION OBTAINED FROM ANY BANK EMPLOYEE OR REPRESENTATIVE SHALL CREATE A WARRANTY OR REPRESENTATION FOR PURPOSES OF THE AGREEMENT OR ANY SERVICES TO BE PERFORMED PURSUANT HERETO.

TO THE FULLEST EXTENT ALLOWED BY LAW, AND SUBJECT TO THE FOREGOING PROVISIONS OF THIS SECTION, BANK'S AND BANK'S SERVICE PROVIDERS' LIABILITY TO CUSTOMER UNDER THE

AGREEMENT SHALL BE LIMITED TO CORRECTING ERRORS RESULTING FROM BANK'S FAILURE TO EXERCISE ORDINARY CARE OR TO ACT IN GOOD FAITH.

BANK MAKES NO REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, TO CUSTOMER AS TO ANY COMPUTER HARDWARE, SOFTWARE, OR EQUIPMENT USED IN CONNECTION WITH THE SERVICES (INCLUDING, WITHOUT LIMITATION, CUSTOMER'S COMPUTER SYSTEMS OR RELATED EQUIPMENT, CUSTOMER'S SOFTWARE, OR CUSTOMER'S INTERNET SERVICE PROVIDER OR ITS EQUIPMENT), OR AS TO THE SUITABILITY OR COMPATIBILITY OF BANK'S SOFTWARE, INTERNET DELIVERED SERVICE, EQUIPMENT OR COMMUNICATION INTERFACES WITH THOSE THAT CUSTOMER USES, OR AS TO WHETHER ANY SOFTWARE OR INTERNET DELIVERED SERVICE WILL PERFORM IN AN UNINTERRUPTED MANNER, INCLUDING (BUT NOT LIMITED TO) ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

BANK SHALL NOT BE RESPONSIBLE OR LIABLE FOR ANY ERRORS OR FAILURES RESULTING FROM DEFECTS IN OR MALFUNCTIONS OF CUSTOMER'S COMPUTER HARDWARE OR SOFTWARE, FOR THE QUALITY OF PERFORMANCE OR LACK OF PERFORMANCE OF ANY COMPUTER SOFTWARE OR HARDWARE OR INTERNET DELIVERED SERVICES SUPPLIED BY BANK TO CUSTOMER IN CONNECTION WITH THE AGREEMENT, OR FOR THE TRANSMISSION OR FAILURE OF TRANSMISSION OF ANY INFORMATION FROM CUSTOMER TO BANK OR FROM BANK TO CUSTOMER. BANK SHALL NOT BE RESPONSIBLE FOR NOTIFYING CUSTOMER OF ANY UPGRADES OR ENHANCEMENTS TO ANY OF CUSTOMER'S COMPUTER HARDWARE OR SOFTWARE.

19. Customer Information/Updates. Prior to providing Services and from time to time thereafter, Bank may request information from Customer regarding Customer's business activities, financial condition and regarding its owners and officers in order to evaluate providing or continuing Services and/or adjustment of any limits set by the Agreement. Customer agrees to provide the requested information immediately upon request by Bank, in the form required by Bank. If Customer refuses to provide the requested information, or if Bank concludes in its sole discretion that the credit risk of Customer is unacceptable, Bank may terminate a Service according to the provisions hereof. Customer authorizes Bank to investigate or reinvestigate at any time any information provided by Customer in connection with the Agreement or any Services and to request reports from credit bureaus and reporting agencies for such purpose.

Customer shall provide written notice to Bank of any changes to such information provided by Customer to Bank, including but not limited to: additional locations, any change in business, any new business, the identity of principals and/or owners, the form of business organization, type of goods and services provided, and method of conducting sales. Such notice must be received by Bank within 5 business days of the change. Further, upon Bank's request, Customer shall provide updated information within 5 days of such request. Bank retains the right to (i) review Customer's business activity from time to time to confirm Customer is conducting business as stated by Customer at the time of Customer's election to use the Services, and (ii) re-price or terminate Services based on changes to the facts previously stated by Customer.

20. Confidential Information and Proprietary Right to Data. All information of a business nature relating to the assets, liabilities or other business affairs disclosed to the Bank by the Customer and the Customer's customers in connection with the Agreement is confidential. Bank shall not, without the express written consent of the Customer, disclose or permit access to any such information by any person, firm or corporation and Bank shall cause its officers, employees, and agents to take such action as shall be necessary or advisable, to preserve and protect the confidentiality of disclosing such information to persons required to have access thereto for the performance of the Agreement, or to any other party to which the Bank may be required by law to report such information. Customer agrees to hold confidential and to use only in connection with the Service provided under the Agreement all information furnished to Customer by Bank or by third parties from whom Bank has secured the right

to use the Service, including, but not limited to, Bank's product and service pricing structure, system design, programming techniques or other unique techniques. In addition, should Customer at any time receive or acquire any information relating to another Customer of the Bank, Customer shall promptly return such information to Bank and not reveal such information to any other party and shall not make use of such information for its own benefit. Bank and Customer's obligations and agreements under this paragraph shall not apply to any information supplied that: was known to either party prior to the disclosure by the other, or is or becomes generally available to the public other than by breach of the Agreement, or otherwise becomes lawfully available on a non-confidential basis from a third party who is not under an obligation of confidence to either party. Notwithstanding anything to the contrary contained herein, it is authorized and agreed by the parties hereto that the performance of said Service is or might be subject to regulation and examination by authorized representatives of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and/or a State regulatory agency and the Customer agrees to the release of the Customer's reports, information, assurances, or other data as may be required by them under applicable laws and regulations. Customer agrees that any specifications or programs developed by the Bank in connection with the Agreement or supplied or made available to Customer by Bank are the exclusive property of Bank, its agents, suppliers, or contractors, and further agrees that such material shall not be copied or used in any manner or for any purpose without the express written consent of Bank. This clause shall survive the termination of the Agreement.

21. **Waiver of Jury Trial.** Customer gives up any right Customer may have to a trial by jury in any lawsuit by Bank against Customer or by Customer against Bank in any matter arising out of the terms and conditions contained in the Agreement.

22. **Attorneys' Fees.** In the event of any judicial or other adversarial proceeding between the parties concerning the Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and other costs in addition to any other relief to which it may be entitled.

23. **Successors.** The Agreement and all the terms and provisions herein shall be binding upon and shall inure to the benefit of the parties hereto and their successors and assigns.

24. **Assignment.** No right or interest hereby conferred shall be assignable without the prior written consent of the other party and any assignment made without such consent shall be null and void, except that the Bank may assign the Agreement or any part of it to any of the Bank's affiliates or to a successor of the Bank by merger or acquisition upon written notice to the Customer.

25. **No Third Party Beneficiaries.** The Agreement shall not be construed to confer any rights or remedies upon any person not a party to the Agreement, whether as a third party beneficiary or otherwise, against Customer or Bank, their respective successors, assigns, and affiliates.

26. **Waiver.** No delay or failure on the part of Bank in exercising any of Bank's rights under the Agreement shall constitute a waiver of such rights and no exercise of any remedy hereunder by any party shall constitute a waiver of its right to exercise any other remedy hereunder. Except for changes made in accordance with the Agreement, no deviation, whether intentional or unintentional, will constitute an amendment of the Agreement or will constitute a waiver of any right or duty of either party.

27. **Severability.** In the event any one or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, the remaining provisions shall be binding and enforceable as if any such invalid, illegal or unenforceable provision had never been contained herein.

28. **Construction.** The Agreement is an agreement between parties who are experienced in sophisticated and complex matters similar to the transactions contemplated by the Agreement, is entered into by both

parties in reliance upon the economic and legal bargains contained herein, and shall be interpreted and construed in a fair and impartial manner without regard to such factors as the party which prepared the instrument or drafted any provision thereof, the relative bargaining powers of the parties, or the domicile of any party.

29. Governing Law. The Agreement is governed and shall be construed in accordance with federal law and by the laws of the State of New York (without giving effect to its conflict of laws principles). The parties agree that any legal action or proceeding concerning the Agreement or any of the obligations of the parties will be brought in a court of competent jurisdiction located in Erie County, New York. By the execution of the Agreement the Customer waives any claim that Erie County, State of New York is not a convenient forum or the proper venue for any such suit, action or proceeding.

EVANS BANK, N. A.

ACCOUNT RECONCILIATION SERVICE ADDENDUM

Customer has requested that the Bank provide certain account reconciliation services with respect to Customer's designated Account(s) ("Services"). In consideration of the Services, Bank and Customer agree to the following terms and conditions.

1. **Account Reconciliation.** Customer shall electronically transmit to the Bank a file ("File") containing information regarding checks drawn on an Account that it has issued ("Issued Check(s)") in a manner and format as approved by the Bank. Bank will compare the File information to its records with respect to checks that have been presented for payment against an Account. Bank will provide a report to Customer identifying (i) Issued Checks that have been paid, (ii) Issued Checks that have not been paid and are outstanding and (iii) checks that were paid but that are not Issued Checks.
2. **Check and Deposit Slip Encoding.** In order to utilize the Service, Customer is required to have its checks and deposit slips encoded with a Magnetic Ink Character Recognition line in accordance with the Bank's specifications and must provide Bank with samples to test.
3. **Miscellaneous.** Customer shall be responsible for all information contained in a File and Bank shall have no responsibility for erroneous data provided by Customer. Customer understands and agrees that the Services are not intended to provide security or fraud detection services to Customer. Nothing contained in this Addendum shall alter in any way the Bank's normal process for handling checks presented for payment nor shall it alter the parties' obligations and liabilities under the Uniform Commercial Code or the Deposit Account Agreement.

EVANS BANK, N. A.

ACH DEBIT FILTER SERVICE ADDENDUM

Customer has requested that the Bank provide certain services to assist Customer in detecting unauthorized Automated Clearing House ("ACH") debit entries affecting Customer's designated Account(s) ("Services"). In consideration of the Services, Bank and Customer agree to the following terms and conditions.

1. **ACH Debit Filter.** Customer shall designate the entities that Customer authorizes to originate ACH debits entries ("Debit Entry") for payment from an Account ("Originator") and provide the Bank with the Originator's name and ACH Company ID Number. Customer may only add or change Accounts and/or Originators by notifying the Bank in compliance with its policies and procedures. The Bank shall continue to provide Services in accordance with the current Account and Originator designations until the Bank actually receives the revised information in compliance with such policies and procedures and has the opportunity to act.
2. **ACH Debit Filter Process.** Bank shall block and return to the ODFI (or to the Originator if Bank is the ODFI) any Debit Entry that is not originated by an Originator with respect to an Account ("Unauthorized Entry"). All Debit Entries originated by an Originator with respect to an Account shall be processed according to the Rules and the Deposit Account Agreement. Bank shall notify Customer by 9:30 a.m. on each Business Day of all Unauthorized Entries. If Customer wishes Bank to pay an Unauthorized Entry, Customer must notify the Bank electronically by 10:30 a.m. of the same Business Day. If such notification is not made, Bank shall return the Unauthorized Entry. Debit Entries originated by an Originator will be reflected in Customer's normal periodic Bank statement for such Account.
3. **Miscellaneous.** Customer understands and agrees that the Bank will use the Originator's ACH Company ID Number provided by Customer as the sole criterion for determining whether a Debit Entry is an Unauthorized Entry. Customer shall be solely responsible for all information provided to Bank and Bank is under no obligation to confirm that an Originator's name matches the ACH Company ID Number provided by Customer. Bank is authorized by Customer to pay the Debit Entry from the Account without further inquiry or notice to Customer even if the ACH Company ID Number provided by Customer for an Originator does not match the name of the Originator.
4. **Exceptions to Debit Filter.** Customer understands and agrees that, notwithstanding anything herein to the contrary, the following Debit Entries will not be blocked or otherwise affected by this Addendum and shall be processed and paid pursuant to the Bank's normal procedures: (i) any Debit Entry for payment to Bank of amounts owed to Bank by Customer in connection with a loan or extension of credit or otherwise, including fees and expenses; (ii) any Debit Entry for payment of fees owed to Bank in connection with the Services or an Account; or, (iii) any Debit Entry that Bank determines in its sole discretion is required to be paid to comply with the Rules.

EVANS BANK, N.A.

ACH ORIGINATOR SERVICE ADDENDUM

Customer wishes to initiate ACH debit or credit entries by means of the Automated Clearing House Network pursuant to the terms of this Addendum and the rules of the National Automated Clearing House Association ("NACHA") and the EPS/NYACH (the "Rules"), and Bank is willing to act as an Originating Depository Financial Institution ("ODFI") with respect to such Entries (the "Services"). Unless otherwise defined herein, capitalized terms shall have the meanings provided in the Rules. In consideration of the Services, Bank and Customer agree to the terms and conditions as set forth below.

1. **Transmittal of Entries By Customer.** Customer shall transmit prearranged payment and debit entries, corporate credit or debit entries and such other entries as the Bank may from time to time allow (an "Entry" or "Entries") to Bank by (i) electronic transmission via a direct connection between the Customer's location (or an Authorized Processor's location) and the Bank's operation center at 1 Grimsby Drive, Hamburg, New York or (ii) by internet based delivery through the Bank's Eas-E Net Web Banking Cash Manager/ACH function. All Entries must be delivered in file formats and specifications approved by NACHA. The total dollar amount of Entries transmitted by Customer and an Authorized Processor to Bank on any one Business Day shall not exceed the Daily Limit. The total dollar amount of Entries transmitted by Customer and an Authorized Processor to Bank in any 60 day period shall not exceed the 60 Day Limit as designated in the Cash Management Services Customer Designation Form.

2. **Security Procedure.**

(a) Customer acknowledges that the purpose of the Security Procedure is for verification of authenticity and not to detect an error in the transmission or content of Entries. No security procedures for the detection of any such error has been agreed upon between the Bank and Customer.

(b) Customer is solely responsible to establish and maintain procedures to safeguard against unauthorized Entry transmissions. Customer warrants that only an Authorized Representative or an Authorized Processor will be allowed to transmit Entries and agrees to take reasonable steps to maintain the confidentiality of the Security Procedure and any passwords, codes, security devices and related instructions provided by the Bank or Customer. Customer assumes the entire risk for (i) fraudulent, unauthorized or otherwise improper transmission of an Entry and (ii) the fraudulent, unauthorized or otherwise improper activities of an Authorized Processor. If Customer believes or suspects that any security information or instructions have become known or accessed by unauthorized persons, Customer agrees to notify Bank immediately followed by written confirmation. The occurrence of unauthorized access will not affect any transfers made in good faith by Bank prior to receipt of such notification and within a reasonable time period thereafter to act to prevent unauthorized transfers. Requests to change either Authorized Representative will only be accepted upon authorization of the other Authorized Representative.

(c) All Entries must be submitted with a confirmation of the total amount of the transactions to be processed, and the Effective Entry Date of the Entry. Confirmation will only be accepted from an Authorized Representative or an Authorized Processor.

3. Compliance With Security Procedure.

(a) If an Entry (or a request for cancellation or amendment of an Entry) received by Bank purports to have been transmitted by an Authorized Representative or an Authorized Processor or otherwise authorized by Customer, it will be deemed effective as Customer's Entry (or request) and Customer shall be responsible for and obligated to pay Bank the amount of such Entry even though the Entry (or request) was not authorized by Customer. If signature comparison is to be used as a part of that Security Procedure, Bank shall be deemed to have complied with that part of such procedure if it compares the signature accompanying a file of Entries (or request for cancellation or amendment of an Entry) received with the signature of an Authorized Representative and, on the basis of such comparison, believes the signature accompanying such file to be that of such Authorized Representative.

(b) If an Entry (or request for cancellation or amendment of an Entry) received by Bank was transmitted or authorized by Customer or an Authorized Processor, Customer shall be responsible for and obligated to pay Bank the amount of the Entry, whether or not Bank complied with the Security Procedure and whether or not that Entry was erroneous in any respect or that error would have been detected if Bank had complied with such procedure.

4. Recording and Use of Communications. Customer and Bank agree that all telephone conversations or data transmissions between them or their agents made in connection with the Services may be electronically recorded and retained by either party by use of any reasonable means.

5. Processing, Transmittal And Settlement By Bank

(a) Except as otherwise provided herein, Bank shall process and transmit conforming Entries as an ODFI to EPS NYACH (the "ACH") acting as an Automated Clearing House Operator and settle for such Entries as provided in the Rules.

(b) Customer or a Authorize Processor shall submit Entries regularly, according to an established frequency and on scheduled Business Days and Bank reserves the right in its sole discretion and without liability to reject irregular Entries or Entries that do not otherwise comply with this Addendum. Entries shall be deemed delivered to and received by Bank only when the transmission is completed as provided herein and accepted by the Bank.

(c) Entries will be processed by Bank pursuant to the following schedule:

- 1) Entries must be delivered to Bank by 2:00 p.m. (EST) on a Business Day ("Cutoff Time") that is at least two (2) Business Days, but not more than ten (10) Business Days, prior to the Effective Entry Date of the Entry;
- 2) Entries delivered to Bank by the Cutoff Time on a Business Day will normally be transmitted to ACH the same Business Day, provided the Effective Entry Date of the Entry is not more than two (2) Business Days after delivery of the Entry;
- 3) Entries delivered to the Bank less than two (2) Business Days prior to the Effective Entry Date of the Entry will be transmitted to ACH as soon as circumstances allow and such transmissions are subject to processing deadlines issued by NACHA and the receiving financial institution.

(d) The settlement date of the Customer's financial obligations to Bank for submitted transactions will be no later than the settlement date of Bank's obligation to the ACH, as established by the NACHA rules for settlement, regardless of Bank's failure to comply with any provision of this Addendum. Customer shall be responsible for paying Bank the amount of each Entry transmitted by Bank at such time on the Settlement Date with respect to such Entry as Bank, in its discretion, may determine, and the amount of each On-Us Entry (defined below) at such time on the Effective Entry Date of such Entry as Bank, in its discretion, may determine.

6. **On-Us Entries.** In the case of an Entry received for an account maintained with Bank (an "On-Us Entry"), Bank shall debit or credit the Receiver's account in the amount of such Entry on the Effective Entry Date contained in such Entry, provided the requirements set forth in Section 5(c) are met. If such requirements are not met, Bank shall use reasonable efforts to debit or credit the Receiver's account in the amount of such Entry no later than the next Business Day following such Effective Entry Date.

7. **Rejection of Entries.** Bank may reject any Entry which does not comply with the provisions of this Addendum. Bank shall notify Customer by phone or in writing of such rejection no later than the Business Day such Entry would otherwise have been transmitted by Bank to the ACH or, in the case of an On-Us Entry, its Effective Entry Date. Notices of rejection shall be effective when given. The Bank shall have no liability to Customer by reason of the rejection of any such Entry or the fact that such notice is not given at an earlier time than that provided herein.

8. **Cancellation or Amendment By Customer.** Customer shall have no right to cancel or amend any Entry after its receipt by Bank. However, if such request complies with the Security Procedures applicable to the cancellation of Data, Bank shall use reasonable efforts to act on a request by Customer for cancellation of Entry prior to transmitting it to the ACH or, in the case of an On-Us Entry, prior to debiting or crediting a Receiver's account, but shall have no liability if such cancellation is not effected. Customer shall reimburse Bank for any expenses, losses, or damages Bank may incur in effecting or attempting to effect Customer's request for the cancellation of an Entry.

9. **Notice of Returned Entries.** Bank shall notify Customer of the receipt of a returned entry from the ACH no later than one Business Day after the Business Day of such receipt. Bank shall have no obligation to retransmit a returned Entry to the ACH if Bank complied with the terms of this Addendum with respect to the original Entry.

10. **The Account.** Customer shall at all times maintain a balance of available funds in the Account sufficient to cover its payment obligations under this Addendum. In the event there are not sufficient available funds in the Account to cover Customer's obligations under this Addendum, Customer agrees that Bank may debit any account maintained by Customer with Bank or any affiliate of Bank or that Bank may set off against any amount it owes to Customer, in order to obtain payment of Customer's obligations. Entries transmitted by Bank or applied to a Receiver's account maintained with Bank will be reflected on Customer's periodic statement issued by Bank with respect to the Account pursuant to the Deposit Account Agreement.

11. **Customer Representations And Agreements.** With respect to each Entry initiated by Customer or an Authorized Processor, Customer represents and warrants to Bank that (i) each person shown as the Receiver on an Entry received by Bank from Customer has authorized the initiation of such Entry and the crediting or debiting of its account in the amount and on the Effective Entry Date shown on such Entry and (ii) such authorization is operative at the time of transmittal by Bank as provided herein. Customer or an Authorized Processor shall transmit Entries and otherwise perform its obligations under this Addendum in accordance with all applicable laws and regulations, including the sanctions laws administered by OFAC; laws, regulation and orders administered by FinCEN and any state laws, regulation or orders applicable to the provider of ACH payment services.

12. **Financial Institution Responsibilities Liability; Limitations on Liability; Indemnity.**

(a) In the performance of the Services, Bank shall be entitled to rely solely on the information provided by Customer or an Authorized Processor, and shall not be responsible for the accuracy or completeness thereof. Bank shall not be responsible for Customer's or an Authorized Processor's acts or omissions or those of any other person, including without limitation any provider of ACH payment/processing service or any Receiver or Receiving Depository Financial Institution.

(b) Bank shall be excused from failing to transmit or delay in transmitting an Entry if such transmittal would result in Bank having exceeded any limitation upon its intra-day net funds position established pursuant to present or future Federal Reserve guidelines or in Bank's reasonable judgment otherwise violate any provision of any present or future risk control program of the Federal Reserve or any rule or regulation of any other U.S. governmental regulatory authority.

13. **Inconsistency of Name and Account Number.** Customer acknowledges and agrees that, if an Entry describes the Receiver inconsistently by name and account number, payment of the Entry transmitted by Bank to the Receiving Depository Financial Institution may be made by the Receiving Depository Financial Institution (or by Bank in the case of an On-Us Entry) on the basis of the account number supplied by the Customer, even if it identifies a person different from the named Receiver, and that Customer's obligation to pay the amount of the Entry to Bank is not excused in such circumstances.

14. **Notification of Change.** Bank shall notify Customer of all notifications of change received by Bank relating to Entries transmitted by Customer no later than two (2) business days after receipt thereof.

15. **Information Retention.** Customer shall retain data on file adequate to permit remaking of Entries for ninety days following the date of their transmittal by Bank as provided herein, and shall provide such data to Bank upon its request. Customer shall obtain all consents and authorization required under the Rules and shall retain such consents and authorizations for two years after they expire.

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

EVANS BANK N. A.

ARMORED COURIER SERVICE ADDENDUM

Customer has requested that the Bank allow Customer to deliver to the Bank by an armored courier ("Courier") Customer's currency, coin and checks for deposit into a designated Account(s) and that the Bank make currency and coin available for withdrawal by Customer from such Account(s) (the "Services"). In consideration of the Services, the Bank and Customer agree to the terms and conditions as set forth below.

1. **Deposits and Withdrawals.** The Bank will accept currency, coin (other than foreign currency and coin), checks and other items for deposit into an Account ("Deposit(s)") and shall make available for withdrawal currency and coin ("Withdrawal(s)") in accordance with Bank's Deposit Account Agreement and this Addendum. Deposits shall be delivered by the Courier to Bank at the designated Bank Locations according to Bank's Delivery Schedule for receiving Deposits. Bank shall deliver Withdrawals to the Courier at designated Locations according to the Bank's Pick-Up Schedule for delivery to Customer.

2. **Risk of Loss.** Customer shall assume all risk associated with the use of the Services and the delivery of the Deposits to a Location by the Courier and the delivery of Withdrawals by the Courier to Customer, including the risk of loss of the Deposits or Withdrawals by whatever cause, including but not limited to, negligence, theft, robbery, embezzlement, defalcation or other employee or agent dishonesty or any mysterious disappearance. Bank shall have no liability with respect to the Deposits until such time that the Deposits are delivered to and accepted by Bank in compliance with the provisions of this Addendum. Bank shall have no liability with respect to Withdrawals after delivery of the Withdrawals to Courier. Customer agrees that with respect to the delivery of the Services, Courier is Customer's agent and not the agent of the Bank. Customer is solely responsible for any fees imposed by Courier in connection with the Services.

3. **Contents of Deposits.** The currency, coin and checks comprising each Deposit shall be separately packaged by Customer. Customer will place the Deposit in a properly sealed, secure bag, which Customer will securely seal each time before releasing them to the Courier. Customer shall place in the bag with each Deposit a completed deposit slip which shall set forth the aggregate amount of checks and the aggregate amount of currency and coin contained in the Deposit. Customer understands and agrees that the amounts set forth on any deposit slip are provisional until verified and accepted for deposit by the Bank pursuant to the provisions of this Addendum.

4. **Processing Deposits.** Bank shall receive physical possession of and accept at its Location each Deposit and shall evidence such receipt in a signed writing. Bank will provisionally accept for verification such Deposits that conform to the requirements of this Addendum (a "Conforming Deposit"). Deposits that do not contain a proper deposit slip, are improperly packaged, appear to have been tampered with or otherwise do not conform with the requirements of this Addendum (a "Non-Conforming Deposit") shall be treated as set forth in paragraph 5 below.

5. **Non-Conforming Deposits.** Bank may, at its sole discretion, either reject or accept a Non-Conforming Deposit for verification. If Bank rejects a Non-Conforming Deposit, Bank shall promptly notify Customer of its rejection and hold such Non-Conforming Deposit until such time that Customer retrieves it, which Customer agrees to do promptly. If Bank accepts a Non-Conforming Deposit, the Non-Conforming Deposit will be processed as set forth in paragraph 6 below. In no event shall the Bank be liable to Customer or any third-party for any failure or delay in designating a Deposit as a Non-Conforming Deposit or in notifying Customer.

6. **Accepted Deposits.** After accepting a Conforming Deposit or a Non-Conforming Deposit for verification (an "Accepted Deposit"), Bank shall count and verify the currency, coin and checks that comprise an Accepted Deposit. Bank will be deemed to have acted in good faith and to have used due care in counting and verifying the total amount of an Accepted Deposit and the amount of the currency, coin and checks in an Accepted Deposit if it counts and verifies such amounts in accordance with the Bank's standard procedures for verifying the

amount of currency, coins and check deposits. Each such count and verification by the Bank of the such amounts shall be binding and conclusive with respect to Customer and the Bank's verified records with respect to such amount shall be presumed correct. Bank shall notify Customer either orally or in writing if any amount set forth on a deposit slip for an Accepted Deposit is different than the Bank's count of such Accepted Deposit.

7. **Funds Availability.** For purposes of funds availability, Customer understands and agrees that a deposit of an Accepted Deposit into an Account shall not be deemed to have been made until Bank verifies the amount of such Accepted Deposit pursuant to paragraph 6 above and the Bank credits the Account, which such credit shall be made in accordance with the terms of the Bank's Deposit Account Disclosures and Privacy Policy. Bank shall collect checks in a Accepted Deposit in accordance with its usual and customary practices, as if such checks were presented for deposit at one of Bank's branch locations.

8. **Withdrawals.** With respect to Withdrawals, Bank will be deemed to have acted in good faith and to have used due care in counting and verifying the total amount of a Withdrawal and the amount of the currency, coin and checks in an Withdrawal delivered to Courier if it counts and verifies such amounts in accordance with the Bank's standard procedures for verifying the amount of currency, coins and check withdrawals. Each such count and verification by the Bank of the such amounts shall be binding and conclusive with respect to Customer and the Bank's verified records with respect to such amount shall be presumed correct.

EVANS BANK, N. A.

CD-ROM CHECK IMAGE SERVICE ADDENDUM

Customer has requested that the Bank periodically make available to Customer images of paid checks drawn on certain designated Account(s) on CD-ROM in lieu of receiving the physical checks or copies thereof with Customer's regular account statement (the "Service"). In consideration of the Service, Bank and Customer agree to the terms and conditions as set forth below.

1. **Statement of Service.** Bank shall create CD-ROM images of all checks drawn against an Account that are presented and paid by the Bank ("Negotiated Checks"). The Bank shall maintain an image of the front and back of all Negotiated Checks for a period of seven (7) years (the "Retention Period").
2. **Periodic CD-ROM Statements and Special Requests.** Bank will periodically mail to Customer a CD-ROM containing images of Negotiated Checks for each Account either monthly, quarterly or yearly, as designated by Customer ("Periodic Statements"). Customer may request a physical image copy of specific Negotiated Checks maintained by the Bank during the Retention Period ("Special Request"). To make a Special Request, Customer must contact Bank's customer service representative at (716) 926-3313 and provide the check number, amount and the date paid of each Negotiated Check being requested. A request by Customer for a duplicate copy of a Periodic Statement on CD-ROM previously sent will be treated as a Special Request and such request must be made within 30 days of the production of the original CD-ROM.
3. **Delivery to Customer.** Bank's sole obligation with respect to delivery of a Periodic Statement or a Special Request shall be to place the subject CD-ROM in the U.S. Mail addressed to Customer at the address designated by Customer. Bank shall not be responsible for any failure of the U.S. Mail to properly or timely deliver a CD-ROM to Customer.

EVANS BANK, N. A.

CREDIT SWEEP SERVICE ADDENDUM

Customer has requested that the Bank (i) debit available funds from the designated Account and apply such funds to reduce the outstanding principal balance due from Customer to the Bank pursuant to that certain revolving line of credit as evidenced by the Note by and between the Customer and Bank designated by Customer and (ii) credit to the Account advances under the Note, pursuant to the terms and conditions hereof (the "Services"). In consideration of the Services, the parties hereto agree to the terms and conditions as set forth below.

1. **Definitions.** As used herein, the following terms shall have the following respective meanings:

"Advance" means an advance of principal to the Customer pursuant to the terms of the Note and this Service Addendum.

"Available Credit" means at any time the stated maximum principal amount of the Note, less the Outstanding Principal.

"Available Funds" means, with respect to the Account, funds that are available for withdrawal or use by the Customer as determined by the Bank.

"Loan Documents" means the Note and each mortgage, security agreement, guaranty, collateral document or other document executed in connection with the Note.

"Outstanding Principal" means at any time the principal amount due from Customer to the Bank pursuant to the Note.

"Target Balance" means the amount of Available Funds in the Account as set forth in Schedule "A" sought to be maintained by use of the Services and as may be amended from time to time by written agreement of the Bank and Customer.

"Target Balance Deficiency" means, at the end of any Business Day, the Target Balance minus the amount of Available Funds in the Account.

"Target Balance Surplus" means, at the end of any Business Day, the amount of Available Funds in the Account minus the Target Balance.

2. **Credit Sweep Services.** Each Business Day the Bank will provide the Services pursuant to the following terms and conditions:

- a) **Target Balance Surplus.** In the event there is a Target Balance Surplus at the end of a Business Day, the Bank will (i) debit the Account in an amount equal to the lesser of the Target Balance Surplus or the Outstanding Principal and (ii) apply such amount to the payment of the Outstanding Principal.
- b) **Target Balance Deficiency Exceeds Available Credit.** In the event that, at the end of a Business Day, there is a Target Balance Deficiency and the Target Balance Deficiency exceeds the Available Credit, the Bank will (i) make an Advance in an amount equal to the Available Credit and (ii) credit such amount to the Account.

- c) **Available Credit Exceeds the Target Balance Deficiency.** In the event that, at the end of a Business Day, there is a Target Balance Deficiency and the Available Credit exceeds the Target Balance Deficiency, the Bank will (i) make an Advance in the amount of the Target Balance Deficiency and (ii) credit such amount to the Account.

3. **Principal Reduction.** Amounts debited from the Account in the event of a Target Balance Surplus will only be applied to reduce the Outstanding Balance of the Note and in no event shall such amounts be used to pay interest due on the Note.

4. **Authorization for Advances, Debits/Credits to the Account and Payment of Outstanding Principal.** By electing to use the Services, Customer authorizes and directs the Bank to make Advances, to debit and credit the Account and to make payments of Outstanding Principal on the Customer's behalf in accordance with the terms and conditions of this Service Addendum and without further notice to or authorization from the Customer.

5. **Note and Loan Documents.** By electing to use the Services, the Customer agrees that all Advances and payments of Outstanding Principal shall be subject to the terms and conditions of the Note and Loan Documents. All Advances shall bear interest and shall be repaid as set forth in the Note and shall be secured by the Loan Documents. This Service Addendum shall not modify or supersede the Note and Loan Documents and the Customer hereby covenants and agrees that all of the terms and conditions set forth in the Note and the Loan Documents are in all respects valid and binding on the Customer and enforceable in accordance with their terms.

6. **FDIC Disclosures.** The Bank is a member of the Federal Deposit Insurance Corporation ("FDIC"). Available Funds in the Account are considered deposits under FDIC regulations and will therefore be insured up to applicable FDIC limits as may be adjusted from time to time.

EVANS BANK, N.A.

FACSIMILE SIGNATURE SERVICE ADDENDUM

Customer has requested that the Bank provide facsimile signature services with respect to certain designated Accounts as set forth herein (the "Services"). In consideration of the Services, Bank and Customer agree to the terms and conditions as set forth below.

1. **Deposit of Items.** The Bank may receive, collect and deposit into any Account all money, and all checks, drafts, bills of exchange, acceptances, notes and other written, electronic or other records, whether transmitted orally, electronically, in writing or otherwise, containing any promise of or order or other instruction for the payment of money (individually an "Item" and collectively "Items") drawn, payable or endorsed to bearer, to the name or order of the Customer or otherwise, tendered for deposit to the credit of the Customer. All such Items drawn, payable or endorsed to the name or order of the Customer shall be deemed to have been unqualifiedly endorsed by the Customer, whether or not actually so endorsed.

2. **Facsimile Signatures.** The Bank may purchase, give credit for, cash, accept, certify and pay from funds on deposit in any Account, without any inquiry of any kind, all Items signed, drawn, accepted or endorsed, whether under a title or titles, under the inscription "Authorized Signature" or otherwise, with (a) an actual manual signature of any Authorized Party or (b) an actual or purported facsimile signature ("Facsimile Signature") of any Authorized Party (regardless of under what circumstances, by whom or by what means such actual or purported Facsimile Signature may have been affixed thereto and regardless of whether any person affixing such actual or purported Facsimile Signature thereto had actual authority to do so and regardless of whether or not, if such actual or purported Facsimile Signature was affixed by a person who did not have actual authority to do so, the affixing of such actual or purported Facsimile Signature resulted from any negligence of the Customer or any officer, member, manager, employee or other agent of the Customer) if such actual or purported Facsimile Signature resembles the signature of such Authorized Party.

3. **Customer Responsibility/Indemnification.** The Customer shall have the sole responsibility for maintaining the security of any Facsimile Signature or devise by which it is affixed to any Item. Customer assumes the entire risk for fraudulent, unauthorized or otherwise improper use of a Facsimile Signature devise or for the fraudulent, unauthorized or otherwise improper affixing of a Facsimile Signature to an Item, whether or not Customer is negligent. Bank shall not be obligated to make any inquiries in order to verify or confirm the authenticity of a Facsimile Signature affixed to an Item it receives if such actual or purported Facsimile Signature resembles the signature of an Authorized Party. The Customer shall indemnify the Bank on demand against all liabilities, costs and expenses (including, but not limited to, attorneys' fees and disbursements) incurred by the Bank in connection with any honoring of any actual manual, actual or purported Facsimile Signature of any Authorized Party or any refusal to honor any manual or Facsimile Signature of any person who is not an Authorized Party.

4. **Effectiveness of Facsimile Signature.** Customer agrees that no Facsimile Signature that Bank has been authorized to honor pursuant to this Addendum may be considered a forgery or an unauthorized signature and such facsimile signature shall be considered a "signature" pursuant to Uniform Commercial Code Section 3-401 and shall be effective as Customer's signature whether or not Customer is negligent.

EVANS BANK, N. A.

LOCKBOX/REMITTANCE SERVICE ADDENDUM

Customer has requested that the Bank provide certain lockbox remittance processing services that allow Customer to cause its check receivables to be sent to a designated U.S. Post Office Box for processing by the Bank for deposit into the Account(s) designated by Customer (the "Services"). In consideration of the Services, Bank and Customer agree to the following terms and conditions.

1. **Establishment of Lockbox.** Customer authorizes Bank to rent a Post Office box at a United States Post Office selected by the Bank (the "Lockbox"). Bank shall advise Customer of the location and number of the Lockbox, as well as any subsequent changes thereto. Customer in turn shall advise its customers to forward their remittances to the Lockbox. Customer shall also advise its customers that only checks should be mailed to the Lockbox.

2. **Lockbox Processing.** Customer authorizes Bank to have unrestricted and exclusive access to the Lockbox for the purpose of collecting the mail therein at any time for processing pursuant to this Addendum. Bank shall collect all mail from the Lockbox once during each Business Day. Bank shall open all of the envelopes and remove all of the contents. Checks contained in an envelope shall be processed as set forth herein. All contents of an envelope other than checks will be returned to Customer. Bank's verification of the contents of the Lockbox and the contents of each envelope shall be binding and conclusive with respect to Customer and the Bank's verified records with respect to such contents shall be presumed correct.

3. **Check Review.** Checks not payable to Customer or third-party checks will be returned to the Customer along with any other check where Bank in good faith doubts the check's collectability or otherwise determines that it is not acceptable for deposit.

4. **Endorsement of Checks.** Customer authorizes the Bank to endorse all of checks accepted by the Bank using the Bank's standard lockbox endorsement and to deposit such checks into an Account subject to the terms, conditions, rules and regulations applicable to commercial checking accounts as promulgated by the Bank from time to time.

5. **Timing of Deposit.** Customer agrees and acknowledges that the delivery of the checks to the Lockbox and the retrieval by the Bank does not constitute a deposit of the checks into an Account. The deposit of the checks retrieved from a Lockbox shall occur only after the Bank has processed the checks pursuant to the provisions of this Addendum and has reflected on its records a deposit of the checks on Customer's behalf.

EVANS BANK, N.A.

NIGHT DEPOSITORY SERVICE ADDENDUM

Customer has requested that the Bank provide certain night depository services that allow Customer to deliver to the Bank checks and currency at one or more of the Bank's locations for deposit into certain designated Accounts (the "Services"). In consideration of the Services, Bank and Customer agree to the following terms and conditions.

1. **Delivery to Locations.** Customer or its agents shall be solely responsible for the periodic delivery of checks and currency (other than foreign currency) ("Deposits") to the Bank's night depository Location(s) designated by Customer and for the placement of the Deposits into the Bank's night depository vault ("Vault") at a Location. Customer will place the Deposits into security bags approved by Bank and purchased by Customer through a third party vendor, which Customer will securely seal and then place into the Vault in compliance with the provisions of this Addendum.

2. **Risk of Loss.** Customer shall assume all risk associated with the use of the Services and the delivery of the Deposits to the Location and placement in a Vault, including the risk of loss of the Deposits by whatever cause, including but not limited to, negligence, theft, robbery, embezzlement, defalcation or other employee or agent dishonesty or any mysterious disappearance. Bank shall have no liability with respect to the Deposits until such time that the Deposits are securely placed in a Vault in compliance with the provisions of this Addendum. The Bank's records indicating the presence in or the absence from a Vault of a security bag and/or Deposit shall control and be binding on Customer.

3. **Contents of Deposit.** The checks and currency comprising each Deposit shall be separately packaged by Customer. Customer shall place in the security bag with each Deposit a completed deposit slip which shall set forth the aggregate amount of checks and the aggregate amount of currency contained in the Deposit. Customer understands and agrees that the amounts set forth on any deposit slip are provisional until verified and accepted for deposit by the Bank pursuant to the provisions of this Addendum.

4. **Processing Deposits.** Bank will access the Vault and retrieve Customer's Deposit(s) on the next succeeding Business Day after the day that Customer placed the Deposit(s) in the Vault. Bank will provisionally accept for verification such Deposits that conform to the requirements of this Addendum (a "Conforming Deposit"). Deposits that do not contain a proper deposit slip, are improperly packaged, appear to have been tampered with or otherwise do not conform with the requirements of this Addendum (a "Non-Conforming Deposit") shall be treated as set forth in paragraph 5 below.

5. **Non-Conforming Deposits.** Bank may, at its sole discretion, either reject or accept a Non-Conforming Deposit for verification. If Bank rejects a Non-Conforming Deposit, Bank shall promptly notify Customer of its rejection and hold such Non-Conforming Deposit until such time that Customer retrieves it, which Customer agrees to do promptly. If Bank accepts a Non-Conforming Deposit, the Non-Conforming Deposit will be processed as set forth in paragraph 6 below. In no event shall the Bank be liable to Customer or any third-party for any failure or delay in designating a Deposit as a Non-Conforming Deposit or in notifying Customer.

6. **Accepted Deposits.** After accepting a Conforming Deposit or a Non-Conforming Deposit for verification (an "Accepted Deposit"), Bank shall count and verify the checks and currency that comprise an Accepted Deposit. Bank will be deemed to have acted in good faith and to have used due care in counting and verifying the total amount of an Accepted Deposit and the amount of the checks and currency in an Accepted Deposit if it counts and verifies such amounts in accordance with the Bank's standard procedures for verifying the amount of checks and currency deposits. Each such count and verification by the Bank of the such amounts shall be

binding and conclusive with respect to Customer and the Bank's verified records with respect to such amount shall be presumed correct. Bank shall notify Customer either orally or in writing if any amount set forth on a deposit slip for an Accepted Deposit is different than the Bank's count of such Accepted Deposit.

7. **Funds Availability.** For purposes of funds availability, Customer understands and agrees that a deposit of an Accepted Deposit into an Account shall not be deemed to have been made until Bank verifies the amount of such Accepted Deposit pursuant to paragraph 6 above and the Bank credits the Account, which such credit shall be made in accordance with the terms of the Bank's Deposit Account Disclosures and Privacy Policy. Bank shall collect checks in a Accepted Deposit in accordance with its usual and customary practices, as if such checks were presented for deposit at one of Bank's branch locations.

EVANS BANK, N. A.

POSITIVE PAY SERVICE ADDENDUM

Customer has requested that the Bank provide certain services to assist Customer in detecting unauthorized and/or altered checks drawn on Customer's designated Account(s) ("Services"). In consideration of the Services, Bank and Customer agree to the following terms and conditions.

1. **Positive Pay.** Customer shall electronically transmit to the Bank a file ("File") containing information regarding checks drawn on an Account that it has issued ("Issued Check(s)") in a manner and format as approved by the Bank. Information with respect to Issued Checks transmitted to Bank by Customer shall be maintained by Bank in an electronic file (the "Open File") until such time as the information with respect to an Issued Check is deleted from the Open File as set forth below. Bank shall compare checks drawn on an Account presented to the Bank for payment ("Presented Check(s)") to the information in the Open File with respect to Issued Checks. Bank shall, pursuant to the terms of this Addendum, report to Customer any Presented Check that (i) is not an Issued Check and/or (ii) contains a Discrepancy (as defined below).

2. **Positive Pay Process.** Each File transmitted to the Bank shall contain the following information regarding each Issued Check: (i) check number; (ii) dollar amount; and (iii) issuance date (collectively, the "Check Properties"). Files containing information with respect to Issued Checks must be transmitted to the Bank at least forty-eight (48) hours prior to Customer's physical issuance of the subject check(s). On each Business Day Bank shall perform an automated review of the Presented Checks and the Open File to determine if (i) the Presented Check is an Issued Check and, (ii) if the Presented Check is an Issued Check, whether the Check Properties of the Presented Check match the Check Properties of the Issued Check. The Bank will provide a report to Customer by 9:30 a.m. on each Business Day identifying any Presented Check that is not an Issued Check (a "Non-Issued Check") and, with respect to Presented Checks that are Issued Checks, identifying any discrepancies between the Check Properties of the Presented Check and the corresponding Issued Check (a "Discrepancy").

3. **Treatment of Presented Checks.** Customer hereby requests and authorizes Bank to pay all Presented Checks that are Issued Checks and that do not contain a Discrepancy; information with respect to such paid Issued Checks will be deleted from the Open File. Customer shall instruct the Bank by 10:30 a.m. to either pay or return any Non-Issued Check or any Issued Check containing a Discrepancy. If Customer fails to provide Bank with such pay or return instruction within the above-referenced timeframe, Bank shall return and not pay such Non-Issued Check or Issued Check containing a Discrepancy. In no event shall Bank be liable to Customer or any third-party for any damages resulting from the return of such checks. Issued Checks that are paid or returned pursuant to this paragraph and Issued Checks that Customer requests that Bank delete will be deleted from the Open File.

4. **Miscellaneous.** Customer shall be responsible for all information contained in a File and Bank shall have no responsibility for erroneous data provided by Customer. Bank shall not be liable for the return or payment of any check if it does not receive timely and accurate instructions from Customer with respect to adding or deleting such checks from the Open File.

EVANS BANK, N.A.

REMOTE DEPOSIT CAPTURE SERVICE ADDENDUM

Customer has requested that the Bank allow Customer to make deposits to designated Account(s), remotely, by electronic means, in the manner as set forth herein (the "Service"). In consideration of the Services, the parties hereto agree to the terms and conditions as set forth below.

1. **Statement of Service.** Bank shall provide the Service to Customer, which allows Customer to make deposits to the Account(s) from Customer's office by scanning checks on a desktop scanner. The scanned image of the check will be transmitted via the Internet, to Bank or Bank's designated processor ("Processor") and Bank will provisionally credit Customer's account for the amount of the deposit and seek collection of the checks in accordance with the provisions of this Service Addendum and the Bank's Deposit Account Agreement which is incorporated by reference and made a part hereof.

2. **Hardware and Software.** This Service requires Customer to use computer hardware and software (together, "Equipment") that meets certain technical requirements for the proper delivery of the Service and to ensure Customer meets its obligation to obtain secure Internet access. Customer is solely responsible for the operation and maintenance of all Equipment used in connection with the Service and will ensure that the vendor recommended maintenance is conducted by trained personnel. Customer shall only use Equipment provided by Bank or purchase or lease Equipment approved by the Bank, including but not limited to image scanners and personal computers, described in the Equipment List. Bank is not responsible for any errors or failures resulting from defects in or malfunctions of the Equipment.

3. **Security/User ID.** Bank may provide Customer with a User ID and/or passwords (collectively, a "Security Code") to access the Service. Customer agrees to (i) comply with the Remote Deposit Procedure Manual ("Procedures") provided to Customer by Bank, (ii) take reasonable steps to safeguard the confidentiality and security of the Security Code, the Procedures and any other proprietary property or information Bank provides to Customer in connection the Service and (iii) notify Bank immediately if Customer has any reason to believe the security or confidentiality required by this provision has been or may be breached. Bank's security procedures are not designed for the detection of errors. Bank will not be obligated to detect errors by Customer or others, even if Bank takes certain actions from time to time to do so. Bank reserves the right to amend the Procedures with or without prior notice to Customer.

4. **Items Deposited.** Customer will scan and remotely deposit only checks, as that term is defined in Federal Reserve Board Regulation CC ("Reg CC") ("Checks" or "Items"), payable to Customer in the first instance, and which are acceptable to Bank for deposit into a deposit account as described in the Deposit Agreement.

5. **Restrictions on Items/Liability.** Customer agrees that it will not scan for deposit the following:

- a) Items that are issued by Customer or Customer's affiliates drawn on customer's or Customer's affiliate's accounts;
- b) Items prohibited by the Procedures or in violation of any law or Rules;
- c) Any Item Customer suspects or should know to be fraudulent or not authorized by the legal owner of the account on which the Item is drawn;
- d) Any Item or File containing a computer virus or other harmful, intrusive or invasive

code;

- e) foreign Items drawn on financial institutions that are located outside of the United States or Territories of the United States;
- f) without Bank's prior written consent, "substitute checks" as defined by federal law, an electronic representation of a substitute check or Image Replacement Documents that purport to be substitute checks and have not been previously endorsed by a bank; or
- g) A duplicate Image or File created from an original Item.

If Customer scans for deposit any such unauthorized Item, Customer shall reimburse Bank for any losses, costs and expenses Bank may incur associated with warranty or indemnity claims and shall otherwise reimburse Bank for losses, costs and expenses Bank incurs because an Item scanned does not meet applicable standards and/or causes duplicate payments.

6. **Scanning of Items and Transmission of Files.** Prior to scanning an Item, Customer shall endorse each Check to be deposited as follows: For Deposit Only, Customer Name. Customer will then scan the front and back of each Item to be deposited, capture the image of the front and back of each Item, capture the MICR encoding on each Check, and transmit the image file(s) (File(s)) or batched ACH data or entries if authorized pursuant to paragraph 14 hereof ("ACH File") (individually or collectively, a "File") to Bank in accordance with the Procedures.

7. **Receipt of File.** To insure accuracy, Customer shall balance the deposit dollar amount to the sum of the items ("Balanced File") prior to transmitting the File in accordance with the Procedures. The Balanced File must be received by Bank no later than 4:00 p.m. (EST) ("Cut-Off Time"). A File which is not balanced in accordance with the Procedures or which is received after the Cut-Off Time shall be deemed to have been received on the Business Day following the Business Day on which the File is actually received by Bank.

8. **Deposit Process/Limits.** Customer may send multiple Files to Bank or Processor throughout the day. The total dollar value of all Files received on any day shall not exceed the Deposit Limit and no individual Item may exceed the Item Limit. If the total dollar value of the File(s) exceeds the Deposit Limit, Bank may, at its option, refuse to accept the File that exceeds the Deposit Limit, or the Bank may accept and process the File. If an Item processed with a File exceeds the Item Limit, the Bank may, at its option, refuse to process such Item. Customer agrees not to exceed the Deposit Limit or the Item Limit. Bank reserves the right to change the Deposit Limit, the Item Limit and the Cut-Off Time. Such changes become effective immediately and may be implemented prior to Customer's receipt of notice of the newly established Deposit Limit, Item Limit or Cut-Off Time. Customer may contact Bank at any time to verify the current Deposit Limit, Item Limit or Cut-Off Time.

9. **Maintenance and Destruction of Original Item.** Customer shall securely store each original Item for a period of forty-five (45) days after Customer has received notice from Bank that the File containing the Item has been accepted. During the forty-five (45) day period, Customer shall take appropriate security measures to ensure that only authorized personnel shall have access to the original Item, that the information contained on the Item shall not be disclosed, and that the original Item will not be duplicated, will not be scanned more than one time, and will not be deposited or negotiated in any form. Customer shall destroy the original Item upon the expiration of the forty-five (45) day period. The Customer will use a commercially reasonable method approved by Bank to destroy Checks after the Customer's retention period has expired.

10. **Image and MICR Quality.** Each File transmitted by Customer to Bank in accordance with the Procedures shall contain images of the front and the back of the Items scanned and remotely deposited by Customer ("Images"). The Images shall be of such quality that the following information can clearly be read by sight review of

the Images:

- a) The amount of the Item
- b) The Payee
- c) The Drawer's Signature
- d) The Date of the Item
- e) The Item number
- f) The information identifying the drawer and the paying bank that is preprinted on the Check, including the MICR line
- g) Other information placed on the Item prior to the time an image of the Item is captured, such as any required identification written on the front of the Item and the endorsements applied to the back of the Item.

Images shall also meet any standards for image quality established by American National Standards Institute (ANSI), the Board of Governors of the Federal Reserve, or any other regulatory agency, clearing house or association.

Customer shall also capture and transmit to Bank the full-field MICR encoding on each Check. In accordance with the Procedures, Customer shall ensure that the following information is captured from the MICR line of the Check:

- (a) Routing Transit Number
- (b) Account Number
- (c) When encoded, Check Amount
- (d) When encoded, the serial number and the process control field

11. **Acceptance of File.** If after examination of the File and Images, Bank determines that Customer has processed and transmitted the File in accordance with the Procedures, the File is balanced, and the Images meet the requirements of Section 4 hereof, then Bank shall accept the File ("Accepted File") for deposit to Customer's Account. Upon acceptance of the File, Bank shall electronically notify Customer of receipt and acceptance of the File for deposit. Notwithstanding the fact that Bank has accepted the file for deposit, any credit made to Customer's account shall be provisional and Customer shall remain liable to Bank for any errors, inaccuracies, breach of warranties and any other loss sustained by or claim made against Bank on the part of any party. If Customer uses a third party to assist it in processing Items and Files hereunder, Customer agrees that Bank shall not have any responsibility for any Item or File handled by such third party until that point in time when Bank accepts and approves an Item or File from such third party for processing.

12. **Provisional Credit and Availability of Funds.** Upon acceptance of the File, Bank shall grant Customer's Account provisional credit for the total amount of the Corrected File (defined below) or the Accepted File. Provisional credit means that the credit is made to Customer's account subject to final payment of the Items and

subject to the terms of the Deposit Agreement. For the purpose of determining availability of funds and the period of time for which funds may be held by Bank under Reg CC, the place of deposit shall be the Bank Operations Center located at 1 Grimsby Drive, Hamburg, NY 14075.

13. **Rejection of File.** Customer agrees that Customer shall remain liable for and that Bank shall not be accountable to Customer for a File and/or Item(s) that are not received by Bank and for a File and or Item(s) that are intercepted or altered by an unauthorized third party (including but not limited to employees and agents of Customer). Customer agrees that Bank has no obligation to accept a File and therefore may reject any File or Images of Items submitted by Customer. Bank has no obligation to notify Customer of the rejection of a File or Images. Bank shall have no liability to Customer for rejection of a File or Image(s) or for failure to notify Customer of a rejection. Upon receipt of the File submitted by Customer, Bank may examine the File and the Images to ensure that Customer has followed the established Procedures. If Customer has not followed the Procedures or if errors exist in the data or the Images contained in the File, Bank, in its sole discretion, may reject and not accept the entire File or Bank may elect to correct the error, accept and process the File ("Corrected File"). As a form of correction, Bank may credit Customer's account for the full amount of the deposit and make any necessary adjustments to correct the error. Bank may, at its option, also perform a risk management analysis of the File submitted by Customer to detect potentially fraudulent Items, and, in its sole discretion, reject the File or Image(s).

14. **Collection of Items.** Bank, in its sole discretion, shall determine the manner in which Images shall be presented for payment to the drawee bank. Likewise, Bank, in its sole discretion, shall select the clearing agents used to collect and present the Images and Bank's selection of the clearing agents shall be considered to have been designated by Customer. Bank shall not be liable for the negligence of any clearing agent. Collection of Items is also subject to the Rules (as defined in the Cash Management Services Terms and Conditions) and the terms of the Deposit Agreement.

15. **ACH Origination Service.** Subject to authorization by the Bank and after agreeing to the terms of the Bank's ACH Origination Service Addendum, customer may designate any File as an ACH File to be processed for collection through the automated Clearing House ("ACH"), provided that such File and the Items contained thereon comply with all Rules and regulations applicable to ACH transactions. Customer agrees that Customer is an "originator" as defined in the applicable Rules with respect to any ACH File processed pursuant to this paragraph.

16. **Contingency Plan.** Customer agrees that in the event that Customer is not able to capture, balance, process, or otherwise transmit a File to Bank for any reason, including but not limited to communications, equipment or software outages, interruptions or failures, Customer will transport the physical Checks and deposits to the closest office of Bank and deposit the original Checks with Bank until such time that the outage or other interruption can be identified and resolved. The deposit of original Checks at an office of Bank shall be governed by the terms and conditions contained in the Deposit Agreement and not by terms of this Addendum. Notwithstanding the foregoing and to the extent applicable, Section 19 hereof dealing with warranties shall apply to the deposit of original Checks.

17. **Return Items.**

- (a) **Chargeback of Returned Items.** If Images of Items previously deposited by Customer are dishonored and returned unpaid by the drawee bank, Customer understands and agrees that, since Customer either maintains the original Item or has destroyed the original Item in accordance with Section 9 hereof, the original Item will not be returned and Bank may charge back an Image of the Item to Customer's checking account. Customer understands and agrees that the Image may be in the form of an electronic or paper reproduction of the original Item or a substitute check.

CUSTOMER AGREES NOT TO DEPOSIT THE ORIGINAL CHECK IF AN IMAGE OR OTHER DEBIT AS PREVIOUSLY DESCRIBED IS CHARGED BACK TO CUSTOMER.

- (b) Special Instructions. Customer may request that Bank re-present returned Items to the drawee bank or to process returned Items according to instructions provided by Customer to Bank ("Special Instructions"). Bank shall not be bound by such Special Instructions until such time as Bank has agreed in writing to accept the Special Instructions. Notwithstanding the fact that Bank has agreed to accept the Special Instructions, Bank may, in its sole discretion, disregard the Special Instructions and charge the returned Item back to the Account to which the Items were deposited. In the event that Customer has requested that returned Items be re-presented, in no event will Bank re-present an Item or ACH entry in excess of the limit established or permitted for the number of times that an Item or ACH entry may be represented by law or the Rules. Customer may change or amend the Special Instructions by providing Bank a written request to change or amend the Special Instructions. Changes or amendments to the Special Instructions shall not become effective until acknowledged and accepted in writing by Bank. Customer hereby agrees to pay Bank the fees for processing returned Items and Special Instructions contained in Bank's Schedule of Fees.

18. Liability Regarding Original Item.

- (a) No Duplicates. Customer will not create duplicate Images of the Items, Customer will not transmit a duplicate Image(s) or Files to Bank, Customer will not deposit or otherwise negotiate the original Item(s) from which the Image(s) was created and that no subsequent transferee, including but not limited to Bank, a collecting or returning bank, drawer, drawee, payee or endorser, will be asked to pay the original Item from which the Image(s) was created or a duplication (whether paper or electronic, including ACH entries) of the Item(s).
- (b) No Loss. No subsequent transferees of the Item(s), including but not limited to Bank, a collecting or returning bank, drawer, drawee, payee or endorser, shall sustain a loss as the result of the fact that the Image was presented for payment or returned instead of the original Item.

EVANS BANK, N. A.

STOP PAYMENT ON-LINE REQUEST SERVICE ADDENDUM

Customer has requested that the Bank provide certain stop payment services with respect to Customer's designated Account(s) ("Services"). In consideration of the Services, Bank and Customer agree to the following terms and conditions.

1. **Stop Payment Requests.** Customer may request that the Bank stop payment on a check drawn on an Account ("Stop Payment Request") by accessing the Bank's on-line banking service. All Stop Payment Requests shall be governed by this Addendum, other requirements of the Bank and the provisions of the Uniform Commercial Code.
2. **Stop Payment Request Procedure.** A Stop Payment Request must be received by Bank at such time as to afford the Bank a reasonable opportunity to act on the request. A Stop Payment Request is effective for only six months unless renewed in writing.
3. **Customer Obligations.** Customer understands that in making a Stop Payment Request it must provide correct information in a timely fashion as set forth above and that the failure to do so may result in payment of a checks. In no event shall Bank be liable to Customer or to any third-party if such payment is the result of failure of the Customer to comply with the provisions of this Addendum or other Bank requirements regarding Stop Payment Requests.
4. **Customer Certification.** By making a Stop Payment Request Customer certifies to the Bank that the Stop Payment Request is not being originated with fraudulent intent by Customer or any person acting in concert with Customer.

EVANS BANK N. A.

ZERO BALANCE ACCOUNT SERVICE ADDENDUM

Customer has established multiple commercial demand deposit accounts with the Bank and has requested that the Bank automatically transfer available funds among the designated accounts in the manner as set forth herein (the "Services"). In consideration of the Services, the parties hereto agree to the terms and conditions as set forth below.

1. **Definitions.** As used herein, the following terms shall have the following respective meanings:

"Account Debits" means, with respect to each Zero Balance Account, an amount equal to all checks, charges or other debits posting to such account at the end of each Business Day.

"Available Funds" means, with respect to a Zero Balance Account or a Master Account, the amount of funds that are available for withdrawal or use by the Customer as determined by the Bank.

"Master Account" means each account designated as such in the Cash Management Services Customer Designation Form.

"Target Balance" means in all cases \$0 which is the balance in a Zero Balance Account sought to be maintained by use of the Services.

"Target Balance Deficiency" means, at the end of any Business Day, the amount, if any, by which the sum of the Target Balance plus the Account Debits of a Zero Balance Account exceed the Available Funds in such Zero Balance Account.

"Target Balance Surplus" means, at the end of any Business Day, the amount, if any, by which the Available Funds in a Zero Balance Account exceed the sum of the Target Balance and Account Debits of such Zero Balance Account.

"Zero Balance Account" means each account designated as such in the Cash Management Services Customer Designation Form.

2. **Zero Balance Services.** Each Business Day the Bank will provide the Services pursuant to the following terms and conditions:

- a) **Target Balance Surplus.** In the event there is a Target Balance Surplus at the end of a Business Day in a Zero Balance Account, the Bank will (i) debit each such Zero Balance Account in an amount equal to such account's Target Balance Surplus and (ii) credit such amount to such Zero Balance Account's Master Account.
- b) **Target Balance Deficiency.** In the event that, at the end of a Business Day, there is a Target Balance Deficiency with respect to a Zero Balance Account, the Bank will (i) debit such Zero Balance Account's Master Account in an amount equal to the lesser of the Available Funds in such Master Account or the Target Balance Deficiency and (ii) credit such amount to such Zero Balance Account.

- c) **Application of Master Account Available Funds.** If there are insufficient Available Funds in a Master Account to pay the Target Balance Deficiency of each of the Master Account's Zero Balance Accounts, the Bank will apply the Available Funds to such Zero Balance Accounts in such manner and in such amounts as it determines in its sole discretion.

3. **Master Account and Zero Balance Account Balances; Overdrafts.** Notwithstanding anything herein to the contrary, if there are insufficient Available Funds in a Master Account to pay the Target Balance Deficiency of a Zero Balance Account, the Bank reserves the right, in its sole and absolute discretion, to (i) advance funds to pay the Account Debits creating the Target Balance Deficiency or (ii) return any such Account Debits. Customer shall be responsible to pay the amount of any negative balance and such overdraft charges or other fees as set forth in the Bank's deposit account agreement applicable to any account subject to this Service Addendum.

4. **Authorization for Advances, Debits/Credits.** By electing to use the Services, Customer authorizes and directs the Bank to debit and credit the Master Accounts and Zero Balance Accounts in accordance with the terms and conditions of this Service Addendum and without further notice to or authorization from the Customer.

5. **FDIC Disclosures.** The Bank is a member of the Federal Deposit Insurance Corporation ("FDIC"). Available Funds in the Master Account or Zero Balance Account are considered deposits under FDIC regulations and will therefore be insured up to applicable FDIC limits as may be adjusted from time to time.