



SYNOVUS[®]

**Treasury Management Services
Master Services Agreement**

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- 1. The Treasury Management Services.** This Treasury Management Services Master Services Agreement (this “**Agreement**”) sets forth the general terms and conditions applicable to all of the Treasury Management Services (the “**Service**” or the “**Services**”) described in each addendum to this Agreement selected in the Enrollment Form, provided in the Terms and Conditions Booklet, and as may be entered into by and between Synovus Bank and you, the company entering into this Agreement with Bank, from time to time (each along with any Schedules or Exhibits thereto, a “**Service Addendum**,” two or more, the “**Service Addenda**”). Upon initial enrollment in any of the Services, you will complete an Enrollment Form on which you will select the Services you wish to receive. By selecting a Service on the Enrollment Form or by using any of the Services, you agree to and become bound by this Agreement including each applicable Service Addendum. The person signing this Agreement represents and warrants to us that the individual has the authority from you to execute this Agreement on your behalf. The Enrollment Form is made part of this Agreement by this reference. If a discrepancy or inconsistency is determined to exist between the terms of this Agreement and the terms of any Services Addendum, then the Service Addendum shall control with respect to the terms of the Services provided through that Services Addendum, but only to the extent necessary to resolve the discrepancy or inconsistency. A Service Addendum shall be effective as of the earlier date of when you first use the Service, the Enrollment Form is signed by Bank if attached hereto, or as otherwise expressly provided in the Service Addendum. Notwithstanding the foregoing, certain Services may require implementation or other set-up and will not be immediately available; your Bank Representative will inform you when such Services are available for your use. Certain Services may be accessible through one or more web sites operated by us or our service provider for this purpose (the “**Web Site**”), including Synovus GatewaySM, our online banking portal. The Synovus Gateway Services Addendum applies to any use of Synovus GatewaySM including use of Synovus Gateway to access other Services under this Agreement.
- 2. Your Agreement to Services.** You must agree to the terms of this Agreement and the terms of each Service Addendum to obtain each Service. Depending on your circumstances and our procedures at the time, you will provide your agreement by signing appropriate documents in hard copy (including with faxed or scanned signatures), using the DocuSign® electronic signature service (or other electronic signature service we designate) at the link we will provide to you or by agreeing through Synovus GatewaySM. You agree that your electronic signature through this service is binding upon you. You understand and agree that the Services are subject to credit approval, and you are only entitled to use those of the Services approved by us from time to time (in our sole discretion). Access to Services may require separate enrollments or agreements with us or third-party service providers, and fees shall be charged for each Service. Use of the Services is also subject to the procedures provided to you online or otherwise (the “**Service Procedures**”), and subject to the provision of specific information required by Bank from time to time to process the Service. You agree that Services will be used only for valid commercial purposes in the ordinary course of your business and not for personal, family, or household purposes or for any person or entity other than you. The terms and conditions of your respective Deposit Account and Loan agreements with us will also govern your respective Deposit Account and Loan relationships with us.
- 3. Definitions.** As used in this Agreement or in the Service Addendum for any Service, “**Enrollment Form**” means the Synovus Treasury Management Services Enrollment Form upon which you have selected, or Bank has completed or update on your behalf, the Services and Service features and designated various Accounts and Authorized Users you have requested; “**Account**” and/or “**Accounts**” means (a) your commercial demand deposit accounts (including your commercial checking accounts) and such other of your commercial deposit accounts designated by you to be accessed using the Services (collectively, “**Deposit Accounts**”), and (b) your commercial loan accounts with us (“**Loans**”); “**Payment Account**” means the commercial demand Deposit Account you designate at Bank from which we may deduct monthly fees for the Services; “**you**,” “**your**,” “**your company**” or “**Customer**” refer to the customer entering into this Agreement with Bank; “**Administrator**” means the individual designated by you in the Master Services Agreement section of the Enrollment Form, by providing written notice to us in a form acceptable to us, or within a specific Service. “**Authorized Representative**” means each individual designated by you as your agent in the Enrollment Form, or as otherwise permitted by Bank in connection with this Agreement; “**Authorized User**” means each individual authorized by you to obtain, access, use, or communicate with us or act on your behalf in connection with the Services, including, without limitation, any agent designated by an Authorized Representative; “**Authorized Officer**,” “**Authorized Partner**,” and “**Authorized Member**” are defined in the certificate of authority or certified resolutions for this Agreement and “**Authorized Officer/Member/Partner**” means any one of them; and “**Bank Representative**” means the individual who we may designate from time to time. “**Terms and Conditions Booklet**” refers to the Treasury Management Services Agreement Terms and Conditions Booklet containing the agreement between you and us for Services; “**we**,” “**us**,” “**our**” or “**Bank**” refer to Synovus Bank including any trade name under which it operates, and any agent, independent contractor, designee, or assignee Bank may, in its sole and absolute discretion, involve in the provision of the Services.
- 4. Security Procedures and Client Administration.**

 - a. If a Service is accessible through the Synovus Gateway, you will be required to use Credentials to obtain access to each Service. “**Credentials**” are user login credentials. Depending on the Services, Credentials may include, without limitation, passwords, user ids, tokens, or other means of authentication, or any combination of the foregoing. You authorize us to follow any instructions you or anyone else enters through any Service using your Credentials. Because your Credentials can be used to access money from and information about your Accounts, you should treat your Credentials with the same degree of care and secrecy that you use to protect your automated teller machine card, personal identification number or other sensitive personal financial data. You agree not to give your Credentials, or make them available, to any person not authorized to access your Accounts, and you agree that we may conclusively presume that if your Credentials are used, such use is by you, including, without limitation, any of your Authorized Representatives or Authorized Users. You also agree to be solely responsible for and to release the Bank and hold the Bank harmless from and against any liability arising from or related to any unauthorized use of your Credentials.

- b. Your designated Administrator shall have the authority to monitor access to Services, grant access to Services, and provide authority to other persons, including, without limitation, Authorized Representatives and Authorized Users, to use your Credentials for any purpose and in any manner, and may assign such person specific functions and delegate specific permissions to them, all as provided or allowed within any Service. Certain Services require you to designate one or more specific Authorized Representatives for the Service, and you agree that any one of such Authorized Representatives may designate Authorized Users for each Service, all as provided onscreen and in any Service Procedures. This function allows you to centralize and monitor access to Services and Accounts. If you authorize other persons, including, without limitation, Authorized Users, to use your Credentials for any purpose or in any manner, your authorization shall be considered unlimited in scope, amount and manner (except to the extent limited to specific functions or permissions through the Service) and (to the extent permitted by applicable law) shall extend to such persons' designees, until you have notified us in writing that you have revoked the authorization and changed your Credentials, and you are responsible for any transactions made by such persons or their designees until we have received your notice and had a reasonable opportunity to act upon the change of your Credentials. Certain Services permit you to audit Authorized User activity, and you agree that such audit reports are intended only as one means of monitoring such activity and that you are solely responsible for any and all monitoring. Not in limitation of the foregoing, you agree that we have no responsibility to monitor transactions, activities, or inquiries of you and of your Authorized Representatives, Authorized Users, or their designees.
 - c. Additional security procedures, products, services, hardware, and/or software requirements (collectively, "Additional Security Requirements") may apply to each Service, and will be provided to you with or pursuant to the applicable Service Addendum. In the event we recommend an Additional Security Requirement and you refuse to implement such Additional Security Requirement, you acknowledge that your Account may be at increased risk of fraud. Under such circumstances, you are required to acknowledge such refusal to implement the Additional Security Requirement in writing and, to the maximum extent permitted by law, Bank will not be liable for any fraudulent transfers from your Account that comply with the initial Security Procedure
 - d. You agree that use of the Credentials constitutes a "commercially reasonable" Security Procedure for the verification of the authenticity of transactions initiated through the Service based on your business use of the Service, including, without limitation, the type, value, and frequency of the transactions. There are no security procedures intended to detect erroneous transactions. You agree that any instructions made using your Credentials will be conclusively deemed authentic and authorize us and our service provider to rely and act upon any transaction or inquiry initiated through the Service using your Credentials and agree to be responsible for any such transaction or inquiry that is processed in good faith.
- 5. Transmission.** You, Bank or Service Provider may transmit data using File Transfer Protocol (FTP). FTP is a standard network protocol and is used to transfer files over a network. FTP uses separate controls and data connections between you and the server. Approved transmission methods, set-up, and procedures will be provided by Bank or service provider.
- 6. Operating Environment.**
- a. To use any Service provided through a Web Site, you must have the following: (i) a personal computer; (ii) the operating systems in the versions listed on the Web Site or in the Service Addendum or Service Procedures; (iii) a secure (encrypted) web browser (in the versions listed on the Web Site or in the Service Addendum or Service Procedures); and (iv) Internet access through an Internet Service Provider (ISP). You agree to provide reasonable protection against computer intrusions and data exfiltration, including, without limitation, firewalls, current and regularly updated malware protection services (such as anti-virus and anti-spyware defense and regular scanning) and prompt implementation of security-relevant software upgrades (such as patches, service-packs and hot fixes). Bank may change these requirements from time to time by posting any change on the Web Site or other notice to you.
 - b. Except as provided herein, we are not responsible for any loss, damage or injury whatsoever resulting from:
 - 1) An interruption in your electrical power or telephone or Internet service;
 - 2) The disconnecting of your telephone line by your local telephone company or deficiencies in line quality;
 - 3) The disconnecting of your electrical service by the provider of electrical power to you;
 - 4) Any defect or malfunction of your computer, modem, or system, or any equipment or other devices utilized in connection with initiating a payment or transfer, or telephone line or Internet access; or
 - 5) Any malicious software or code, computer virus or worm or other disabling procedure, whether present on your computer, network, system or equipment, or on ours.

We are not responsible for any services relating to your computer other than those, if any, specified in this Agreement.

- 7. Statements.** All of your payments and funds transfers made through the Services will be described in your periodic statements for your Payment Account. You agree that no other notice is required with respect to transactions made through the Service.
- 8. Account Reconciliation.**
- a. You must examine the periodic statement for each Deposit Account with "reasonable promptness." You agree that the time to examine the statement and report to us will depend on the circumstances, but that such time will not, in any circumstance, exceed a total of fifteen (15) calendar days from the date that the statement is first made available to you.

- b. If you discover (or reasonably should have discovered) any unauthorized payments or alterations, you must promptly notify us of the relevant facts. You must furnish the following information to us: (i) your name and Account number; (ii) a description of the error or transfer, and a complete explanation of the error, or request for more information; (iii) the dollar amount of the suspected error; and (iv) any other information required by us. If you contact us by telephone, we may require that you send the complaint or question in the form of a paper writing by postal mail or fax within ten (10) Business Days.
- c. If you fail to perform any of these duties, you will have to either share the loss with us, or bear the loss entirely (depending on whether we exercised ordinary care and, if not, whether we substantially contributed to the loss). The loss could be not only with respect to items, transfers, or payments on the statement but other items forged or altered or unauthorized transfers or payments made by the same wrongdoer. If you do not report to us as provided in subsection (a) or (b) above, you agree that you will be liable for the full amount of the item, transfer, or payment and we will not be responsible for the payment of any interest to you. You further agree that if you fail to report any unauthorized signature, alteration, forgery, transfer or payment or any other error in any Account within thirty (30) days of when we make the statement available, you cannot assert a claim against us on any item, transfer, payment or other error in that statement, and the loss will be entirely yours. This 30-day limitation is without regard to whether we exercised ordinary care. In that event, you will be liable for the full amount of the item, transfer, or payment and we will not be responsible for the payment of any interest to you. This limitation is in addition to those contained elsewhere in this Agreement, any Service Addendum, and under applicable law.

9. Payment for Service.

- a. In accordance with each Schedule of Fees and Charges that is applicable to this Agreement and/or each Service Addendum or otherwise in connection with the Services (collectively, the "**Fee Schedule**"), we will charge fees for the Services and any other fees related thereto to your Payment Account each month. You authorize us to charge your Payment Account in order to obtain payment for the Services through account analysis, compensating balances, or by direct debit of the Payment Account, or by a combination of the preceding, but debiting the Payment Account is not our exclusive remedy. Not in limitation of the foregoing, you authorize us to debit any other Account or account or to set off against any amounts we may owe you to obtain payment if there are not sufficient funds in the Payment Account. We will notify you of any debit made under this paragraph either by separate written notice or as part of our periodic statement of the account for the period in which the payment amount was debited. The Payment Account is designated in the section of the Enrollment Form for the appropriate designated Service.
- b. Bank's failure to assess any charges or to assess charges in any specific amount does not waive Bank's right to increase or decrease the amount of charges later. Fees are reviewed periodically and are subject to change. We will notify you of any fee changes, as provided in this Agreement or the applicable Service Addendum.
- c. Customer authorizes Bank to deduct any charges or fees from Customer's Payment Account as they become due, even if such deduction causes an overdraft in the Account. Should Customer fail or refuse to pay any charges under this Agreement or any Service Addendum, Customer agrees to pay all collection costs (including reasonable attorney's fees) which may be incurred by Bank. Bank shall have the right to increase or decrease charges imposed for the Services and will notify Customer of the changes, to the extent required by law. Customer's use of any of the Services after changes have been made shall constitute Customer's agreement to the same.
- d. Customer shall be responsible for and agrees to pay all sales and other taxes imposed by any governmental authority, including without limitation any sales, use, and other taxes associated with the Services hereunder, except income taxes of Bank, including all applicable excise, property, value-added, sales or use, or similar taxes, any withholding taxes, customs, import, export, or other duties, levies, tariffs, taxes, or other similar charges.

10. Business Days. Our Business Days are Monday through Friday, excluding Federal Reserve and applicable state banking holidays.

11. Availability of Services. We use commercially reasonable efforts to make each of the Services accessible through a Web Site operated by us available 24 hours a day, seven days a week, except during maintenance periods and during periods when access to the Services is temporarily interrupted because of third party provider outages or issues, power outages, equipment and/or software malfunctions, or other failures. Other Services will be available during our operating hours for each Business Day. Access to each Service also may be governed by the applicable Services Addendum. We will not be liable under this Agreement for failure to provide access. Subject to applicable law, we reserve the right to modify, suspend, or terminate access to all or any part of the Services at any time and for any reason without notice or refund of previously incurred fees. We will attempt to notify you in the event of any technical difficulties or other occurrence that may impede access to the Services for a prolonged period.

12. Your Liability for Unauthorized Transfers Made Using the Services. You acknowledge and agree that the Electronic Funds Transfer Act and its provisions limiting consumer liability do not apply to your Payment Account or other Accounts. Further, you agree, we shall have no liability of any nature whatsoever to you or any other party resulting from any transactions involving your Accounts using the Services, and you hereby release us from any such liability to you and agree to indemnify and hold us harmless from and against any such liability to any third party. To the fullest extent permitted by applicable law, you agree to be responsible for all unauthorized or erroneous payment orders or other instructions or communications initiated through the Services. Your liability for unauthorized or erroneous items is also governed by your Account agreement with us.

13. Your Notice to Us of Unauthorized Transfers, Errors and Questions. If you believe that someone has transferred or may transfer money from your Account without your permission or in case of errors or questions about your electronic transfers, you should telephone your Bank Representative immediately.

14. Financial, Account, and Other Information; Consent to Disclosure.

- a. Upon our request from time to time, you agree to promptly furnish all financial and other information to us, as we deem necessary or appropriate, in our sole discretion, for the provision of the Services, review of the Accounts, or the performance of our responsibilities or the exercise of our rights under this Agreement. Not in limitation of the foregoing, you agree to furnish Bank with financial statements that at all times reflect your three most recent fiscal years. Unless waived by Bank or heretofore furnished by you, such statements for the three (3) fiscal years ending next prior to the date hereof shall be furnished for Bank's consideration before any transfer is initiated by you under any Service Addendum. Statements for each subsequent fiscal year ending after the date hereof shall be furnished to Bank within ninety (90) days after the close of such fiscal year. Statements for each fiscal year shall fairly present in all material respects your financial condition at the close of such fiscal year in conformity with generally accepted accounting principles, and, if required by Bank, shall be prepared by independent certified public accountants acceptable to Bank.
- b. We will take reasonable precautions to maintain the confidentiality and security of your private Account information; provided, however, that *you specifically consent to the disclosure of such information or any other information about you in connection with the performance of the Services, the enforcement of any of our rights or exercise of any of our remedies hereunder, in compliance with our security programs, or as otherwise permitted or required by applicable law, legal process or by any regulatory or supervisory agency to which we may be subject.* You acknowledge that if any third party performs any part of or provides access to the Service or the Web Site(s), we will not be liable for any disclosure by any such third-party servicer, agent, independent contractor or other entities.

15. Our Intellectual Property; Confidential Information.

- a. You acknowledge that the Security Procedures and all of our computer programs, data bases, manuals, files, documents and other records, copyrighted materials, trademarks, tradenames, service marks, logos and intellectual property relating to the Services, our business operations, or our former, current or prospective customers, are and will continue to be our sole and exclusive property or the property of our servicers, agents or independent contractors, and you do not and will not claim any interest in them, or act in any way inconsistent with our rights in them and will return them to us promptly upon termination of this Agreement, the applicable Service, or earlier upon our request.
- b. **"Confidential Information"** means trade secrets, confidential and proprietary methods, techniques, processes, applications, approaches and other information in various forms, including, without limitation, software, customer and/or membership lists, forms, procedures, manuals and other documents and records, which information is used or useful in the conduct of each Bank's business. You acknowledge that, as a result of your use of the Service, you will learn or will have access to Confidential Information of Bank and further acknowledge that: (i) although all or any part of such Confidential Information may be obtainable from other sources, it could only be obtained or developed at great expense over a long period of time and all such Confidential Information is therefore an extremely valuable and important business asset in Bank's business; and (ii) the Confidential Information is the exclusive property of Bank. Except as otherwise expressly contemplated by this Agreement, you shall not, at any time either during or after the term of this Agreement, regardless of how this Agreement is terminated, directly or indirectly, use, disclose, publish, transfer, reveal, disseminate, or otherwise publicize or make available, the Confidential Information which you learn, or to which you have had access or which has been revealed to you during the term of this Agreement. The parties agree that the restrictive covenants contained in this Section are reasonable and necessary to protect Bank's legitimate interests and that any losses arising from a party's breach thereof cannot reasonably and adequately be compensated by monetary damages and will cause Bank to suffer irreparable harm. Accordingly, upon your failure to comply with the restrictive covenants contained in this Section, the Bank will be entitled to seek injunctive or other extraordinary relief. Upon the termination of this Agreement, or upon written demand, whichever shall first occur, you shall promptly return to the Bank all Confidential Information in your possession or control.

16. Authorization to Obtain Information. You agree that we may obtain and review your credit report from an authorized credit bureau and that we may obtain information from your payees regarding your payments and the payee accounts to be credited in order to facilitate proper handling and crediting of your payments.

17. Termination. You may terminate your use of any one or all of the Services at any time by calling your Bank Representative. You must notify us at least ten (10) Business Days prior to the date on which you wish to have your Services terminated. We may require that you confirm your request in writing. Unless provided otherwise in the relevant Service Addendum, you may terminate your use of any one of the Services as provided herein. We will charge you fees for the month in which your termination is effective in accordance with this Agreement unless (a) you terminate the Service between the first (1st) and the fourteenth (14th) day of the month, and (b) during such time, no transactions involving any of the Accounts have occurred. We may suspend or terminate your use of all or any of the Services, at any time without prior notice. Your access to all or any of the Services will be terminated automatically if your Payment Account or other Account designated by you for use in connection with any of the Services is closed, or access to any Account is restricted for any reason. Termination will terminate only your access to the Services and will not affect your liability or obligations under this Agreement for transactions we have processed or that are in process on your behalf prior to such termination or any other obligations, which, by their nature, survive termination. Termination

of any Service Addendum terminates only your access to the relevant Service, but termination of this Agreement will result in immediate termination of all Service Addenda.

- 18. DISCLAIMER OF WARRANTIES.** EXCEPT AS EXPRESSLY OTHERWISE PROVIDED IN THIS AGREEMENT, WE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND TO YOU, WHETHER EXPRESS OR IMPLIED, REGARDING THE SERVICES, THE WEB SITES, OR ANY OTHER SUBJECT MATTER OF THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, ANY SERVICE ADDENDUM), INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ACCURACY OR COMPLETENESS, OR FREEDOM FROM INFRINGEMENT OR MALICIOUS SOFTWARE OR CODE, COMPUTER VIRUS OR WORM, OR OTHER DISABLING ROUTINE, AND WE HEREBY DISCLAIM ALL SUCH WARRANTIES. *Not in limitation of the foregoing, we do not warrant that the Services or the Web Sites will operate without errors, or that any or all of the Services or Web Sites will be available and operational at all times.*
- 19. LIMITATION OF LIABILITY.** EXCEPT AS OTHERWISE EXPRESSLY REQUIRED BY THIS AGREEMENT OR APPLICABLE LAW, WE WILL NOT BE LIABLE TO YOU FOR PERFORMING OR FAILING TO PERFORM ANY OBLIGATION UNDER THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, ANY SERVICE ADDENDUM). WITHOUT LIMITING THE FOREGOING, WE WILL NOT BE LIABLE TO YOU FOR DELAYS OR MISTAKES RESULTING FROM ANY CIRCUMSTANCES BEYOND OUR CONTROL, INCLUDING, WITHOUT LIMITATION, ACTS OF GOVERNMENTAL AUTHORITIES, NATIONAL EMERGENCIES, INSURRECTION, WAR, RIOTS, FAILURE OF OR DELAY OF ANY OTHER PERSON, INCLUDING, WITHOUT LIMITATION, ANY FEDERAL RESERVE BANK, ACH OPERATOR OR TRANSMISSION OR COMMUNICATIONS FACILITY, ANY RECEIVER OR RECEIVING DEPOSITORY FINANCIAL INSTITUTION ("RDFI") (INCLUDING, WITHOUT LIMITATION, THE RETURN OF AN ENTRY BY SUCH RECEIVER OR RDFI), ANY PARTICIPATING DFI, ANY BENEFICIARY OR BENEFICIARY'S BANK, ANY INTERMEDIARY BANK, INTERNET ACCESS SERVICE PROVIDER, OR ANY SERVICE PROVIDER (THE "THIRD PARTIES") TO PERFORM OR TO PROVIDE ANY SERVICES, FAILURE OF COMMUNICATION SYSTEMS, OR FAILURES OF OR DIFFICULTIES WITH OUR EQUIPMENT OR SYSTEMS. NOT IN LIMITATION OF THE FOREGOING, WE WILL NOT BE LIABLE TO YOU FOR ANY DELAY, FAILURE, OR MALFUNCTION ATTRIBUTABLE TO YOUR EQUIPMENT, ANY INTERNET SERVICE, OR ANY PAYMENT SYSTEM. IN THE EVENT THAT WE ARE HELD LIABLE TO YOU, YOU WILL ONLY BE ENTITLED TO RECOVER THE LESSER OF: YOUR ACTUAL DAMAGES; OR THE TOTAL AMOUNT OF ALL SERVICE FEES ACTUALLY PAID BY YOU TO BANK IN THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH BANK'S LIABILITY IS FINALLY DETERMINED. IN NO EVENT SHALL YOU BE ENTITLED TO RECOVER ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY OR SPECIAL DAMAGES (WHETHER IN CONTRACT, TORT OR OTHERWISE), EVEN IF YOU HAVE ADVISED US OF THE POSSIBILITY OF SUCH DAMAGES.
- 20. Indemnity.** Except as may be directly attributable to our lack of good faith or failure to exercise ordinary care and as limited by Uniform Commercial Code Section 4-103 as in effect, you agree to defend, indemnify, and hold us and our affiliates, directors, officers, employees, agents, servicers, and independent contractors (as applicable) (the "Indemnified Parties") harmless from and against any and all losses, liabilities, costs, damages (including punitive damages), expenses (including attorneys' fees), claims (whether or not formally asserted), or demands (the "Indemnified Losses") to which any of the Indemnified Parties may be subject or may incur arising out of or in connection with its or their performance of this Agreement or the Services, or any of your obligations, responsibilities, warranties or representations relating to the Services, or your breach of any term of this Agreement, regardless of the nature of any loss. You agree to indemnify the Indemnified Parties against any of the Indemnified Losses or expenses resulting from or arising out of any claim of any person that we are responsible for the act or omission of you or any of the Third Parties (as defined in the Limitation of Liability section). You agree that we and the other Indemnified Parties shall not be responsible for any loss, property damage or bodily injury arising out of or resulting from the failure of any person to provide you with access to any of the Services, whether caused by the equipment, software, us, Internet service providers, Internet browsers, or parties providing communication services to or from you.
- 21. Arbitration Agreement.**
- a. Any controversy or claim arising out of or relating to this Agreement (including, without, limitation, any Service Addendum now or hereafter in effect), or breach thereof, or any relationship resulting therefrom, shall be resolved by binding arbitration under the Federal Arbitration Act, 9 U.S.C. section 1 et seq., administered by the American Arbitration Association in accordance with its Commercial Financial Disputes Arbitration Rules, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof pursuant to applicable law.
 - b. Nothing in the preceding paragraph, or otherwise, nor the exercise of any right to negotiation or arbitration, nor the commencement or pendency of any proceeding, shall limit the right of any party to this Agreement:
 - 1) to seek judicial equitable relief, or other equitable relief available to it under applicable statutory and/or case law including, but not limited to, injunctive relief and the appointment of a receiver; or
 - 2) to exercise any self-help rights or any other rights or remedies available to it by contract or applicable statutory or case law (including but not limited to the filing of an involuntary petition in bankruptcy, the right of set off, attachment, recoupment, foreclosure, or repossession) with respect to its extension of credit, the protection and preservation of collateral, the liquidation and realization of collateral, the protection, continuation and preservation of lien rights and priorities, the collection of indebtedness, and the processing

- and payment or return of checks, whether such occurs before, during or after the pendency of any negotiation or arbitration proceeding.
- 3) The institution and maintenance of an action for judicial relief or pursuit of provisional or ancillary rights or remedies or exercise of self-help remedies, all as provided herein, and the pursuit of any such rights or remedies, shall not constitute a waiver of the right or obligation of any party, including the plaintiff seeking judicial relief or remedies, to submit a dispute to negotiation, mediation and arbitration, including disputes that may arise from the exercise of such rights.
- c. The arbitrator(s) shall not have the power to order specific performance of any obligation or duty of any party to this Agreement or to issue injunctions in connection therewith or otherwise or to enter an award on behalf of any class of claimants.
- d. Arbitrators appointed by AAA hereunder shall be appointed from the National Roster for Commercial Financial Disputes as provided in the Rules unless otherwise mutually agreed to by the parties. Mediators shall be appointed, with consent by the parties, from the National Panel of Mediators, when practicable, but otherwise by AAA with the consent of the parties.
22. **Force Majeure.** In no event shall we be liable at any time to you or any other person for any loss, charge, fee, penalty, expense or other damage resulting from any failure or delay in the performance of our responsibilities under this Agreement which is caused or occasioned by any act or thing beyond our control, including, without limitation, legal restraint, interruption of transmission or communication facilities, equipment failure or other malfunction, electrical or computer failure, strike, lockout, riot, war, governmental regulation, fire, emergency conditions, acts of God, fire, storm, or other adverse weather conditions or catastrophe, or inability to obtain or delay in obtaining wire services or Internet access, or refusal or delay by any Internet service, service provider or another bank or financial institution.
23. **Entire Agreement.** This Agreement, along with the Fee Schedule, the Service Addenda, and the Enrollment Forms, all as now or hereafter in effect from time to time, constitutes the entire agreement between you and us related to the Service and supplements any other agreement or disclosure related to your Accounts. In the event of a conflict between this Agreement and any other agreement or disclosure related to your Accounts, this Agreement shall control.
24. **Minimization of Risk.** If and to the extent we permit you to have the use of funds for which you have not received final, nonavoidable payment in collected funds, the use of such funds will constitute a financial accommodation to you, which we may terminate at any time. We have the absolute right to delay the availability of funds for the Payment Account or any other Account, without regard to the Funds Availability Schedule or any practice or pattern of practices by you. If we deem, in our sole and absolute discretion, that our risk exposure as provider of the Services under this Agreement has become too great, we may act to minimize this exposure by (a) requiring you (i) to provide satisfactory collateral for each transfer, prior to the time such transfer is initiated or to (ii) prefund each transfer, or (b) placing holds on any of your accounts with us (including, without limitation, the Payment Account) for each transfer. The provisions of this paragraph may be limited only by the requirements of applicable federal banking regulations.
25. **Cooperation in Loss Recovery Efforts.** In the event of any damages for which we or you may be liable to each other or to a third party pursuant to the services provided under this Agreement, we and you will undertake reasonable efforts to cooperate with each other, as permitted by applicable law, in performing loss recovery efforts and in connection with any action that the relevant party may be obligated to defend or elects to pursue against a third party.
26. **Recording of Communications.** You authorize us to tape record any telephone conversations made in connection with this Agreement and to retain such recordings for as long as we deem, in our sole discretion, appropriate.
27. **Events of Default.** Each of the following shall constitute an “Event of Default” by you under this Agreement: any (a) breach of your obligations, warranties or covenants under this Agreement; (b) failure to pay any charges due in connection with the Services; (c) material falsity, inaccuracy or incompleteness of any representation made by you in connection with any of the Services (either when made or thereafter); or (d) default by you under any other agreement between us and you (including, without limitation, any loan or security agreement).
28. **Books and Records.** You shall maintain books of account and records, in accordance with standard accounting practices and procedures, of all transactions pertaining to its obligations under this Service Addendum for a period not less than the period legally required for the retention of such records, and after such time until Bank shall be offered a reasonable opportunity to copy such records prior to the destruction thereof. Bank may, at its own expense and upon reasonable prior notice to you, have full access to and the right to inspect and copy your books and records pertaining to your obligations under this Agreement and all transactions initiated by you through the Services.
29. **No Waivers.** No delay or omission by us in exercising any rights or remedies hereunder shall impair such right or remedy or be construed as a waiver of any such right or remedy. Any single or partial exercise of a right or remedy shall not preclude further exercise therefore or the exercise of any other right or remedy. No waiver shall be valid unless in writing signed by us.

- 30. Assignment.** You may not assign this Agreement to any other party. In our sole discretion, we may assign this Agreement or delegate any or all of our rights and responsibilities under this Agreement to any third parties.
- 31. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the state of Georgia, without regard to conflict of law principles.
- 32. Commercial Agreement; Compliance with Applicable Law.** You agree to use the Services, including the initiation of entries, funds transfers, or other transactions: only for business purposes and not for any personal, consumer, or household purposes or accounts; and only in accordance with all applicable federal and state laws and all applicable NACHA and funds transfer system rules; and you agree to comply with all of the foregoing during the term of this Agreement.
- 33. No Extension of Credit.** Nothing in this Agreement nor any course of dealing between you and us constitutes our commitment or obligation to lend money to you or obligates us to extend any credit to you, to make a loan to you, or otherwise to advance funds to you to pay for any payment order contrary to our published availability schedules.
- 34. Amendments.** (a) Amendments Generally. Notwithstanding any other term of this Agreement, we may amend or change any of the terms and conditions of this Agreement (including, without limitation, the Fee Schedule or any Services Addendum) at any time by either (1) posting the change on our Synovus Gateway or (2) by providing notice to any one of your Authorized Representatives, in each case at any time prior to the effective date of any change or amendment. If you do not agree to the change or amendment, you must notify us prior to the effective date of the change or amendment and cancel your access to the applicable Service. This provision shall not be deemed to alter or affect any obligations, which we have under applicable law regarding disclosures concerning our funds availability policy. This Agreement may be amended only in writing (including any electronic communication by us) and may not be amended verbally or by course of conduct; and (b) Amendments to Enrollment Form. You, through your Authorized Representative, may request an amendment to the Enrollment Form to add new Services or cancel existing Services at any time by notifying Bank in writing in a form reasonably acceptable to Bank. Such additions or cancellations will not be effective until Bank accepts such requested additions or cancellations and has had a reasonable period of time to act on such requests. You, through your Authorized Representative, may add, change, or remove any Account or the designated Account for any Service at any time through written notice to Bank in a form reasonably acceptable to Bank. Any such change will not be effective until Bank has had a reasonable period of time to act on such request. You agree that Bank may modify, amend and update the Enrollment Form on your behalf to address any changes in Accounts, designated Accounts, Services, Service features or any other changes made by Bank or made by you and accepted by Bank.
- 35. Notices.** Except as otherwise expressly provided herein, Bank will not be required to act upon any notice or instruction received from you or any other person, or to provide any notice or advice to you or any other person with respect to any matter. You agree that we may provide any notice to you called for in this Agreement or any other communication in connection with this Agreement or the Service by either posting it to the Service's Web Site, by email to any email address you have provided us for notice, or by mail to the street address you have provided us, as the Bank may select. If you have designated one or more Authorized Representatives in connection with a particular Service, you agree that we may send any notice or amendment involving such Service to any one of them. You agree that our ability to communicate with you is dependent on the validity of your e-mail address on our records, and that you will promptly notify us of any change in your e-mail address and that we will have no obligation to redeliver any e-mail that is delayed or returned.
- 36. Electronic Disclosures.** You agree that we reserve the right to make available all disclosures required by law and other communications regarding the Services that may be permissibly given electronically (the "**Statements and Documents**") exclusively via Synovus Gateway or other applicable Web Site for the Service, and that we may discontinue sending these Statements and Documents to you in paper form. Currently you may select paper or electronic delivery for certain Statements and Documents on Synovus Gateway. We also may, in our sole discretion, choose to send you paper copies of any Statements and Documents even though we could have made those Statements and Documents available to you electronically. All Statements and Documents we deliver to you in either electronic or paper format from us to you will be considered to be delivery "in writing" for legal purposes and for purposes of this Agreement. You should print or download for your records a copy of this Agreement and any of the other Statements and Documents that is important to you. Statements and Documents include, but are not limited to, the following:
- All amendments to this Agreement
 - All Service Addenda, Supplemental Addenda for Supplemental Services, and all amendments to such Service Addenda and Supplemental Addenda
 - Notices with respect to any changes to this Agreement, any Service Addendum or any Supplemental Addenda, or any changes in terms of your deposit, credit card or other loan Accounts designated by you now or in the future to be accessed using any Service
 - All legal and regulatory disclosures and communications associated with or provided through any Service for any Account designated by you now or in the future to be accessed using any Service
 - All notices that we are required by law to provide to you for any purpose and at any time
 - All periodic statements (including combined statements) for any of your Deposit Accounts designated by you now or in the future to be accessed using any Service
 - All periodic statements for any of your loan or line of credit Accounts designated by you now or in the future to be accessed using any Service
 - All Account Analysis statements for any Account designated by you now or in the future to be accessed using any Service
 - All other notices or communications delivered by us to you under this Agreement
 - All notices relating to overdrafts or insufficient balances for your Deposit Accounts designated by you now or in the future to be accessed using any Service

- All notices relating to our Overdraft Privilege service relating to Accounts designated by you now or in the future to be accessed using any Service
 - All notices relating to corrections to your deposits or balances for any Account designated by you now or in the future to be accessed using any Service
 - All communications relating to any error inquiries or unauthorized transaction inquiries you make regarding your Accounts Our Privacy Policy
37. **Counterparts.** This Agreement and each Service Addendum may be executed in multiple counterparts, each of which shall constitute an original document and all of which together shall constitute one agreement.
38. **Interpretation.** When used in this Agreement, the words “include”, “includes” and “including” mean “including, without limitation”.

Service Addendums

- [Accelerate AR](#)
- [Accelerate AR Biller/AR Aggregator](#)
- [Accelerate AR eLockbox](#)
- [Accelerate AR Match \(Payment Reassociation & Invoice Matching\)](#)
- [ACH Origination](#)
- [Bill Payment Services](#)
- [Check Image Deposit](#)
- [Controlled Disbursement](#)
- [Daily Sweep](#)
- [Deposit Escrow Subaccounting](#)

- [Electronic Data Interchange](#)
- [Enhanced Imaging Services](#)
- [Foreign Exchange](#)
- [HOA Payment Processing](#)
- [Information Reporting](#)
- [Lockbox](#)
- [NetImage](#)
- [Positive Pay and Account Reconciliation](#)
- [Premium Yield Line of Credit Sweep](#)
- [Remittance Processing/Lockbox HIPAA](#)
- [Remote Deposit Capture](#)

- [SWIFT Messaging](#)
- [Synovus Gateway](#)
- [Synovus Gateway Mobile Banking](#)
- [Synovus Remote Vault Deposit](#)
- [Synovus Integrated Healthcare Solutions](#)
- [Virtual Account Subaccounting \(VASA\)](#)
- [Web Image](#)
- [Wire Transfer](#)
- [Zero Balance Accounts](#)