



City of Grand Island

Tuesday, May 8, 2018

Council Session

Item I-1

**#2018-134 - Approving Agreement with Five Points Bank for
Banking Services**

Staff Contact: William Clingman, Interim Finance Director

Council Agenda Memo

From: Marlan Ferguson, City Administrator

Meeting: May 8, 2018

Subject: Consideration of Approving Five Points Bank as the Primary Financial Institution for Banking Services

Presenter(s): William Clingman, Interim Finance Director

Background

On April 5, 2018 the City advertised an RFP for Banking Services. On April 24, 2018 this RFP closed and 7 banks submitted proposals. Staff from the Finance Department, the City Administrator and the Utilities Director heard presentations from the banks selected as finalists.

Discussion

The City of Grand Island has utilized our current bank for at least the last decade and because it has not been formally evaluated for such a long time, an RFP was issued for banking services. In their RFP Five Points Bank offered their services at no cost to the City of Grand Island and they will pay interest on any amount the City maintains on deposit with them, with regular evaluation of this interest rate beginning at the end of 2019. These two primary drivers led to the selection of Five Points Bank. The estimated impact of the change to Five Points Bank will be at least a net gain of \$850,000 on an annual basis to the total City of Grand Island cash balance.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the City Council approve the resolution to establish banking services with Five Points Bank.

Sample Motion

Move to approve the resolution to establish banking services with Five Points Bank.



Stacy Nonhof, Purchasing Agent

*Working Together for a
Better Tomorrow, Today*

**REQUEST FOR PROPOSAL
FOR
BANKING SERVICES**

RFP DUE DATE: April 24, 2018 at 4:00 p.m.
DEPARTMENT: Finance
PUBLICATION DATE: April 5, 2018
NO. POTENTIAL BIDDERS: 7

SUMMARY OF PROPOSALS RECEIVED

Five Points Bank
Grand Island, NE

Great Western Bank
North Platte, NE

First National Bank
Grand Island, NE

Bank of the West
Omaha, NE

Union Bank & Trust Company
Lincoln, NE

Wells Fargo
Greenwood Village, CO

Equitable Bank
Grand Island, NE

cc: Marlan Ferguson, City Administrator
William Clingman, Assist. Finance Director

Stacy Nonhof, Purchasing Agent

P2046



CASH MANAGEMENT MASTER AGREEMENT

Tax ID:

1. Introduction. Five Points Bank offers a variety of cash management services to our customers. Throughout this Cash Management Master Agreement (the "Master Agreement"): (a) Five Points Bank is referred to as "we," "us" or "our;" (b) the cash management services we offer are referred to as the "Services;" and (c) the person or entity signing this Master Agreement and using one or more of the Services is referred to as "you" or "your." In addition to terms defined throughout the Agreement, capitalized terms used in this Master Agreement have the meanings given to them in Section 17.

When you sign this Master Agreement and each time you use a Service you are agreeing to be bound by the terms and conditions of the Agreement. The Agreement is a legally binding contract that can only be changed as provided in this Master Agreement.

2. Our Provision of the Services.

(a) Generally. We will provide the Services in accordance with the terms and conditions of the Agreement. We may introduce new Services or new features of existing Services from time to time. We will use commercially reasonable efforts to notify you of the availability of such new Services or new features, but are not liable for failing to do so.

(b) No Extension of Credit; Overdrafts; Security Interest; Setoff and Other Rights.

(1) We are not obligated to pay any Item in excess of your Available Funds and may dishonor any Item contributing to that excess. If we elect to pay one or more Items in excess of your Available Funds and create an overdraft in the applicable Designated Account, doing so does not obligate us to permit future overdrafts in any Designated Account.

(2) You will reimburse us immediately and without notice or demand for: (A) the full amount of each overdraft; (B) all overdraft fees and charges we may impose from time to time; (C) interest on the outstanding amount of each overdraft at the rate we may impose from time to time for the day such overdraft is created and for each following day until it has been repaid in full; and (D) all Losses we incur in collecting that overdraft and any fees, charges or interest relating to it. We may apply negative earnings credits on the outstanding amount of any overdraft or other shortfall in connection with any analysis of a Designated Account instead of charging you interest on that amount.

(3) You grant us a security interest in each current and future Designated Account and each other current and future account you maintain with us (along with the funds in each such Designated Account and each such other account) to secure payment and performance of all of your current and future obligations to us, whether under the Agreement or another agreement you have with us and whether relating to the Services or not.

(4) In addition to all other rights and remedies available to us, we may: (A) set off the unpaid balance of any overdraft or other amount you owe us in connection with the Services against any debt we owe you, whether collected or in the process of collection, or in a Designated Account or any other account you maintain with us; and (B) if applicable, enforce our interests in any collateral we hold to secure

any of your indebtedness or other obligations under the Agreement or another agreement you have with us, whether or not matured or liquidated.

(c) Transaction Limits. We may establish and change limits on the amount or number of your Transactions in order to manage the credit exposure and others risks resulting from providing the Services to you.

(d) Our Right to Suspend Service and to Delay or Refuse to Process Items. In certain circumstances, we may suspend your use of the Services and access to our System or refuse to process, delay processing or impose a fee for processing an Item. Such circumstances include those in which we believe that the Item: (1) does not comply with the Agreement; (2) is not complete, correct, accurate or timely; (3) is greater in frequency or number than is permitted for a Designated Account or Service; (4) is for an amount that is less than the minimum amount permitted for a Designated Account or Service; (5) relates to a Designated Account that has been closed or exceeds the amount of Available Funds in that Designated Account (or would reduce the balance of the Available Funds in that Designated Account below any required minimum balance); (6) is not genuine, conflicts with another Item or relates to funds or a Designated Account over which there is a dispute or that are subject to legal process, a hold or another restriction on withdrawal; (7) results from a breach in the confidentiality of a Security Procedure or Credentials or relates to a Designated Account or Service that we suspect is being used for, or is the target of, fraudulent or illegal activity; or (8) violates Applicable Law or might cause us to violate Applicable Law or otherwise expose us to liability or other risks that are unacceptable to us. Our rights under this Section 2(d) do not impose an obligation on us to detect or notify you of any such circumstances.

3. Your use of the Services and our System.

(a) Available Funds. You will maintain sufficient Available Funds in the applicable Designated Account to cover all Items.

(b) Permitted Usage. You will use the Services and access our System only: (1) for the purposes and in the manner contemplated by the Agreement; and (2) in accordance with the terms and conditions of the Agreement.

(c) No Consumer Usage. You will use the Services and access our System only for your own business, commercial or agricultural purposes (and not for any personal, family or household purposes).

(d) No Third-Party Usage. You will not: (1) license, rent, host, time-share, market, resell, distribute, or provide the Services or our System (either alone or bundled or associated with any other service or technology) to any third party; or (2) use the Services or access our System for the benefit, or on behalf, of any third party.

(e) Compliance with Applicable Law. You will not use the Services or access our System to, or in a manner that would, violate Applicable Law. In addition, you will not use the Services or access our System: (1) to engage in, or to make or receive payments with respect to, any Internet or online gambling transactions, even if legal in a particular jurisdiction; or (2) to engage in any activity that would result

in you being or becoming a "money services business" as defined in 12 C.F.R. § 1010.100 or a "money transmitter" or an entity with a similar designation under any Applicable Law, even if you have made all required registrations and obtained all necessary permits or licenses required for such designation.

(f) Required Internal Controls. You will ensure that your Authorized Users only use the Services and access our System for the purposes contemplated by the Agreement.

(g) Terms of Use for our System; Online Services. If you access a Service through our System, your use of our System is subject to the terms of use that appear on, or apply to, our System from time to time. An Authorized User that accesses our System may be required to accept those terms of use as a part of the log on process. Our System and certain Services allow you to electronically access information concerning a Designated Account, give us instructions regarding a Designated Account and Transactions, and transmit and receive data files to or from us. We can also use our System and certain Services to electronically provide you reports, confirmations, statements and other information regarding a Designated Account and Transactions. If our System or those Services are not available or you are unable to access our System or those Services, you will use another method (such as written instructions) to access a Designated Account or use the Services.

(h) Cooperation. You will cooperate with us and will take all actions, provide all information and execute all documents and instruments we may reasonably request in conjunction with the Agreement or the Services.

(i) Financial and other information. You will give us all financial information and statements, details of your direct and beneficial ownership and management and such other documentation and information as we may reasonably request to enable us to evaluate our exposure or risk in providing the Services as contemplated by Section 2(c) or to comply with Applicable Law.

(j) Obligation to Pay. You are obligated to pay or reimburse us for: (1) all of your Transactions; (2) all amounts we are obligated to pay a third party in connection with your Transactions; and (3) all of your other obligations relating to the Agreement, the Services or our System (including fees, taxes, and expenses as provided in Section 5). We may debit any Designated Account (and any other accounts you maintain with us) to collect any of those amounts.

4. Requesting New Services and Changes to Existing Services

(a) New Services. You may request a new Service (including the initial Services to be provided under the Agreement) from us at any time during the term of the Agreement. We are not obligated to honor any such request and may decline to provide the requested Service to you for any reason or no reason. If we elect to provide the requested Service to you, we will send or make available to you: (1) a Service Schedule for the requested Service; (2) a Service Setup Form designating the requested Service; and (3) the Service Documentation for the requested Service. You may not use the requested Service until: (A) you have signed (or otherwise authenticated in a manner acceptable to us) and returned to us (i) the Service Setup Form designating the requested Service and (ii) all other documents we may require as a condition to providing the requested Service; (B) you have provided all information we request regarding, and completed all required training and testing for, the requested Service; and (C) we have notified you that we have completed our implementation of your setup for the requested Service. If you use or attempt to use the

requested Service before satisfying all of those conditions: (i) you will be bound by all the terms of the Agreement for the requested Service with respect to that use or attempted use; (ii) you will indemnify and hold us harmless from and against all Claims and Losses that relate in any way to that use or attempted use; and (iii) we may block any future use of the requested Service.

(b) Changes to Existing Services

(1) You may request that we change our implementation of your setup for an existing Service at any time during the term of the Agreement. We are not obligated to honor any such request and may decline to implement the requested change for any reason or no reason. If we elect to implement the requested change, we will send or make available to you a Service Setup Form reflecting certain details of your setup for the relevant Service after giving effect to the requested change. The requested change will not take effect until: (A) you have signed (or otherwise authenticated in a manner acceptable to us) and returned to us (i) that Service Setup Form and (ii) all other documents we may require as a condition to implementing the requested change; (B) you have provided all information we request regarding, and completed all required training and testing for, the requested change; and (C) we have notified you that we have completed our implementation of the requested change.

(2) We will implement changes to your setup for a Service on an "incremental" basis or a "complete replacement" basis, as reflected in a Service Setup Form. If a change to your setup for a Service is implemented on an incremental basis, the information reflected in the new Service Setup Form supplements, but (except for information reflected in the new Service Setup Form as deleting or modifying existing information) does not replace, the information in your other Service Setup Forms for that Service. If a change to your setup for a Service is implemented on a complete replacement basis, the information in the new Service Setup Form completely replaces the information in all Service Setup Forms you have previously given us for that Service.

5. Fees and Taxes. You will pay us all fees that we disclose to you for any of the Services that you use. We may change or add new fees for Services from time to time. If you continue to use the Services after the change becomes effective, you are obligated to pay the new fees. In addition, you will pay any taxes (other than taxes based on our net income) relating to the Services that you use and will pay any out-of-pocket expenses we incur in performing the Services for you, including any communication, access, transmission and data processing charges. We may collect any fees, taxes or expenses by debiting any Designated Account, offsetting those amounts against any earnings credits relating to any analysis of any Designated Account, or other applicable method. We may charge interest on any amounts that are not paid within 30 calendar days of the due date. We will apply all debits, credits and payments first to unpaid interest and then to fees, taxes and expenses in the order in which they were due. If you fail to pay any amount that you owe us under the Agreement, we may cancel or suspend the performance of any further Services for you. Except: (a) as may be compelled by legal process; or (b) with our prior written consent (which consent will not be unreasonably withheld, conditioned, or delayed), you will not disclose any fees or charges in connection with the Agreement to any person other than your employees who require such information in the ordinary course of their employment and other persons whose assigned duties reasonably require that such disclosure be made. Your fees may differ from those of other customers with the

same type of Services, based on our assessment of your overall relationship with us.

6. Your Hardware, Software and Telecommunications Links.

(a) Service Specific Requirements. Use of the Services and access to our System may require you to have certain equipment, telecommunications links and software. Except as specifically set forth in the Service Schedule for a particular Service, you will obtain, install, operate and maintain (all at your sole cost and expense) all required equipment, telecommunications links and software (other than software we license or sublicense to you in connection with certain of the Services as provided in Section 7).

(b) Minimum Requirements and Compatibility. You will ensure that all equipment, telecommunications links and software you use in connection with the Services and our System meets or exceeds the minimum specifications we establish from time to time and is compatible with our System and the equipment, telecommunications links and software we use in providing the Services. We have no responsibility if any equipment, telecommunications links or software you use: (1) is defective or malfunctions; (2) is infected with any virus, Trojan or other malware (including any keystroke logger or spyware); (3) does not meet the minimum specifications we establish from time to time; or (4) is not compatible with our System or the equipment, telecommunications links and software we use in providing the Services. In that regard, we may change our System and the equipment, telecommunications links and software we use in providing the Services at any time.

(c) Updates, Patches. You will apply all firmware and software patches and updates to your equipment, telecommunications links and software in a timely manner and will install and use up-to-date and commercially reasonable security, antivirus, anti-spyware, anti-malware, firewall and intrusion detection software on any computer or device used in connection with the Services or our System. You will not use any equipment, telecommunications links or software in connection with any Service or our System for which the manufacturer or supplier no longer provides security patches or updates.

(d) Your Security Obligations and Notice of Breaches. You are solely responsible for the security of all computer and other systems you use in connection with the Services and our System and for backing up any data and information stored in those computer and other systems. You will adopt and enforce a commercially reasonable security program that is: (1) tailored to your computer and other systems used in connection with the Services or our System; and (2) designed to protect against unauthorized physical, electronic and other access to those computer and other systems. You will review and update your security program on a periodic basis as appropriate for your circumstances. You will: (A) promptly notify us of any actual or suspected unauthorized access to your computer or other systems that are used in connection with the Services or our System; (B) promptly take steps to prevent any further unauthorized access; and (C) promptly provide us with status updates and other information we reasonably request regarding the unauthorized access and its resolution. We may suspend your access to the Services and our System until you have addressed the unauthorized access and its causes to our reasonable satisfaction. Our decision to maintain or reinstate your access to the Services or our System is not a verification that the causes of the unauthorized access have been remediated and you are solely responsible for fully implementing that remediation.

7. Software Provided as Part of the Services.

(a) Licensing and Ownership. Certain Services and access to our System may require software that we will license or sublicense to you. All such software is and remains our property (or, in the case of a sublicense, our licensor's property).

(b) Nonexclusive License or Sublicense. Your rights in any such software (and any related user manuals or other materials) are limited to a nonexclusive license or sublicense to use it solely in connection with use of the Services or access to our System for your internal business purposes. You will not transfer or assign any of your rights with respect to any such license or sublicense, and that license or sublicense will be revoked automatically if this Master Agreement or the Service Schedule relating to the Service for which use of the software is necessary is terminated. If any such license or sublicense is revoked, you must immediately stop using the relevant software and promptly return it and all related user manuals and other materials (and any copies or extracts) to us.

(c) Restrictions on Use. You will not: (1) sublicense, sell, lease, distribute or (except with respect to your Authorized Users who have a need to access any such software in connection with your use of the Services or access to our System) provide access to any such software or any related user manuals or other materials to any third party; (2) use any such software in a service bureau, time-sharing, outsourcing or similar arrangement; (3) use any such software (or any related user manuals or other materials) in any manner that is not expressly permitted by the Agreement; (4) modify, decompile, reverse engineer, disassemble or create derivative works from any such software (or any related user manuals or other materials); (5) except as necessary for reasonable back up purposes, copy all or part of any such software (or any related user manuals or other materials); or (6) take any actions or engage in any conduct that violates our rights (or, in the case of a sublicense, those of our licensor) with respect to any such software (or any related user manuals or other materials).

(d) Consent to Injunction. Any actual or threatened breach of this Section 7 will cause immediate irreparable injury to us (or, in the case of a sublicense, to us and our licensor). As a result, injunctive relief (including preliminary injunctive relief and specific performance) should be awarded as appropriate to remedy such breach, without limiting our right (or, in the case of a sublicense, our or our licensor's right) to any other remedies available with respect to such breach. This subsection 7(d) will survive the termination of the Agreement.

8. Security Procedures.

(a) General. We use a variety of Security Procedures in connection with the Services and our System. The Security Procedures vary by Service and use various Credentials as set forth in the applicable Service Schedules. You will comply with the applicable Security Procedures when using the Services or accessing our System. In addition to the Security Procedures set forth in the applicable Service Schedules, we may from time to time employ various analytical tools and procedures that are designed to assist us in identifying suspicious behavior and potentially unauthorized instructions and communications. Our use of those tools and procedures constitute part of the Security Procedures, even if the specific tools and procedures we use have not been disclosed to you. If, based on those tools and procedures or for any other reason, we suspect an instruction or communication may be unauthorized, we may seek additional confirmation of the authenticity of that instruction or communication even if that instruction or communication otherwise satisfies the Security Procedures set forth in the applicable Service Schedules.

(b) Purpose of the Security Procedures. The Security Procedures are designed to verify the authenticity of instructions and communications we receive and to control access to information and our System. The Security Procedures are not designed to detect errors in the transmission or content of any such instructions or communications, and you are solely responsible for any such errors (including any duplicate instructions or communications and any resulting duplicate Items).

(c) Commercial Reasonableness of the Security Procedures. You acknowledge that the Security Procedures for each Service are a commercially reasonable method of providing security against unauthorized instructions and communications.

(d) Reliance on the Security Procedures; Agreement to be Bound. We may rely on the Security Procedures in controlling access to information and our System and in determining whether instructions and other communications we receive in your name or the name of an Authorized User are authentic. We may refuse to accept any instruction or communication if: (1) it was not given or cannot be verified in compliance with the applicable Security Procedure; (2) we seek, but do not receive, additional confirmation of the authenticity of that instruction or communication satisfactory to us; (3) Invalid Credentials were used in connection with that instruction or communication; or (4) the number of "invalid" attempts we establish from time to time were exceeded in connection with that instruction or communication. You are bound by any instruction or communication we receive in your name or the name of an Authorized User that we accept in good faith and in compliance with the applicable Security Procedure, whether or not you or that Authorized User authorized that instruction or communication. In addition, you are bound by any instruction or communication you or an Authorized User authorized, whether or not we complied with the applicable Security Procedure in accepting that instruction or communication.

(e) Ownership, Confidentiality and Control of the Security Procedures and Credentials. The Security Procedures and Credentials are and will remain our property. You will: (1) keep the Security Procedures and Credentials strictly confidential and take all actions reasonably necessary to prevent unauthorized access to or use of the Security Procedures and Credentials; (2) disclose and provide access to the Security Procedures and Credentials only to your Authorized Users who have a need to know or access them in connection with your use of the Services or access to our System; and (3) ensure that your Authorized Users who have knowledge of or access to the Security Procedures and Credentials do not disclose or provide access to them to anyone (including other Authorized Users). You will recover and return to us any tokens and other physical Credentials in the possession of an Authorized User promptly after the termination of that Authorized User's authority to use the Services or to otherwise possess or use those tokens and other physical Credentials.

(f) Notice of Breach of Security Procedures or Credentials. You will promptly report any actual or suspected breach of the confidentiality of, or unauthorized access to, the Security Procedures or Credentials to us. We may continue to rely on the Security Procedures and Credentials until we have had a reasonable time to act on that notice. You will: (1) promptly take steps to prevent any further breaches or unauthorized access; (2) promptly provide us with status updates and other information we reasonably request regarding the breach or unauthorized access and its resolution; and (3) assist us in determining the source and manner of the breach or unauthorized access (including providing us access to your computer and other systems that were used

in or affected by the breach or unauthorized access and any analysis (or any report of such analysis) of those computer and other systems performed by you, your agents, law enforcement agencies, or any other third party). We may suspend your access to the Services and our System until you have addressed the breach or unauthorized access and its causes to our reasonable satisfaction. Our decision to maintain or reinstate your access to the Services and our System is not a verification that the causes of the breach or unauthorized access have been remediated and you are solely responsible for fully implementing that remediation.

(g) Administration of Credentials; No Sharing or Duplicate Credentials. Unless otherwise provided in a Service Schedule, we will administer and provide all of the Credentials contemplated by the applicable Security Procedures. In such cases, we will either: (1) give the Credentials directly to the applicable Authorized Users; or (2) give the Credentials to an Authorized Representative (or a person designated by an Authorized Representative), who is then responsible for giving the Credentials to the applicable Authorized Users. If a Service Schedule provides that you will self-administer Credentials for your Authorized Users for that Service, we will provide a set of "master" Credentials to a Security Administrator and that Security Administrator is then responsible for creating and providing Credentials (such as usernames and passwords) to the applicable Authorized Users (along with tokens or other physical Credentials we provide) and establishing limits on the authority of those Authorized Users to access and use that Service and our System. You will not permit Authorized Users to share Credentials and will not request (or, in cases where you self-administer Credentials, create) more than one set of Credentials for the same Authorized User.

(h) Responsibility for Responding to Alerts. If we alert you to suspicious instructions or communications, you are solely responsible for acting on that alert, and we may conclusively assume that you have approved such instructions or communications if you fail to respond promptly to any such alert.

9. Authorized Representatives and Authorized Users.

(a) Authorized Representatives. Each Authorized Representative has authority to enter into and amend the Agreement on your behalf. Each Authorized Representative also has authority to take all actions and give all instructions regarding or contemplated by the Agreement on your behalf (including signing and providing instructions regarding this Master Agreement and Service Setup Forms). We may act on any oral or written instruction we believe in good faith was given by an Authorized Representative (including instructions sent by facsimile, e-mail or other electronic method), but may require written confirmation of any oral instruction or oral confirmation of any written instruction. An Authorized Representative does not have the authority to give instructions regarding, access information through or otherwise use the Services or our System on your behalf unless that Authorized Representative is also an Authorized User.

(b) Authorized Users. Each Authorized User has the authority to give instructions regarding, access information through and otherwise use the Services and our System on your behalf. An Authorized User's authority may be restricted to certain Services, Designated Accounts and Designated Functions, as provided in the applicable Service Setup Forms. Any person presenting or using valid Credentials for a Service that involves the use of such Credentials will be deemed to be an Authorized User with respect to that Service for all purposes of the Agreement, even if that person is not otherwise so designated. We may

act on any oral or written instruction we believe in good faith was given by an Authorized User (including instructions sent by facsimile, e-mail or other electronic method), but may require written confirmation of any oral instruction or oral confirmation of any written instruction. An Authorized User does not have the authority to enter into or amend this Master Agreement, or a Service Setup Form unless that Authorized User is also an Authorized Representative.

(c) Self-Administration. If a Service Schedule provides that you will self-administer the Designated Accounts, Designated Functions or Authorized Users for that Service, your Security Administrator has the authority to identify the Designated Accounts, Designated Functions or Authorized Users for that Service through our System or in another manner acceptable to us.

(d) Your Responsibility for Instructions and Items. You are bound by and responsible for all instructions and communications regarding the Services and our System (and for all resulting items) given by an Authorized Representative or Authorized User, even if those instructions (or the resulting Items) are fraudulent, unauthorized or otherwise improper.

(e) Termination and Confirmation of Authorized Representatives and Authorized Users.

(1) You will promptly notify us if the authority of an Authorized Representative or Authorized User is terminated. We may follow the instructions of an Authorized Representative or Authorized User until we have received written notice that the authority of that Authorized Representative or Authorized User has been terminated and have had a reasonable time to act on that notice. We may elect to act on an oral notice of termination.

(2) You will promptly provide any documentation and information confirming the authority of an Authorized Representative or Authorized User we reasonably request. We may refuse to follow the instructions of that Authorized Representative or Authorized User until we receive the requested documentation and information.

10. Your Representations and Warranties.

(a) General Representations and Warranties. Each time you use a Service or access our System, you represent and warrant to us that:

(1) Organization, Existence and Good Standing. If you are not a natural person, you are an entity of the type indicated in your signature block to this Master Agreement and are duly organized, validly existing and in good standing under the laws of the jurisdiction in which you are organized;

(2) Power and Authority. You have all necessary power and authority to enter into, and to perform your obligations under, the Agreement;

(3) Organizational Authorizations. If you are not a natural person, all authorizations of your governing body necessary for you to enter into, and to perform your obligations under, the Agreement have been obtained;

(4) Resolutions and Authorizations. All resolutions and other authorizations you have given us are true, accurate and complete in all material respects, each Authorized Representative has the authority to bind you to the Agreement and each Authorized User has the authority to use the Services and our System, access information and give us instructions on your behalf;

(5) Assumed and Fictitious Names. All assumed or fictitious names you use have been duly registered or filed with the applicable Governmental Authorities and have been disclosed to us;

(6) Consents. You have obtained all necessary consents or authorizations necessary for you to enter into, and to perform your obligations under, the Agreement;

(7) Enforceability. The Agreement is binding on, and enforceable against, you in accordance with its terms;

(8) No Conflicts. Neither the Agreement nor your use of the Services or our System violates Applicable Law, any agreement to which you are a party or by which you or your assets are bound or, if you are not a natural person, your organizational documents;

(9) Bankruptcy. You are not bankrupt or insolvent and have not made an assignment for the benefit of creditors or sought the protection of any bankruptcy, insolvency or liquidation proceeding, nor do you have the present intention to do so; and

(10) Dissolution. You have not commenced any dissolution proceedings and no Governmental Authority having jurisdiction over you has served a notice of its intent to suspend or revoke your operations.

(b) Service Specific Representations and Warranties. A Service Schedule may include additional representations and warranties, and you make those additional representations and warranties to us each time you use the Service covered by that Service Schedule.

(c) Notice of Breach. You will promptly notify us if any representation or warranty you make to us is no longer true or accurate in any material respect.

11. Liability and Indemnification.

(a) Your Duty of Care. You must act in good faith and exercise ordinary care in performing your obligations under the Agreement. In addition, you must promptly examine each written or electronic confirmation, report, periodic statement, notice or other document related to the Agreement, the Services, our System or a Designated Account and notify us of any error, omission, discrepancy or other problem reflected in or relating to that confirmation, report, periodic statement, notice or other document within 30 calendar days (or such shorter period of time specified in the Service Schedule for a particular Service) after we send or make it available to you. If you fail to do so, then to the maximum extent permitted by Applicable Law, you will be precluded from asserting that error, omission, discrepancy or other problem against us, and we will be relieved of any liability relating to it. As used in this Section 11(a), "problem" is intended to have the broadest possible meaning and includes any missing, stolen, altered, illegible, counterfeit or unauthorized signature, endorsement or item.

(b) Fraud Detection/Deterrence. Payment system fraud has increased dramatically in recent years due to a number of factors. From time to time we may make certain Services that are designed to detect and/or deter payment system fraud available to you. While no Service will be completely effective, we believe that the Services we offer will reduce the likelihood that fraudulent Items of the type they were designed to detect will occur without being detected. As a result, if you fail to implement any of these Services that we specifically offer to you and an unauthorized, altered, counterfeit, or other fraudulent Item occurs that such Service was designed to detect: (1) you will be deemed to have failed to exercise ordinary care that substantially contributed to the making of that Item; (2) you will be precluded from

asserting any Claims against us with respect to that Item; (3) we will not be required to re-credit any Designated Account or otherwise have any liability for that Item; and (4) you will indemnify and hold us harmless from and against all Claims and Losses relating in any way to that Item, so long as we otherwise satisfied our duty of care with respect to that Item. We also recommend you obtain cyber-insurance that provides coverage for so-called "corporate account takeover" and other computer hacking that could result in unauthorized Transactions.

(c) Our Duty of Care. We are not acting as a fiduciary for you or for your benefit. Our responsibility is limited to complying in all material respects with the Agreement and, to the extent (but only to the extent) required by Applicable Law, acting in good faith and exercising ordinary care. In that regard, the Services have several unique characteristics that relate to our duty of care. For example, most of the Services involve large volumes of Items that are processed in a highly automated environment. The procedures set forth in the Service Schedules and Service Documentation have been designed in light of those characteristics to maximize your ability to use the Services in an efficient manner while minimizing your cost and inconvenience. We will be deemed to have acted in good faith and exercised ordinary care if we substantially comply with those procedures. In addition, we will not be deemed to have failed to act in good faith or exercise ordinary care and will not be liable for any error, delay or failure to perform that is caused by: (1) fire, natural disaster, strike, civil unrest, terrorism or failure of computer or communications facilities; (2) the acts or omissions of any third party (including any Federal Reserve Bank, clearing house or funds transfer system); or (3) any circumstance beyond our reasonable control or for which we do not have responsibility under the Agreement.

(d) Limits on Our Liability. If we fail to satisfy our duty of care, then to the maximum extent permitted by Applicable Law: (1) our liability to you will be limited to your damages that are a direct result of that failure, up to the lesser of (A) the amount of the Transaction to which the error, omission, discrepancy or other problem relates or (B) the amount of the fees that you have paid us for the Service in question for the six months preceding the month in which the failure occurred; and (2) you must bring any Claim against us with respect to any error, omission, discrepancy or other problem within one year after it occurred (in that regard, if the error, omission, discrepancy or other problem is a repetitive one, all such errors, omissions, discrepancies or other problems will be deemed to have occurred on the date of the first such error, omission, discrepancy or other problem).

(e) NO SPECIAL DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL WE BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY LOSSES OR DAMAGES (INCLUDING BUSINESS INTERRUPTION, LOST PROFITS OR LOSS OF DATA, SAVINGS, TIME, PROPERTY OR GOODWILL), WITHOUT REGARD TO THE FORM OF YOUR CLAIM OR ACTION OR WHETHER YOUR CLAIM IS IN CONTRACT, TORT OR OTHERWISE, AND EVEN IF WE KNEW SUCH LOSSES OR DAMAGES WERE POSSIBLE OR LIKELY.

(f) DISCLAIMER OF WARRANTIES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE SERVICES AND OUR SYSTEM, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

(g) Required Interest on Damages. If we are required by Applicable Law to pay you interest on any amount for which we are liable under this Section 11, that interest will be determined by using the "federal funds rate" as published in The Wall Street Journal on each day during the period beginning on the day such failure occurred until we have paid you the full amount of our liability.

(h) Your Duties Regarding Claims. If we fail to satisfy our duty of care, you will: (1) take all reasonable actions to limit your damages; (2) promptly give us written proof of your damages; and (3) cooperate with us in investigating the error, omission, discrepancy or other problem and your damages. If you fail to do any of these things, we may refuse to honor your Claims. In addition, if we reimburse you for any damages relating to any error, omission, discrepancy or other problem, you will assign all of your rights relating to the Items in question to us and will assist us in any efforts or legal actions that we may take to recover those amounts from any third party.

(i) Your indemnification Obligations. Except to the extent finally determined by a court or arbitrator having proper jurisdiction to have been caused by our gross negligence or intentional misconduct, you will indemnify and hold us harmless from and against all Claims and Losses relating in any way to the Agreement, the Services or our System, including those caused by: (1) your failure to comply with the Agreement, (2) the failure of any of your representations or warranties to be true and correct in all respects at any time; or (3) any instructions you give us. A Service Schedule may include additional indemnification obligations and you are bound by those additional indemnification obligations with respect to each Service you use that is covered by such a Service Schedule.

(j) Survival. The provisions of this Section 11 will survive the termination of the Agreement.

12. Arbitration.

(a) Generally. Except as set forth in Section 12(b), either you or we have the right to require that any dispute, controversy or Claim arising out of or relating to the Agreement or any breach, termination or invalidity of the Agreement (including any dispute concerning the scope of this Section 12), be settled by binding arbitration in accordance with Title 9 of the United States Code and the Commercial Arbitration Rules of the American Arbitration Association (the "Rules"). If you or we elect to arbitrate any such dispute, controversy or claim, neither you nor we will have the right: (1) to participate in a class action, private attorney general action or other representative action in court or in arbitration, either as a class representative or class member; or (2) to join or consolidate any such dispute, controversy or claim with those of any other persons. Any arbitration proceeding will be conducted before a panel of three neutral arbitrators (or one neutral arbitrator if the amount in dispute does not exceed \$500,000), all of whom must be attorneys engaged in the practice of banking law for ten years or more. For arbitrations with three arbitrators, each Party will select one arbitrator and the arbitrators selected by the Parties will, within 10 days of their appointment, jointly select a third, neutral arbitrator. For arbitrations with one arbitrator, the Parties will jointly select the arbitrator. If the Parties or the arbitrators they select are unable to jointly select an arbitrator, either Party may request the American Arbitration Association to appoint that arbitrator. Prior to the commencement of hearings, each of the arbitrators appointed must take an oath of impartiality. Judgment upon any award rendered by the arbitrators may be entered and enforced by any court of competent jurisdiction. The place of the arbitration will be in the city where our principal office is located. In rendering any award the arbitrators will determine the rights

and obligations of the parties in accordance with the laws of the state governing this Agreement. The arbitrators are not empowered to award damages in excess of the amounts expressly provided for by the Agreement. All statutes of limitation that would otherwise apply to a judicial action will apply to any arbitration proceeding under the Agreement. The arbitrators must award to the prevailing Party, if any, as determined by the arbitrators, all of its costs and fees (including all reasonable pre-award expenses of the arbitration, the arbitrator's fee, travel expenses, out-of-pocket expenses such as copying and telephone, court costs, witness fees and attorneys' fees). Except for disclosures required by Applicable Law, neither Party may disclose the existence, content or result of any arbitration under the Agreement without the prior written consent of the other Party.

(b) Exceptions to Arbitration. The following Claims are not subject to this Section 12: (1) any individual action brought by a Party in small claims court or your state's equivalent court, unless such action is transferred, removed, or appealed to a different court; (2) the exercising of any self-help rights or the right to restrain funds in a Designated Account or other deposit account; (3) the right or obligation to interplead funds in the event of a dispute; (4) the obligation to comply with legal process; (5) the right to obtain provisional remedies such as injunctive relief, seizure, attachment or garnishment by a court having appropriate jurisdiction; (6) recoupment, repossession, trustee's sales and the like; or (7) any individual action in court by a Party that is limited to preventing the other from using a self-help remedy and that does not involve a request for damages or monetary relief of any kind. The institution and/or maintenance of any such Claim will not constitute a waiver of the right of to compel arbitration regarding any other Claim that is subject to this Section 12.

(c) No Severability of Class Waiver. The waiver of the right to bring or participate in any class or representative action in this Section 12 is material and essential to the arbitration of any disputes between the Parties and is not severable from the rest of this Section 12. If that waiver is limited or found to be illegal or unenforceable, then all of this Section 12 (except for this Section 12(c)) will be of no force or effect with respect to such proceeding, subject to the right to appeal the limitation or invalidation of that waiver. Under no circumstances will a class action be arbitrated.

13. Jury Trial Waiver. Both Parties knowingly, voluntarily, intentionally and irrevocably waive any right to a trial by jury with respect to any Claim based on, arising out of or relating to the Agreement, the Services, our System, or any other document, instrument, transaction, course of conduct, course of dealing, statements (whether verbal or written) or the actions of either Party. This Section 13 is a material inducement for both Parties to enter into the Agreement. No representative or agent of either Party has represented that such Party would not seek to enforce this jury trial waiver in the event of any litigation.

14. Amendments.

(a) Generally. Except as otherwise provided in this Master Agreement or the relevant Service Schedule, we may amend (1) this Master Agreement by giving you at least 30 calendar days' prior notice of that amendment, (2) any Service Schedule or Service Documentation by giving you at least 10 calendar days' prior notice of that amendment and (3) any license or sublicense for any software or any terms of use of our System by following the procedures set forth in that license or sublicense or in those terms of use. An amendment will be effective on the date specified in our notice, and you are bound by

that amendment if you continue to use the Services or our System after that date.

(b) Emergency Amendments. If (1) an amendment is required by Applicable Law and must be implemented by a date that does not permit us to give you the period of notice required by Section 14(a), or (2) we determine an amendment is necessary for the security or integrity of a Service, our System or a Security Procedure, then we will make commercially reasonable efforts to give you as much notice of that amendment as is practicable under the circumstances (which, in the case of clause (2), may be after we have made that amendment). In such a case, you are bound by that amendment unless you stop using the Services and our System immediately after receiving our notice of it.

15. Term and Termination.

(a) Term of the Agreement. The term of the Agreement begins on the date set forth in your signature block to this Master Agreement and continues until the Agreement is terminated as provided in Section 15(b) or Section 15(c).

(b) Termination for Convenience. Either Party may terminate the Agreement or any Service Schedule, with or without cause, by giving at least 60 calendar days' prior notice to the other Party

(c) Termination for Cause. We may terminate the Agreement or any Service Schedule immediately, and without giving you prior notice, if: (1) you breach the Agreement or any other agreement you have with us; (2) any representation or warranty you make to us fails to be true and correct in any material respect; (3) we reasonably believe the Security Procedures or Credentials have been compromised; (4) we reasonably believe an unauthorized transaction involving the Services or any Designated Account has occurred or may occur; (5) you become insolvent or the subject of a bankruptcy or dissolution proceeding, make an assignment for the benefit of creditors or fail generally to pay your debts as they become due; (6) we reasonably believe materially adverse change has occurred in your operations, business, properties, liabilities (actual or contingent), condition (financial or otherwise) or prospects; (7) we are uncertain as to any person's authority to give instructions regarding any Designated Account, the Services or our System; (8) we determine that changes in Applicable Law have made it impracticable for us to perform under the Agreement generally or with respect to a particular Service; or (9) we reasonably believe you have used or may use a Service or our System in violation of Applicable Law.

(d) Effect of Termination. Even though the Agreement may be terminated entirely or with respect to a particular Service, all provisions relating to your indemnification obligations, your obligations concerning confidential information and limitations on our liability will continue to apply and will survive termination. You also continue to be liable for any obligations that you incurred prior to the termination of the Agreement or any Service Schedule, those you incur in the process of terminating the Agreement or any Service Schedule, for any outstanding Transactions and for all trailing activity (including, returns, chargebacks, adjustments and warranty and indemnity claims). You will return all tokens and other physical Credentials, proprietary material, and other property belonging to us (or our licensor) promptly after the termination of the Agreement or, unless required for another Service, a Service Schedule.

16. Miscellaneous.

(a) Notices. Any notices under the Agreement may be given by mail, personal delivery, fax, e-mail or other electronic means. We may

use any address (including e-mail or other electronic addresses) for you shown in our records that we believe in good faith is valid. Any notice we send you will be effective when we send or otherwise make the notice available to you through an online Service. You must send any notices to us to the attention of our Cash Management Department. Any notice you send us is effective when we actually receive it.

(b) Severability. To the extent permitted by Applicable Law and except as provided in Section 12(c), any provision of the Agreement that is invalid or unenforceable in any jurisdiction will, as to such jurisdiction and to the extent of such invalidity or unenforceability, be deemed replaced with a valid and enforceable provision as similar as possible to the one replaced and all of the remaining provisions of the Agreement will remain in full force and effect.

(c) Binding Agreement/Benefit. The Agreement binds and benefits both you and us and our respective legal representatives, successors and assigns. Except as otherwise provided therein, the Agreement is not for the benefit of any third party, and no third party has any right against either you or us under the Agreement.

(d) Confidentiality of the Agreement. You acknowledge that the Agreement contains valuable, confidential, trade secret information that belongs to us. You will not disclose or otherwise make that information available to any person other than your employees or agents that need it in order for you to use the Services and, as to agents, have agreed in writing to comply with the restrictions on use in the Agreement. You will instruct those employees or agents to keep the Agreement confidential by using the same care and discretion that you use with respect to your own confidential property and trade secrets. Your obligations of confidentiality regarding the Agreement will continue after termination of the Agreement and your use of the Services for so long as that information remains a trade secret or is otherwise subject to the protection of Applicable Law.

(e) Entire Agreement. The Agreement is the complete and exclusive statement of the agreement between you and us with respect to the Services and our System. The Agreement completely replaces any other ones you have given us in the past with respect to the Services or our System. If there is a conflict or inconsistency among this Master Agreement, a Service Schedule, a Service Setup Form or any Service Documentation on a particular point, then (unless the applicable Service Schedule provides otherwise) those documents will control that issue in the following order: (1) first, the applicable Service Documentation; (2) second, the applicable Service Setup Form; (3) third, the applicable Service Schedule; and (4) fourth, this Master Agreement. Each Designated Account remain subject to all other applicable agreements, such as deposit agreements, fee schedules and disclosures. If there is a conflict between the Agreement and those other agreements, scheduled and disclosures, the Agreement controls.

(f) Headings and Certain References. The headings used in the Agreement are for reference purposes only and may not be considered when interpreting the Agreement. Whenever the term "including" is used in the Agreement, it means "including, without limitation". Whenever the term "days" is used in the Agreement, it is a reference to calendar days unless that reference specifies it is business days or banking days. All terms used in the Agreement include the singular and the plural.

(g) Assignment. You may not assign the Agreement, or assign or delegate any of your rights or duties under it, to any third party without our prior written consent. We may assign the Agreement, or assign or delegate any of our rights and duties under it, to one or more third

parties without giving you notice of, or obtaining your consent to, any such assignment or delegation.

(h) Relationship. You and we are not partners, joint venturers or agents of each other because of the Agreement.

(i) Applicable Law and Jurisdiction. The Agreement is governed by and should be interpreted in accordance with the applicable federal laws and the internal laws of the state in which our principal office is located. You consent to the exclusive jurisdiction and venue of any court located in that state.

(j) Telephonic Communications. You consent to the recording of telephone conversations of your personnel in connection with the Agreement and assume responsibility for obtaining the consent of, and giving notice to, such personnel. The decision to record any telephone conversation is solely at our discretion and we will not have any liability for failing to do so in any particular circumstance.

(k) Remedies. The rights, powers, remedies and privileges provided for you in the Agreement are your sole and exclusive rights, powers, remedies and privileges with respect to the Services and our System and any failure by us to provide the Services in accordance with the terms of the Agreement. The rights, powers, remedies and privileges provided for us in the Agreement are in addition to any rights, powers, remedies and privileges with respect to the Services or any failure by you to comply with the terms of the Agreement that we have under applicable law or otherwise, and we may exercise any or all of those rights, powers, remedies and privileges in any order.

(l) No Waiver of Rights. A failure or delay by us in exercising any right, power or privilege in respect of the Agreement will not be presumed to operate as a waiver of that or any other right, power or privilege, and a single or partial exercise by us of any right, power or privilege will not be presumed to preclude any subsequent or further exercise by us of that or any other right, power or privilege.

(m) No Strict Construction. In the event an ambiguity or question of intent or interpretation of the Agreement arises, the Agreement should be construed as if you and we both drafted the Agreement, and no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any provisions of the Agreement will apply.

(n) Financial Accommodation. You acknowledge that the Agreement is an agreement to provide a "financial accommodation" as that term is defined in the federal bankruptcy laws and, as a result, that neither you nor any bankruptcy trustee (including you when acting as a debtor-in-possession) have the ability to assume or reject the Agreement as an executory contract.

(o) Our Records. You agree that our records regarding the features and accounts that you have asked us to include in our implementation of your setup for any Service will be deemed correct and will control in the event of any dispute regarding your setup for that Service. This provision applies even if we have not given you a copy of those records or you have not signed any documents included in those records.

(p) E-Sign Consent and Imaging of Documents. You consent to the use of electronic records and signatures in connection with the Agreement, the Services and our System when offered by us. This consent is provided in accordance with the Electronic Signatures in Global and National Commerce Act, as the same may be amended from time to time, and any other Applicable Law addressing the use of electronic records and signatures (including the Uniform Electronic Transactions Act, as adopted by the State of Nebraska, as amended

from time to time). You also authorize us to store and use your Master Agreement, Service Setup Forms and other Service related documents and information in any form we deem appropriate, including through the use of any electronic document imaging or conversion process, and to destroy the originals after doing so.

17. Definitions. In addition to terms defined earlier in this Master Agreement, the following terms have the meanings given below

(a) "Agreement" means, collectively, this Master Agreement and the applicable Service Schedules, Service Setup Forms and Service Documentation.

(b) "Applicable Law" means, collectively and in each case to the extent applicable to the Agreement, the Services or a Party and as in effect at the relevant time, all: (1) federal, state or other governmental statutes, codes, ordinances, laws, regulations, rules, orders, guidance, interpretations and decrees of any Governmental Authority; (2) rules of any clearing house (including NACHA) or image archive or exchange; and (3) certificates of incorporation, bylaws, rules, operating regulations, policies, procedures, manuals, guides, bulletins and other requirements of any payment network.

(c) "Authorized Representative" means a person you designate as such in a form acceptable to us.

(d) "Authorized User" means a person identified as such by an Authorized Signer or, if applicable, a Security Administrator, in each case in a form acceptable to us.

(e) "Available Funds" means funds on deposit in a Designated Account and available for withdrawal pursuant to Regulation CC of the Board of Governors of the Federal Reserve System and our funds availability policies and schedule. Funds are not available for withdrawal if they are subject to legal process or a hold or other restriction on withdrawal.

(f) "Business Day" means any day on which we and the Federal Reserve Banks are open.

(g) "Claims" means all claims, disputes, demands, actions, suits and other litigation, arbitration or other dispute resolution or administrative proceedings, in each case regardless of whether: (1) initiated by you, by us or by a third party, or (2) initiated before or after the applicable Designated Account is closed or the Agreement is terminated.

(h) "Credentials" means, collectively, all individual usernames, passwords, PINs, answers to challenge questions, tokens, encryption certificates and similar information and devices used in connection with the Security Procedures and associated with or necessary for your access to our System and use of certain Services.

(i) "Designated Account" means, with respect to a particular Service, a deposit account you maintain with us and that is identified in your Service Setup Form for that Service (or, if that Service is one that involves self-administration as contemplated by Section 9(c), identified by your Security Administrator through our System or in another manner acceptable to us) as an account to be used as a source of payment for (or to receive the proceeds of) Transactions relating to that Service and all fees, charges and other amounts you owe us with respect to that Service and, as applicable, with respect to which information or reports may be accessed or instruction may be provided through that Service.

(j) "Designated Function" means, with respect to a particular Service, the functions of that Service that are available to an Authorized

User with respect to a Designated Account as identified in your Service Setup Form for that Service (or, if that Service is one that involves self-administration as contemplated by Section 9(c), identified by your Security Administrator through our System or in another manner acceptable to us).

(k) "FinCEN" means the Financial Crimes Enforcement Network, a division within the U.S. Treasury Department.

(l) "Governmental Authority" means a governmental or regulatory authority having authority over a Party, the Agreement or the Services (including, as applicable, OFAC and FinCEN).

(m) "Item" means a payment made, received, or processed through or using the Services or our System, including a check, substitute check, purported substitute check, electronic item, draft, demand draft, preauthorized draft, remotely created check, remotely created item, remotely created consumer item, image replacement document or other order or instruction for the payment, transfer, or withdrawal of funds (including a withdrawal slip), automatic transfer, and electronic transaction (including a wire transfer and an automated clearinghouse debit or credit entry), any written document created or authorized in your name that would be a check or draft but for the fact that it has not been signed, and an adjustment or a photocopy or an image of any of the foregoing.

(n) "Losses" means all losses, liabilities, damages, judgments, awards, fines or penalties (including those imposed by any Federal Reserve Bank, clearing house or funds transfer system), fees, charges and other expenses (including reasonable attorneys' fees and the costs and expenses of collection, investigation, litigation, arbitration or other dispute resolution or administrative proceedings).

(o) "NACHA" means the National Automated Clearing House Association.

(p) "OFAC" means the U.S. Treasury Department's Office of Foreign Assets Control.

(q) "Party" means you or us, as the context requires.

(r) "Security Administrator" means a person designated as such by an Authorized Representative in a form acceptable to us.

(s) "Security Procedures" means the procedures established by the Agreement for the purpose of verifying that an instruction or communication is authentic.

(t) "Service Documentation" means the forms, rules, procedures, manuals, guides, implementation guidelines, and other documentation relating to a Service that we give or otherwise make available to you and is used in the most comprehensive sense

(u) "Service Setup Form" means, with respect to a particular Service, a document in a form that is acceptable to us and including certain instructions regarding your setup for that Service, such as the Designated Accounts for that Service, the Authorized Users for that Service and the Designated Functions and options you have selected for that Service.

(v) "Service Schedule" means a schedule to this Master Agreement that sets forth additional terms and conditions that apply to a particular Service.

(w) "System" means our internet-based information delivery and transaction initiation system as may be offered from time to time.

(x) "Transaction" means an Item or any adjustment, charge back, reclamation, reversal, return, rejection, Claims or Losses relating to an Item.

This Master Agreement has been signed (or otherwise authenticated in a manner acceptable to us) and delivered (which you agree may be by facsimile, e-mail attachment or other electronic means) on your behalf by the person whose name is printed below. That person acknowledges, certifies and agrees on your behalf that: (1) he or she is one of your Authorized Representatives with authority to sign (or otherwise authenticate in a manner acceptable to us) and deliver this Master Agreement (and any other documents we may require with respect to the Services) on your behalf; and (2) you have taken all action required by your organizational documents to authorize him or her to sign (or otherwise authenticate in a manner acceptable to us) and deliver this Master Agreement (and any other documents we may require with respect to the Services) on your behalf.

Client Name: Sample Agreement

Authorized Signature: _____

Print Name: _____

Print Title: _____

Date: 04/18/2018

Street Address: _____

City, State Zip _____

E-Mail Address: _____

Telephone: _____

Fax: _____

RESOLUTION 2018-134

WHEREAS, a Request for Proposals (RFP) for Banking Services was advertised in April of 2018; and

WHEREAS, the RFP closed on April 24, 2018; and

WHEREAS, proposals that were received were reviewed; and

WHEREAS, Five Points Bank of Grand Island, Nebraska was selected to provide the primary banking services to the City of Grand Island at no cost to the City and they will pay interest on any amount the City maintains on deposit with them, with regular evaluation of this interest rate beginning at the end of 2019.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the agreement with Five Points Bank of Grand Island, Nebraska for banking and deposit services is approved.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, May 8, 2018

Jeremy L. Jensen, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
May 4, 2018	☐ City Attorney