

# FIRST COMMERCE BANK

## BUSINESS ONLINE BANKING AGREEMENT

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**THIS AGREEMENT GOVERNS YOUR USE OF THE FIRST COMMERCE BANK BUSINESS ONLINE BANKING SERVICES. BY ENROLLING IN BUSINESS ONLINE BANKING OR BY USING ANY OF THE SERVICES OF BUSINESS ONLINE BANKING, YOU AGREE TO THE TERMS OF THIS AGREEMENT.**

***PLEASE READ THIS AGREEMENT CAREFULLY BEFORE YOU AGREE TO IT.***

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The First Commerce Bank Business Online Banking Service is a banking and information service that allows business customers, via the Internet, to access and use a number of banking services (the "Services") and to manage certain of their banking activities online. The First Commerce Bank Business Online Banking Service provides access to balance and transaction information, transfers between accounts, and access to statements and paid items, and other functionalities.

In this Agreement, the word "Bank" will mean First Commerce Bank. The words "you" and "your" will mean the business customer of the Bank using the Services.

### **AGREEMENT**

- 1. Required Account** - To use the Services, you must maintain at least one First Commerce Bank business checking account. You agree to properly maintain your account, comply with the terms and conditions of the account, and pay any fees related to the account.
- 2. Business or Commercial Use Only** - By using the Services, you represent and warrant to the Bank that you will only use the Services for governmental, business, commercial, or agricultural purposes and not for personal, family or household purposes. You agree that you are not a "consumer" within the meaning of the Federal Electronic Fund Transfer Act (the "Act") and Federal Reserve Regulation E ("Regulation E") and that the Act and Regulation E do not apply to your use of the Service or any dispute arising between you and the Bank out of your use of the Service.
- 3. Third-Party Service Providers** – Certain Services available on the Bank's website (the "Website") are provided by third-party service providers selected by the Bank. An example of a third-party service is the bill payment service. The third-party services will also be governed by separate agreements between you and the third-party service provider that offers the service. You agree that the Bank is not responsible for any act or omission of any third-party service provider whose service you use via the Website.
- 4. Security Procedures** - The Initial authorized representative will provide their user ID and we will supply your Initial authorized user with a unique user password, and administrative authority to permit you to access the Service. The initial authorized representative (the "senior administrator") may provide other individuals with a user ID and a password to gain access to and use the Service. By the senior administrator giving other individuals access to and authority to use the Service, those other individuals will become authorized representatives. Additionally, the senior administrator may give any or all individuals to whom you have given user IDs and passwords, administrative rights with respect to the Service.

The initial password should be changed immediately. Thereafter, you will be required to change your passwords periodically. In addition, the Bank may require you to use, one or more types of authentication tokens, one-time passcodes, or other security devices to verify your identity and the device you use to access the Service or to verify a specific transaction. The Bank reserves the right to prevent access to the Service and/or refuse to process any payment or funds transfer for security reasons, or if the Bank or its third-party service provider suspects fraud.

You are solely responsible for designating your authorized representatives, assigning privileges, and disclosing the identity of the authorized representatives to the Bank in writing. By designating one or more authorized representatives, you represent and warrant to us that your authorized representatives have the authority to initiate funds transfers, bill payments, and all other types of transactions through the Service.

In addition, you must (a) require all authorized representatives to keep their user IDs and passwords secure and strictly confidential; and (b) immediately notify the Bank and adopt a new password if you or any of your authorized representatives believe your user IDs or passwords may have become known to an unauthorized person. The Bank or its vendors may disable passwords of authorized representatives even without receiving such notice from you if there is a suspicion that user IDs and/or passwords are being used in an unauthorized or fraudulent manner.

You authorize us and our third-party service providers to act upon any transaction, whether or not the authorization to conduct the transaction is initiated by an authorized representative, as long as that authorization was given using a valid user ID and password of an authorized representative. Furthermore, any instructions, directions, or other information provided by you or any of your authorized representatives will be deemed to have been authorized by you. The Bank and its third-party service providers will not be responsible for verifying the identity or authenticity of any person claiming to be an authorized representative when that person has provided the Bank or its third-party service provider with the user ID and password of an authorized representative.

You assume any and all liability arising from the use or misuse of the Service by your authorized representatives. By using the Service, you agree to indemnify and hold the Bank and its third-party service providers harmless from any and all liability and damages resulting from the Bank or the third-party service provider acting upon any direction, instruction, or information that is initiated with a user ID and password of an authorized representative.

**5. Hacking and Malware Risks** – You understand that there is a risk that criminals may use various schemes (such as offers of free software or e-mail messages with attachments) to plant computer viruses, spyware or other malicious software (collectively “malware”) in your computers to gain access to your internet banking applications and your user IDs, passwords, security keys, one-time passcodes, and other security protocols. This malware then uses the information to initiate payments to third parties by means of bill payments, payment orders, automated clearing house (ACH) entries, or other means of electronically transferring funds. You acknowledge that there is a substantial risk of this occurring and therefore agree to take all commercially reasonable steps to prevent the installation of such malware on your computers. These steps include, but are not limited to, installing and maintaining state-of-the-art anti-virus and malware detection software on your computers. You agree that the Bank has no duty or obligation whatsoever to protect you from such criminal activities and that the Bank has no duty or obligation to ascertain whether or not any bill payment, payment order, ACH entry, or other electronic

payment order or transfer of funds from or between your accounts is made in connection with a legitimate transaction when the instruction to transfer funds or make a payment is initiated from your computers and/or is accompanied by a correct user ID and password and any additional security procedure.

**6. Availability of the Services** – The Bank does not warrant that Business Online Banking will be available at all times. Business Online Banking may not be available at certain times due to systems maintenance or systems or communications outages.

**7. Stop Payments** – You may use the stop payment feature of Business Online Banking to stop payment on any item or entry payable from your account. Any stop payment order must:

- a. Precisely identify the exact item number and the exact dollar amount of the item to the penny. All other information must be reasonably accurate. If you do not give exact information as to the item number and dollar amount, the item or entry will not be stopped and the Bank will have no responsibility for not stopping the payment;
- b. The stop payment order must be received a reasonable time before the item or entry has been paid by the Bank and stop payment order must be received in time to give the Bank a reasonable time to act upon it.

The stop payment order is effective for six months unless renewed through Online Banking or in writing before the expiration of six months. If the stop payment order is not renewed before the expiration of six months, it will automatically terminate and the Bank can pay the item or entry. You agree to pay a stop payment fee for each new stop payment and each renewal of a stop payment order. Please refer to the Bank's current Service Fee Schedule for the current amount of this fee.

**8. Business Bill Payment** – Business Online Banking includes a Bill Payment Service provided by a third-party service provider that allows you to pay electronic invoices or invoices that are received in paper form. The Bill Payment Service is governed by a separate Bill Payment Agreement. By using the Bill Payment Service, it will mean that you have agreed to the Terms and Conditions of the Bill Payment Service posted on the Bank's Website. You can review the Terms and Conditions by going to the Bill Payment webpage and clicking on the "Terms and Conditions" link at the bottom of the page. There are currently no fees for using the Bill Payment Service.

**9. Merchant Capture Services and ACH Origination Services** - The Bank offers Business Online Banking Merchant Capture services (remote deposit capture) and an automated clearing house (ACH) origination service. Use of either of these services will require you to sign a separate agreement with the Bank governing your use of these services. In addition, the Bank will require enhanced security procedures in connection with your use of these services.

**10. Commingling of Funds of Different Entities and/or Persons** - By asking the Bank to link accounts and permit the transfer of funds between accounts of different entities and/or the accounts of individuals, you and any other person or entity whose accounts are linked thereby irrevocably release the Bank from any and all liability resulting directly or indirectly from the linking of the accounts. You and any other person or entity whose accounts are linked, jointly and severally, also agree to indemnify, defend and hold the Bank harmless against any loss, liability, or expense (including reasonable attorney's fees and expenses) resulting from or arising directly or indirectly out of the linking of the accounts. In addition, by requesting the linking of accounts of different entities and/or accounts of individuals with one or more

entities, you irrevocably waive the provisions of any corporate resolution (or other authority document) and signature card specifying the individuals authorized to act with respect to any linked account and agree that any individual using a user ID and password to conduct online banking transactions has the power and authority to transfer or withdraw all of the funds on deposit in any linked account.

**11. LIMITATIONS ON THE BANK'S LIABILITY** - IN NO EVENT WILL THE BANK BE LIABLE TO YOU FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY LOST PROFITS, LOSS OF ANY OPPORTUNITY OR GOODWILL OR THE RESULTING EFFECT OF SUCH LOSS ON YOUR BUSINESS, EVEN IF THE BANK HAS FIRST BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. THE BANK'S LIABILITY, IF ANY, FOR DAMAGES RESULTING FROM OR ARISING OUT OF ANY OF THE SERVICES WILL BE LIMITED TO THE AMOUNT OF FEES YOU HAVE PAID FOR SUCH SERVICE FOR THE TWELVE-MONTH PERIOD PRIOR TO WHEN THE CLAIM AROSE.

**12. Indemnification** - You agree to indemnify, defend, and hold the Bank harmless from and against any and all claims, causes of action, liability, loss, damage or expenses (including reasonable attorneys' fees and other legal expenses) resulting from or arising out of or in connection with (a) your breach of this Agreement, (b) unauthorized actions initiated or caused by you, your employees or agents, or any other party using authorized user IDs and passwords, (c) the Bank acting in reasonable reliance upon instructions, notices, information and data you provide to the Bank, and (d) the act, delay, omission or failure to perform by any third-party, including any other financial institution.

**13. Force Majeure** – The Bank will not be liable for any failure to perform or delay in performance of its obligations under this Agreement if such failure, inability, or delay is due to acts of God, pandemic, war, civil commotion, terrorist acts, governmental action, fire, explosion, strikes, other disturbances, equipment malfunction, or any other cause that is beyond the Bank's reasonable control.

**14. Change in Terms** - The Bank may change the terms of this Agreement at any time. The Bank may also add, discontinue or modify services, and change procedures and fees at any time. The Bank will notify you in advance of such changes, by mail or by an electronic message posted on the Bank's Website.

**15. Fees** - You agree that the Bank may charge you any applicable fees for the Services provided through Business Online Banking. Any fee will be automatically deducted from your account.

**16. Cancellation** - This Agreement will remain in effect until either you or the Bank terminates it. However, the Bank will terminate this Agreement if you have not used any of the Services for a period of 6 months. You may cancel this Agreement at any time by notifying the Bank of your intent to cancel through the electronic message feature or in writing. You understand that this cancellation applies only to Business Online Banking and will not affect your other accounts at the Bank. The Bank may cancel this Agreement or terminate your use of Business Online Banking, for any reason, at any time.

**17. Governing Law** – All transactions and other matters concerning these Services are governed by New Jersey law without giving effect to principles of conflicts of law.

END OF AGREEMENT

## WIRE TRANSFER AGREEMENT

This Business Online Banking Wire Transfer Agreement will govern your use of the First Commerce Bank Business Online Banking Wire Transfer Service (the "Service"). **By using the Service, you acknowledge and agree that you have read, understand and agree to the following terms of this Wire Transfer Agreement. You specifically acknowledge that you have read, understand and agree to the terms of Section 24 (Hacking and Malware Risks).**

**PLEASE READ THIS AGREEMENT CAREFULLY BEFORE YOU AGREE TO IT.**

### AGREEMENT

In this Agreement, the word "Bank" will mean First Commerce Bank. The words "you" and "your" will mean the customer of the Bank using the Wire Transfer Service (the "Wire Service"). A request to wire transfer funds is called a "payment order" under Article 4A of the Uniform Commercial Code and will be called a "payment order" in this Agreement.

**1. Authorization** - You authorize the Bank to honor and execute your payment orders to any other account at the Bank, or to any third party, only when the payment order is given to the Bank in accordance with the provisions of this Agreement. All fund transfers shall be in U.S. dollars only. You authorize the Bank to debit the account identified in your payment order for the amount of the payment order on the execution date of the payment order along with any applicable fees.

**2. Security Procedures** – By using The Bank's Wire Service, you agree to adopt and use the following security procedures:

(a) In addition to the security procedures required for access to Business Online Banking, the ability to initiate payment orders will also require the use of a security token provided to you by the Bank. The security token may be a small, connectionless device or software installed on a mobile device that generates a one-time passcode to use each time you wish to initiate a payment order. The passcodes generated by the security token are unique to your account and change several times a minute for your protection. Each time your authorized representative logs in to Business Online Banking and seeks to initiate a payment order, your representative must also input the one-time passcode generated by the security token. If the correct one-time passcode generated by the security token is entered, the representative is granted access to input the payment order. If the passcode is not correct, then access to initiate a payment order is denied. This security token protects against unauthorized payment orders and must be kept in a safe place that is not accessible to any person not authorized to initiate payment orders on your behalf.

(b) Any payment order transmitted and verified in accordance with the security procedure set forth in this Section 2 is effective as your payment order whether or not (a) the person is in fact authorized to act on your behalf, or (b) the person is acting in excess of his or her authority.

(c) The Bank shall not be liable for its refusal to honor any payment order or related request if the Bank, in good faith, is unable to satisfy itself that the instruction was given by an authorized representative and/or that all of the Bank's security requirements have been met

(d) You agree to be solely responsible for maintaining the confidentiality of all user IDs, passwords and the security token. Any breach of confidentiality or loss of the security token must be reported as soon as possible by you to the Bank's Electronic Banking Department.

(e) The Bank may change these security procedures from time to time. You agree to comply with any new or enhanced security procedures that the Bank in the future may require for continued use of this Service.

**3. Rejection of Payment Orders** – The Bank reserves the right, in its sole discretion, to reject any payment order for any reason and you agree that the Bank shall incur no liability whatsoever to you or any third party because of any such rejection. In the event that the Bank elects to reject a payment order, the Bank will notify you of the rejection.

**4. Cut-Off Time for Receipt of Payment Orders** - All payment orders must be received by the Bank prior to its published cut-off time on each business day on the day the funds transfer is to be made. The Bank has no obligation to accept any payment order (or other funds transfer instructions) after this deadline for processing within that business day. The Bank may change the cut-off time by posting the new time on its website or otherwise providing you with advance notice of the new cut-off time.

**5. Reliance on Account Numbers and Bank Numbers** - You understand and agree that a payment order will be processed and posted by each bank handling the payment order (including the Bank) based on (a) the **account number** of the beneficiary and **not** by the name of the beneficiary, and (b) the identification number (such as the bank routing number or SWIFT code) of the beneficiary bank (and any specified intermediary bank) and **not** by the name of any bank. It is your exclusive obligation to verify that the account number of the beneficiary and the routing number, SWIFT Code or other identification number of the beneficiary bank (and any specified intermediary bank) are THE EXACT, CORRECT NUMBERS. The Bank will not and has no obligation to compare or otherwise ascertain whether or not the name of a beneficiary agrees with the account number of the beneficiary or that the name of any bank agrees with the routing number, SWIFT Code or the identification number of any bank that you provide.

**6. Attempted Cancellation or Amendment of Payment Orders** - In the event that you wish to cancel or amend a payment order previously received by the Bank, the Bank shall use its best efforts to effectuate your wishes unless the Bank in good faith believe such efforts to be futile. However, the Bank makes no representations or warranties as to its ability to (a) cancel or amend a payment order previously received by the Bank, or (b) recover any funds already transferred. The Bank shall have no liability to you for its failure to effectuate any requested amendment or cancellation of any payment order. Any request to cancel or amend any payment order must be given to the Bank in sufficient time to give the Bank a reasonable opportunity to act on it before the Bank executes its own payment order to transfer your funds. The Bank may condition any action that it elects to take with respect to any amendment or cancellation upon (a) compliance with the security procedures set forth in Section 2, (b) you supplying the Bank with a reasonably accurate description of the original payment order and (c) receipt by the Bank of an indemnity bond, an indemnification agreement or other security under which the Bank is held harmless from and against any loss, liability, cost (including but not limited to telex and cable fees) or expense (including but not limited to reasonable attorney's fees) arising from or in connection with the attempted cancellation or amendment of a payment order.

**7. Restricted Funds Transfers** – The Bank reserves the right to delay or not to accept payment orders (a) to certain beneficiaries located in certain foreign countries; (b) to beneficiaries on the Specially Designated National and Blocked Person list maintained by the U. S. Department of the Treasury, or (c)

for any reason related to an Executive Order of the President, Foreign Governmental Embargoes/Sanctions, or U.S. Department of Treasury directives. You shall cooperate with any procedures related to such payment orders.

**8. Erroneous Payment Orders** - You understand that the security procedures are not designed to detect or prevent errors in your payment orders. Your errors include (but are not limited to) providing the Bank with the wrong name and/or wrong account number of the beneficiary; providing the Bank with the wrong name and/or wrong account number of the beneficiary bank or intermediary bank (if applicable); providing the Bank with an incorrect amount of a payment order or instructing the Bank to initiate the same payment order twice. The Bank shall have no liability to you for errors in payment orders.

**9. Time Limit on the Reporting of Unauthorized or Incorrect Payment Orders** - You agree that the Bank shall have no liability to you for (a) any unauthorized payment order accepted by the Bank, or (b) any mistake or irregularity in any payment order or its execution, or (c) any incomplete payment order not reported to the Bank in writing within sixty (60) calendar days from the date of acceptance of the payment order by the Bank.

**10. Bank Liability** – (a) Liability for Delay. If a payment order is completed but the Bank delayed in the execution of payment order, the Bank will pay interest for the period of delay to either you or the beneficiary at your option.

(b) Liability for Improper Execution. If a payment order is completed but the Bank failed to use the intermediary bank designated by you or if the Bank issued its own payment order with the wrong terms (other than the amount), the Bank shall be liable to you for your actual loss, if any. Any loss shall be limited to your expenses in the payment order (being defined for purposes of this Agreement as the fee charged by us for the payment order), plus incidental expenses and interest losses.

(c) Liability for Failure to Execute Payment Order. If the Bank fails to execute an accepted payment order, the Bank shall be liable to you for your actual loss, if any. Any loss shall be limited to your expenses in the payment order, plus incidental expenses and interest losses.

(d) Liability for Errors in Amounts. If the Bank executes your payment order for an amount less than the amount designated by you, the Bank shall promptly correct its error by issuing another payment order for the amount of the shortfall. If the Bank executes your payment order for an amount greater than the amount designated by you or if the Bank in error executes the same payment order twice, then the Bank shall be liable to you for your actual loss, not to exceed the principal amount of funds which the Bank is unable to recover, together with interest from the execution date of the payment order to the date of refund. Payment orders which are increased or reduced in amount to cover service charges or fees imposed by the Bank or by other banks do not constitute errors in amounts compensable under this subsection.

(e) Liability for Incomplete Payment Order. If the Bank accepts the payment order and payment to the beneficiary is never completed and the failure to complete the funds transfer is the result of the Bank's fault or mistake, then the Bank shall be liable to you for your actual loss, not to exceed the amount of funds which the Bank is unable to recover, plus your expenses in the funds transfer and incidental expenses together with interest from the execution date of the payment order to the date of refund.

(f) Liability for Other Cases. The Bank's liability for other cases not provided for in this Section shall be determined under the applicable provisions of Subpart B of Federal Reserve Regulation J or Article 4A of the Uniform Commercial Code; provided, however, that subsections (g) through (k) of this Section shall apply to any such case to the extent they are applicable.

(g) Liability for Acts or Omissions of Others. The Bank shall not be liable to you, to any beneficiary or to any third party for any error, delay, insolvency, neglect, misconduct, mistake or default of any other bank, person or entity.

(h) Mitigation of Damages. You agree that you will take all reasonable actions to mitigate any potential or actual loss or liability under subsections (a) through (f) of this Section.

(i) Amount of Interest. Any interest due to you under this Section shall be limited to an amount equal to interest on the amount not yet transferred or erroneously transferred funds at the average federal funds rate as published by the Federal Reserve Bank of New York at the close of business on each day the error or delay remains uncorrected.

(j) Consequential, Indirect or Punitive Damages. In no event shall the Bank be liable to you, to any beneficiary or to any third party under this Agreement or otherwise for any present or future indirect, consequential, special or punitive damages, whether or not the Bank shall have been first advised of the possibility of any such damages.

(k) Company Duty to Notify. The Bank's liability to you under this Section is expressly subject to your compliance with the provisions of Section 9 of this Agreement and the time limitations set forth therein.

**11. Amendment and Cancellation of Payment Orders** - Wherever the term "payment order" is used in this Agreement it shall be deemed to also apply to amendments and cancellations of payment orders.

**12. Funds Transfers Fees** - You agree to pay all fees and charges which the Bank may, from time to time, impose for payment orders and related acts. Unless otherwise agreed in writing, the Bank is authorized to collect such fees by debiting any of your accounts. Additionally, any fees or charges either now or hereafter imposed on the Bank by the Federal Reserve or any other bank relating to these services shall be added to the fees charged by the Bank effective the same day as such fees are imposed on the Bank.

**13. Definitions** - Unless defined otherwise in this Agreement, all terms shall have the meaning set forth in Article 4A of the Uniform Commercial Code as adopted by the State of New Jersey and Subpart B of Federal Reserve Regulation J.

**14. Term** – (a) This Agreement shall remain in effect until either party gives the other ten (10) calendar days prior written notice of termination to the other, effective upon receipt. Notwithstanding the preceding sentence, the Bank has the right to immediately terminate this Agreement if the Bank (i) learns that a breach of the security procedures has occurred or is about to occur, (ii) any fraudulent or dishonest acts occur involving you or your accounts at the Bank, or (iii) if your financial condition becomes such that the Bank is unable to reasonably satisfy itself that you are able to meet your obligations under this Agreement. Rights or liabilities accrued prior to termination (including any rights arising with respect to payment orders not yet executed) shall not be affected by the termination.

(b) All notices to the Bank shall be sent to us at the following address:

Wire Transfer Department  
First Commerce Bank  
105 River Avenue  
Lakewood, New Jersey 08701  
[wires@firstcommercebk.com](mailto:wires@firstcommercebk.com)  
Fax: 732-364-0042

All notices to you shall be sent to your address on the Bank's records for the account from which payment for the payment order was debited.

**15. Additional Procedures** - You agree to abide by and follow any procedures that the Bank may, from time to time, issue pursuant to this Agreement.

**16. Recovery under the Law Governing Mistake and Restitution** - You understand that an error on the Bank's part may result in a third-party receiving funds that it is not entitled to receive. In such case, the Bank may elect to attempt to recover the funds under the laws governing mistake and restitution. In the event that the Bank so elects, you agree to reasonably cooperate with the Bank and to provide the Bank with any documents, information and other assistance as may be reasonably necessary to enable the Bank to attempt to recover the funds.

**17. Force Majeure** - Notwithstanding any other provision of this Agreement, the Bank shall not be liable for any failure to perform, inability to perform, or delay in performance of its obligations under this Agreement if such failure, inability or delay is due to acts of God, pandemic, war, civil commotion, terrorist acts, governmental action, fire, explosion, strikes, other disturbances, equipment malfunction, or any other cause that is beyond the Bank's reasonable control.

**18. Indemnification** - You agree to indemnify, defend and hold harmless the Bank from and against any and all loss, liability, expense (including court costs and reasonable attorney's fees), including consequential, special and punitive damages, directly or indirectly resulting from: (i) the processing of any payment order or instruction received by the Bank, (ii) any breach of any provision of this Agreement by you and (iii) any dispute between you and any third party in connection with your use of the Wire Service. The terms of this Section will survive termination of this Agreement.

**19. Governing Law** – This Agreement is subject to the provisions of all applicable regulations of the Board of Governors of the Federal Reserve System and the operating circulars of the Federal Reserve banks and any other applicable provisions of New Jersey or federal law and regulation. In the event of any conflict between the provisions of this Agreement and the provisions of any New Jersey or federal law or regulations, then the provisions of this Agreement shall control unless such provision is deemed by a court to be unenforceable in which case the remainder of this Agreement shall be enforced without regard to the provision deemed unenforceable. All provisions of New Jersey law shall be applied without giving effect to principles of conflicts of law.

**20. Assignment** – (a) You may not assign this Agreement. We may assign this Agreement to any corporation controlling, controlled by or under common control with us, or employ any such corporation to perform all or part of our obligations under this Agreement without your consent.

**21. Successors and Assigns** - This Agreement shall be binding upon the successors and assigns of the parties.

**22. Entire Agreement** - This Agreement contains the entire understanding of the parties relative to payment orders and supersedes any previous discussions, proposals or agreements, oral or written, if any, between the parties with respect to the subject matter of this Agreement. There are no warranties, understandings, agreements or representations, express or implied, not specified in this Agreement.

**23. Miscellaneous** – Except as provided in Sections 2(e), 4, 12, 14(b) and 15, this Agreement may not be amended, modified or changed except by an instrument in writing signed by the parties. If any of the provisions of this Agreement to any extent become invalid or are deemed by a court to be unenforceable, then the remainder of this Agreement shall not be affected thereby. The provisions of Sections 9, 10 and 18 will survive the termination of this Agreement.

**24. Hacking and Malware Risks** – (a) You understand that there is a risk that criminals may use various schemes (such as offers of free software or e-mail messages with attachments) to plant computer viruses, spyware or other malicious software (collectively “malware”) in your computers to gain access to your internet banking applications and your user IDs, passwords, security keys, one-time passcodes, and other security protocols. This malware then uses the information to initiate payments to third parties by means of bill payments, payment orders, automated clearing house (ACH) entries, or other means of electronically transferring funds. You acknowledge that there is a substantial risk of this occurring and therefore agree to take all commercially reasonable steps to prevent the installation of such malware on your computers. These steps include, but are not limited to, installing and maintaining state-of-the-art anti-virus and malware detection software on your computers. You agree that the Bank has no duty or obligation whatsoever to protect you from such criminal activities and that the Bank has no duty or obligation to ascertain whether or not any bill payment, payment order, ACH entry, or other electronic payment order or transfer of funds from or between your accounts is made in connection with a legitimate transaction when the instruction to transfer funds or make a payment is initiated from your computers and/or is accompanied by a correct user ID and password and any additional security procedure.

(b) You also agree that the Bank has no obligation to ascertain whether you have initiated any payment order, ACH credit entry or other electronic or paper payment to the same or similar beneficiary on any prior occasion or whether the geographic location of the beneficiary or the geographic location of the beneficiary’s bank is consistent with your normal payment activities. The Bank has no obligation to ascertain whether any payment order is consistent with your present or past payment activities, the size of your business, the number, location or compensation of any of your employees or agents or whether the transfer of funds is for the benefit of your business. You further agree that the Bank has no obligation to determine whether or not the security of your computers or computer systems has been compromised at any time by the actions of a third party. The Bank is not responsible for any losses, damages, errors, failures or malfunctions arising out of or in connection with any unauthorized intrusion into your computers, whether by computer virus, spyware or other malware or other wrongdoing.

**END OF AGREEMENT**