

1ST SECURITY BANK

Customer Agreement for 1st Express Deposit

Customer Name:		Tax Identification Number:	
Phone Number:		Email Address:	
Address:			
Scanner Model:	Scanner Serial Number:	Scanner Location:	

By signing this agreement, 1st Security Bank of Washington and the customer shown above agree to all of the Terms and Conditions shown below.

1st Security Bank of Washington	Customer
By _____ Signature	By _____ Signature
Its _____ Title	Its _____ Title
Date _____	Date _____

For Bank Use Only:

Agreement Received By:	_____
Date Agreement Received:	_____
Date Equipment Installed:	_____
Service Fees:	Check One: ___ Standard ___ Account Analysis
	Single Feed ___ Multi Feed ___
	Scanner Purchased ___ Scanner Rented ___
	Scanner Waived ___ Charge to Branch ___

Terms and Conditions

This Customer Agreement for 1st Express Deposit ("Agreement") provides the terms and conditions under which we will provide remote deposit capture services to you. As used in this Agreement, the words "Bank," "we," "us" and "our" refer to 1st Security Bank of Washington. The words "you" and "your" refer to each person or entity that uses the Services. The word "Services" refers to 1st Express Deposit. The word "Checks" refers to paper checks that you have scanned or want to scan and convert to digitized, electronic images ("Images"). When you sign-up for the Services and each time you use the Services, you agree to abide by the terms and conditions of this Agreement (as amended from time to time), and all other terms, conditions, agreements, fee schedules and disclosures applicable to banking services we provide to the extent that they affect the Services.

1. **Services.** We agree to provide the Services to you, subject to all of the terms and conditions of this Agreement. You and we each agree to perform the responsibilities appearing below.
2. **Fees.** You agree to pay us fees for Services according to our then-current fee schedule, a copy of which is available upon request. We may change our fees at any time, and we will notify you of those changes in advance if required by law. We may charge the Account (as defined in Section 7 below) for all of those fees. You are responsible for all sales, use and other taxes imposed on you with respect to the Services.

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3. Our responsibilities.

- a. Deposits. Subject to the terms and conditions of this Agreement and our Deposit Account Agreement, as amended (“Deposit Account Agreement”), we will accept Images transmitted by you for deposit to the Account.
- b. Cut-off times. We must receive Images for same day credit by 4:00 PM Pacific Time on a day that we are open for business, excluding Saturdays, Sundays and banking holidays (“Business Day”). Deposits submitted after 4:00 PM Pacific Time may be processed the following business day. Items received after that time will be processed on our next business day.
- c. Receipt. We are not responsible for any Images we do not actually receive, including, without limitation, any Image that is dropped or altered during or after transmission by you. No deposit will be considered received by us until we transmit to you a notice of our receipt. Images must be complete, usable and in compliance with any data specifications provided in this Agreement and other specifications we might establish. If an Image does not comply with those specifications or in our judgment is otherwise incomplete or unusable, we may decline to process the Image. In that case, the Image will not be deemed “received,” and we will adjust your deposit and provide you with notification of the adjustment.
- d. Rejection of Images. We reserve the right to reject any Image for any lawful reason without liability. Without limitation, we may reject any Image that does not comply with the content, quality or other requirements of this Agreement. We may also reject any Image (i) if you have failed to comply with your Account balance obligations, (ii) if the Image would cause any of your Exposure Limits (as defined in Section 9) to be exceeded, or (iii) for any other reason we, in our sole discretion, deem appropriate.
- e. Processing. We will process Images only after we receive them. We will use commercially reasonable efforts to transfer and present Images for collection.
- f. Posting. Unless we notify you otherwise, we will provide same-day credit to the Account for all Images transmitted by you and received by us in accordance with the requirements of this Agreement and received before the stated cutoff time. Any credit we give with respect to any Image is provisional, and you agree to indemnify us from and against any and all losses we sustain for accepting any Image.
- g. Funds availability. Except to the extent governed by Regulation CC, we will make funds available in accordance with our normal funds availability policy, as described in the Deposit Account Agreement.
- h. Clearing. We may clear or present for payment any Image we receive in any manner we choose. Without limitation, we may clear or present Images as images or substitute checks (together, “Items”). We also reserve the right to select any clearing agent through which we clear Items.
- i. Returns and claims. If a drawee financial institution (“Payor Bank”) returns an Item to us unpaid, we will charge the Account for the returned Item, and may either (i) return the Item to you, or (ii) re-present the Item to the Payor Bank before returning it to you. However, we have no obligation to re-present or retransmit a returned Item. We may return Items in any form we choose. We will notify you of our receipt of any returned Item using whatever means we deem appropriate no later than one Business Day after the Business Day of our receipt. We will have no liability to you by reason of the rejection or return of any Image or Item or the fact that we did not give notice to you at an earlier time. If a Payor Bank or other third party makes a claim against us or seeks a recredit with respect to any Item, we may provisionally freeze or hold-aside a like amount in the Account pending our investigation and resolution of the claim. We will have no liability to you for doing so.
- j. Maintenance and support. We will provide ongoing maintenance and support for the Services as is reasonably necessary to permit you to process Checks and Images using the Services. Such maintenance and support will be limited to (i) corrections, repair of “bugs,” and routine repairs relating to the Equipment (subject to your maintenance and protection obligations as described in Section 5 below), (ii) modifications, enhancements and updates as we elect to make generally available to our customers without additional fees, and (iii) telephone support during our regular business hours.

4. Your responsibilities.

- a. Transmission. You agree to scan, transmit and otherwise handle all Checks and Images in compliance with our then-current requirements and security procedures, and otherwise in accordance with this Agreement.
- b. Prohibited Items. You may scan and transmit only Checks drawn on United States financial institutions in US Funds. You may not scan Checks drawn on foreign institutions, and you must deposit Checks pursuant to our normal procedures according to the Deposit Account Agreement. You may only scan and transmit Checks for deposit to an Account if they are payable to the business whose name is reflected on our records as the owner of that Account.

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- c. Image contents. You must ensure that each Image includes at least all of the following information in a clear and legible manner: (i) all information on the front and back of the Check; (ii) payment instructions placed on the Check or authorized by the drawer, such as the amount of the Check, the payee, and the drawer's signature; (iii) information identifying the drawer and the Payor Bank that is preprinted on the Check, including the MICR line; and (iv) other information placed on the Check prior to the time an image of the Check is captured, including any required identification written on the front of the Check and any indorsements applied to the back of the Check.
- d. Image quality. You agree to inspect and verify the quality of all Images on a regular basis and to ensure that all scanning Equipment (as defined in Section 5) is clean and operating properly. You agree to ensure that all Images when scanned are legible for all posting and clearing purposes. All Images must comply with all standards for image quality established by the American National Standards Institute ("ANSI"), the Federal Reserve Board or any other regulatory agency, clearing house or association.
- e. Retention of checks. You agree to retain each Check for ninety (90) days after the Check has been scanned and transmitted as an Image. You agree to retain and safeguard all Checks in a commercially reasonable manner using at least the same level of care that you use to protect your most sensitive or important documents against fire, theft or unauthorized access. At a minimum, you agree to store all retained checks in a vault, safe or other securely locked receptacle, with access limited to those officers and employees directly involved in using the Services. You agree to provide promptly any retained Check (or, if the Check is no longer in existence, a sufficient copy of the front and back of the Check) to us as we may request to aid in the clearing and collection process or to resolve claims by third parties with respect to the Check. You agree to use a commercially reasonable method we approve to destroy Checks after the retention period has expired.
- f. Double payments. You will ensure that no Check, Item or Image will be presented for payment such that an endorser, depository bank, Payor Bank, or drawer will be asked to make a payment twice. To ensure accuracy, you agree to balance on a daily basis the dollar amount of any deposit against all Images transmitted. You further agree to mark each Check on the back using a stamp or other mark we designate indicating that such Check has been scanned and transmitted.
- g. Records. You agree to retain all information (in electronic form or otherwise) about all Checks scanned for ninety (90) days. If an Image is or becomes lost, mistaken, incomplete or unusable, or if there is a claim of fraud, alteration, counterfeit or otherwise, you agree to cooperate fully with us and provide us with access to that information.
- h. Employee training. You agree to provide to all of your employees who use or access the Services initial and ongoing training with respect to your responsibilities as described in Sections 4 and 5. Such training must, at a minimum, enable your employees to scan Images and use the Services and Equipment in a manner consistent with this Agreement.
- i. Additional procedures: Audits. You agree to follow any additional procedures we may from time to time require in order to enhance the security and efficiency of the Services. You agree to cooperate with us and provide promptly any information we request concerning your use of the Services or any Checks, Images or Items. You agree to allow us from time to time upon request to conduct an on-site audit on your premises and inspect your procedures, equipment, record storage and record destruction practices.

5. Equipment.

- a. Ownership. You will be responsible for purchasing a scanner and any related equipment (together, "Equipment") that is compatible with your current operating system. If one is provided to you as a part of the service, all equipment will remain our sole and exclusive personal property, and you will acquire no interest in the Equipment by virtue of this Agreement or the attachment of any portion of the Equipment to your computer, premises or otherwise.
- b. Installation and changes. We will provide standard Equipment and installation services without additional charge. We may provide additional Equipment and/or customized installation services for an additional fee. You authorize us to prepare your premises as necessary for the installation, maintenance or removal of Equipment. We will have no obligation to install, support, maintain, repair or replace any computer, cabling or other equipment that is not part of the Equipment. We may from time-to-time change the Equipment requirements with respect to the Services. If we do so, we will notify you and schedule a time to install or modify Equipment consistent with the changed requirements. You acknowledge that you may not be able to continue to access the Services using equipment that has not been so changed or modified, but we may continue to charge you all applicable fees.
- c. Access to premises. You agree to provide us reasonable access to your premises to allow us to perform our obligations (or enforce our rights) under this Agreement. If you are not the owner of the premises, you promise that you have obtained the consent of the owner to allow us such access. You agree to indemnify, defend and hold us harmless from and against any claims of the owner arising out of the performance of this Agreement.

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- d. **Risk of loss.** You agree that all use of Equipment is at your sole risk. You understand that the installation, use, inspection, maintenance, repair, replacement or removal of the Service, Equipment and any software could potentially result in damage to your computer(s) or other hardware, including your software and data files. You assume all risk for that damage. You agree to be solely responsible for backing up all existing computer files prior to the performance of any of the foregoing activities. We will have no liability, and expressly disclaim any responsibility whatsoever, for any damage to or loss or destruction of any of your software, hardware, data or files.
 - e. **Use and treatment of rented Equipment.** You may use the Equipment only in connection with the Services and for no other purpose whatsoever. You agree to maintain all Equipment in the same condition as when received, ordinary wear and tear expected. You will be responsible for obtaining at your expense all materials necessary to operate the Equipment, including belts, rollers, franking cartridges, power cords, USB cords, cleaners and ink cartridges. If the Equipment is damaged, destroyed, lost or stolen while in your possession, you will be liable for the cost of repair or replacement of the Equipment. You will not, nor will you allow others to, open, alter, misuse, tamper with or remove the Equipment as and where installed by us or use it contrary to this Agreement. You will not, nor will you allow others to, remove from the Equipment any markings, labels, or serial or identity numbers. You agree to safeguard the Equipment from loss or damage of any kind, including accidents, breakage or fire, and you will not permit anyone other than our authorized representative to perform any work on the Equipment.
 - f. **Return of rented Equipment upon termination.** If the Service is terminated for any reason, your right to possess and use the Equipment will also terminate, and you promise to promptly return the Equipment to us. If you do not promptly return the Equipment, you agree to pay us, on demand, the then-current replacement cost of the Equipment, without any deduction for depreciation, wear and tear or the physical condition of the Equipment. You authorize us to charge the Account for the cost of the Equipment, and you agree that we may pursue additional remedies or collection efforts to obtain any remaining amounts due. We may also continue to charge you all applicable fees until any remaining Equipment is returned. No delay or failure by us to enforce our rights under this paragraph will be deemed an abandonment of the Equipment.
 - g. **Software and documentation.** To the extent any software associated with the Equipment or Services is licensed by us, such software is provided for the limited purpose of facilitating your use of the Service as described in this Agreement. You will not engage in, or permit, any additional copying, or any translation, reverse engineering or reverse compiling, disassembly or modification of or preparation of any derivative works based on such software, all of which are prohibited. You agree to return or destroy all such software and any related written materials or documentation provided by us ("Documentation") promptly upon termination of the Service for any reason.
6. **Malfunctions.** If it is reasonably apparent that the Equipment, software or Services are unavailable or not functioning properly, you agree to refrain from scanning any Checks, and instead, will deliver those Checks to one of our branches for deposit. We will have no liability to you for any unavailability or malfunction.
7. **The Account.**
- a. **Maintaining an account.** You agree to open and maintain in good standing one or more business accounts, into which Images will be deposited and from which fees and other charges will be debited (collectively, the "Account"). The Account will be subject to this Agreement and the Deposit Account Agreement. You agree that you will not scan or transmit any Check for deposit into a consumer account,
 - b. **Indebtedness and collateral.** You grant us a security interest in the Account to secure payment and performance of your obligations as described in this Agreement. To the extent there are not sufficient available funds in the Account to cover your obligations, you agree that those obligations constitute an indebtedness (the "Indebtedness") owed by you to us. The Indebtedness will be deemed to be immediately due and payable in full and will accrue interest at a rate equal to the rate applied to overdrafts as described in the Deposit Account Agreement for the period involved. If you have any other outstanding loans or extensions of credit with us (collectively, the "Loans"), then for purposes of any security agreements, pledge agreements or guarantees executed in connection with the Loans (collectively, the "Security Documents"), the Indebtedness will be and become part of the Loans secured by the Security Documents, and any collateral securing the Loans will also secure repayment of the Indebtedness, subject to the terms of the Security Documents. We may also debit any other account you maintain with us or any of our affiliates, and we may set off against any amount you have on deposit with us, in order to obtain payment of the Indebtedness.
8. **Statements and errors.** You should carefully review and reconcile all statements against your records concerning Images transmitted under this Agreement. If you fail to report any errors to us within the timeframes set forth in the Deposit Account Agreement, we may deem all transactions reflected on a statement as correct, and you will be precluded from asserting against us any errors with respect to such transactions. You agree that this provision is commercially reasonable.

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9. **Exposure limits.** You acknowledge that our acceptance of Images may be dependent, among other things, upon (i) our assessment of your creditworthiness, and (ii) the total amount of Images and other Items outstanding at any one time which have been accepted by us but for which we have not received final settlement ("Unsettled Items"). We may establish one or more exposure limits applicable to the Services ("Exposure Limits"), which may include a limit on your Unsettled Items. We may amend any of the Exposure Limits from time to time without notice to you. We have no obligation to accept any Image which, when combined with all Unsettled Items, exceeds any Exposure Limit.
10. **Financial information.** You agree to furnish us with your then-current balance sheet, income statement and such other financial reports as we deem necessary, both annually and upon our request. You represent that all information when furnished will be true, correct and complete in all material respects.
11. **Fraud risk; employees; suspension of services.** You agree to maintain commercially reasonable procedures to safeguard against theft, misappropriation or other unauthorized access to any Checks or any information relating to any Check. These procedures must include, without limitation, conducting reasonable background checks and providing ongoing training and supervision of all employees who may have access to the Services or any Checks, whether or not that access is authorized. You expressly assume all liability for theft, misappropriation, misuse or other security breach that occurs with respect to any Check, Record, Image or Item that occurs during, or arises in any way out of your storage, handling, processing or storage of any Item and your performance of this Agreement, including, without limitation, any such actions caused by any of your employees, officers, directors, agents or contractors. You agree to notify us immediately if any of the foregoing events occur. We reserve the right to suspend immediately the Services, your right to use the Services or the processing of any Image if we have reason to believe that there is or has been (i) a breach in the security of the Services, (ii) fraud involving you, the Services or the Account, or (iii) any uncertainty as to the authorization or accuracy of any Image.
12. **Your representations.** You represent to us that all of the following are true and will remain true throughout the term of this Agreement:
 - a. **Checks.** With respect to each Check and corresponding Image:
 - i. The Image is a digitized version of the Check, complies in all respects with the content and quality requirements of this Agreement, and accurately represents all of the information on the front and back of the Check at the time the Check was converted to an Image.
 - ii. You are entitled to enforce the Check and Image.
 - iii. All signatures on the Check are authentic and authorized.
 - iv. The Check and Image have not been altered, and the Check is not counterfeit.
 - v. The Check and Image are not subject to a defense or claim in recoupment of any party that can be asserted against you.
 - vi. You have no knowledge of any insolvency proceeding commenced with respect to you or the drawer of any Check.
 - vii. Any returned or rejected Image or Item is primarily enforceable against you and the drawer of the Check.
 - b. **Other warranties.** All transfer and presentment warranties imposed by the Uniform Commercial Code, other applicable law and the Deposit Account Agreement apply to you.
 - c. **Not a consumer.** You are not a consumer. The Services and all transactions conducted in connection with the Services are for commercial purposes and not for personal, household or family purposes.
 - d. **Own use.** You will use the Services only to facilitate deposits on your own account and will not accept deposits for or on behalf of other persons or entities.
 - e. **Information.** All information you provide, including all information scanned and transmitted to us, and all financial and credit-related information, is true, correct, accurate and complete in all material respects at the time you provided it.
 - f. **Compliance.** At all times during the term of this Agreement, you will comply with all laws, rules and regulations applicable to the Services and all of your activities.
 - g. **Viruses.** All Images and other data transmitted to us are free of any viruses.
 - h. **Lawful use.** You will use the Services for lawful purposes only and in accordance with this Agreement.

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13. **Termination.**

- a. **Termination by you.** You may terminate this Agreement and the Services for any reason upon thirty (30) days written notice to us.
- b. **Termination by Bank.** We may terminate this Agreement at any time by giving notice to you. We may terminate this Agreement immediately without prior notice if (i) you fail to pay when due any amount owing under this Agreement, or (ii) if we in good-faith suspect that the Services are being used in connection with any fraudulent, unlawful or tortious activity.
- c. **Effect of Termination.** No termination will affect any rights or obligations of you or us incurred prior to the effective date of termination, including any provision that contemplates (expressly or otherwise) performance after termination. Without limitation, your obligation to maintain Checks and records, the confidentiality provisions in Section 14 and all of your representations and warranties will survive any termination of this Agreement.
- d. **Termination Fee.** If you terminate this Agreement before one year has expired, you agree to pay us a termination fee. The termination fee will be based on the then current fee listed in the Business Schedule of Fees and Charges.
- e. **Confidential Information.** Within thirty (30) days following any termination of this Agreement, each party will destroy or return to the other party all copies of any Confidential Information (as defined in Section 14) belonging to the other party, and you will return or destroy all copies of any software and Documentation we may have provided.
- f. **Account to remain open.** Upon any termination of this Agreement, you agree to maintain sufficient funds in the Account to cover any outstanding Items and processing fees. You agree to keep the Account open and in good standing for no less than sixty (60) days following the effective date of any termination. You agree to pay upon demand all amounts charged to the Account that exceed the available balance in the Account, along with any additional overdraft or other charges as provided in the Deposit Account Agreement. You further agree to retain all Checks and otherwise cooperate with us as provided in Section 4 above.

14. **Confidential Information.** Each party acknowledges that it may obtain or have access to certain information which is of value to the other's business and the subject of reasonable efforts by the other to be maintained as confidential, which may include, but is not limited to, information regarding the party's software, hardware, business methods, plans and data, financial condition, suppliers and customers ("Confidential Information"). Each party agrees to do all of the following: (i) maintain the confidentiality, integrity and security of such Confidential Information, (ii) use such Confidential Information only for the purposes set forth in this Agreement and for no other purpose, (iii) disclose such Confidential Information only to its employees, agents, auditors, accountants, attorneys and regulators, and only as necessary to perform its obligations and exercise its rights under this Agreement, (iv) maintain physical, technical, procedural and administrative controls and safeguards reasonably designed to ensure the security, integrity and confidentiality of Confidential Information, and (v) protect against any anticipated threats or hazards to the security or integrity of, or unauthorized access to the Confidential Information.

15. **Indemnification.** You agree to indemnify, defend and hold harmless us, our directors, officers, employees, agents, contractors and affiliates from and against any and all claims, causes of action, damages, expenses (including reasonable attorney's fees and costs), liabilities and other losses that arise out of or relate to (i) your breach of this Agreement, including any breach of any of your representations as described in Section 12, (ii) negligent or willful misconduct by you, your customers, employees or agents, or any third party acting on your behalf, (iii) any unauthorized modifications or changes to any software or Equipment provided in connection with the Services, (iv) any failure to prevent loss or theft of a Check (including any loss attributable to any failure to comply with your obligations under Section 4(e)); (v) failure to prevent a Check, Image or Item from being presented for payment more than once, (vi) any failure to properly void a Check, (vii) any misuse of the Services, (viii) failure to comply with all applicable federal, state and local laws, rules and regulations; (ix) any claim that the unavailability of an original Check has caused damage to a third party; (x) the return of an Item, even if the Item has been initially paid by the Payor Bank, for any reason other than a breach by us of our duties under this Agreement; (xi) any act or omission by us that is consistent with this Agreement or consistent with your written or oral instructions; (xii) the act, failure to act or the delay in acting by any financial institution other than us; or (xiii) actions by third parties, such as the introduction of a virus, that delay, alter or corrupt the transmission of an Image to us. This provision will survive any termination of this Agreement.

16. **Limitation of liability.**

- a. **General limitation.** We will have no liability to you for any of the following, except to the extent that such liability or loss is a direct, proximate result of our material breach of this Agreement or the gross negligence of us or our employees or agents: (i) any damages, costs or other consequences caused by or related to our actions that are based upon information or instructions that you provide to us; (ii) any actions initiated or caused by you or your employees or agents; (iii) the failure of third persons or vendors to perform satisfactorily, other than persons to whom we have delegated the performance of specific obligations under this Agreement; (iv) any refusal of a Payor

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Bank to pay an Item for any reason (other than our breach of contract, negligence or willful misconduct), including, without limitation, that the Check, Image or Item was allegedly unauthorized, was a counterfeit, had been altered, or had a forged signature; (v) any lack of access to the Internet or inability to transmit or receive data; (vi) failures or errors on the part of Internet service providers, telecommunications providers or any party's own internal systems; or (vii) any of the matters triggering your indemnification obligations, as described in Section 15 of this Agreement.

- b. **Corrections.** Our liability for errors or omissions with respect to any data we transmit or print will be limited to correcting the errors or omissions. Correction will be limited to reprinting and/or representing Items to the Payor Bank.
- c. **Aggregate liability.** Notwithstanding anything else in this Agreement, our liability to you for claims relating to this Agreement, whether for breach, negligence, infringement, tort or otherwise will be limited to an amount equal to the total fees paid by you to us under this Agreement for the twelve (12) month period immediately preceding the first event that formed the basis of the claim. We will not be liable for any consequential, indirect, incidental, special or punitive damages, or any loss of profits, opportunity or good will, even if we have been advised of the possibility of such damages or losses.
- d. **Acknowledgement.** You acknowledge that the foregoing limitations of liability are an essential, material part of this Agreement and that we would not have entered into this Agreement without those limitations.

17. **Exclusion of warranties.**

- a. YOUR RIGHTS AND REMEDIES AS SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE. YOU WAIVE AND RELEASE, AND WE DISCLAIM, ANY OTHER REPRESENTATIONS, WARRANTIES, OBLIGATIONS AND LIABILITIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE WITH RESPECT TO ANY AND ALL MATTERS ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION (I) ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHER IMPLIED CONTRACTUAL WARRANTY AND (II) ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, USAGE OF TRADE AND ANY OTHER WARRANTY WITH RESPECT TO QUALITY, ACCURACY OR FREEDOM FROM ERROR. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, WE DO NOT WARRANT THAT OPERATION OF THE SERVICES, EQUIPMENT OR ANY SOFTWARE WILL BE ERROR FREE OR UNINTERRUPTED.
- b. WE MAKE NO WARRANTIES AS TO THE SECURITY OF YOUR COMMUNICATIONS VIA OUR FACILITIES OR THE SERVICE (WHETHER SUCH COMMUNICATIONS ARE DIRECTED WITHIN THE SERVICE, OR OUTSIDE THE SERVICE TO THE INTERNET), OR THAT THIRD PARTIES WILL NOT GAIN UNAUTHORIZED ACCESS TO OR MONITOR YOUR COMPUTER(S) OR ONLINE COMMUNICATIONS. YOU AGREE THAT WE WILL NOT BE LIABLE FOR ANY SUCH UNAUTHORIZED ACCESS. YOU HAVE THE SOLE RESPONSIBILITY TO SECURE YOUR COMPUTERS AND ONLINE COMMUNICATIONS.

18. **Other agreements.** You agree to be bound by the terms of all clearinghouse agreements, operating circulars, image exchange agreements and other agreements to which we are a party, to the extent they apply to the Services. The terms and conditions of our current form of Deposit Account Agreement are incorporated by reference into this Agreement. Where there is an inconsistency between a provision in one or more of such agreements and this Agreement, this Agreement will be controlling.

19. **Miscellaneous provisions.**

- a. **Governing law; venue.** This Agreement and all transactions conducted under this Agreement will be governed by and construed in accordance with the laws of the State of Washington. Any action by either party with respect to this Agreement must be brought in Snohomish County, Washington in a court of appropriate jurisdiction. The substantially prevailing party in any action will be entitled to an award of all of its court costs and fees, including witness fees and attorney's fees.
- b. **Assignments.** You may not assign your rights or obligations under this Agreement without our prior written consent. However, we may assign any of our rights or delegate our responsibilities under this Agreement to one or more third party vendors or to any affiliate or subsidiary without your consent. This Agreement will be binding upon us, you and each party's respective permitted successors and assigns.
- c. **Amendments.** We may amend this Agreement at any time upon thirty (30) days written notice to you.
- d. **Severability.** If any portion of this Agreement is found by a court of competent jurisdiction to be invalid, the invalid provision will be deemed to be removed, and the remainder of the Agreement will be enforced to the maximum extent permissible to effectuate the intention of the parties.

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- e. Waiver. Our failure to enforce any of our rights under this Agreement will not be deemed to be a waiver of our right to enforce such rights at a later time.
- f. Force Majeure; Government Regulation. We will be excused from any failure to act or delay in acting if the failure or delay is caused by legal or regulatory constraints, interruption of transmission or communication facilities, equipment failure, war, emergency conditions or other circumstances beyond our control.
- g. Independent contractors. You and we are independent contractors. Your employees and agents will not for any purpose be deemed to be our employees or agents.
- h. Entire agreement. Except as specifically provided above, this Agreement represents the entire agreement between the parties with respect to the Services and supersedes all prior agreements and understandings between the parties with respect to the Services.