



Affiliated Bank

Why bank anywhere else!

REMOTE CHECK DEPOSIT AGREEMENT

This Agreement is made this _____ day of _____, 200____, by and between: _____ (“the Company”) and **Affiliated Bank** (“Bank”) to govern the depositing of the Company’s checks by creating information to deposit checks through the software provided by the Bank, based on information submitted by the Company to the Bank (“Application”). The accepted terms are as follows:

1. DEFINITIONS.

1.1 “Account” means the Company’s designated deposit account at the Bank.

1.2 “Business Day” means any calendar day that the Federal Reserve of the United States of America transacts business.

1.3 “Check” means a draft, payable on demand and drawn on a payable through or at an office of a Bank whether or not negotiable, that is handled for forward collection, including a Substitute Check and a traveler’s check; and does not include a non-cash item payable in a medium other than United States dollars.

1.4 “Customer” means a debtor obligated on one or more Checks.

1.5 “Remote Deposit Service” means all information, web-based services, technological infrastructure and installed software, if applicable, on the Company’s computers, which allow Company to submit Checks to Bank for deposit through the internet or by creating information to deposit checks through the software provided by the Bank.

1.6 “Security Procedures” means the use of identification codes, encryption, passwords, logon identifications, personal or location identification numbers, repetitive codes, and other security devices, systems and software used by the Company to communicate through the internet for the Remote Deposit Services

1.7 “Services” means all duties to be performed by the Bank regarding the Remote Deposit Service.

1.8 “Substitute Check” means a paper reproduction of the original check that:

- a) Contains an image of the front and back of the original check;
- b) bears a MICR line containing all the information on the MICR line of the original check, except as provided under generally applicable industry standards for substitute checks to facilitate the processing of the substitute checks;
- c) Conforms, in paper stock, dimension, and otherwise, with generally applicable industry standards for substitute checks; and
- d) is suitable for automated processing in the same manner as the original check.

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2. DUTIES AND RESPONSIBILITIES OF THE BANK

2.1 Use of Service. Under the terms and conditions of this Agreement, the Bank hereby grants to Company a non-exclusive ability to utilize the Remote Deposit Service through the internet or by creating information to deposit checks through the software provided by the Bank, and to use the Banks proprietary documentation for the term of this Agreement and Company agrees that the Bank may process these checks in accordance with the terms of this Agreement.

2.2 Non-eligible items. No foreign items will be processed through the Remote Deposit system regardless of currency. Savings Bonds, TT&L Coupons and mutilated items will not be processed through the Remote deposit system. These items are not eligible due to rules governed by the Federal Reserve Bank system.

2.3 Processing. The Bank will process, encode, endorse and deposit into the Account, checks submitted by Company through the Remote Deposit Service in accordance with Banks internal procedures and all state and federal laws during any business day, subject to the cut off time as stated in Attachment 3. The Bank will not examine checks to verify any data or dates. The Bank will process the check according to the amount entered by business, if applicable, or by the numeric amount shown. If the numeric amount is unclear, the Bank may process the check according to the written amount, and the Bank may correct the amount entered by the Company. If the check is ambiguous, the Bank will return the check as an exception. Checks made payable to the Company or any reasonable derivation thereof are acceptable for deposit. If a check does not have the necessary information to be processed by the Bank, then the Bank will treat the check as an exception. If a check is treated as an exception it will not be deposited or otherwise reflected in the account of Company. The Bank will disregard any notation, whether preprinted or handwritten, and treat any such as though such notation did not appear thereon.

2.4 Reporting. Reports regarding the Remote Deposit Service will be available through the Bank provided software which the Company may access through the internet.

3. DUTIES AND RESPONSIBILITIES OF COMPANY

3.1 Use of Remote Deposit. Company shall submit valid checks payable to Company by using the Remote Deposit Service in accordance with Attachment 2. In using the Remote Deposit Service, Company shall create an image of the check or checks and the associated MICR data using approved hardware provided by the Bank. If applicable, Company agrees to enter in the amount of the check using the written amount of the check into the Remote Deposit Service in the data field provided. Company agrees to abide by all terms and conditions contained in this Agreement for using the Remote Deposit Service, including but not limited to the specifications and image standards for checks in accordance with standards as outlined in 12 CFR Part 210. The Company shall safeguard the original checks for 90 days, then destroy by any means which makes the check or any information on the check unreadable by visual or magnetic means.

3.2 Substitute Checks. Company agrees that it will not deposit any substitute checks unless the Bank specifically agrees to accept such deposit. If in the absence of such specific Agreement the Bank processes any substitute checks, other than returned items for deposit, Company agrees that such processing shall not be deemed to be Banks Agreement to accept

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any substitute checks for deposit and that Company will be solely responsible for any loss of liability in connection with the deposit.

3.3 Fee for Services. Company shall compensate Bank for the performance of the service in accordance with the pricing established by Bank, which is attached as Attachment 6. Amounts payable by Company to Bank shall be collected on a monthly basis by Bank. Bank may collect any of the foregoing amounts and any other amounts due by Company to Bank hereunder or in connection with the provision of the service to Company by debiting any of Company's accounts with Bank, billing Company, and/or setting off against any amounts Bank owes Company, without any obligation to give prior notice thereof to Company. Bank may change pricing from time to time by providing Company with thirty (30) days written notice of a pricing change. If Company does not accept the pricing change, then the Company must notify Bank within fifteen (15) of the effective date of the pricing change. Company shall also pay all attorneys fees and other costs and expenses Bank may incur in collecting any fees or other sums Company may owe to Bank in connection with the service. Bank shall also have the right to credit or debit any accounts of Company with Bank to correct any processing irregularity in connection with the service.

4. REPRESENTATIONS, WARRANTIES, COVENANTS, AND LIABILITY

4.1 Representations and Warranties. Company and Bank each represents and warrants to the other, as of the date this Agreement is entered into and at the time the service is used or performed, that: (a) it is validly existing and in good standing under the laws of the jurisdiction of its organization; (b) it has all requisite power and authority to execute and deliver, and to perform its obligations under, this Agreement and the service used or performed by it; (c) this Agreement has been duly authorized and executed by it any constitutes its legal, valid and binding obligation; and (d) any consent or authorization of any governmental authority or third party required to be obtained by it in connection with this Agreement or the service used or performed by it has been obtained. Bank makes no representation or warranty, express or implied, and disclaims all warranties as to the merchantability, fitness for a particular purpose or suitability of the services for Company, or as to the compatibility of Banks software, equipment or communication interfaces with those of Company. The Company represents and warrants that: (a) it is fully authorized to enter into and perform under this Agreement, and that this Agreement constitutes its legal, valid and binding obligation; (b) the Company is solvent and in good standing in the state of its organization; (c) it is not the present intent of the Company to seek protection under any Bankruptcy laws; (d) its checks are currently and were at the time of their creation, bona fide and existing obligations or customers of the Company, free and clear of all security interests, liens, and claims whatsoever of third parties and are not now nor have they ever been declared in default; (e) the documentation under which the checks are payable authorize the payee to charge and collect the monies owed; (f) all checks and all documents and practices related to them comply with all applicable federal and state laws.

4.2 Covenants. The Company covenants that it will: (a) allow the Bank to review and inspect during reasonable business hours, and the Company will supply, all financial information, financial records, and documentation of the Company regarding the checks that the Bank may request; (b) the checks submitted by Company are valid checks, the Company will reimburse and indemnify the Bank for all loss, damage and expense, including reasonable attorneys fee, incurred in defending such transactions as invalid or fraudulent Checks; and (c) in the event of the commencement of any proceeding under any Bankruptcy or insolvency laws by or against

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the Company, the Company will not oppose or object to any motion by the Bank seeking relief from the automatic stay provisions of such laws.

4.3 Liability. Bank will exercise ordinary care in providing the service and will be responsible for any loss sustained by Company only to the extent such loss is caused by Bank's reckless or willful misconduct. In no event shall clerical errors or mistakes in judgments constitute failure to exercise ordinary care, nor shall Bank have any liability for any indirect, incidental, consequential (including lost profits), special or punitive damages, whether arising in contract or in tort, and whether or not the possibility of such damages was disclosed to or could have been reasonably foreseen by Bank. Under no circumstances shall Bank be responsible for any liability, loss or damage resulting from any delay in performance of or failure to perform in connection with the service which is caused by interruption of telephone, telefacsimile, or communication facilities, delay in transportation, equipment breakdown or mechanical malfunction, electrical, power or computer failure, accidents, fire, flood, explosion, theft, natural disaster or other catastrophe, acts or failure to act by Company or any third party, strikes or lockouts, emergency conditions, riots, war, acts of government or other circumstances which are unavoidable or beyond Bank's control. Bank shall not be liable for failure to perform any of its obligations in connection with the service if such performance would result in it being in breach of any law regulation or requirement of any governmental authority. If Bank fails to credit any of Company's accounts utilized in connection with the service in accordance with the Service Terms and Conditions applicable thereto as of the date such credit was earned, upon discovery or notification of such error, Bank will properly credit such account, but Bank shall not incur any liability therefore, including any loss resulting from failure by Company to invest the amount of funds not properly credited to the account. In addition, if the quality of the image of any checks processed under this Agreement does not meet applicable generally accepted industry standards or other regulatory requirements and this is not the result of Bank's gross negligence or willful misconduct, Company acknowledges and agrees that Company shall be liable for any and all resulting losses, damages, costs and liabilities.

5. INDEMNIFICATION. Company shall indemnify and hold harmless Bank and each of its directors, officers, employees, agents, successors and assigns ("Indemnitees") from and against all liability, loss and damage of any kind (including attorney's fees and other costs incurred in connection therewith) incurred by or asserted against such Indemnitee in any way relating to or arising out of the service, by reason of any acts or omissions of Company or any third party or otherwise, except to the extent such liability, loss or damage is caused by the gross negligence or willful misconduct of such Indemnitee (provided that reliance, without further investigation, on any oral, telephonic, electronic, written or other request, notice or instruction believed in good faith to have been given by Company will in no event constitute gross negligence or willful misconduct on the part of such Indemnitee.)

6. SECURITY PROCEDURES AND COMMUNICATIONS. Certain Security procedures designed to verify the origination (but not errors in transmission or content) of instructions, orders and other communications sent by Bank and Company might be used in connection with the service. Company agrees that any such mutually agreed-upon security procedures shall be deemed commercially reasonable. Bank shall not be obligated to act on a communication not transmitted in accordance with the security procedures and may refuse to act on any communication where Bank reasonably doubts its authorizations, contents, origination or compliance with the security procedures. Bank shall have no duty to discover,

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shall not be liable for errors or omissions by Company. If Bank complies with the security procedures in respect of a communication, Bank shall be entitled to act on that communication and shall not be obligated to verify the content of such communication, established the identity of the person giving it, or await any confirmation thereof, and Bank shall not be liable for acting on, and Company shall be bound by, any communication sent in the name of Company, whether or not authorized. Bank reserves the right to issue new security procedures and/or to cancel or change any security procedures from time to time. Whenever the security procedures include the assigning to Company of any confidential password, logon identification, identification code, personal or location identification number, repetitive code, or similar security device, Company shall not disclose such security device except to employees or agents authorized to act for Company in connection with the service. Company shall implement such safeguards as are reasonably necessary to ensure the confidentiality and integrity of any such security device, Company shall not disclose such security device except to employees or agents authorized to act for Company in connection with the Service. Company shall implement such safeguards as are reasonably necessary to ensure the confidentiality and integrity of such security devices, and shall immediately notify Bank if the confidentiality or integrity of any such security device is breached or threatened. Company shall be solely responsible for the safekeeping of such security devices and assumes all risk of accidental disclosure or inadvertent use of such security devices by any party whatsoever, whether such disclosure or use is on account of Company's negligence or deliberate acts or otherwise. Bank shall not be liable for any loss or damage resulting from fraudulent, unauthorized or otherwise improper use of any security devices.

7. CONFIDENTIALITY. All user guides, manuals, data, software, processes and other information provided to Company in connection with the service and all fee and pricing information with respect to the service ("information") is the proprietary and confidential property of Bank and/or its relevant licensors or suppliers. Company agrees to use the information only in the manner specified by Bank and in the ordinary course of Company's business, to return it to Bank upon termination of the relevant service, and to keep the information confidential and limit access thereto only to its agents and employees who require access in the normal course of their duties, except to the extent the information is already in the public domain or Company is required to disclose the information by law.

8. INTERMEDIARIES. Bank may act on any communication and provide the services using any payment system or intermediary organization it reasonably selects. Bank's performance of the service is subject to the rules and regulations of any such system or organization. Bank may engage third parties to provide the service. Bank shall have no obligation to disclose arrangements with third parties to Company or obtain Company's consent thereto. Company authorizes the transfer of information relating to Company to agents of Bank or Company for use in connection with the services or as required by law.

9. RECORDINGS AND RECORDS. Either Company or Bank may produce telephonic or electronic recordings or computer records, including e-mail and telefacsimile transmissions, as evidence in any proceedings brought in connection with the service. Company agrees to Bank's telephonic or electronic recording for security and quality of service purposes.

10. NOTICES. Any notice or other communication may be sent by Bank to Company at Company's postal, e-mail, telefacsimile or other address provided by Company to Bank, and Bank may assume that any notice or communication sent to Company at any such address has been received by Company, until Company notifies Bank in writing of another address.

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Company agrees to be bound by such rules, and agrees that no entries that violate United States law may be initiated. Company shall be responsible for and shall fully indemnify Bank for any and all fines and assessments imposed on Bank as a result of any infraction or violation of such rules cause by or attributable to Company.

11. ACCOUNTS. The service involving Company's accounts at Bank are subject to the Banks terms and conditions of deposit accounts and availability schedules in effect from time to time, provided that in the event of any conflict between this Agreement and Banks terms and conditions of deposit accounts, this Agreement shall prevail.

12. DISCREPANCIES. Company shall promptly notify the Bank in writing of any error in connection with the service and any discrepancies between any records maintained by Company and any notice Company receives from Bank with respect to the service, and shall provide Bank with any information it may reasonably request in connection therewith. Company agrees that fourteen (14) days is a reasonable time for Company to notify Bank of errors or discrepancies, unless any other Agreements, or laws, rules, or regulations provide for a shorter period. Bank shall have the right to correct the amount in the data field for any check that has an incorrect amount to be consistent with the image of the check. Notwithstanding the foregoing, if Bank at any time discovers that the legal amount of the check is different than the amount that has been credited to the Company's account; the Bank will make the necessary adjustment to the account to correct the discrepancy.

13. COMPLIANCE. Company shall comply with all laws, rules and regulations in connection with the services. Company agrees to be bound by such rules, and agrees that no entries that violate United States law may be initiated. Company shall be responsible for and shall fully indemnify Bank for any and all fines and assessments imposed on Bank as a result of any infraction or violation of such rules caused by or attributable to Company.

14. DISCLOSURE. Company acknowledges that the Bank may have certain legal record keeping and reporting requirements with respect to the service and consents to Banks disclosure to governmental authorities of information concerning Company and the service provided to Company which Bank believes to be appropriate or necessary to fulfill such legal requirements

15. FIDUCIARY STATUS. Nothing contained herein shall be deemed to create fiduciary status on the part of Bank in connection with the provision of the service. The foregoing notwithstanding, to the extent, if any, that Bank is deemed to be a fiduciary of Company in providing the service, this Agreement is not intended to, nor shall, relieve Bank of any fiduciary responsibility otherwise imposed by law.

16. TERMINATION. Either party may terminate the service by providing sixty (60) days prior written notice to the other party. Bank may also terminate or suspend the service without notice to Company if any of the following occurs: (a) Company becomes insolvent or files, or has filed against it, any Bankruptcy or other insolvency, reorganization, liquidation or dissolution proceeding of any kind; (b) a material adverse change occurs in Company's business or financial condition; (c) Bank has reason to believe that Company has engaged in fraudulent or illegal activity; (d) Company fails to maintain balances in accounts sufficient to cover overdrafts; (e) Company violates the terms of this Agreement or any financing arrangement with Bank; (f) Company fails to provide financial information reasonably requested by Bank; (g) Bank determines it is impractical or illegal to provide the service

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because of changes in laws, regulations or rules; or (h) Bank, in good faith, is unable to satisfy itself that the service have been properly authorized by Company. Notwithstanding any termination, the terms of this Agreement shall apply to all transactions, which have been initiated prior to termination. **LEASED EQUIPMENT WILL BE RETURNED TO BANK UPON TERMINATION.**

17. GOVERNING LAW; SEVERABILITY. Except to the extent superseded by federal law, the provision of services shall be governed by the laws of the state in which the principal office of Bank is located. Company agrees that the courts of such state shall have jurisdiction to hear any dispute arising out of the Service and submits to the jurisdiction of such courts. Any provision of this Agreement, which is unenforceable, shall be ineffective to the extent of such provision, without invalidating the remaining provisions of this Agreement. If performance of the Services would result in violation of any law, regulation or governmental policy, this Agreement shall be deemed amended to the extent necessary to comply therewith.

18. FINANCIAL ACCOMMODATION. Company and Bank agree that this Agreement and the services constitute an Agreement to provide a “financial accommodation” as defined in 11 U.S.C. §365.

19. ARBITRATION. All disputes, controversies or differences which may arise between the parties out of or in connection with the Agreement, which cannot be settled by negotiation within thirty (30) days of the matter first being notified in writing to the other by the complaining party, shall be finally settled by binding arbitration in accordance with the commercial arbitration rules. The arbitration of all matters shall be conducted by three (3) arbitrators (“panel of three”) with each party selecting one (1) arbitrator, and the third to be selected from the panel of arbitrators, who shall serve as the chair of the panel of three. If either party refuses or neglects to appoint an arbitrator within thirty (30) days after receipt of written notice from the other party requesting it to do so, the requesting party may appoint two (2) arbitrators. The place of the arbitration shall be in the same city as the principal office that the Bank is located. The arbitration award shall be final and binding upon the parties. Any judgment upon such award may be enforced in any court having jurisdiction, or application may be made to such court for a judicial confirmation of such award and judgment or order of enforcement, as the case may be. The cost of the arbitration shall be borne equally by the parties unless otherwise provided in the arbitration award. The parties hereto agree that the arbitration award will be the sole and exclusive remedy between them regarding any and all claims, counterclaims, or issues in order to have arbitration as the sole and exclusive remedy the parties hereto exclude the right of appeal to courts of the United States, or any other courts, in connection with any question of law arising in the course of the reference to arbitration or out of the arbitration award.

20. WAIVER OF JURY TRIAL. COMPANY AND BANK WAIVE ALL RIGHTS TO TRIAL BY JURY IN ANY LITIGATION OR OTHER PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SERVICES USED BY COMPANY.

21. GENERAL. This Agreement manifests the entire Agreement between the parties regarding the subject matter hereof and supersedes all prior understandings, writings, proposals, representations or communications, oral or written, of either party. Neither party relied on any representation or promise by other party that are not set forth in this Agreement. This Agreement may not be assigned by Company without Bank’s prior written consent. Bank may assign this Agreement without Company’s consent. Neither Company nor Bank shall

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display any name, trademark or service mark of the other without the prior written consent of the other. Company shall not advertise or promote the service without Bank's prior written consent. This Agreement shall bind and Benefit the parties and their successors and assigns. None of the terms of this Agreement may be waived except as Bank may consent in writing, and no Agreement with or representation made by any employee of Bank that is in conflict with this Agreement will be binding on Bank unless contained in a written modification of this Agreement signed by an authorized officer of Bank. No delay on the part of Bank in exercising any right or power under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right or power under this Agreement preclude further exercise thereof or the exercise of any other right or power. The rights and remedies under this Agreement are cumulative and not exclusive of any rights or remedies which Bank would otherwise have. Section headings in this Agreement are for convenience of reference only and do not constitute a part hereof or thereof. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument. Attachment 1, Attachment 2 and Attachment 3, Attachment 4 Attachment 5 and Attachment 6 are attached to this Agreement and are incorporated herein by reference.

[ENDORSEMENTS FOLLOW ON NEXT PAGE]

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22. Endorsements

COMPANY NAME: _____

By: _____

Name: _____

Title: _____

Date: _____

“Company”

AFFILIATED BANK,

By: _____

Name: _____

Title: _____

Date: _____

“Bank”

The undersigned non-owner, non-employee agent accepts appointment by the Company as an authorized representative and does hereby agree to act on behalf of the Company in strict accordance with the terms of this Agreement for so long as such appointment shall continue.

Non-Owner, Non-Employee Agent

By: _____

Name: _____

Title: _____

Date: _____

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ATTACHMENT I

Company Name: _____

Remote Deposit- Contacts and Authorized Signatures

Main Contact Name:	
Mailing Address:	
Email Address:	
Phone Number:	
Return/Correction Contact:	
Email Address:	
Phone Number:	
Fax Number:	
Returns Account #:	
Billing Account #:	
Web Client URL:	

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ATTACHMENT 2 **Security Procedures**

The Bank shall be entitled to rely on any written notice or other written communication believed by it in good faith to be genuine and to have been signed by the Authorized Representative, and any such communication shall be deemed to have been signed by such person.

Personal Computer File Transmission

The Company's Authorized Representative will access the REMOTE DEPOSIT system by utilizing the prearranged log on procedures, remote ID and file ID.

The Company is solely responsible for any access by its employees and agents to the data files maintained on the Company's personal computers or REMOTE DEPOSIT Web Client database.

The Company hereby acknowledges that access to the REMOTE DEPOSIT Web Client system must be carefully and continuously controlled. In accordance with the aforesaid, the Company agrees to use the highest standard of diligence to insure the confidentiality of user passwords and will prohibit the unauthorized access to, or use of the REMOTE DEPOSIT Web Client secure web site.

Procedures

The Company's Authorized Representative will run two calculator tapes of all checks to be deposited to verify total.

The Remote Deposit program will prompt the Representative for the expected total for the deposit.

The Authorized Representative will reconcile amount expected and amount that the Remote Deposit program computes.

The Authorized Representative will print two copies of the deposit receipt. One copy will be kept by the Company for filing and future reference and one copy is to be stored with the original checks that were deposited in a sealed tamper-proof envelope or bag. The bag or envelope will be dated the date of the deposit. These items will be securely maintained for a period of 60 days. At the end of the 60 days these items will be destroyed in such a way that the items cannot be reassembled or identified by a third party. The Company will either destroy or shred these documents on site or they will contract with a Company that will destroy or shred these documents in a contracted environment.

The Company will confirm that the deposit was credited to the Company's account at Affiliated Bank correctly.

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ATTACHMENT 3

File Transmission

Personal Computer Transmissions

The Company will transmit files to the Bank utilizing the Remote Deposit software provided by the Bank.

Remote Processing Deadlines

Transmission of a file: until 5:00 P.M. central time to receive credit that business day.

"Business Day" is a day Bank is open to the public for carrying on substantially all of its business (other than Saturday, Sunday, or listed holidays).

Holidays (Non-Processing Days)

New Years Day	Day 1 of January
Martin Luther King, Jr. Day	Third Monday of January
Presidents Day	Third Monday of February
Memorial Day	Last Monday of May
Independence Day	Day 4 of July
Labor Day	First Monday of September
Columbus Day	Second Monday of October
Veterans Day	Day 11 of November
Thanksgiving Day	Fourth Thursday of November
Christmas Day	Day 25 of December

Other days dictated by the
Federal Reserve Bank

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ATTACHMENT 4

DISPOSAL OF CONSUMER REPORT INFORMATION AND RECORDS

Sections:

1. Definitions.
2. Purpose and Scope.
3. Proper disposal of consumer information.
4. Relation to other Laws.
5. Effective date.

1. Definitions:

(a) In general. Except as modified by this part or unless the context otherwise requires, the terms used in this part have the same meaning as set forth in the Fair Credit Reporting Act, 15 U.S.C. 1681 et seq.

(b) “Consumer information” means any record about an individual, whether in paper, electronic, or other form, that is a consumer report or is derived from a consumer report. Consumer information also means a compilation of such records. Consumer information does not include information that does not identify individuals, such as aggregate information or blind data.

(c) “Dispose” “disposing” or “disposal” means:

- (1) The discarding or abandonment of consumer information, or
- (2) The sale, donation, or transfer of any medium, including computer equipment upon which consumer information is stored.

2. Purpose and Scope:

(a) Purpose. This part (“rule”) implements section 216 of the Fair and Accurate Credit Transactions Act of 2003, which is designed to reduce the risk of consumer fraud and

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related harms, including identity theft, created by improper disposal of consumer information.

(b) Scope. This rule applies to any person over which the Federal Trade Commission has jurisdiction, that, for a business purpose maintains or otherwise possesses consumer information.

3. Proper disposal of consumer information:

(a) Standard. Any person who maintains or otherwise possesses consumer information for a business purpose must properly dispose of such information by taking reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal.

(b) Examples. Reasonable measures to protect against unauthorized access to or use of consumer information in connection with its disposal include the following examples. These examples are illustrative only and are not exclusive or exhaustive methods for complying with this rule.

(1) Implementing and monitoring compliance with policies and procedures that require the burning, pulverizing, or shredding of papers containing consumer information so that the information cannot practicably be read or reconstructed.

(2) Implementing and monitoring compliance with policies and procedures that require destruction or erasure of electronic media containing consumer information so that the information cannot practicably be read or reconstructed.

(3) After due diligence, entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of material, specifically identified as consumer information, in a manner consistent with this rule. In this Company's context, due diligence could include reviewing an independent audit of the disposal Company's operations and/or its compliance with this rule, obtaining information about the disposal Company from several references or other reliable sources, requiring that the disposal Company be certified by a recognized trade association or similar third party, reviewing and evaluating the disposal Company's information Security Policies, or procedures, or taking other appropriate measures to determine the competency and integrity of the potential disposal Company.

(4) For Persons or entities who maintain or otherwise possess consumer information through their provision of services directly to a person subject to this part, implementing and monitoring compliance with policies and procedures that protect against unauthorized or unintentional disposal of consumer information, and disposing of such information in accordance with examples (1) and (2) above.

(5) For persons subject to the Gramm-Leach-Bliley Act, 15 U.S.C. 6081 et seq., and the Federal Trade Commission's Standards for Safeguarding Customer Information, 16 CFR Part 314 ("Safeguards Rule"), incorporating the proper disposal of consumer information as required by this rule into the information security program required by the Safeguards Rule.

4. Relation to other laws:

Nothing in this rule shall be construed:

(a) To require a person to maintain or destroy any record pertaining to a consumer that is not imposed under other law; or

(b) To alter or affect any requirement imposed under any other provision of law to maintain or destroy such a record.

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ATTACHMENT 5

Subpart D – Sections 226.54 – 226.55

EXPEDITED RECREDIT FOR CONSUMERS.

(a) RECREDIT CLAIMS

(1) IN GENERAL.- A consumer may make a claim for expedited recredit from the Bank that holds account of the consumer with respect to a substitute check, if the consumer asserts in good faith that-

(A) The Bank charged the consumer's account for a substitute check that was provided to the consumer;

(B) Either-

(i) The check was not properly charged to the consumer's account; or

(ii) The consumer has a warranty claim with respect to such substitute check;

(C) The consumer suffered a resulting loss; and

(D) The production of the original check or a better copy of the original check is necessary to determine the validity of any claim described in subparagraph (B).

(2) 40-DAY PERIOD- any claim under paragraph (1) with respect to a consumer account may be submitted by a consumer before the end of the 40-day period beginning on the later of-

(a) the date on which the financial institution mails or delivers, by a means agreed to by the consumer, the periodic statement of account for such account which contains information concerning the transaction giving rise to the claim; or

(B) The date on which the substitute check is made available to the consumer.

(3) EXTENSION UNDER EXTENUATING CIRCUMSTANCES- If the ability of the consumer to submit the claim within the 40-day period under paragraph (2) is delayed due to extenuating circumstances, including extended travel or the illness of the consumer, the 40 day period shall be extended by a reasonable amount of time.

(b) PROCEDURES FOR CLAIMS-

(1) IN GENERAL- To make a claim for an expedited recredit under subsection (a) with respect to a substitute check, the consumer shall provide to the Bank that holds the account of such consumer-

(A) A description of the claim, including an explanation of-

(i) Why the substitute check was not properly charged to the consumer's account; or

(ii) The warranty claim with respect to such check;

(B) A statement that the consumer suffered a loss and an estimate of the amount of the loss;

(C) The reason why production of the original check or a better copy of the original check is necessary to determine the validity of the charge to the consumer's account or the warranty claim; and

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(D) Sufficient information to identify the substitute check and to investigate the claim.

(2) CLAIM IN WRITING-

(A) IN GENERAL- the Bank holding the consumer account that is the subject of a claim by the consumer under subsection (a) may, in the discretion of the Bank, require the consumer to submit the information required under paragraph (1) in writing.

(B) MEANS OF SUBMISSION- A Bank that requires a submission of information under subparagraph (A) may permit the consumer to make the submission electronically, if the consumer has agreed to communicate with the Bank in that manner.

(c) RECREDIT TO CONSUMER-

(1) CONDITIONS FOR RECREDIT- The Bank shall recredit a consumer account in accordance with paragraph (2) for the amount of a substitute check that was charged against the consumer account if-

(A) A consumer submits a claim to the Bank with respect to that substitute check that meets the requirement of subsection (b); and

(B) The Bank has not-

(i) Provided to the customer-

(I) The original check; or

(II) A copy of the original check (including an image or substitute check) that accurately represents all of the information on the front and back of the original check, as of the time at which the original check was truncated; and (ii) demonstrated to the consumer that the substitute check was properly charged to the consumer account.

(2) TIMING OF RECREDIT-

(A) IN GENERAL- The Bank shall recredit the consumer's account for the amount described in paragraph (1) no later than the end of the business day following the business day on which the Bank determines the consumer's claim is valid.

(B) RECREDIT PENDING INVESTIGATION- if the Bank has not yet determined that the consumer's claim is valid before the end of the 10th business day after the business day on which the consumer submitted the claim, the Bank shall recredit the consumer's account for-

(i) the lesser of the amount of the substitute check that was charged against the consumer account, or \$2,500, together with interest if the account is an interest bearing account, no later than the end of such 10th business day; and

(ii) The remaining amount of the substitute check that was charged against the consumer account, if any, together with interest if the account is an interest-bearing account, not later than the 45th calendar day following the business day on which the consumer submits the claim. (d) AVAILABILITY OF RECREDIT-

(1) NEXT BUSINESS DAY AVAILABILITY- Except as provided in paragraph (2), a Bank that provides a recredit to a consumer account under subsection (c) shall make the recredited funds available for withdrawal by the consumer by the start of the next business day after the business day on which the Bank recredits the consumer's account under subsection (c)

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(2) SAFEGAURD EXCEPTIONS- a Bank may delay availability to a consumer of a recredit provided under subsection (c)(2)(B)(i) until the start of either the business day following the business day on which the bank determines the consumer's claim is valid or the 45th calendar day following the business day on which the consumer submits a claim for such recredit in accordance with subsection (b), whichever is earlier, in any of the following circumstances:

(A) NEW ACCOUNTS- The claim is made during the 30-day period beginning on the business day the consumer account was established.

(B) REPEATED OVERDRAFTS- Without regard to the charge that is the subject of the claim for which the recredit was made-

(i) on 6 or more business days during the 6-month period ending on the date on which with consumer submits the claim, the balance in the consumer account was negative or would have become negative if checks or other charges to the account had been paid; or

(ii) On 2 or more business days during such 6-month period, the balance in the consumer account was negative or would have become negative in the amount of \$5,000 or more if checks or other charges to the account had been paid.

(C) PREVENTION OF FRAUD LOSSES- the Bank has reasonable cause to believe that the claim is fraudulent, based on facts (other than the fact that the check in question or the consumer is of a particular class) that would cause a well-grounded belief in the mind of a reasonable person that the claim is fraudulent.

(3) OVERDRAFT FEES- No Bank that, in accordance with paragraph (2), delays the availability of a recredit under subsection (c) to any consumer account may impose any overdraft fees with respect to drafts drawn by the consumer on such recredited amount before the end of the 5-day period beginning on the date notice of the delay in the availability of such amount is sent by the Bank to the consumer.

(e) REVERSAL OF RECREDIT- a Bank may reverse a recredit to a consumer account if the Bank-

(1) Determines that a substitute check for which the Bank recredited a consumer account under subsection (c) was in fact properly charged to the consumer account; and

(2) Notifies the consumer in accordance with subsection (f)(3).

(f) NOTICE TO CONSUMER-

(1) NOTICE IF CONSUMER CLAIM NOT VALID- if a Bank determines that a substitute check subject to the consumer's claim was in fact properly charged to the consumer's account, the Bank shall send to the consumer, no later than the business day following the business day on which the Bank makes a determination-

(A) The original check or a copy of the original check (including an image or a substitute check) that-

(i) Accurately represents all of the information on the front and back of the original check (as of the time the original check was truncated); or

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(ii) Is otherwise sufficient to determine whether or not the consumer's claim is valid; and

(B) an explanation of the basis for the determination by the Bank that the substitute check was properly charged, including a statement that the consumer may request copies of any information or documents on which the Bank relied in making the determination.

(2) NOTICE OF RECREDIT- if a Bank recredits a consumer account under subsection (c), the Bank shall send to the consumer, no later than the business day following the business day on which the Bank makes the recredit, a notice of-

(A) The amount of the recredit; and

(B) The date the recredited funds will be available for withdrawal.

(3) NOTICE OF REVERSAL OF RECREDIT- In addition to the notice required under paragraph (1), if a Bank reverses a recredited amount under subsection (e) the Bank shall send to the consumer, no later than the business day following the business day on which the Bank reverses the recredit, a notice of- (A) the amount of the reversal;

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(B) The date the recredit was reversed

(4) MODE OF DELIVERY. - A notice described in this subsection shall be delivered by United States mail or by any other means through which the consumer has agreed to receive account information.

(G) OTHER CLAIMS NOT AFFECTED- Providing a recredit in accordance with this section shall not absolve the Bank from liability for a claim made under any other law, such as a claim for wrongful dishonor under the Uniform Commercial Code, or from liability for additional damages under section 6 or 10.

(H) CLARIFICATION CONCERNING CONSUMER POSSESSION.- a consumer who was provided a substitute check may make a claim for an expedited recredit under this section with regard to a transaction involving the substitute check whether or not the consumer is in possession of the substitute check. Applicability,

(I) SCOPE OF APPLICATION- this section shall only apply to customers who are consumers.

EXPEDITED RECREDIT PROCEDURES FOR BANKS & REMOTE DEPOSIT CUSTOMERS

(a) RECREDIT CLAIMS-

(1) IN GENERAL- A Bank may make a claim against an indemnifying Bank for expedited recredit for which that Bank is indemnified if-

(A) the claimant Bank (or a Bank that the claimant Bank has indemnified) has received a claim for expedited recredit from a consumer under section 7 with respect to a substitute check or would have been subject to such a claim had the consumer's account been charged;

(B) The claimant Bank has suffered a resulting loss or is obligated to recredit a consumer account under section 7 with respect to such substitute check; and

(C) Production of the original check, another substitute check, or a better copy of the original check is necessary to determine the validity of the charge to the customer account or any warranty claim connected with such substitute check.

(2) 120-DAY PERIOD- Any claim under paragraph (1) may be submitted by the claimant Bank to an indemnifying Bank before the end of the 120 day period beginning on the date of the transaction that gave rise to the claim.

(b) PROCEDURES FOR CLAIMS-

(1) IN GENERAL- To make a claim under subsection (a) for an expedited recredit relating to a substitute check, the claimant Bank shall send to the indemnifying Bank-

(A) A description of-

(i) The claim, including an explanation of why the substituted check cannot be properly charged to the consumer account; or

(ii) The warranty claim;

(B) a statement that the claimant Bank as suffered a loss or is obligated to recredit the consumer's account under section 7, together with an estimate of the amount o the loss recredit;

(C) the reason why production of the original check, another substitute check, or a better copy of the original check is necessary to determine the validity of the charge to the consumer account or the warranty claim; and

(D) Information sufficient for the indemnifying Bank to identify the substitute check and to investigate the claim.

(2) REQUIREMENTS RELATING TO COPIES OF SUBSTITUTE CHECKS-

If the information submitted by a claimant Bank pursuant to paragraph (1) in connection with a claim for an expedited recredit includes a copy of any substitute check for which any such claim is made, the claimant Bank shall take reasonable steps to ensure that any such copy cannot be-

(A) mistaken for the legal equivalent of the check under section4(b); or

(B) Sent or handled by any Bank, including indemnifying Bank, as a forward collection or returned check.

(3) CLAIM IN WRITING-

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(A) IN GENERAL- An indemnifying Bank may, in the discretion of the Bank, require the claimant Bank to submit the information required by paragraph (1) in writing, including a copy of the written or electronically submitted claim, if any, that the consumer provided in accordance with section 7(b).

(B) MEANS OF SUBMISSION- An indemnifying Bank that requires a submission of information under subparagraph (a) may permit the claimant Bank to make the submission electronically, if the claimant Bank has agreed to communicate with the indemnifying Bank in that manner.

(C) RECREDIT BY INDEMNIFYING BANK-

(1) PROMPT ACTION REQUIRED- No later than 10 business days after the business day on which an indemnifying Bank receives a claim under subsection (a) from a claimant Bank with respect to a substitute check, the indemnifying Bank shall-

(A) Provide, to the claimant Bank, the original check (with respect to such substitute check) or a copy of the original check (including an image or a substitute check) that-

(i) Accurately represents all of the information on the front and back of the original check (as of the time the original check was truncated)

(ii) Is otherwise sufficient to determine the Bank's claim is not valid; and

(B) Recredit the claimant Bank for the amount of the claim up to the amount of the substitute check, plus interest if applicable; or

(C) Provide information to the claimant Bank as to why the indemnifying Bank is not obligated to comply with subparagraph (A) or (B).

(2) RECREDIT DOES NOT ABROGATE OTHER LIABILITIES- Provide a recredit under this subsection to a claimant Bank with respect to a substitute check shall not absolve the indemnifying Bank from liability for claims brought under any other law or from additional damages under section 6 or 10 with respect to such check.

(3) REFUND TO INDEMNIFYING BANK- if a claimant Bank reverses, in accordance with section 7(e), a recredit previously made to a consumer account under section 7(c), or otherwise receives a credit or recredit with regard to such substitute check, the claimant Bank shall promptly refund to any indemnifying Bank any amount previously advanced by the indemnifying Bank in connection with such substitute check. (d)

PRODUCTION OF ORIGINAL CHECK OR A SUFFICIENT COPY GOVERNED BY SECTION 6(d).- if the indemnifying Bank provides the claimant Bank with the original check or a copy of the original check (including an image or a substitute check) under subsection (c)(1)(A), section 6(d) shall govern any right of the indemnifying Bank to any repayment of any funds the indemnifying Bank has credited to the claimant Bank pursuant to subsection (c).

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DELAYS IN AN EMERGENCY

A delay by a Bank beyond the time limits prescribed or permitted by this act shall be excused if the delay is caused by interruption of communication or computer facilities, suspension of payments by another Bank, war, emergency conditions, failure of equipment, or other circumstances beyond the control of a Bank and if the Bank uses such diligence as the circumstances require.

MEASURE OF DAMAGES

(a) LIABILITY-

(1) IN GENERAL- Except as provided in section 6, any person who, in connection with a substitute check, breaches any warranty under this act or fails to comply with any requirement imposed by, or regulation prescribed pursuant to, this act with respect to any other person shall be liable to such person in an amount equal to the sum of-

(A) The lesser of-

(i) The amount of the loss suffered by the other person as a result of the breach or failure; or

(ii) The amount of the substitute check; and

(B) Interest and expenses (including costs and reasonable attorney's fees and other expenses of representation) related to the substitute check.

(2) OFFSET OF RECREDITS- The amount of damages any person receives under paragraph (1), if any, shall be reduced by the amount, if any, that the claimant receives and retains as a recredit under section 7 or 8.

(b) COMPARATIVE NEGLIGENCE-

(1) IN GENERAL- If a person incurs damages that resulted in whole or in part from the negligence or failure of that person to act in good faith, then the amount of any liability due to that person under subsection (a) shall be reduced in proportion to the amount of negligence or bad faith attributed to that person.

(2) RULE OF CONSTRUCTION- Nothing in this subsection reduces the rights of a consumer or any other person under the Uniform Commercial Code or other applicable provision of Federal or State law.

For the full check 21 ruling please refer to the FDIC.

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ATTACHMENT 6
Fees

	PLAN1 Double pass scanner	PLAN 2 Single pass scanner
Monthly Licensing and Leasing fee	\$ 85.00	\$ 120.00
Per Deposit	\$.15	\$.15
Deposited items	\$.20	\$.20

Charge Plan: _____

Approved
By: _____

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