

SUSAN A. RIZZO
COUNTY COMPTROLLER

AMANDA AUSTIN
CERTIFIED PUBLIC ACCOUNTANT

COUNTY OF ALBANY
OFFICE OF THE COMPTROLLER
112 STATE STREET, ROOM 1100
ALBANY, NEW YORK 12207-2021
(518) 447-7130
susan.rizzo@albanycountyny.gov

EDWARD L. DOTT
EXECUTIVE DEPUTY COMPTROLLER

FRANK COMMISSO
EXECUTIVE DEPUTY COMPTROLLER

October 8, 2025

Hon. Joanne Cunningham, Chairwoman
Albany County Legislature
112 State Street – Suite 710
Albany, New York 12207

RE: RLA – Banking Services

Dear Chairwoman Cunningham,

The Department of Audit and Control respectfully requests approval to exercise the second of two one-year options with M&T Bank for banking services during the 2026 calendar year. The RLA, Resolution No. 308 of 2021, Resolution No. 680 of 2024 and our current contract with M&T Bank are attached for your review and convenience.

Should you require any additional information, please let me know.

Sincerely,

Susan A. Rizzo
Albany County Comptroller
112 State Street, Room 1100
Albany, New York 12207
(518) 447-7130

cc: Dennis Feeney, Majority Leader
Frank Mauriello, Minority Leader
Necole Chambers, Clerk of the Legislature
Caitlin O'Brien, Chief of Staff
Thomas DeBose, Counsel to the Chair
Rebekah Kennedy, Majority Counsel
James Curran, Minority Counsel

REQUEST FOR LEGISLATIVE ACTION

Exercising the Second Option Year with M&T Bank for Banking Services during the 2026 Calendar Year

Date: October 8, 2025
Submitted By: Susan A. Rizzo
Department: Department of Audit and Control
Title: Albany County Comptroller
Phone: (518) 447-7130
Department Rep.
Attending Meeting: Susan A. Rizzo

Purpose of Request:

- ☐ Adopting of Local Law
 - ☐ Amendment of Prior Legislation
 - ☐ Approval/Adoption of Plan/Procedure
 - ☐ Bond Approval
 - ☐ Budget Amendment
 - ☒ Contract Authorization
 - ☐ Countywide Services
 - ☐ Environmental Impact/SEQR
 - ☐ Home Rule Request
 - ☐ Property Conveyance
 - ☐ Other: (state if not listed) _____
-

CONCERNING BUDGET AMENDMENTS

Increase/decrease category (choose all that apply):

- ☐ Contractual
- ☐ Equipment
- ☐ Fringe
- ☐ Personnel
- ☐ Personnel Non-Individual
- ☐ Revenue

Increase Account/Line No.: N/A
Source of Funds: N/A
Title Change: N/A

CONCERNING CONTRACT AUTHORIZATIONS

Type of Contract:

- ☐ Change Order/Contract Amendment
- ☐ Purchase (Equipment/Supplies)
- ☐ Lease (Equipment/Supplies)
- ☐ Requirements
- ☒ Professional Services
- ☐ Education/Training
- ☐ Grant

Choose an item.

Submission Date Deadline Click or tap to enter a date.

- ☐ Settlement of a Claim
- ☐ Release of Liability
- ☐ Other: (state if not listed) _____

Contract Terms/Conditions:

Party (Name/address):

M&T Bank
327 Great Oaks Blvd.
Albany, New York 12203

Additional Parties (Names/addresses):

Click or tap here to enter text.

Amount/Raise Schedule/Fee:

N/A

Scope of Services:

Banking Services for the 2026 Calendar Year

Bond Res. No.:

Date of Adoption:

CONCERNING ALL REQUESTS

Mandated Program/Service:

Yes ☐ No ☒

If Mandated Cite Authority:

Click or tap here to enter text.

Is there a Fiscal Impact:

Yes ☐ No ☒

Anticipated in Current Budget:

Yes ☒ No ☐

**Service charges paid via Compensating Balance*

County Budget Accounts:

Revenue Account and Line:

Revenue Amount:

Appropriation Account and Line:
Appropriation Amount:

Click or tap here to enter text.

Source of Funding – (Percentages)

Federal:

State:

County:

Local:

N/a – Charges paid via Compensating Balance

Term

Term: (Start and end date)

1/1/2026 – 12/31/2026

Length of Contract:

One Year (2nd Option Year)

Impact on Pending Litigation

Yes ☐ No ☒

If yes, explain:

Previous requests for Identical or Similar Action:

Resolution/Law Number:

Resolution No. 308 of 2021, Resolution No. 680 of 2024

Date of Adoption:

9/13/2021, 11/12/2024

Justification: (state briefly why legislative action is requested)

Albany County requires banking services for continuance of regular fiscal operations.

RESOLUTION NO. 308

AUTHORIZING AN AGREEMENT WITH M & T BANK FOR BANKING SERVICES

Introduced: 9/13/21

By Audit and Finance Committee:

WHEREAS, The Albany County Purchasing Agent in cooperation with the County Comptroller and Commissioner of Management and Budget issued a Request for Proposals (RFP) regarding banking services for Albany County, and

WHEREAS, The Comptroller and Commissioner of Management and Budget have reviewed the responses of five institutions that were received and considered criteria such as comprehension of work and scope of services; total price and yield on investments; experience with similar projects; demonstrated capabilities including location, financial solvency and equipment; and length of time in business, and

WHEREAS, It has been recommended that a contract for banking services be awarded to M & T Bank based on a comparison of the criteria set forth above, now, therefore be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to enter into an agreement with M & T Bank, Albany, NY 12207 for such banking services as are required by the Comptroller and Commissioner of Management and Budget for a term commencing November 15, 2021 and ending December 31, 2024, with two one-year options to renew, and, be it further

RESOLVED, That the County Attorney is authorized to approve said agreement as to form and content, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

Adopted by unanimous vote – 9/13/21

RESOLUTION NO. 680

AUTHORIZING AN AGREEMENT WITH M&T BANK REGARDING
BANKING SERVICES

Introduced: 11/12/24

By Audit and Finance Committee:

WHEREAS, By Resolution No. 308 for 2021, this Honorable Body authorized an agreement with M&T Bank regarding banking services for a term commencing November 15, 2021 and ending December 31, 2024 with two one-year options to renew, and

WHEREAS, The Comptroller has requested authorization to enter into the first of two one-year options to renew the agreement with M&T Bank regarding banking services for the term commencing January 1, 2025 and ending December 31, 2025, and

WHEREAS, The Comptroller has indicated that service charges are paid for via Compensating Balance, now, therefore, be it

RESOLVED, By the Albany County Legislature that the County Executive is authorized to enter into an agreement with M&T Bank, Albany, NY 12203 regarding banking services for the term commencing January 1, 2025 and ending December 31, 2025 and, be it further

RESOLVED, That the County Attorney is authorized to approve said agreement as to form and content, and, be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

Adopted by unanimous vote – 11/12/24

NEGOTIATED AGREEMENT

M&T Master
Treasury
Management
Services
Agreement

M&T Bank

Client Name: County of Albany

Table of Contents

1. Definitions and Interpretation.....	2
THE SERVICES	
2. Scope of Services.....	3
3. Set-Up of Services.....	3
4. Authorized Representatives.....	4
5. System Administrators.....	5
6. Information Reporting.....	5
SECURITY PROCEDURES AND PAYMENT ORDERS	
7. Security Procedures - General.....	5
8. Security Procedures - Payment Orders.....	5
9. Payment Orders.....	6
ELECTRONIC SERVICE MATTERS	
10. M&T's Websites.....	7
11. M&T Technology and M&T Materials.....	7
12. Electronic Transactions.....	8
13. Electronic Signatures.....	8
14. Client's Systems.....	9
SERVICES, VENDORS AND THIRD PARTIES	
15. Client's Use of Services.....	9
16. No Re-Sale of Services.....	9
17. Financial Institution Clients.....	9
18. Payment Systems, Correspondents and Vendors.....	9
OTHER ACCOUNT AND SERVICE MATTERS	
19. Account Matters.....	10
20. Other Service Matters.....	10
21. Confidentiality.....	10
SERVICE FEES AND LIABILITY	
22. Service Fees.....	11
23. Limitation of Liability and Remedies.....	12
24. Indemnification.....	12
TERM AND TERMINATION	
25. Term.....	13
26. Termination.....	13
27. Post Termination.....	13
GENERAL PROVISIONS	
28. Entire Agreement.....	14
29. Dispute Resolution.....	14
30. Governing Law and Jurisdiction.....	14
31. Waiver of Jury Trial and Sovereign Immunity.....	14
32. Notices; Communication.....	14
33. Construction of Agreement.....	15
34. Severability.....	15
35. Waivers.....	15
36. Amendments.....	15
37. Representations and Warranties.....	15
38. Binding Effect.....	15
39. Conflicts.....	15
40. Assignment.....	16
41. Force Majeure.....	16
42. Export Control.....	16
43. Further Assurances.....	16
44. Relationship.....	16
45. Counterparts.....	16

M&T Bank

80 State Street, Albany, NY 12207

518-426-6371

e-mail: epeters@mtb.com

Elizabeth A. Peters

Sr. Government Banking Relationship Manager

November 19, 2021

Re: Letter Agreement relating to response to RFP #2021-044

Dear Ms. Rizzo:

As discussed, the County would like to opt for Cost Option #2 pursuant to "Section VII: Cost Proposal Section" of M&T's response to RFP #2021-044 (dated April 30, 2021) and M&T is agreeable to such option. This cost option is a fixed compensating balance in the amount of \$35MM in operating funds with 0.02% interest on the compensating balance. It is acknowledged and agreed that a quarterly review will be held to evaluate and adjust, if necessary, the compensating balance requirement, interest on the compensating balance and Muni Money Market Rates according to FED adjustments and market fluctuation.

Please let me know if you have any questions or sign below to acknowledge and agree.

Sincerely,

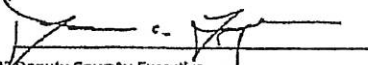
Elizabeth A. Peters

Elizabeth Peters, VP

Sr. Government Banking Relationship Manager

AGREED AND ACCEPTED:

Client: County of Albany

By: 

Title: Deputy County Executive

Date: 11/22/2021

Daniel C. Lynch

NEGOTIATED AGREEMENT

M&T Master Treasury Management Services Agreement

This M&T Master Treasury Management Services Agreement (this "Master Agreement") is entered into between M&T Bank, a New York State-chartered bank having offices at One M&T Plaza, Buffalo, New York 14203-2399 ("M&T") and County of Albany having its principal offices at 112 STATE ST RM 1030 ALBANY NY 12207 ("Client").

M&T offers, from time to time, various treasury management services to its commercial clients ("Services"). Client wishes to engage M&T to provide, and M&T has agreed to provide, certain Services to Client from time to time in accordance with the terms and conditions of the Agreement (as defined below).

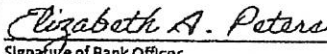
The agreement between the parties relating to the provision of any Services by M&T to Client in respect of any of its Accounts (the "Agreement") consists of, and incorporates by reference, the terms and conditions contained in each of the following (as defined in this Master Agreement):

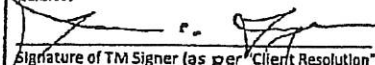
- (i) this Master Agreement;
- (ii) the Client Election Forms and, if applicable, any Set-Up Forms;
- (iii) the Product Terms and Conditions;
- (iv) the User Guides;
- (v) the Service Fees;
- (vi) the Client Resolution;
- (vii) M&T's Commercial Deposit Account Agreement;
- (viii) the Multiple Client Authorization Agreement (if applicable);
- (ix) Client's Request for Proposals #2021-044 for Banking Services (the "RFP") (except to the extent exception has been taken thereto by M&T in its Proposal); and
- (x) M&T's Response to the County's RFP No. 2021-044, dated April 30, 2021 (the "Proposal").

The Parties hereto acknowledge that this Agreement was authorized pursuant to Resolution Number 308 of the Albany County Legislature adopted September 13, 2021, as a result of an award of the RFP.

By signing below, Client hereby agrees to the terms and conditions contained in the Agreement and represents and warrants to M&T that (i) Client has received and carefully read and understood the terms and conditions of the Agreement (including the Product Terms and Conditions), (ii) the person signing on behalf of Client below is duly authorized to sign on behalf of and to legally bind Client to the Agreement, and (iii) upon signing this Master Agreement, the Agreement will constitute a legally binding obligation of Client enforceable against Client in accordance with its terms and conditions.

The Agreement shall commence and be effective as of the 15th day of November, 2021 (the "Effective Date").

M&T BANK:		
 Signature of Bank Officer	Elizabeth A. Peters Printed Name	Vice President Title
Date: <u>11/26/2021</u>		

CLIENT:		
 Signature of TM Signer (as per "Client Resolution")	Daniel C. Lynch Printed Name	Deputy County Executive Title
Date: <u>11/22/2021</u>		
Optional Additional Signer (If required by Client Resolution):		
Signature of TM Signer (as per "Client Resolution")	Printed Name	Title
Date: _____		

¹ "Client Resolution" refers to M&T's Client Resolution (Certificate of Treasury Management Resolution).

NEGOTIATED AGREEMENT

1. Definitions and Interpretation

(a) Capitalized terms shall have the meanings given to those terms in the Agreement, and the following capitalized terms, when used in the Agreement, shall have the meanings given to them below:

"Account" means any existing or future account of Client with M&T (or existing or future account with M&T over which Client has authority).

"ACH" means the Automated Clearing House.

"ACH Rules" means, collectively, the ACH rules as published by NACHA, as amended, modified or updated from time to time.

"Affiliate" means, with respect to a party to the Agreement, any entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or common control with such party (where "control" means the power to direct the management of the affairs of the entity and "ownership" means the beneficial ownership of a majority of the voting rights of the entity).

"Authorized Representative" means any person that has been designated or authorized by Client to act on its behalf in some capacity with respect to the Agreement, Services or Accounts, including any TM Signer, System Administrator, signer on an Account, designated "user" of a Website, Wire Telephone Transmitter, Wire Security Contact, FX Wire Contact, Servicer, Servicer Representative, any other representative engaged by Client to act on its behalf, any person responsible for routine matters relating to the Agreement, Services or Accounts and any person whom Client gives access to, or allows to use, the Services or Accounts.

"Business Day" means Monday through Friday, but excluding federal holidays and other days that M&T is legally permitted to be closed.

"Client Election Form" means the M&T Client Election and System Administration Form submitted by Client to M&T that sets forth Client's elections and instructions with respect to the Services or Accounts.

"Client Resolution" means the M&T Client Resolution (Certificate of Treasury Management and Other Resolutions) submitted by Client to M&T (or such other document as accepted by M&T in its sole discretion) to authorize, among other things, entry into the Agreement and designation of the TM Signers.

"Commercial Deposit Account Agreement" means the M&T Commercial Deposit Account Agreement that sets forth the terms and conditions applicable to M&T's commercial deposit accounts and other M&T fees, disclosures and terms and conditions relating to such accounts, in effect from time to time.

"Confidential Information," in respect of a party, means such party's proprietary and/or confidential information, including any technology, knowhow, processes, software, databases, manuals, trade secrets, contracts, historical, current and projected financial information, business strategies, operating data, organizational and cost structures, product descriptions, pricing information, the Agreement and the Security Procedures, whether received before or after the date of this Master Agreement, whether oral, written, electronic or otherwise, and regardless of the form in which it is provided or maintained by such party. Confidential information includes information of an Affiliate of either party, as well as products licensed and utilized by M&T in performing Services for Client. Confidential information does not include any information that is publicly available to the other party (without violation of any confidentiality obligation in respect thereof).

"Correspondent" means any intermediary or recipient institution, agent or sub-agent thereof, payment system or network or other third party involved in the provision of a Service, including the transmission and/or receipt of a Payment Order.

"Electronic Record" means information that is created, generated, sent, communicated, received, or stored by electronic means and is retrievable in perceivable form.

"Electronic Signature" means an electronic symbol or process, attached to or logically associated with an agreement, form and/or other document (whether or not in the form of an Electronic Record) and executed or adopted by a person with the intent to sign the agreement, form and/or document.

"Funds Transfer" means any electronic funds transfer of funds from an Account through a wire transfer or ACH network.

"Governmental Authority" means any transnational, domestic or foreign federal, state or local, governmental authority, department, court, agency or official, including any political subdivision thereof.

"Instruction" means any communication, message or other instruction by or on behalf of Client, whether orally or in writing, including any Payment Order.

"Law" means any foreign, federal, state or local laws (statutory, common or otherwise), constitution, treaty, convention, ordinance, code, rule, regulation, order, injunction, judgment, decree, ruling or other similar requirement enacted, adopted, promulgated or applied by a Governmental Authority that is binding upon or applicable to a party, including the Uniform Commercial Code, the ACH Rules, the Unlawful Internet Gambling Enforcement Act, all anti-money laundering and know-your-customer laws and regulations, including the Bank Secrecy Act, the US Patriot Act and any law that is enforced or administered by, or US economic sanctions implemented by regulations of, or screening required by regulations issued by, the Office of Foreign Assets Control, and letters or guidelines issued by regulatory authorities. Laws also shall include any rules, guidelines and policies of a Governmental Authority and any regulations, rules and policies of applicable payment, card or other associations used in connection with the Services or Accounts.

"Loss" means any and all losses, costs, damages, liabilities, claims, causes of action, demands, suits, proceedings, injuries, costs, expenses (including court costs, disbursements, reasonable legal and professional advisor fees and expenses and reasonable expenses of investigation), judgments, fines and other damages of any nature whatsoever.

"M&T Technology" means all firmware, hardware, software, data compilations, programs, applets, scripts, macros, databases and servers and related technology ideas and know-how, whether owned by M&T or licensed to M&T from a third party, and used, at any time, in connection with any Service or Account, including all modifications, updates, new releases and replacements thereof. M&T Technology does not include any "open source" firmware, software or data compilations, as any such "open source" firmware, software or data compilations will be subject to the terms and conditions set out in the relevant "open source" license.

"M&T Materials" means any documents, materials or information that M&T provides or makes available to Client relating to the Agreement, Services or Accounts, including the User Guides, manuals, data, software and any security access materials (such as user ID codes, passwords, codes, keys, test keys, embedded algorithms, digital signatures and certificates, tokens and security devices).

"Multiple Client Authorization Agreement" means the M&T Multiple Client Authorization Agreement entered into between M&T and a group of Clients in order to authorize one Client (identified as the Primary Client in such Agreement) to act as agent for each other Client with respect to the Services and Accounts.

"NACHA" means the National Automated Clearing House Association.

"Payment Order" means an instruction to initiate a Funds Transfer.

NEGOTIATED AGREEMENT

"Payment Order Security Procedures" means the Security Procedures agreed upon in writing between Client and M&T and used to verify the authenticity of a Payment Order as purportedly that of Client.

"Product Terms and Conditions" means, with respect to a Service, the Product Terms and Conditions for that Service.

"Product Terms and Conditions Booklet" means the booklet issued by M&T from time to time that includes the Product Terms and Conditions for the Services.

"Reasonable Time to Act" means, with respect to a party, a commercially reasonable time for such party to act, but not less than two Business Days after the Business Day of receipt of the applicable Information.

"Security Procedures" means the applicable security procedures made available by M&T from time to time for the purpose of (i) verifying that an instruction (including Payment Order) of any kind is actually that of Client or (ii) encrypting or otherwise helping to restrict access to Information, the Accounts or Services, which may include passwords, algorithms or other codes, identifying words or numbers, check stock, token devices, encryption or such other devices, tools or procedures as M&T may implement or make available from time to time.

"Service Fees" means the service fees, charges and expenses as established by M&T from time to time for the provision of the Services and/or Accounts.

"Servicer Representative" means any person that has been designated or authorized by Servicer to act on its behalf in some capacity with respect to the Agreement, Services or Accounts, including any System Administrator, signer on an Account, any person engaged by Servicer to act on its behalf, any person responsible for routine matters relating to the Agreement, Services or Accounts and any person whom Servicer gives access to, or allows to use, the Services or Accounts.

"Set-Up Form" means, with respect to a Service, a M&T set-up form or questionnaire that Client submits to M&T for, or for which Client provides information for the set-up of, such Service.

"System Administrator" means each individual designated by or on behalf of Client as its System Administrator in (i) a Client Election Form or (ii) other document or means acceptable to M&T in its sole discretion, including as described in Section 5(b) below.

"TM Signer" means each individual designated by Client on a Client Resolution as Client's "TM Signer."

"User Guides" means the user guides, information, computer help screens and documents made available by or on behalf of M&T to Client that establishes the guidelines, rules, regulations, protocols, procedures and terms and conditions applicable to the Accounts, Services, Security Procedures and/or Information transmission.

"Viruses" means any code, programs, or other internal components that restrict or may restrict use or access to, and or do or may damage, destroy or alter any system, computer, network, program, data, or other information or data processing device. Without limiting the foregoing, Viruses shall include any computer virus, malware, adware, spyware, tracking cookie, computer worm, computer time bomb, trojan horse, back door or similar component.

"Website" means any Internet website and/or online access channel that M&T makes available to Client from time to time to access any Service, including, Web InfoPLUS and CSO.

(b) In the Agreement: headings are included for convenience of reference only and shall be ignored in the construction or interpretation of the Agreement; words importing the singular number shall include the plural, and vice versa; words importing the masculine gender shall include the feminine and neuter genders; the words "including," "includes" and comparable terms shall mean "including without

limitation"; words such as "hereunder," "hereto," "hereof," "herein" shall, unless the context clearly indicates to the contrary, refer to the whole Agreement and not to any particular Section hereof; reference to "written" or "writing" and comparable terms refer to printing, typing and any other intentional reduction of Information to tangible form, including communications through facsimile and other means as M&T may specifically agree in writing to use or accept; reference to "written" or "writing" and comparable terms may also, in M&T's sole discretion and as M&T may permit from time to time, refer to an Electronic Record; reference to "person" means an individual, corporation, partnership, limited liability company, association, trust or other entity or organization, including any Governmental Authority; references to "M&T" includes any of M&T's Affiliates that provide Services to Client hereunder, but does not include any agent acting for Client; references to "representative" includes, with respect to a party, that party's Affiliates, directors, officers, employees, agents, assigns and other representatives (including, with respect to Client, Client's Authorized Representatives, Servicers and Servicer Representatives); any reference made in the Agreement to a statute or statutory provision shall mean such statute or statutory provision as it has been amended through the date as of which the particular portion of the Agreement is to take effect, or to any successor statute or statutory provision relating to the same subject as the statutory provision so referred to in the Agreement, and to any then applicable rules or regulations promulgated thereunder; references to any agreement, form or other document are to that document as amended, modified or supplemented from time to time in accordance with the terms thereof; and any agreement, form or other document that may be entered into between the parties or submitted by Client may be entered into or submitted in paper form or electronically, as agreed between the parties.

THE SERVICES

2. Scope of Services

(a) The Agreement shall govern the provision of any Services provided to Client from time to time in respect of any of its Accounts. Client shall be deemed to have accepted the terms and conditions in the Agreement if Client enrolls in any Service, uses any Service, allows any other person to enroll in or use any Service on its behalf (including any Servicer), or makes any payment to M&T for any Service.

(b) Client may only use the Services and Accounts (i) for the lawful operation of the specific business that Client conducts, and not for any personal, family or household purpose and (ii) in compliance with the Agreement.

3. Set-Up of Services

(a) Prior to using any Service, Client shall complete and submit to M&T a signed Client Election Form for such Service. For certain Services, Client also will need to complete and submit additional Set-Up Forms, enter into additional agreements with M&T and/or submit to M&T additional information in connection with the Service. All such Client Election Forms, Set-Up Forms and agreements must be in a form satisfactory to M&T in its sole discretion. Client hereby authorizes any Authorized Representative acting on its behalf to sign and submit to M&T any such Set-Up Forms and agreements.

(b) Client hereby consents to M&T completing, on Client's behalf, the Client Election Form and any additional Set-Up Form for any Service. In such case, Client shall carefully review such form prior to signing and/or submitting it to M&T to ensure the form accurately reflects Client's instructions with respect to the Service. Client shall promptly notify M&T if any such form does not accurately reflect Client's instructions and Client shall not use any Service referenced in the form until such form is amended to accurately reflect Client's instructions and re-submitted to M&T.

NEGOTIATED AGREEMENT

(c) If Client wishes to change any elections or instructions in a previously submitted Client Election Form or Set-Up Form, Client must submit an updated form to M&T. Such change shall not be effective until M&T has approved such updated form and has had a Reasonable Time to Act to implement such change.

(d) If requested by Client, M&T may, in its sole discretion, permit Client to provide instructions relating to the set-up of a Service in a form other than a Set-Up Form (e.g., via email from the Client, via telephone call from the Client etc.). In such case, M&T shall be entitled to rely on such instructions provided by Client, including any changes to the set-up of a Service. Such instructions shall not be effective until M&T has approved and had a Reasonable Time to Act to implement such instruction.

(e) M&T is under no obligation to approve Client's use of any Service. The decision to approve Client's use of a Service is within M&T's sole discretion. Client may not commence using any Service until after (i) M&T has received from Client all forms and agreements required by M&T for such Service, including the Client Election Form and any Set-Up Form, (ii) M&T has approved Client's use of such Service, and (iii) M&T has had a Reasonable Time to Act to implement such Service (and no such form shall be effective until thereafter).

(f) Prior to using any Service, Client shall ensure that it reads and understands the Product Terms and Conditions and User Guides for such Service. By using such Service, Client agrees thereto.

(g) Any recommendation or suggestion that M&T or its representatives make to Client (whether orally or in writing) relating to the type or scope of any Service (or Service feature) that Client may wish to purchase or use are made in good faith to assist Client in its decision to use such Service. M&T provides no guarantee or representation regarding any such recommendation or suggestion. The decision to purchase or use (or not to purchase or use) a particular Service (or Service feature) is Client's sole decision, and M&T shall not be held responsible or liable in connection therewith or in connection with any such recommendation or suggestion.

(h) M&T may decline to complete a particular transaction included in a Service if M&T reasonably believes that it may suffer legal and/or reputational risk or that M&T may be in violation of any applicable Law or internal policy applicable to it if it completes such transaction.

4. Authorized Representatives

(a) Client shall provide access to the Services and Accounts only to its Authorized Representatives who need to have such access for purposes of the Agreement, Services and/or Accounts. Client's designation of any Authorized Representative, and the removal or change in any such designation, must be made in a manner and form acceptable to M&T, in its sole discretion. Client represents and warrants to M&T that each Authorized Representative has been properly and fully authorized by Client to give instructions to M&T and to deal in all ways with respect to the Services and Accounts in accordance with such Authorized Representative's designation. Such authority shall continue to be effective unless and until Client notifies M&T in writing that such authority has been revoked and M&T has had a Reasonable Time to Act on such revocation. Client's Authorized Representatives include any person whom M&T reasonably believes is an authorized representative of Client based upon course of conduct between the parties.

(b) Client shall ensure that its Authorized Representatives (i) comply with the provisions of the Agreement, including using the Services and Accounts in compliance with the Agreement and (ii) use the Services and Accounts and provide instructions to M&T only as authorized by Client and within the limits of their permissions, designations and authority. M&T is not responsible if any Authorized Representative exceeds the limits of such person's permission, designation and authority rights. Client shall regularly monitor its Authorized Representatives' access to and use of the Services and Accounts and instructions to M&T to ensure

such access, use and instructions are within their permission, designation and authority. Client shall promptly inform M&T if Client becomes aware of, or suspects, any fraud or misconduct by any of its Authorized Representatives. Client shall implement sound control policies and procedures to avoid fraud and the unauthorized access of its Accounts and information in respect of its Services and Accounts.

(c) M&T shall have no obligation to investigate or inquire into (i) the identity or authority of an Authorized Representative in connection with the Agreement, Services and Accounts or (ii) whether or not an Authorized Representative is, in fact, authorized by Client. For purposes of the Agreement (A) Client is bound by and is responsible and liable for all instructions, acts and omissions of its Authorized Representatives, whether or not such person is acting within the scope of such person's authority and whether or not Client may have authorized or known of such instructions, acts or omissions, (B) any act or omission of an Authorized Representative will be deemed to be an act or omission of Client and (C) any instruction provided by an Authorized Representative to M&T, and any communication provided by M&T to an Authorized Representative, will be deemed to be an instruction or communication sent to or from Client.

(d) Client understands that customers of banks have suffered losses as a result of fraud and misconduct perpetrated by such customer's bookkeepers, controllers, accountants and other representatives. If Client allows any such person to access or use the Services or Accounts or to provide instructions to M&T, Client shall regularly monitor such person's access to and use of the Services and Accounts. Client shall also (i) promptly and regularly review Account statements to ensure all checks and other amounts debited from the Account are legitimate, (ii) regularly log into any applicable Website to view Account transactions to ensure all transactions are legitimate, and (iii) implement sound control policies and procedures to avoid fraud and the unauthorized access of Accounts and information by such persons.

(e) M&T is entitled to and may rely upon (i) with respect to any Payment Order, any Payment Order that (A) was actually authorized by or on behalf of Client or its Servicer or (B) was received using a Payment Order Security Procedure selected by or on behalf of Client or its Servicer, (ii) with respect to any other instruction, such instruction that was actually transmitted, or that M&T reasonably believes was transmitted, to M&T by or on behalf of Client or its Servicer, and (iii) with respect to any other written instruction, such written instruction that was actually sent, or that M&T reasonably believes was sent, by the person whose name appears on the instruction. M&T shall be deemed to have such a reasonable belief if the instruction reasonably appears genuine (and a presumption of genuineness arises from the fact that M&T is not actually aware that such instruction is not genuine). Client's representations and warranties in the Agreement will apply to, and Client is bound by, any and all actions and omissions of Client and its Authorized Representatives.

(f) Client acknowledges that M&T is not responsible for detecting any error in an instruction provided to M&T by Client or its Authorized Representatives (including any Payment Order). Client is solely responsible for the accuracy and completeness of any such instruction. M&T shall have no obligation to verify, by telephone or any other means, any transaction, instruction or information provided by or on behalf of Client. If Client wishes to change or cancel any such transaction, instruction or information, M&T is not obligated to comply with such cancellation or change unless such cancellation or change can be performed (as determined by M&T in its sole discretion) and M&T has had a Reasonable Time to Act upon such cancellation or change.

(g) Client may, from time to time, wish to appoint a director, officer, employee, agent, or other representative of M&T (or one of its Affiliates) as an Authorized Representative of Client for purposes of the Agreement, Services and/or Accounts. For example, a customer may wish to invite a M&T employee to serve as a board member of that

NEGOTIATED AGREEMENT

customer and to have access to the customer's accounts in respect thereof. If Client appoints any such director, officer, employee, agent or representative as its Authorized Representative, then such person shall be considered a representative of Client in all respects in relation to the Agreement and/or relevant Services and Accounts and Client (and not M&T) is fully liable and responsible for all acts and omissions of such person.

5. System Administrators

(a) Certain Services and delivery channels (such as Services accessed through Web InfoPLUS and CSSO) may require Client to appoint one or more System Administrators. A System Administrator will have complete authority on Client's behalf to manage and use such Services and/or delivery channels in respect of all Accounts for which that Service or delivery channel is used. Client may, at any time, remove a System Administrator or appoint a new System Administrator by submitting to M&T an updated Client Election Form or other document acceptable to M&T in its sole discretion with such Instructions (which form or document shall not be effective until M&T has had a Reasonable Time to Act to implement such change).

(b) Unless otherwise specified in the Agreement for a particular Service or Service feature, a System Administrator is authorized to appoint other Authorized Representatives (including other System Administrators) through the Website or other channels agreed by M&T. Such other Authorized Representative may have all or a portion of the authority of the System Administrator who appointed him/her.

(c) Client represents and warrants to M&T, throughout the term of the Agreement, that (i) each System Administrator is duly authorized to perform his/her duties and obligations as described in the Agreement and to delegate all or a portion of his/her duties and obligations to other Authorized Representatives and (ii) each System Administrator and other Authorized Representative has been properly authorized to act on Client's behalf with respect to the Services and Accounts in accordance with such person's designation, including to give Instructions to M&T.

(d) A System Administrator will, among other things, administer and maintain certain other Authorized Representatives' access to and use of the Accounts and Services through the Website and other channels, including by systemically authorizing and/or restricting an Authorized Representative's access to information and transactional capabilities relating to the Services and Accounts. A System Administrator may be able to reset passwords for him/herself and other Authorized Representatives. M&T recommends that (i) Client ensure its System Administrators establish transaction initiation capabilities to require multiple levels of authorization (e.g., one Authorized Representative may initiate a transaction and another Authorized Representative must approve the transaction) and (ii) Client use any audit feature that M&T makes available on the Website or with respect to a Service to ensure that a System Administrator and other Authorized Representatives are acting in accordance with Client's internal control policies and procedures. Client shall implement sound control policies and procedures to avoid fraud and the unauthorized access of Accounts and information, including fraud perpetrated by System Administrators by means of setting up a fictitious Authorized Representative.

(e) If a System Administrator systemically grants an individual access to information, or the systemic ability to initiate, input and/or approve transactions, that individual will be deemed to be an Authorized Representative and M&T may conclusively rely on that grant of access in concluding that such individual has sufficient legal and other authority to have access to Client information, to provide Instructions to M&T and to initiate, input and/or approve transactions on behalf of Client. The fact such individual may not be named on the signature card as an authorized signer for an Account will not affect such authority.

6. Information Reporting

(a) Certain Services may include statements, reports and other information relating to the Agreement, Services or Accounts ("Service Information") that M&T makes available to Client from time to time. Any Service Information reported prior to final posting or settlement is subject to correction in case of error. Certain Service Information is current as of different dates and times (e.g., it may be reported in real-time, it may be updated periodically throughout the day or it may have prior day status). Client shall be commercially reasonable in determining when Service Information was last made current. M&T will not be responsible for any Loss Client may suffer as a result of Client's misinterpretation of how current Service Information may be. Service Information regarding balances of any credit facilities that Client may have with M&T may not include any applicable pre-payment premiums or other costs, expenses or fees that may be due and owing to M&T under any applicable loan documents.

(b) Certain Services may involve the transmission of files, reports or other information by M&T to Client, or vice versa. M&T has no obligation to confirm receipt of (or failure to receive) any such file, report or other information, unless M&T expressly and specifically otherwise agrees in writing to do so. Regardless of whether or not M&T has so agreed to confirm receipt, if Client expects to receive, but does not receive, any confirmation of receipt, Client must communicate with M&T directly to verify whether or not M&T actually received the file or information. Client must promptly inform M&T in writing if it does not receive any file, report or other information that should be provided to Client, or that Client should reasonably expect to receive, under the Agreement. Client shall verify the readability, clarity and quality of all information made available to Client, including electronic images. If the quality of the information or image is insufficient to Client or if Client requires replacement of such information or image, Client shall notify M&T within two Business Days after M&T makes such information or image available to Client (or within such longer time as applicable law may require).

(c) In connection with certain Services, M&T may capture images of items deposited into, or presented for payment against, an Account, remittances and other documents. Unless and to the extent specifically required under the Agreement, M&T has no obligation to capture such images and shall not be liable for its failure to do so.

(d) Client shall promptly (and, in any event, within any time frame set forth in the Commercial Deposit Account Agreement) notify M&T in writing of any error in connection with a Service or Account, any known or suspected unauthorized, erroneous or erroneously executed transaction, or of any discrepancy between a record maintained by Client and any communication or notice that Client receives from M&T with respect to a Service or Account. Client shall promptly provide M&T with any information M&T may reasonably request in connection therewith.

SECURITY PROCEDURES AND PAYMENT ORDERS

7. Security Procedures - General

(a) Many Services and delivery channels involve the use of Security Procedures. Client shall implement, use and follow the applicable Security Procedures for any Service that involves the use of a Security Procedure.

(b) M&T shall not be obligated to act on any instruction that is not transmitted in accordance with the applicable Security Procedures and may refuse to act on any such instruction where M&T doubts its authorization, contents, origination or compliance with the applicable Security Procedures.

(c) The Security Procedures (including the Payment Order Security Procedures) are not designed to, and do not, detect errors in the transmission or content of any instruction purportedly provided to M&T from Client. M&T shall not be responsible for detecting an error in any instruction, regardless of whether or not Client believes that the error was apparent, and M&T shall not be liable for any failure to detect an

NEGOTIATED AGREEMENT

error. M&T may, but shall be under no obligation to, take action that M&T deems advisable to detect errors or unauthorized instructions beyond those that are specified in the Security Procedures; provided M&T's performance of any such action on any occasion will not obligate M&T to do so on any future occasion.

(d) Although M&T may make specific security recommendations within the Agreement or otherwise regarding security with respect to the Services or Accounts, M&T does not guarantee the inviolability of any particular Security Procedure, and M&T has no obligation to make any security recommendations or to further instruct Client regarding security or the manner in which Client is to use the Services or Accounts, however accessed, within Client's business.

(e) M&T shall not be responsible for determining whether or not a Security Procedure has been breached by any representative of Client or any third party. If M&T actually learns of a breach of a Security Procedure by a representative of Client or a third party, M&T may attempt to notify Client thereof, but is under no obligation to do so and M&T's delay or failure to do so will not impose liability for any loss on M&T. To the maximum extent permitted by applicable law, Client will be solely responsible for any loss resulting from any unauthorized transaction made using a Security Procedure, regardless of the identity of the party who made the transaction.

(f) M&T may, at any time, change, implement and require new or additional Security Procedures or features thereof. Any such change will be effective immediately if such change will not have a material adverse effect on Client's use of the Services (as determined by M&T in its reasonable discretion) and, otherwise, will be effective on the date indicated in a Notice to Client. Such Notice may be provided to Client in hardcopy or electronically, including by publishing such change on a Website. If Client does not agree with any such change, Client must immediately discontinue enrollment in and use of the affected Service before the change becomes effective (or, if such change became effective immediately, promptly after such change becomes effective). If Client continues to be enrolled in, uses or pays for the affected Service, Client will be bound by such change and will be deemed to have agreed to such change. Notwithstanding anything else in the Agreement, but without limiting this Section 7, M&T may make any such change without prior Notice to Client if an immediate change is required for security reasons or by applicable law.

(g) In addition to the agreed-to Security Procedures (as described in the Agreement), M&T may, at its sole option, but without obligation of any kind, use any other additional security options and procedures to help verify the authenticity of any instruction provided to M&T; provided that, regardless of whether M&T implements or requires any additional options, Client agrees that the agreed-to Security Procedures are commercially reasonable for verifying the authenticity of a Payment Order.

8. Security Procedures — Payment Orders

In addition to Section 7 above, the following provisions also apply to Payment Orders:

(a) The parties agree that the authenticity of Payment Orders issued to M&T in the name of Client as sender will be verified pursuant to the applicable Payment Order Security Procedures. Client acknowledges that it elected and chose to use such Payment Order Security Procedures.

(b) Client acknowledges and agrees (and, each time Client issues a Payment Order, Client represents and warrants to M&T) that, given Client's particular circumstances, including the nature of Client's business, the size, type and frequency of Client's Payment Orders, transactions and files, Client's internal procedures and systems, the alternative Security Procedures (if any) offered by M&T and the Security Procedures in general use by other customers and banks similarly situated, the Payment Order Security Procedures are a commercially

reasonable method of providing security against unauthorized Payment Orders. If Client continues to be enrolled in, use or pay for a Service after any change to the Payment Order Security Procedures for that Service pursuant to Section 7(f) above, Client will be deemed to agree that, given such circumstances, such changed Payment Order Security Procedures are a commercially reasonable method of providing security against unauthorized Payment Orders.

(c) Any Payment Order received by M&T is effective as the Payment Order of Client, whether or not authorized, if received using the Payment Order Security Procedures. Client expressly agrees to be bound by any Payment Order, whether or not authorized, issued in Client's name and accepted or acted upon by M&T in accordance with the applicable Payment Order Security Procedures. M&T is hereby authorized to execute any such Payment Order and to debit Client's Account for such Payment Order.

(d) If Client chooses certain Payment Order Security Procedures to use in connection with a Service and those Payment Order Security Procedures provide less protection against unauthorized transactions or activity than other Payment Order Security Procedures and options offered by M&T in connection with such Service, the Payment Order Security Procedures chosen by Client shall be deemed commercially reasonable to the same extent as the Payment Order Security Procedures and options offered by M&T that provide greater protection. Client understands that its failure to use any Payment Order Security Procedure or option offered by M&T in connection with a Service may substantially contribute to the risk of fraudulent activity and Client's liability for resulting loss.

(e) The Payment Order Security Procedures are intended to verify the authenticity of instructions regarding Payment Orders purportedly provided to M&T from Client and are not designed to, and do not, detect errors in the transmission or content of such instructions.

(f) Client is responsible for any Payment Order and associated Funds Transfer that is authorized by or on behalf of Client or for which Client is otherwise bound under the law of agency, whether or not M&T or Client complied with the Payment Order Security Procedures for that Payment Order.

9. Payment Orders

(a) Client's Payment Order must include all information that M&T may require in its sole discretion, including under the Product Terms and Conditions, User Guides and Set-Up Forms, for the applicable Service.

(b) Client must carefully review and verify all information in its Payment Order, including the account number of the person or entity to whom Client is sending the Funds Transfer (i.e., the designated recipient) and the unique identifier associated with the recipient institution (i.e., the recipient institution identifier). It is important that all such information is complete and accurate. In executing a Payment Order, M&T and each Correspondent are entitled to rely exclusively on the recipient account number and recipient institution identifier provided in the Payment Order (notwithstanding that such numbers may not match the name of the recipient or recipient institution). IF CLIENT PROVIDES AN INCORRECT RECIPIENT ACCOUNT NUMBER OR RECIPIENT INSTITUTION IDENTIFIER, CLIENT COULD LOSE THE PAYMENT ORDER AMOUNT. Neither M&T (nor any Correspondent) are (i) required to reconcile or match a recipient account number or recipient institution identifier with the recipient account name or recipient institution name, (ii) required to verify the recipient account number or recipient institution identifier, or (iii) liable for any loss arising in connection with a Payment Order that is made to the incorrect recipient due to an error in the recipient account number or recipient institution identifier provided in the Payment Order (notwithstanding that the Payment Order may have contained the correct account name or recipient institution name). Client shall be solely liable for the amount that M&T transferred to any recipient account number indicated in the Payment

NEGOTIATED AGREEMENT

Order. Client understands that once a Payment Order is sent to a Correspondent, M&T no longer has any control over the funds; it is the sole responsibility of the paying bank to transmit the funds to the recipient account number indicated in such Payment Order and M&T will not be liable for any Loss if such funds are lost or not received by the intended recipient.

(c) M&T, without limitation, has no obligation to execute a Payment Order (i) against unavailable or insufficient funds in the Account, (ii) which M&T is not able to authenticate to its satisfaction, (iii) which is incomplete or incorrect, (iv) which M&T believes would constitute a violation of any applicable agreement, law, court order or governmental policy, (v) if M&T suspects fraud or illegal activity, (vi) which does not conform to M&T's format requirements, or (vii) if M&T believes the Payment Order is likely to put M&T at risk of Loss. M&T may reject a Payment Order in its sole discretion, including if M&T doubts its authorization, content, origination or compliance with Security Procedures.

ELECTRONIC SERVICE MATTERS

10. M&T's Websites

(a) M&T may make certain Services available via one or more Websites. In addition to any terms and conditions applicable to Client's use of such Websites (such as the Website Terms of Use and Internet Policy which can be found on M&T's Websites), Client agrees to the other terms and conditions in this Section 10 (collectively, the "Access Terms"). For the avoidance of doubt, the Websites are part of the Services under the Agreement.

(b) M&T reserves the right to suspend Client's access to, and use of, a Website at any time, without Notice, including if M&T becomes aware of Client's violation of any Access Terms, where suspension may be required to prevent interference with or disruption to a Service to other customers, to protect the integrity of M&T systems, M&T Technology or M&T Materials, in connection with any actual or suspected security breach or fraud as determined by M&T in its sole discretion, or as may be required by applicable Law.

(c) Client may only access and use the Websites for lawful purposes, and only for the purpose intended and not for any purpose of commercial exploitation. Without limiting the foregoing, Client shall not use a Website in any way that would, or would be reasonably likely to: (i) infringe any third party copyright, patent, trademark, service mark, trade secret or other proprietary right or right of publicity or privacy; (ii) be fraudulent or involve the use of counterfeit or stolen items; (iii) violate any applicable Law; (iv) violate any contractual provision to which Client is bound; (v) be false, misleading or inaccurate; (vi) create liability for M&T or any third party vendor or cause M&T to lose (in whole or in part) the services of any third party vendor; (vii) be defamatory, trade libelous, unlawfully threatening or unlawfully harassing; (viii) interfere with or disrupt computer networks connected to the networks used by Client; or (ix) interfere with or disrupt the use by any other customer of the Website, M&T Technology or M&T Materials and/or any services accessed via the Website, M&T Technology or M&T Materials.

(d) Any violation of M&T's systems, M&T Technology, Website, or Security Procedures, including network and system security measures, is strictly prohibited, including unauthorized access to, or use of, systems or data. Client shall not attempt to probe, scan or test the vulnerability of a system or breach security or authorization measures or seek to interfere with any Security Procedures, including network and system security measures. M&T may investigate violations of system and/or network security and may involve law enforcement if criminal conduct is suspected. Indirect or attempted violations of these terms and conditions by Client, and any actual or attempted violations by a third party on Client's behalf, shall be considered violations by Client. Client shall not, and Client shall not engage any third party to, use any software tool designed to automatically emulate the actions of a human user in

conjunction with the M&T Technology or Website. Client shall not attempt to overload, overburden or crash the M&T Technology or Website.

(e) Client shall follow all Access Terms, security requirements and other instructions given to Client by M&T, in accessing and using a Website and Client shall not misrepresent Client's identity in respect thereof. Where passwords or other access materials may be required, Client is solely responsible for the security of such access information and shall immediately upon termination of the Agreement, or upon M&T's request, return to M&T physical access materials and destroy any copies and expunge its computers of all such passwords and access materials not returned to M&T. Client shall inform M&T immediately of any actual or suspected unauthorized access to such passwords or access materials, Website, M&T Technology or M&T Materials.

(f) Client shall reasonably cooperate with M&T and any third party at M&T's request with regard to Client's access to, and use of, a Website, including providing such technical assistance and information as M&T may reasonably request.

(g) Client understands that the Website and other Services may not be available at all times and may be reliant upon third parties and matters outside of M&T's control. M&T is not responsible for any matters outside of M&T's direct control, including matters arising from or relating to third party support for software and hardware, Internet Service Providers ("ISPs"), connectivity and the Internet in general. The computer systems that host and support certain Services require regular maintenance and servicing which may result in interrupted service, and there also is scheduled maintenance and servicing associated with such systems which may result in interrupted services. M&T may change, limit, suspend, terminate or discontinue any aspect of the Service at any time, including the availability of any services, information, features or functions accessible by means of a Service, without Notice or liability. M&T will attempt to provide prior Notice of such interruptions and changes, but does not guarantee that such Notice will be provided. M&T's failure to notify Client of interruptions or changes will not impose liability on M&T for any Loss.

(h) M&T reserves the right to change existing infrastructure, hardware and underlying software used to provide the Website and other Services. M&T assumes no responsibility for delays or problems that result from Client's computing or networking environment, Client's third party vendors and/or Client's local or long distance telephone carriers or ISPs. M&T reserves the right to perform maintenance on the Website and other Services.

11. M&T Technology and M&T Materials

(a) Some of the Services may involve the use of M&T Technology and M&T Materials. Client shall keep the M&T Technology and M&T Materials confidential in accordance with the Agreement and train its representatives in the proper and secure use of the M&T Technology and M&T Materials.

(b) To the fullest extent of M&T's authority, M&T hereby grants to Client a non-exclusive, non-sublicensable, non-transferable, revocable, U.S.-only license to use the Website, M&T Technology and M&T Materials solely for Client's own internal business purposes for the purpose of the Agreement in support of the Services and Accounts, and subject to this Section 11. Some M&T Technology or M&T Materials may be provided subject to a third party agreement or license, in which case, such M&T Technology and M&T Material must also be used in accordance with such license/agreement. In the event of any conflict between the terms of the Agreement and the terms of such license/agreement, the terms of such license/agreement shall prevail.

(c) The Website, M&T Technology and M&T Materials licensed to Client under Section 11(b) may only be used in object code format. Client shall not (i) use the Website, M&T Technology or M&T Materials other

NEGOTIATED AGREEMENT

than as set forth in Section 11(b), (ii) copy, alter or modify the Website, M&T Technology or M&T Materials (except for one copy for back-up purposes or as may otherwise be permitted by applicable law), (iii) use the Website, M&T Technology or M&T Materials in connection with any other financial institution's products or services, (iv) grant, assign, transfer, sell, lease, distribute, license, sublicense or otherwise make available to any other person any right whatsoever in the Website, M&T Technology or M&T Materials, (v) disclose to any other person any information contained in the Website, M&T Technology or M&T Materials, (vi) reverse engineer (or use sequence(s) or other methods in an attempt to reverse engineer), decompile, disassemble or create any derivative works based upon the Website, M&T Technology or M&T Materials, except as expressly permitted by applicable law, (vii) use the Website, M&T Technology and M&T Materials as a component of or a base for products or services prepared for commercial sale, sublicense, lease, access or distribution, or (viii) obfuscate, remove or alter any of the logos, trademarks, Internet links, patent or copyright notices, confidentiality or proprietary legends or other notices or markings that are on or in the Website, M&T Technology or M&T Materials.

(d) Except for the limited license set forth in Section 11(b) (or any separate license/agreement referenced in Section 11(b)), all right, title and interest in the M&T Technology, M&T Materials, Services (including Website) and any other service that M&T may provide by or through third party providers in connection with the Agreement (including any intellectual property rights therein), and any derivative, modification or enhancement thereof, shall at all times remain vested solely and exclusively in M&T and/or its third party licensors (provided no representation or warranty is provided by M&T in respect of such intellectual property rights). Nothing in the Agreement or otherwise shall be construed in any way to grant to Client or any other person any express or implied option, license or other right, title or interest in or to the M&T Technology, M&T Materials, Services or other such services. Notwithstanding anything else, the licenses referenced in this Section 11 and anywhere else in the Agreement do not extend to, and Client or any other person may not use, any of M&T's or its Affiliate's trade names, marks or logos beyond Client's use of the Services subject to the Agreement, without M&T's express prior written consent.

(e) If Client suggests to M&T any new features, concepts, improvements or other feedback related to or based upon the Services, M&T Technology or M&T Materials ("Suggestions"), and M&T subsequently incorporates such Suggestions into the Services, M&T Technology, M&T Materials or other M&T products/services/technology, then such Services, M&T Technology, M&T Materials or such other products, services or technology containing the Suggestions will be the sole and exclusive property of M&T. Client acknowledges that M&T will retain all right, title and interest in and to transactional and performance data related to any use of the Services, M&T Technology or M&T Materials that M&T may collect and use for its business purposes (including use optimization and product marketing) provided that such use does not reveal the identity of Client or specific use characteristics that may be identified to Client.

12. Electronic Transactions

(a) Certain Services may include information reporting and the ability of Client to initiate transactions through various electronic methods, including (i) the Website, (ii) direct transmission by either party to the other using a file transfer protocol first approved by M&T, (iii) M&T delivering mutually approved media to Client, such as CD-ROMs, (iv) secure data transmission, (v) email, and (vi) telephonic means. Client shall comply with the Agreement in respect of such features, including the Security Procedures. Statements, reports and other information in connection with the Agreement, Services or Accounts may be provided to Client electronically (including via the Website) or in paper form, at M&T's sole discretion.

(b) Client understands that the Internet is inherently insecure, and that there may be circumstances under which email or an electronic transmission to or from Client may not be successful or completed, including as a result of quarantines, misrouting by intermediate processors or ISP failures. M&T shall not be responsible for any loss arising from the failure of the Internet, email or electronic transmission. M&T may transmit Service or Account information to Client through email as a convenience to Client; however, Client must still regularly log onto the Services in order to obtain such information and to fulfill its obligations under the Agreement.

(c) If Client chooses to use email or electronic means to provide any instruction or information to M&T, Client's use of such email or electronic means will be subject to the terms and conditions of the Agreement and Client must comply with any applicable User Guides regarding such use. Client shall bear the sole risk that such email or electronic communication could be corrupted, monitored, intercepted, re-routed, modified, copied, garbled or hacked or its confidentiality breached by a third party and the risk that M&T may rely on such email or electronic instruction, which appears to be from Client but which is unauthorized.

(d) M&T may rely on the integrity of facsimile transmissions that Client sends to M&T and Client bears the risk that such information that M&T receives might differ from that actually sent to M&T.

13. Electronic Signatures

(a) M&T may, in its sole discretion, offer Client and its Authorized Representatives the ability to sign agreements, forms and/or other documents (whether or not in the form of an Electronic Record) with an Electronic Signature. Client agrees and intends that the Electronic Signature of Client or its Authorized Representative on any agreement, form and/or other document executed in accordance with the procedures set forth in this Paragraph shall have the same legal effect, validity and enforceability as a manually executed signature by Client or its Authorized Representative in ink, to the extent and as provided for in any applicable law. The words "signed" and "signature" and words of like import in or related to this Agreement, or any other document to be signed in connection with this Agreement, shall be deemed to include Electronic Signatures. Notwithstanding the foregoing, M&T is under no obligation to accept or use Electronic Records or Electronic Signatures in any form or format unless expressly agreed to by M&T pursuant to procedures approved by M&T.

(b) Client acknowledges and agrees that in order for Client or its Authorized Representatives to sign an agreement, form and/or other document on behalf of Client with an Electronic Signature, Client or its Authorized Representative must provide M&T with a valid email address for Client or its Authorized Representative. M&T may rely upon the validity and accuracy of any email address provided by Client or its Authorized Representative. A link will be sent to the applicable email address that, when clicked, will direct Client or its Authorized Representative to a website at which Client or its Authorized Representative can view the agreement, form and/or other document to be signed by Client or its Authorized Representative. Client acknowledges and agrees that, in order to sign such agreement, form and/or other document on the website with an Electronic Signature, the identity of Client or its Authorized Representative will be verified pursuant to certain additional authentication procedures implemented by M&T or its vendor, which may include, but are not limited to: (i) the use of challenge questions that must be answered correctly by Client or its Authorized Representative or (ii) the use of a secure code or Personal Identification Number (PIN) that will be generated and sent via text message to Client's or its Authorized Representative's mobile device. M&T may, from time to time and in its sole discretion, choose the authentication procedures that will be used to verify the identity of Client or its Authorized Representative. M&T may, at any time, change, implement or require new or additional authentication procedures.

NEGOTIATED AGREEMENT

Client agrees to the use of such authentication procedures and to receive email messages and/or text messages as part of such procedures or otherwise in connection with electronically signing agreements, forms and/or other documents.

(c) Once the identity of Client or its Authorized Representative is verified pursuant to one or more of the authentication procedures listed in Section 13(b) or another authentication procedure chosen and implemented by M&T in its sole discretion, Client or its Authorized Representative will be able to view the agreement, form and/or other document to be signed by Client or its Authorized Representative on the website. To sign such agreement, form and/or other document with an Electronic Signature, Client or its Authorized Representative may be required to do one or more of the following: (i) click with a mouse, keyboard stroke or touch on or near a signature block, (ii) click with a mouse, keyboard stroke or touch to effectuate or confirm the signing of the agreement, form and/or other document with an Electronic Signature, (iii) manually execute the signature by moving a mouse, or (iv) manually execute the signature by touching the screen of a computer or other electronic or mobile device. M&T may, in its sole discretion, choose the manner in which Client or its Authorized Representative may sign an agreement, form and/or other document with an Electronic Signature. Client agrees that, upon Client or its Authorized Representative electronically signing an agreement, form and/or other document, M&T may add a digital representation or image of Client's or its Authorized Representative's signature on such agreement, form and/or other document.

(d) Use of the above process and procedures for electronically signing agreements, forms and/or other documents requires Internet and/or data access through a computer or mobile device and is subject to availability and the same limitations as any service available through the Internet. M&T is not responsible for matters that are outside of its reasonable control that might impact availability and functionality. M&T reserves the right to suspend service for any reason at any time. Client's or its Authorized Representative's mobile carrier's text messaging and data charges may apply.

14. Client's Systems

(a) Client represents and warrants that it has acquired any and all equipment, Internet browser, hardware, software, systems and communication devices and facilities required to use the Services and/or Accounts and to maintain appropriate security in connection with the Services and Accounts ("Client Systems") that meet or exceed suitable industry standards and agrees to update, maintain and keep current the Client Systems. Client is solely responsible for (i) having, maintaining and keeping current proper Client Systems, (ii) providing all means necessary to access and use the Services, M&T Technology and M&T Materials made available by M&T, (iii) obtaining appropriate training and training its personnel on the operation of the Services, M&T Technology and M&T Materials, (iv) assuring that all installations of products, upgrades, and corrections have been performed in conformance to vendor's specifications or M&T's requirements, as applicable, (v) providing back-up and restore systems, processes and services for restoration of Client's systems and data upon a failure of any Service, (vi) restoring as necessary, data, data connections and application software, (vii) any testing related to Client's use of the Services, M&T Technology or M&T Materials and its impact on Client Systems, (viii) promptly installing corrections and updates to M&T Technology, and (ix) addressing any system performance problems. M&T may change its requirements for Client Systems at any time.

(b) Client shall maintain and continuously operate on Client Systems up-to-date software that is reasonably capable of detecting and protecting against any Virus. Client is solely responsible for maintaining the security of Client Systems and from protecting Client Systems from Viruses and unauthorized access or intrusion, including any malicious or criminal act or network attack and any error or loss of information that

may be due to the failure or inadequacy of its Client Systems, and to correct defects and/or problems which affect the functioning of network, operating or other systems. Although M&T does not represent or warrant that the Services will be free from any Viruses, M&T has employed efforts designed to check for the most commonly known Viruses prior to making the Services available. M&T shall not be responsible for any loss to Client Systems caused by any Virus arising in connection with the use of the Services.

(c) At M&T's request, but without obligation of any kind, M&T shall be entitled to reasonable access to Client Systems and Client's facilities (at reasonable times) to repair, update and/or uninstall or remove any M&T Technology or M&T Materials.

SERVICES, VENDORS AND THIRD PARTIES

15. Client's Use of Services

Some of the Services may permit Client to designate a third party vendor or servicer ("Servicer") to use a Service on behalf of Client, to view Client's Account and Service Information, and/or to facilitate Client's transactions with M&T in respect of a Service (such as the ACH Origination, Remote Check Deposit and Image Deposit Cash Letter Services). The "Servicers" section in Part B of the Product Terms and Conditions Booklet sets forth additional provisions applicable to Client's designation and use of any Servicer in respect of a Service.

16. No Re-Sale of Services

Client represents and warrants to M&T throughout the Agreement that it is purchasing and using the Services for its own business use. Client shall not, without the prior written consent of M&T (which approval may be withheld or provided subject to requirements in M&T's sole discretion) (i) re-sell, provide, assign, transfer or otherwise distribute a Service to any other person or allow any other third party to use a Service, including any of Client's Affiliates or any of Client's own customers, clients or members or (ii) use any Service to assist Client with providing any services to Client's Affiliates or any of Client's own clients, customers and/or members or any other third parties (e.g., processing transactions under a Service for, or on behalf of, its own customers or third parties).

17. Financial Institution Clients

(a) Notwithstanding Section 16, if Client is a financial institution (e.g., a bank, credit union etc.) and wishes to use any Service to assist Client with providing services to its own customers, clients and/or members, the additional terms and conditions set forth in the "Financial Institution Clients" section in Part B of the Product Terms and Conditions Booklet shall apply to Client's use of the Service. For example, Client may wish to use M&T's funds transfer (wire) service to help Client process payment orders submitted to Client from its own customers. M&T hereby confirms that, if Client is a financial institution, Client's own customers, clients and members are approved for purposes of Section 16 above (subject to Client's compliance with the terms and conditions set forth in the "Financial Institution Clients" section in Part B of the Product Terms and Conditions Booklet).

(b) Section 17(a) above does not apply to any Client that is a Third Party Sender (as defined in the Rules) in respect of M&T's ACH Origination Service. The Product Terms and Conditions for the ACH Origination Service set forth requirements for any Client that is a Third Party Sender that wishes to use the ACH Origination Service.

18. Payment Systems, Correspondents and Vendors

(a) M&T may provide any Service (including executing Payment Orders) using any route, payment system or other Correspondent as M&T determines is appropriate in its sole discretion. M&T has no obligation to use a particular route, payment system or Correspondent,

NEGOTIATED AGREEMENT

even if requested by Client. M&T's ability to perform certain Services (including executing Payment Orders) is subject to the rules, regulation and capabilities of such routes, systems and Correspondents. M&T shall not be liable for any failure, delay or error caused by such route, system or Correspondent, and M&T is not responsible for monitoring the financial condition of any other Correspondent or third party, or for advising Client of any change in such condition.

(b) M&T may use, delegate, outsource or subcontract the performance of any Service or part thereof to any Affiliate, vendor, agent, or other third party, without Notice to or approval of Client. Client hereby authorizes the disclosure of information relating to Client and its Services and Accounts to any third party described in this Section 18 for use in connection with the Agreement, Services or Accounts or as required by Law.

OTHER ACCOUNT AND SERVICE MATTERS

19. Account Matters

(a) All Services involving any Accounts are subject to M&T's Commercial Deposit Account Agreement and other M&T fees, terms and conditions relating to such Accounts in effect from time to time (together, the "Commercial Deposit Account Agreement"). Prior to signing this Master Agreement, if Client does not already have a copy of the current Commercial Deposit Account Agreement, Client shall request and obtain from M&T a copy of the Commercial Deposit Account Agreement. Client hereby represents that it has read and understood the Commercial Deposit Account Agreement.

(b) Client represents and warrants that it has good and clear title to each check deposited to any Account, including any checks that are payable to a party other than Client ("Third Party Checks"). Client shall be liable to M&T for any Loss that M&T may incur arising out of, in connection with, or resulting from any Third Party Check.

(c) In any instance in which Client provides, or asks M&T to provide, to a third party (e.g., a third party payroll provider or service), or authorizes or allows a third party to create on its behalf, checks to be drawn on Client's Account, Client will be fully responsible and liable to M&T for all such checks negotiated, whether or not authorized by Client. Client releases, indemnifies, defends and holds M&T harmless from and against any and all losses and actions, claims, demands, suits and/or proceedings, directly or indirectly, resulting from, relating to or arising out of or in connection with any action taken by such third party with respect to such checks.

(d) In any instance in which M&T, in its sole discretion, processes a transaction as part of a Service, including a sweep or a wire transfer, from an Account in which Client has insufficient available funds to pay the amount of the transaction, an overdraft loan ("Overdraft Loan") will be created. Each Overdraft Loan will be subject to the provisions of the Commercial Deposit Account Agreement applicable to overdrafts.

(e) In respect of any Account or property of Client or of any of Client's Affiliates or guarantors held by M&T now or in the future, M&T has the right to set off against such Account or property any amounts owing to M&T by Client for Services performed under the Agreement or for amounts owing to M&T by Client or any of its Affiliates under any other agreement with M&T. M&T may exercise its right of setoff without demand upon or Notice to Client and the setoff will be considered to have been exercised immediately upon any default by Client without any action by M&T. M&T may enter the setoff on its books and records at a later time.

20. Other Service Matters

(a) Client shall provide to M&T such financial and other information about Client and its business as M&T may reasonably request in connection with the Agreement, Services or Accounts. Client hereby authorizes M&T to make inquiries, from time to time, of credit reporting

agencies and other sources of commercial credit information regarding Client's financial status and banking history and to provide Client information to such agencies.

(b) Upon reasonable Notice to Client and at a mutually agreed upon time, but without obligation of any kind, Client will permit M&T and/or its agents to visit, inspect and/or audit Client's premises, systems and information as reasonably requested by M&T in connection with the Agreement, Services or Accounts.

(c) Client shall comply with all applicable Laws in connection with the Agreement, Services and Accounts. Client shall provide to M&T any documents or information as M&T may reasonably request from time to time to evidence such compliance. Client shall ensure the Services and Accounts are not used for any unlawful purposes or in violation of any applicable Laws, including in connection with online gambling or to fund any account set up to facilitate online gambling. Client shall provide M&T with any documentation or information as may be reasonably required for M&T to comply with any applicable Laws. To the maximum extent permitted by applicable Law, in the event of a conflict between any provision of the Agreement and any provision of the Law, the Agreement shall prevail and the Agreement will vary such provision of the Law.

(d) M&T performs monitoring, screening, and review procedures in connection with certain Services and Accounts, including, but not limited to, fraud and/or sanctions screening procedures implemented to determine whether transactions comply with the Bank Secrecy Act (31 U.S.C. 5311 et seq.), Office of Foreign Assets Control ("OFAC") rules, or similar Laws. M&T shall have no liability for any losses arising from any delay in the provision of any Service, the processing, transmittal or settlement of any transaction, or the availability of funds caused by any such monitoring, screening, or review procedures conducted by M&T. Client acknowledges that Client has its own independent obligations to conduct screening to comply with the OFAC rules.

(e) To the extent permitted by applicable Law, Client hereby consents to M&T electronically monitoring and/or recording any telephone communications with, or data transmissions by, Client or any of its representatives relating to the Agreement, Services or Accounts. M&T may retain such monitoring records and recordings by any reasonable means. Unless expressly included as part of a particular Security Procedure, M&T shall not be obligated to electronically monitor and/or record, or to retain for any period of time, any such record or recordings and M&T shall not be liable for any loss arising in connection with M&T failing to record or retain such record or recording. If M&T's records about any such record or recording are different from Client's, M&T's records will govern.

(f) The 'Client Security Requirements' section in Part 8 of the Product Terms and Conditions Booklet, and the User Guides, set forth additional security related requirements that Client shall comply with in respect of any and all Services. Client understands that many of those requirements are designed to help mitigate against loss, including Payment Order losses.

21. Confidentiality

(a) Each party may provide or make available to the other party such party's Confidential Information. Subject to this Section 21, each party shall (i) keep the other party's Confidential Information confidential and not disclose it to any other person and (ii) not use the other party's Confidential Information except for purposes relating to the Agreement, Services and/or Accounts and in compliance with the Agreement; provided that each party may disclose the other party's Confidential Information to (A) such party's Affiliates and permitted prospective assignees, transferees or other successors to its rights and (B) such party's employees, consultants, auditors, professional advisors, vendors, agents, subcontractors and other representatives who need to know such Confidential Information in connection with the Agreement,

NEGOTIATED AGREEMENT

Services and/or Accounts or (C) as otherwise expressly provided in the Agreement. M&T also may use Client's Confidential Information for crime detection, prevention and prosecution, to fulfill regulatory and compliance requirements, to undertake marketing activities, to undertake product development and enhancements and to otherwise manage M&T's relationship with Client.

(b) Notwithstanding anything else in the Agreement, either party may disclose the other party's Confidential Information: (i) pursuant to a requirement or request of a Governmental Authority, regulator, court order, subpoena, civil investigative demand, or other legal or administrative process; (ii) if required by applicable law; or (iii) in defense of any claim or cause of action asserted by the disclosing party (in each case, to the extent so requested or required); provided, however, that prior to disclosing the Confidential Information, the disclosing party will (A) first notify the other party of the request or requirement, or use in defense of a claim, unless Notice is prohibited by such Governmental Authority, regulator, court order, subpoena, process or applicable law and (B) attempt to obtain the consent of the non-disclosing party to the disclosure of the Confidential Information. In the event consent to disclosure is not given by the non-disclosing party, the non-disclosing party will have the right to pursue a protective order, motion to quash or other similar procedural step in order to attempt to prevent the release of its Confidential Information. Nothing in the Agreement is intended to require, nor will it be deemed or construed to require, either party to fail to comply, on a timely basis, with any request or requirement referred to above.

(c) Each party shall have in place internal policies and procedures reasonably designed to (i) ensure the security and confidentiality of the other party's Confidential Information, (ii) protect against any anticipated threats or hazards to the security or integrity of the other party's Confidential Information, and (iii) protect against unauthorized access to or use of the other party's Confidential Information that could result in harm or inconvenience to the parties. Notwithstanding anything else in the Agreement, the obligation of a party to protect the other party's Confidential Information under the Agreement will be satisfied if that party utilizes the same control (but no more than commercially reasonable control) as it employs to avoid disclosure of its own confidential information.

(d) Each party agrees that any breach of this Section 21 may result in immediate and irreparable harm to the other party. In the event of a breach of this Section 21, the non-breaching party will be entitled to specific performance, including the right to seek preliminary and permanent injunctive relief against the breaching party, in addition to any other remedies available at law or in equity. A party seeking relief under this Section will not be required to post a bond.

(e) Upon termination of the Agreement, each party will return the other party's Confidential Information (or, if requested by the other party, destroy such Confidential Information); provided that (i) in no event shall either party be required to return or destroy the other party's Confidential Information that is integrated into its internal electronic systems and (ii) each party may maintain a copy of the other party's Confidential Information as such party may need for legal, audit, regulatory or compliance purposes (in each case, provided such party shall continue to keep the other party's Confidential Information confidential in accordance with this Section 21).

(f) Client understands that M&T has implemented processes and procedures to try to ensure that information (including images) delivered to Client does not contain information relating to an Account or Services of a customer of M&T other than Client. If, despite these processes and procedures, Client receives or can access information relating to another customer of M&T, Client shall promptly:

(i) keep that information confidential, and not display or make available such information to any other person except M&T;

(ii) inform M&T that it is able to access and view such information immediately upon discovering such fact;

(iii) to the extent that the information was provided to Client on media (for example but not in limitation, a CD ROM), upon request by M&T, return that media to M&T or make that media available for retrieval by M&T; and

(iv) destroy any record, copy or file containing such information as may be requested by M&T.

(g) If Client is a governmental or other agency subject to any Freedom of Information Law ("FOIL") or similar, M&T hereby requests that Client give the Agreement (and any pricing and other information submitted by M&T as part of any request for proposal (RFP) submission) confidential treatment pursuant to the relevant FOIL (including, if Client is subject to New York's FOIL, Section 87(2) (c) and (d) of New York FOIL). Such information is proprietary to M&T, the disclosure of which would reveal material nonpublic information and trade secrets that would cause substantial injury to the competitive position of M&T. Prior to any decision by Client to publicly release any such information, Client must contact M&T so that it may take appropriate steps to attempt to protect such information from disclosure. Client agrees to fully cooperate with M&T to attempt to protect such information. Client's obligations under this Section 21(g) are in addition to and not in lieu of any other confidentiality obligations on Client under the Agreement. The confidentiality obligations imposed on Client under this Section 21 are subject to any inconsistent or contrary obligations imposed on Client under applicable law.

SERVICE FEES AND LIABILITY

22. Service Fees

(a) Client shall pay to M&T all Service Fees associated with any Service or Account that Client enrolls in or uses under the Agreement and has elected to utilize. Cost Option #2 as set forth in "Section VII - Cost Proposal Section" of M&T's response to Client's RFP #2021-044 and memorialized in a letter agreement between the parties dated November 19, 2021, which is incorporated herein by reference.

(b) Unless the parties otherwise agree in writing to another payment procedure, Client hereby authorizes M&T to automatically debit its Account, without prior Notice, in the amount of all Service Fees and other fees, expenses and amounts that Client may owe to M&T for any reason in connection with the Agreement, Services or Accounts, including overdrafts on an Account. Client shall maintain available balances in the Account at all times sufficient to pay all such amounts. If Client is eligible for earnings credits on balances in one or more Accounts, M&T will conduct a monthly analysis of Client's eligible Accounts to determine whether the collected balances in the Accounts are sufficient to compensate for all such amounts for that month. If the earnings credits on the Accounts are insufficient to offset all such amounts accrued in any given month, M&T automatically will debit the Accounts for any shortfall between the earnings credit and such amounts due for that month.

(c) All Service Fees and other such amounts are exclusive of any taxes (including any sales, value-added and use taxes), duties, or other governmental charges. Any such taxes, duties and charges (not based on M&T's net income) are promptly payable by Client. M&T reserves the right to charge interest on any Service Fees and other such amounts that are not paid within 30 days of the due date at the maximum rate permitted by applicable law. Client shall pay upon demand any costs incurred by M&T in collecting Service Fees and/or enforcing the Agreement, including attorneys' fees and disbursements. Client understands that the Service Fees may not be identified on specific treasury

NEGOTIATED AGREEMENT

management fee schedules provided to Client before provision of the relevant Service. Periodic Service Fees may be charged for any period in which Client is enrolled in the Service during that period.

(d)

23. Limitation of Liability and Remedies

(a) M&T is responsible only for performing the Services as expressly described in the Agreement and, then, subject to the terms and conditions of the Agreement. THE SERVICES ARE PROVIDED ON AN 'AS IS', 'AS AVAILABLE' BASIS. EXCEPT AS EXPRESSLY SET FORTH IN THE AGREEMENT, M&T MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, IN LAW OR IN FACT, IN CONNECTION WITH ANY OF THE SERVICES, ACCOUNTS, M&T TECHNOLOGY, M&T MATERIALS OR EQUIPMENT THAT M&T MAKES AVAILABLE TO CLIENT, INCLUDING, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OR MERCHANTABILITY. NO DESCRIPTIONS OR SPECIFICATIONS CONSTITUTE REPRESENTATIONS OR WARRANTIES OF ANY KIND. In no event shall M&T be liable for failure to perform any of its obligations under the Agreement if such performance would result in any person being in breach of applicable Law.

(b) To the maximum extent permitted by applicable Law, M&T shall have no liability to Client or any third party with respect to any Loss arising out of, in connection with, or resulting from (i) the Agreement, Services and/or Accounts, except to the extent of actual Loss caused directly by M&T's gross negligence or willful misconduct in performing the Agreement, (ii) Client's failure to comply with the Agreement (or any applicable Security Procedure), (iii) Client's selection of the Services (including Security Procedures), or (iv) Client's selection, operation or maintenance of its Client's Systems, in each case, whether in contract, tort (including negligence) or otherwise. To the maximum extent permitted by applicable Law, in no event will M&T's aggregate liability for any and all Loss arising out of, in connection with, or resulting from the Agreement, Services and/or Accounts exceed the lesser of (i) the total amount of fees paid by Client to M&T for the particular Service(s) that gave rise to the Loss claim for the six month period immediately preceding such claim or (ii) the amount of actual direct damages documented by Client to the reasonable satisfaction of M&T. The foregoing shall constitute the Customer's sole and exclusive remedy for damages or relief in connection with the Agreement, the Services and/or Accounts, whether in contract, tort (including negligence) or otherwise. To the extent M&T is held liable for an unauthorized Payment Order under UCC Article 4A (as modified by the Agreement), M&T shall be liable to the extent provided by UCC Article 4A in respect of such unauthorized Payment Order.

(c) Any action, proceeding or claim against M&T for any Loss in connection with the Agreement, Services or Accounts must be commenced or made in writing within one year after the cause of action accrued; provided that the prior sentence shall not extend any shorter period of time otherwise provided by Law, the Commercial Deposit Account Agreement or other agreement with Client. M&T shall only be liable for any Loss in connection with the Agreement, Services or Accounts if, and to the extent, a final determination is made that M&T is liable for such Loss. M&T shall have no liability to Client or any third party arising under or in connection with the Agreement, the Services and/or Accounts, except as expressly set forth in the Agreement.

(d) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NOTWITHSTANDING ANYTHING ELSE IN THE AGREEMENT OR OTHERWISE, IN NO EVENT WILL M&T BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL LOSS OF ANY KIND HOWEVER CAUSED, INCLUDING FAULT OR NEGLIGENCE, WHETHER OR NOT FORESEEABLE AND WHETHER OR NOT M&T KNEW OF OR HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, INCLUDING LOSS OF PROFITS, GOODWILL AND BUSINESS INTERRUPTION.

(e) Client acknowledges that, without the liability and remedy limitations set forth in the Agreement, the Services would only be available at substantially increased fees. The liability and remedy limitations set forth in the Agreement shall only apply to the maximum extent permitted by applicable Law. M&T and its Affiliates (including their respective representatives) shall have the benefit of the liability and remedy limitations set forth in the Agreement.

24. Indemnification

(a) To the maximum extent permitted by applicable Law, Client hereby releases, indemnifies, defends and holds harmless M&T and its Affiliates (and their respective representatives) from and against any and all losses and any and all causes of actions, claims, demands, suits, and/or proceedings, whether involving direct or third party claims, which directly or indirectly result from, relate to or arise out of or in connection with:

(i) Client's breach of any term, condition, warranty, representation or obligation in the Agreement;

(ii) Client's violation of any applicable law;

(iii) Client's fraud or intentional misconduct;

(iv) Client's provision of any incorrect or incomplete instruction, data or information to M&T;

(v) any use of the Services or Accounts that is not in compliance with the Agreement;

(vi) Client's infringement or alleged infringement of any third party's patent, trademark, copyright, trade secret or other intellectual property right;

(vii) any act or omission that M&T takes in accordance with instructions actually authorized by or on behalf of Client or that M&T reasonably believes to have been authorized by or on behalf of Client, whether or not transmitted using a Security Procedure;

(viii) M&T honoring, or refusing to honor, any signature, instruction, or action of any of Client's Authorized Representatives; and

(ix) any act or omission of Client or any of its Authorized Representatives (including, in each case, in respect of any of the matters described in this Section 24(a)).

(b) If Client fails to fulfill its release, indemnity, defense or hold harmless obligations under the Agreement, such obligations shall include any reasonable legal fees and expenses incurred by M&T in enforcing such obligations. In any case where M&T seeks defense, indemnification or to be held harmless from a third party Loss (a "Third Party Claim"), the following procedures will apply:

(i) M&T shall give written Notice to Client of the Third Party Claim (a "Notice of Claim"). The failure of M&T to so notify Client shall not relieve Client of its obligations hereunder, except to the extent such failure actually materially adversely prejudiced Client's interests.

(ii) M&T shall be entitled to control such Third Party Claim and appoint lead counsel for such defense, using counsel of its own choosing. Client shall pay the fees and expenses of such counsel. If M&T is defending against the Third Party Claim, Client may, but will not be obligated to, participate in the defense of the Third Party Claim, at its own expense and using counsel of its own choosing, but M&T will be entitled to control the defense. Client will reasonably cooperate and provide such reasonable assistance as M&T reasonably requests in connection with M&T's defense. M&T will inform Client on a regular basis of the status of any such Third Party Claim and M&T's defense of it.

NEGOTIATED AGREEMENT

(iii) If M&T elects not to control such Third Party Claim under Section 24(b)(ii) above, Client, using counsel of its own choosing and at its own expense, will defend, contest and otherwise protect M&T against any such Third Party Claim. Client must furnish M&T with evidence that it has adequate resources to defend the Third Party Claim and fulfill its indemnity obligations hereunder. If Client is defending against the Third Party Claim, M&T may, but will not be obligated to, participate in the defense of the Third Party Claim, at its own expense and using counsel of its own choosing, but Client will be entitled to control the defense unless M&T has relieved Client in writing from liability with respect to the particular matter. M&T will reasonably cooperate and provide such reasonable assistance as Client reasonably requests in connection with Client's defense and will be entitled to recover from Client the reasonable costs of providing such assistance. Client will inform M&T on a regular basis of the status of any such Third Party Claim and Client's defense of it.

(iv) In any Third Party Claim in which Client controls the defense, Client will not, without M&T's prior written consent, compromise or settle such Third Party Claim if (A) such compromise or settlement would impose an injunction or other equitable relief upon M&T or its representatives or (B) such compromise or settlement does not (in writing) include an express and unconditional release of M&T and its representatives from all liability and obligations relating to the Third Party Claim.

(v) If Client fails to timely defend, contest, or otherwise protect against any Third Party Claim under Section 24(b)(iii) above, M&T may, but will not be obligated to, defend, contest or otherwise protect against the Third Party Claim, and make any compromise or settlement and recover from Client the entire costs M&T expended, including reasonable attorneys' fees and disbursements of counsel and all amounts paid as a result of the Third Party Claim and the compromise, settlement, or other resolution of it.

(c) The obligation of Client to defend, indemnify and hold harmless M&T and its Affiliates (and their respective representatives) under the Agreement may be enforced exclusively by M&T or its Affiliate and nothing in the Agreement will be construed to grant such representatives any individual rights, remedies, obligations or liabilities with respect to Client.

(d) If any provision in the Agreement requires Client to defend M&T in respect of any Loss or cause of action, claim, demand, suit, or proceeding arising out of or in connection with a Third Party Claim, such defense shall be subject to the provisions in this Section 24. Nothing in this Section 24 shall limit or prejudice any other rights or remedies available to M&T under applicable Law.

TERM AND TERMINATION

25. Term

The Agreement shall commence on November 15, 2021 and, subject to the terms and conditions of this Agreement, end on December 31, 2024. Provided the Agreement has not already been terminated (or a notice of termination has not already been provided) by either party in accordance with the terms and conditions of this Agreement, Client shall have the option to extend this Agreement for two (2) one (1) year periods.

26. Termination

(a) Effective on and from January 1, 2022, Client may only terminate the Agreement, or any particular Service, for any reason, upon providing at least thirty days' prior written Notice to M&T.

(b) M&T may terminate the Agreement, or any particular Service, upon providing at least thirty days' prior written Notice to Client. Nonetheless, M&T may terminate the Agreement, or any Service,

immediately in the event that, in M&T's sole business judgment, termination is appropriate. Appropriate reasons include:

(i) pursuant to the requirements of any applicable Law, court order or regulator;

(ii) Client's breach of any term, condition, warranty, representation or obligation in the Agreement or any other agreement with M&T;

(iii) M&T's reasonable belief that fraudulent, illegal, dishonest or unauthorized activity has occurred or is reasonably likely to occur with respect to any Service or Account;

(iv) Client's failure to maintain sufficient available funds in any Account maintained for a Service or if Client closes any Account established for a Service without establishing a new Account;

(v) Client makes an assignment for the benefit of any creditor; enters into a compromise agreement with its creditor or files a voluntary petition in bankruptcy; an involuntary bankruptcy petition is filed against Client; Client is, or admits, its inability to pay its obligations as they become due; or M&T determines, in its reasonable discretion, that Client's financial status is impaired; or

(vi) M&T's reasonable belief that its provision of any Service to Client creates a risk of financial or reputational loss for M&T or may result in an unacceptable credit exposure to M&T.

(c) M&T may terminate any Service on an Account if Client closes the Account established with that Service (without Notice to Client).

(d) Termination of the Agreement will terminate all Services provided under the Agreement. M&T may deem the Agreement terminated at such time as Client is not receiving any Services for any Account. Termination of the Agreement or any Service is in addition to any other rights and remedies of M&T under applicable Law or the Agreement, and does not release Client from any of its obligations that arose or became effective prior to such termination. The termination Notice time frames in this Section 26 may be varied by the terms of a particular Product Terms and Conditions.

27. Post Termination

(a) If the Agreement or any particular Service is terminated for any reason, Client will (i) immediately stop using the terminated Services and return to M&T all of M&T's property, including M&T Technology, M&T Materials and M&T's Confidential Information relating to the terminated Services in accordance with Section 21(e) (unless M&T expressly authorizes Client in writing that it may destroy any such items) and (ii) promptly erase or delete any software that M&T provided to Client relating to the terminated Services. Termination of any Service does not affect Client's payment obligations for such Service that M&T provided to Client prior to such termination. Upon termination, all amounts owed by Client with respect to the terminated Services will become immediately due and payable.

(b) Any Payment Orders and transactions initiated prior to the effective date of termination of the relevant Service will not be affected and will continue to be subject to the Agreement. For the avoidance of doubt, the provision of any Service to Client after termination of the Agreement shall not be construed as a renewal or extension, or as a waiver of termination, of the Agreement. In the absence of a separate written agreement between the parties relating to the provision of such Service, the terms and conditions of the Agreement shall apply to the provision of such Service after termination of the Agreement.

(c) The following provisions of this Master Agreement shall survive termination of the Agreement or any Service: Sections 21 to 24 (inclusive) and 26 to 44 (inclusive) along with any other provision of the Agreement necessary to give effect to those provisions (including definitions). Any other provision of the Agreement that (i) the parties

NEGOTIATED AGREEMENT

have expressly agreed in writing will survive any termination, (ii) remains to be performed or by its nature is intended to be applicable after termination, or (iii) is a confidentiality obligation, a limit on M&T's liability or M&T release, indemnity or hold harmless right, shall survive any termination.

GENERAL PROVISIONS

28. Entire Agreement

(a) The Agreement and the documents referenced in Section 28(c) constitute the entire agreement between the parties relating to the Services identified in any Client Election Form signed contemporaneously with or following Client's execution of this Master Agreement and supersedes any prior or contemporaneous written or oral agreement, understanding, arrangement, communication or representation between the parties with respect to the subject matter of the Agreement in regard to such Services, including any marketing or other similar materials. Any additional or conflicting term or condition in any document submitted by Client, any Client request for proposal (including any most favored customer, pricing or nation provision therein), any sales or marketing material or any course of dealing or usage of the trade, is deemed objected to by the parties and will not form part of the Agreement. No course of dealing or conduct between the parties will constitute a change to the Agreement, or constitute an agreement between the parties, regardless of whatever practices and procedures the parties may use.

(b) Client acknowledges and agrees that, if it is an existing client (i.e., a client for which any Service has already been implemented as of the date of this Master Agreement), the Agreement (including Product Terms and Conditions and Security Procedures) shall apply to all of Client's existing and new Accounts and Services in accordance with the 'Existing Customer Acknowledgement' section of the Client Election Form.

(c) The following documents also are incorporated into and form a part of the Agreement: (i) the ACH Rules and (ii) any terms and conditions applicable to Client's use of the Websites (such as the Website Terms of Use and Internet Policy, which can be found on M&T's Websites).

29. Dispute Resolution

Any dispute or controversy arising out of or relating to the Agreement will be subject to the dispute resolution procedures in the Commercial Deposit Account Agreement.

30. Governing Law and Jurisdiction

The Agreement will be governed by and interpreted according to (i) U.S. federal law and (ii) subject to any rules of preemption, the laws of the State or other jurisdiction in the U.S. that has been determined in the Commercial Deposit Account Agreement to apply to the Account associated with the Service (or, in the case of multiple Accounts, to the principal Account), without regard to the jurisdiction's principles of conflicts of law. Any action, proceeding or claim asserted under the Agreement will be brought and maintained only in the largest metropolitan city that has a legal tribunal of competent jurisdiction in the county where the M&T branch is located to which Client's principal Account is assigned. In any action, proceeding or other claim relating to the Agreement, Services or Accounts, a copy of any part of the Agreement and other records kept in the normal course of M&T's business may be entered into evidence as an original, subject to the applicable rules of evidence.

31. Waiver of Jury Trial and Sovereign Immunity

(a) THE PARTIES IRREVOCABLY WAIVE ANY AND ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR CLAIM OF ANY NATURE ARISING OUT OF OR IN ANY WAY RELATED TO THE AGREEMENT, ANY DOCUMENT EXECUTED BY THE PARTIES IN CONNECTION WITH THE

AGREEMENT, OR ANY TRANSACTION CONDUCTED HEREUNDER. THIS IS A KNOWING AND VOLUNTARY WAIVER.

(b) CLIENT REPRESENTS AND WARRANTS THAT IT HAS EXPRESSLY INFORMED M&T IN WRITING, PRIOR TO ENTRY INTO THE AGREEMENT, IF IT IS AN ENTITY THAT HAS OR MAY HAVE ANY RIGHT OF SOVEREIGN IMMUNITY OR SIMILAR RIGHT. WITH RESPECT TO ANY DISPUTE OR CONTROVERSY RELATING TO THE AGREEMENT, SERVICES AND/OR ACCOUNTS, CLIENT HEREBY WAIVES ANY RIGHT OF SOVEREIGN IMMUNITY OR SIMILAR RIGHTS AS TO IT OR ITS PROPERTY WITH RESPECT TO M&T'S ENFORCEMENT OF THE AGREEMENT AND ANY OTHER RIGHTS AND/OR REMEDIES M&T MIGHT HAVE AGAINST CLIENT OR ITS PROPERTY RELATING TO THE AGREEMENT, SERVICES AND/OR ACCOUNTS. IF THIS PROVISION DOES NOT EFFECTIVELY WAIVE SUCH IMMUNITY OR RIGHT, CLIENT SHALL PROMPTLY DELIVER TO M&T SUCH DOCUMENT(S) AS IS NECESSARY TO EFFECTIVELY WAIVE SUCH IMMUNITY OR RIGHT.

32. Notices; Communication

(a) All notices, demands, claims, consents, approvals, waivers and other communications required or permitted under the Agreement or in connection with the Services or Accounts (collectively, "Notices") must be in writing, unless the Agreement expressly provides otherwise. Notices to M&T must be sent to: M&T Bank, Commercial Service Team, P.O. Box 4607, Buffalo, New York 14240; provided, Client should consult the applicable current Product Terms and Conditions or User Guides for any different M&T address for Notice for a particular Service. Each party may rely upon the other party's current mailing or email address for Notices until a written notification of change is received and the receiving party has had a Reasonable Time to Act to amend its records accordingly. It is Client's responsibility to provide M&T, in writing, with any changes to its mailing or email address for Notices in a timely manner so as to afford M&T a Reasonable Time to Act to implement the changes.

(b) Unless otherwise specified in the Agreement, Notices may be given to either party by personal delivery, First Class U.S. Mail, electronically or delivery by a nationally recognized courier service. Any Notice is deemed given:

(i) If personally delivered or delivered by a courier service – on (A) the day of delivery, if delivered on a Business Day before 5:00pm local time in the place of delivery or (B) the Business Day immediately following such day, if delivered after such time;

(ii) If mailed by First Class U.S. Mail to M&T – on (A) the day that M&T actually receives the Notice, if received on a Business Day before 5:00pm local time in the place of receipt or (B) the Business Day immediately following such day, if received after such time;

(iii) If mailed by First Class U.S. Mail to Client – on (A) the day immediately following the day on which M&T mails the Notice, if such immediately following day is a Business Day or (B) otherwise, the Business Day immediately following such day;

(iv) If delivered by electronic mail to M&T – on (A) the Business Day that Client receives confirmation of receipt by return electronic mail from M&T, if the confirmation is received by 5:00pm local time in the place of delivery of the electronic mail or (B) the Business Day immediately following such day, if received after such time; or

(v) If delivered by electronic mail to Client – on (A) the Business Day that M&T sends the electronic mail message, if sent before 5:00 pm local time in the place of receipt or (B) the Business Day immediately following such day, if sent after such time.

(c) M&T is entitled to a Reasonable Time to Act upon any Notice or instruction that it receives from or on behalf of Client. In the event the parties agree that Client may give a Notice or instruction orally for a specific aspect of a Service or Account or with respect to a particular matter arising under the Agreement, such oral Notice or instruction

NEGOTIATED AGREEMENT

should, thereafter, be confirmed by Client in writing subject to the provisions in this Section 32. Client understands that there is risk in M&T acting on any such oral Notice or Instruction. M&T may rely on any oral Notice or Instruction from Client and M&T's records of the oral Notice or Instruction controls.

(d) M&T may provide Notices, communications, billing statements and disclosures to Client as Electronic Records (i) via e-mail; (ii) by posting such electronic communications to the Website, with notice via email or other means that the electronic communications have been posted; (iii) by displaying the electronic communications to Client or its Authorized Representative during active online sessions on the Website or otherwise; or (iv) by any other electronic means. Communications with Client regarding operational, product-related, procedural and technical matters relating to the Services and Accounts may be provided orally. Notwithstanding that a mailing or email address might be set forth in this Master Agreement for Notices to Client, a Notice to Client will be effective if M&T sends such Notice to any mail or email address of an Authorized Representative of Client, including updates of policies, guides, procedures and software relating to the Services and Accounts. Except as otherwise expressly provided in the Agreement, M&T is not required to act upon any Notice received from Client or other person or to provide any Notice or advice to Client or other person.

33. Construction of Agreement

In no event shall the Agreement be construed more strongly against one party solely because such party acted as the primary drafter hereof. The Agreement shall, for all purposes, be presumed to have been jointly prepared and drafted. With respect to any proceeding arising in connection with the Agreement, to the extent any provision contained in M&T's standard form for the Agreement (or any part thereof) has been omitted or modified as a result of the negotiation of the Agreement between M&T and Client, such omission or modification shall not be (a) construed to imply the negative of such omitted or modified provision, (b) permitted to be used as parole evidence, (c) used to demonstrate ambiguity in any other provision made herein, or (d) admissible as evidence. In addition, both parties hereby waive the presumption that any ambiguity in the Agreement shall be construed against the drafter.

34. Severability

If any provision of the Agreement or the application thereof in any particular circumstance, is held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other provision hereof and the remaining provisions of the Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated. The Agreement shall in such circumstances be deemed modified to the extent necessary to render enforceable the remaining provisions hereof to the maximum extent permitted by applicable Law.

35. Waivers

Unless otherwise expressly provided herein, the rights and remedies provided under the Agreement shall be cumulative and not exclusive of any rights or remedies provided by applicable Law. No failure or delay by M&T in exercising any right, power or privilege under the Agreement shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. Any provision of the Agreement may be waived by M&T if, but only if, such waiver is in writing and is signed by M&T.

36. Amendments

The Agreement may not be amended orally or by course of conduct by either party. M&T may propose changes to the fees, charges and other provisions contained in the Agreement as M&T deems necessary in the course of its business, at any time. Any such change will be effective immediately if such change will not have a material adverse effect on Client's use of the Services (as determined by M&T in its reasonable

discretion) and, otherwise, will be effective on the date indicated in a Notice to Client. Such Notice may be provided or made available to Client in hardcopy or via electronic means or channels, including by publishing such changes on the Website. If Client does not agree with any such change, Client must immediately discontinue its enrollment in and use of the affected Service before the change becomes effective or, if such change became effective immediately, promptly after such change becomes effective. If Client continues to be enrolled in, to use or to pay for the affected Service after such change becomes effective, Client will be bound by such change and will be deemed to have agreed to and accepted such change. Notwithstanding anything else in this Section, (i) M&T may make any such change without prior Notice to Client if such change is required by applicable Law or if an immediate change is required for security reasons as determined by M&T in its sole discretion and (ii) M&T may change or update the User Guides and Product Terms and Conditions on an annual basis or at any other time as M&T deems necessary in the course of its business. The Agreement may not otherwise be changed or amended.

37. Representations and Warranties

Client represents and warrants to M&T as of the date of this Master Agreement and each time it enrolls in, uses or pays for a Service that (i) Client is duly organized or formed, validly existing and in good standing in the jurisdiction in which it is organized or formed, (ii) Client has the power and capacity to enter into the Agreement and to perform each transaction and obligation relating to the Agreement and Services, (iii) Client has been duly authorized to execute, deliver and perform the Agreement, (iv) the individual/s signing this Master Agreement (or any part hereof) are duly authorized to execute the Agreement and to perform and engage in each transaction directed by such person, and (v) Client's execution, delivery and performance of the Agreement does not and will not violate any applicable Laws, Client's organizational or governing documents or any contract with a third party. Client shall provide evidence of such authorization upon request by M&T. Client shall promptly notify M&T if any of its representations or warranties in the Agreement cease to be true and correct.

38. Binding Effect

The Agreement is entered solely by and between, and may be enforced only by, Client and M&T (and their respective permitted successors and assigns) and, except to the extent expressly provided for herein, is not intended to confer on any other person any right, remedy, obligation or liability under or by reason of the Agreement.

39. Conflicts

In the event of a conflict between any provisions in the documents that form part of the Agreement, the order of precedence shall be as follows:

- (a) the applicable Product Terms and Conditions (unless any provision of a particular Product Terms and Conditions explicitly states that the provisions of the Master Agreement, User Guide or other document controls in the event of a conflict with such provisions of the Product Terms and Conditions);
- (b) this Master Agreement;
- (c) the User Guide (unless any provision of a particular User Guide explicitly states that the provisions of the User Guide controls in the event of a conflict with any other provision of the Master Agreement or Product Terms and Conditions);
- (d) the other documents forming part of the Agreement listed in subsections (ii) and (v) to (vii) on Page 1 above (unless any provision of such document explicitly states that the provision of such document controls in the event of a conflict with any other provision of the Agreement);
- (e) the RFP (except to the extent exception has been taken thereto by M&T in its Proposal); and

NEGOTIATED AGREEMENT

(f) the Proposal.

40. Assignment

Neither the Agreement nor any rights, interests, or obligations under it may be assigned by either party without the prior written consent of the other party; provided the prior consent of Client will not be required in connection with an assignment by M&T (i) to an Affiliate, (ii) effected by merger, consolidation, or otherwise by operation of law, (iii) that is part of a sale or transfer of all or substantially all of M&T's business or assets relating to the Services, or (iv) to any other third party (provided M&T notifies Client of the assignment to such other third party prior to or as soon as reasonably practicable thereafter). Subject to this Section 40, the Agreement will be binding on, inure to the benefit of, and be enforceable by the parties and their respective successors and permitted assigns. Any purported assignment in violation of this Section 40 will be void.

41. Force Majeure

Neither party will be liable for any delay or failure in performance of any part of the Agreement and neither party shall be deemed to be in breach of any of its obligations hereunder, if such failure, delay or breach is due to any cause beyond its reasonable control, including any act, omission or inaccuracy of a third party not under such party's control, any act of God, act of civil or military authority, government regulation, court order, embargo, epidemic, war, terrorist act, riot, insurrection, fire, flood, hurricane, explosion, earthquake, nuclear accident, power blackouts, major environmental disturbance, unusually severe weather condition, strike of employees, currency restriction, unavailability of, or failure to act or delay in acting of, any payment system, Correspondent, U. S. Postal Service, express or armored courier or any other party necessary to a Service. This Section shall not relieve Client of its obligation to pay M&T for Services actually provided to Client.

42. Export Control

The Website and other Services may contain software and other technology that are subject to United States export controls. No software or other technology from the Website and other Services may be downloaded, accessed or otherwise exported or re-exported (i) into, or to a national or resident of, a country to which the U.S. has embargoed goods (currently including: Cuba, Iraq, Libya, Sudan, North Korea or Iran), or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders. By accessing the Website and Services, Client represents and warrants that it is not located in, or under the control of, or a national or resident of any such country or on any such list.

43. Further Assurances

Client shall execute, deliver and perform all other agreements required by any vendors or other parties necessary for the provision of the Services and Accounts (including any sublicense agreements or postal authorizations) or as reasonably requested by M&T for the provision of the Services and Accounts. Client is responsible for paying its own legal and other expenses associated with the execution of the Agreement.

44. Relationship

The relationship of the parties under the Agreement is that of independent contractors. Nothing in the Agreement shall be deemed to create a partnership, joint venture or similar relationship between the parties, and neither M&T nor Client shall be deemed to be the agent of the other party. M&T is not in a fiduciary or similar relationship with Client or its Servicer and has no fiduciary duties or obligations to Client or its Servicer in respect of any of the Services.

45. Counterparts

The Agreement may be signed in any number of counterparts (including facsimile copies), each of which shall be deemed an original, with the

same effect as if the signatures thereto and hereto were upon the same instrument. M&T may, at any time, prepare an Electronic Record that contains an image or other copy of the original Agreement signed by Client. Such Electronic Records will be deemed to constitute, for all purposes, the original Agreement signed by Client, whether or not M&T retains the original Agreement. M&T may also maintain Electronic Records that have been provided or delivered to Client or its Authorized Representative or provided or delivered to M&T by Client or its Authorized Representative, and signed by Client, Client's Authorized Representative, and/or M&T using Electronic Signatures. All true and correct copies of such Electronic Records shall be deemed "originals" for all purposes under applicable law. Electronic Records may be maintained in any accessible form, including a computer file in Adobe Portable Document Format or other industry-standard format.