

Company Name:



## TREASURY MANAGEMENT SERVICES

### ACH ORIGATION SERVICE TERMS

These ACH Origination Service Terms (the “**ACH Terms**” or “**Terms**”) set forth the terms under which Customer may originate ACH Entries as an Originator through Prosperity by means of the Automated Clearing House (“**ACH**”) Network to initiate electronic fund transfers to or from an Account (the “**Services**” or “**ACH Services**”). The Services are subject to the Treasury Management Services Master Agreement (the “**Master Agreement**”) between Prosperity and Customer, which, along with all other agreements incorporated into the Master Agreement, are incorporated herein by reference (the Master Agreement together with these ACH Terms are referred to herein as the “**Agreement**”) and all Applicable Laws. Unless otherwise noted, capitalized terms herein will have the same meaning as in the Master Agreement or the NACHA Rules, as applicable.

Prosperity is willing to act as an Originating Depository Financial Institution (“**ODFI**”) with respect to ACH Entries originated by Customer under these Terms. The term “**Entry**” as used in these Terms shall have the meaning provided in the NACHA Rules and shall also mean the data provided by Customer using the Services from which Prosperity initiates each Entry. Each Entry shall be deemed Customer’s Payment Order and authorizes Prosperity to initiate an electronic funds transfer on Customer’s behalf. By using the Services, Customer accepts and agrees to all terms, conditions, and provisions of the Agreement including these ACH Terms. Customer will designate Account(s) for this Service in the Documentation as directed by Prosperity. The Accounts designated by Customer for use in connection with the ACH Services, as Customer may change them from time to time, are the “**Authorized Account(s)**.”

**1. COMPLIANCE WITH RULES AND LAWS.** Customer acknowledges it has a copy or has access to a copy of the NACHA Rules. Customer agrees, represents and warrants to Prosperity that all actions by Customer contemplated by this Agreement, including the preparation, transmittal, and settlement of Entries and Payment Orders, shall comply with the NACHA Rules as amended from time to time, and all other Applicable Laws.

**2. TRANSMISSION OF ENTRIES BY CUSTOMER.** As part of the implementation process for the Services, Customer must designate its Administrator(s) and Users who shall be authorized to initiate Entries within the parameters set forth in the applicable Documentation and subject to any other limits or restrictions established by Prosperity. Prosperity shall be entitled to deem any person having knowledge of Customer’s Security Procedures for initiating Entries to be a User, including any Administrator. Customer may also allow a Third Party Service Provider to originate Entries as a User. Any Third Party Service Provider will be deemed Customer’s agent and Vendor, and Prosperity shall have no liability or responsibility for monitoring Customer’s Third Party

Service Providers. Customer shall be liable and responsible for any Payment Order submitted by a Third Party Service Provider as if such Payment Order was submitted by Customer.

Entries transmitted by or on behalf of Customer through the Services must be in accordance with the terms of the Documentation and in compliance with the formatting and other requirements set forth in the file specifications provided by Prosperity. Entries shall be transmitted to Prosperity no later than the applicable cut-off time specified in Prosperity's Processing Schedule, as it may be amended from time to time. Entries received after the cut-off time shall be deemed to have been received on the next Business Day. Notwithstanding the definition of "Business Day" in the Master Agreement, for the purposes of these ACH Terms, "**Business Day**" means Monday through Friday, excluding federal holidays, and the "**Settlement Date**" with respect to any Entry shall be the Business Day when such Entry is debited or credited in accordance with the NACHA Rules.

The types and amounts of Entries that Customer is permitted to originate using the ACH Services may be limited by Prosperity in its sole discretion. The total dollar amount of Entries transmitted by or on behalf of Customer to Prosperity on any Business Day shall not exceed the amount of Available Funds in the Authorized Account as of the Effective Entry Date of such Entries or any other processing limit established by Prosperity ("**Processing Limit**"). Customer acknowledges that Prosperity has no obligation to process any Entry which exceeds the Processing Limit ("**Overlimit Entry**"). If Customer wishes to initiate an Overlimit Entry, Customer must submit a request to Prosperity at least 2 Business Days prior to the date on which Customer wishes to initiate such Overlimit Entry, which request may be granted or denied by Prosperity in its sole discretion.

**3. AUTHORIZATION AGREEMENT.** Customer shall obtain an authorization ("**Authorization Agreement**") as required by the NACHA Rules from the person or entity whose account will be debited or credited as the result of a debit or credit Entry initiated by Customer, and Customer shall retain the Authorization Agreement in original form while it is in effect and the original or a copy of each Authorization Agreement for two (2) years after its termination or revocation, or as otherwise required by the NACHA Rules. Upon request, Customer shall immediately furnish the original or a copy of the Authorization Agreement to Prosperity. Customer shall ensure that each Authorization Agreement satisfies the requirements of the NACHA Rules for the applicable SEC Code.

**4. PROCESSING, TRANSMITTAL, AND SETTLEMENT BY PROSPERITY.** Except as otherwise provided for in this Agreement and if Prosperity elects to accept Entries, Prosperity shall use commercially reasonable efforts to comply with the instructions of Customer to: (a) process Entries received from Customer to conform with the file specifications set forth in the NACHA Rules, (b) transmit such Entries as an ODFI to the ACH processor selected by Prosperity, (c) settle for such Entries as provided in the NACHA Rules, and (d) in the case of a credit Entry received for credit to an account with Prosperity ("**On-Us Entry**"), Prosperity shall credit the Receiver's account in the amount of such credit Entry on the Effective Entry Date contained in such credit Entry, provided such credit Entry is received by Prosperity at the time and in the form prescribed by Prosperity. Prosperity will transmit such Entries to the ACH processor by its deposit deadline, provided (x) such Entries are completely received by Prosperity's cut-off time, (y) the Effective Entry Date satisfies the criteria provided by Prosperity to Customer; and (z) the ACH processor is open for business on such Business Day. Customer agrees that the ACH processor selected by Prosperity shall be considered to have been selected by and designated by Customer and shall be Customer's agent and Vendor for purposes of the Master Agreement.

Prosperity will give Customer notice of any Entries credited to or debited from Customer's Account by listing such transactions on Customer's Account statement and through the information reporting services offered by Prosperity from time to time, but Customer agrees that Prosperity will not be liable for any failure or delay in providing such notice.

#### **5. PAYMENT FOR CREDIT ENTRIES AND RETURNED DEBIT ENTRIES.**

Customer agrees to pay for all credit Entries issued by Customer or otherwise made effective against Customer. Customer shall make payment to Prosperity on the date as determined by Prosperity in its sole discretion ("**Payment Date**"). Customer shall also pay Prosperity for the amount of each debit Entry returned by a Receiving Depository Financial Institution ("**RDFI**") or debit Entry dishonored by Prosperity. Payment shall be made by Customer to Prosperity in any manner specified by Prosperity. Customer hereby agrees that Prosperity is authorized to charge the Authorized Accounts for any payments due Prosperity under this Agreement; provided, that if insufficient Available Funds are in the Authorized Account, Prosperity may charge any other Customer Account. In the event the Authorized Account or any other Customer Account does not have Available Funds sufficient on the Payment Date to cover the total amount of all Entries to be paid on such Payment Date, Prosperity may take any of the following actions:

(a) Refuse to process all Entries, in which event Prosperity shall return the data relating to such credit Entries to Customer, whereupon Prosperity shall have no liability to Customer or to any third party as a result thereof; or

(b) Process that portion of the credit Entries as Customer has sufficient Available Funds in the Authorized Account to cover, in whatever order Prosperity in its sole discretion shall elect to process, in which event Prosperity shall return the data relating to such credit Entries as are not processed to Customer, whereupon Prosperity shall have no liability to Customer or any third party as a result thereof; or

(c) In the event Prosperity elects to process credit Entries initiated by Customer and Customer has not maintained sufficient Available Funds in the Authorized Account with Prosperity to cover them, the total amount of the insufficiency advanced by Prosperity on behalf of Customer, if any, which Prosperity will determine in its sole discretion, unless prohibited by Applicable Law, shall be immediately due and payable by Customer to Prosperity without any further demand from Prosperity. If Prosperity elects to pay Customer's Account in the overdraft on any one or more occasions, it shall not be considered a waiver of Prosperity's rights to refuse to do so at any other time nor shall it be an agreement by Prosperity to pay other items in the overdraft.

**6. PRE-FUNDING.** Prosperity reserves the right to require Customer to pre-fund an Account maintained at Prosperity prior to the Settlement Date of an ACH Entry or File or before crediting the Receiver's account in the case of an On-Us Transfer. Prosperity shall determine whether pre-funding is required based on criteria established from time to time by Prosperity with respect to Customer's use of the Service. If Prosperity requires pre-funding, Customer will maintain sufficient Available Funds in the Authorized Account(s) to settle for the Credit Entries not later than one (1) Business Day before each Settlement Date, and Prosperity will not be required to process Entries unless sufficient Available Funds are in the Authorized Account. Same Day Transactions are not available where pre-funding is required.

**7. RESERVES.** From time to time, Prosperity may evaluate Customer's Transaction activity for the purpose of establishing averages for Transaction frequency, amount, returns and adjustments.

These evaluations may occur at least annually and may occur more frequently at Prosperity's discretion. In connection with these evaluations, Prosperity reserves the right to require Customer to satisfy underwriting criteria, which may without limitation require Customer to pledge Collateral or provide a personal guarantee of a principal or owner, or to require reserves with Prosperity calculated by Prosperity to cover Customer's obligations to Prosperity arising from ACH activities under these ACH Terms. Reserves may be expressed as a fixed dollar amount or as a "rolling reserve" calculated based on "rolling" averages determined by Prosperity's periodic evaluations. The amount of reserves required by Prosperity, if any, will be communicated directly to Customer from time to time. Customer agrees to establish reserves as required by Prosperity within a specified number of Business Days after receipt of a communication from Prosperity setting forth such number of days, the amount of required reserves, and the basis of calculation used to determine the amount of reserves. Prosperity may suspend the Service if Customer fails to establish the required amount of reserves within the time period specified by Prosperity in its communication to Customer. Customer agrees that Prosperity is permitted to hold the reserve amount for a reasonable period of time following termination of the Service.

**8. REJECTION OF ENTRIES.** Customer agrees that Prosperity has no obligation to accept Entries and therefore may reject or refuse to accept any Entry issued by Customer for any reason. Without limiting the foregoing, Prosperity may, in its sole discretion, refuse to process and reject any Entry if, in Prosperity's sole judgment: (a) there is reasonable cause to believe that any Entry will be returned or will not settle in the ordinary course of business for any reason, (b) to do otherwise would violate any limit set by the applicable clearing house association or any governmental authority or agency to control payment system risk, (c) a credit Entry or the return of a debit Entry would create an overdraft of Customer's Accounts; or (d) the Entry is not of a type established for origination by Customer. Prosperity has no obligation to notify Customer of the rejection of an Entry, but Prosperity may do so at its option. Prosperity shall have no liability to Customer for rejection of an Entry and shall not be liable to pay interest to Customer even if the amount of Customer's Payment Order is fully covered by a withdrawable credit balance in an Authorized Account or Prosperity has otherwise received full payment from Customer. Customer may not reinitiate Entries except as prescribed by the NACHA Rules.

**9. CANCELLATION OR AMENDMENT BY CUSTOMER.** Customer shall have no right to cancel or amend any Entry after its receipt by Prosperity. However, Prosperity may, at its option, accept a cancellation or amendment request from Customer if such request is received by Prosperity before the affected Entry has been transmitted to the ACH processor, but Prosperity shall have no liability if the cancellation or amendment is not effected. If Prosperity accepts a cancellation or amendment of an Entry, for clarity, Customer's indemnification obligations under the Master Agreement will apply with respect to any Losses incurred as a result of Prosperity's acceptance of such cancellation or amendment.

**10. REVERSALS OF ENTRIES.**

(a) General Procedure. Upon proper and timely request by Customer, Prosperity will use reasonable efforts to effect a reversal of an Entry or File to the extent reversal is expressly permitted by the NACHA Rules. To be "proper and timely," the request must (i) be made within five (5) Business Days of the Effective Entry Date for the Entry or File to be reversed; (ii) be made immediately upon discovery of the error; and (iii) as applicable, be accompanied by a Reversal/Cancellation Request form or the information required to be input electronically as directed by Prosperity, and (iv) the basis

for such reversal must be expressly permitted by the NACHA Rules and otherwise in compliance with the NACHA Rules. In addition, if Customer requests reversal of a debit Entry or debit File, the Authorized Account must contain Available Funds in a sufficient amount to cover the reversal requested, and if not, it shall concurrently deposit into the Authorized Account an amount equal to that Entry or File. Customer shall notify the Receiver of any reversing Entry initiated to correct any Entry it has initiated in error. The notification to the Receiver must include the reason for the reversal and be made no later than the Settlement Date of the reversing Entry.

(b) No Liability; Reimbursement to Prosperity. Under no circumstances shall Prosperity be liable for interest or related losses if the requested reversal of an Entry is not effected. Customer shall reimburse Prosperity for any Losses it incurs in effecting or attempting to effect Customer's request for reversal of an Entry.

**11. ERROR DETECTION.** Prosperity has no obligation to discover and shall not be liable to Customer for errors made by Customer, including but not limited to errors made in identifying the Receiver, or an Intermediary or RDFI or for errors in the amount of an Entry or for errors in Settlement Dates. Prosperity shall likewise have no duty to discover and shall not be liable for duplicate Entries issued by Customer. Notwithstanding the foregoing, if Customer discovers that any Entry it has initiated was in error, it shall notify Prosperity of such error. If such notice is received no later than four (4) hours prior to the ACH receiving deadline, Prosperity will utilize reasonable efforts to initiate an adjusting Entry or stop payment of any On-Us credit Entry within the time limits provided by the NACHA Rules. For clarity, Customer's indemnification obligations described in the Master Agreement will apply with respect to any Losses incurred by Bank in the event Customer makes an error or issues a duplicate Entry.

**12. PROHIBITED TRANSACTIONS.** Customer agrees not to use or attempt to use the Services: (a) to engage in any illegal purpose or activity or to violate any Applicable Law, (b) to breach any contract or agreement by which Customer is bound, (c) to engage in any internet or online gambling Transaction, whether or not gambling is legal in any applicable jurisdiction, or (d) to engage in any Transaction or activity that is not specifically authorized and permitted by these Terms and the applicable Documentation, including but not limited to International ACH Entries (IATs) or Entries that are restricted by type of Receiver. Customer acknowledges and agrees that Prosperity has no obligation to monitor Customer's use of the Services for Entries and activity that is impermissible or prohibited under the provisions of these Terms; provided, however, that Prosperity reserves the right to decline to execute any Entry or activity that Prosperity believes violates the terms of this Agreement.

**13. PRE-NOTIFICATION.** Customer, at its option, may send a pre-notification that it intends to initiate an Entry or Entries to a particular account within the time limits prescribed for such notice in the NACHA Rules. Such notice shall be provided to Prosperity in the format and on the medium provided in the NACHA Rules. If Customer receives notice that such pre-notification has been rejected by an RDFI within the prescribed period, or that an RDFI will not receive Entries without having first received a copy of the Authorization Agreement signed by its customer, Customer will not initiate any corresponding Entries to such accounts until the cause for rejection has been corrected or until providing the RDFI with such Authorization Agreement within the time limits provided by the NACHA Rules.

**14. NOTICE OF RETURNED ENTRIES AND NOTIFICATIONS OF CHANGE.** Prosperity shall notify Customer by posting or transmission through the Internet Banking Services or

by e-mail or other means upon the receipt of a returned Entry from the ACH operator; provided, that Prosperity shall have no liability for any delay in providing such notice or for any allegation from Customer that such notice should have been provided at an earlier time. Except for an Entry retransmitted by Customer in accordance with the requirements of Section 2 (Transmission of Entries by Customer) above, Prosperity shall have no obligation to retransmit a returned Entry to the ACH Operator if Prosperity complied with the provisions of these Terms with respect to the original Entry. Customer shall notify the Receiver by phone or electronic transmission of receipt of each return Entry no later than one (1) Business Day after the Business Day of receiving such notification from Prosperity. Prosperity shall provide Customer all information, as required by the NACHA Rules, with respect to each Notification of Change (“**NOC**”) Entry or Corrected Notification of Change (“**Corrected NOC**”) Entry received by Prosperity relating to Entries transmitted by Customer. Customer shall ensure that changes requested by the NOC or Corrected NOC are made within six (6) Business Days or as otherwise required by the NACHA Rules of Customer's receipt of the NOC information from Prosperity or prior to initiating another Entry to the Receiver's account, whichever is later. If the NOC is incorrect, Customer will generate a refused Notification of Change and deliver it to Prosperity.

**15. PROVISIONAL SETTLEMENT.** Customer is hereby notified that payment of an Entry by the RDFI to the Receiver is provisional until receipt by the RDFI of final settlement, and Customer acknowledges and agrees that if such settlement is not received, the RDFI shall be entitled to a refund from the Receiver of the amount credited, and Customer shall be considered not to have paid the Receiver the amount of the electronic funds transfer. Prosperity's payment of any debit Entry, returned Credit Entry, or credit Reversal is provisional until Prosperity receives final settlement for the Entry or Reversal. If final settlement is not received, Prosperity is entitled to a refund and may charge Customer's Account for the amount previously credited. Prosperity may delay the availability of any amount credited for a debit Entry or a credit Reversal if Prosperity believes there may be insufficient funds in Customer's Account to cover any chargeback or return of the Entry or Reversal. Prosperity may require the personal guarantee of a principal or an owner of Customer.

**16. CUSTOMER REPRESENTATIONS AND WARRANTIES; INDEMNITY.** With respect to each and every Entry transmitted by Customer, Customer represents and warrants to Prosperity and agrees that:

(a) Each person or entity shown as the Receiver on an Entry received by Prosperity from Customer has authorized the initiation of such Entry and the crediting or debiting of its account in the amount and on the Effective Entry Date shown on such Entry,

(b) Such Authorization Agreement is operative at the time of transmittal or crediting or debiting by Prosperity as provided herein,

(c) Entries transmitted to Prosperity by Customer are limited to those types of credit and debit Entries permitted by Prosperity,

(d) Customer shall perform its obligations under these Terms in accordance with all Applicable Laws, including, without limitation, maintenance of records required by Applicable Law,

(e) Customer shall originate Payment Orders only for Customer's Accounts and not as agent or on behalf of any other third party (unless Customer has properly notified Prosperity that it is

a Third-Party Sender and provided all required information and Documentation and complied with the terms of the ACH Third-Party Sender Addendum),

(f) Customer will notify Prosperity of Customer's use of any Third Party Service Provider or any other Vendor for the Service, and Customer shall be responsible for the acts of such Third Party Service Provider or Vendor as the actions or omissions of Customer as set forth in the Master Agreement, and

(g) any Entry or Payment Order submitted to Prosperity by Customer or on behalf of Customer by a Third Party Service Provider in accordance with these ACH Terms authorizes Prosperity to initiate an electronic funds transfer in accordance with the terms thereof.

For clarity, Customer's indemnification obligations described in the Master Agreement will apply with respect to any Losses incurred in connection with any breach by Customer of its representations or warranties described in these Terms.

**17. ADDITIONAL CUSTOMER WARRANTIES FOR SELECTED STANDARD ENTRY CLASSES.** NACHA, in its role of ensuring the safety, security, and viability of the ACH network, has determined that certain single-use or limited-use consumer authorizations have the potential to increase risk in the ACH system and compromise system effectiveness by increasing the incidence of returned Entries. Therefore, to qualify as an Originator of such Entries, Customer hereby warrants to Prosperity that for each such ACH Entry submitted for processing, Customer has obtained all authorizations from the Receiver as required by the NACHA Rules and other Applicable Law and these Terms. Customer also makes the additional warranties to Prosperity that Prosperity makes to each RDFI and ACH Operator under the NACHA Rules for the respective SEC codes for Entries originated by Customer.

**18. INCONSISTENCY OF NAME AND ACCOUNT NUMBER.** Customer acknowledges and agrees that, if an Entry describes the Receiver inconsistently by name and account number, payment of the Entry transmitted by Prosperity to the RDFI may be made by the RDFI (or by Prosperity in the case of an On-Us Entry) on the basis of the account number supplied by Customer, even if it identifies a person different from the named Receiver, and that Customer's obligation to pay the amount of the Entry to Prosperity is not excused in such circumstances. Customer is liable for and must settle with Prosperity for any Entry initiated by Customer that identifies the Receiver by account or identifying number or by name and account or identifying number.

**19. DATA RETENTION.** Customer shall retain data on file adequate to permit the remaking of Entries for five (5) Business Days following the date of their transmittal by Prosperity as provided herein, and Customer shall provide such data to Prosperity upon its request. Customer acknowledges and agrees to comply with any and all Data Security Requirements contained in the NACHA Rules, including without limitation any requirements of ACH Originators, Third Party Service Providers and Third Party Senders to protect account numbers used in the initiation of ACH Entries and Files by rendering them unreadable when stored electronically. To the extent Customer comes into possession, custody or control of any Personally Identifiable Information or other non-public information, including information (a) provided by a consumer to Customer, (b) resulting from any transaction with the consumer or any service performed for the consumer, or (c) otherwise obtained by Customer with regard to a consumer, including account information (collectively, "PII"), Customer represents and warrants to Prosperity and its Service Providers that Customer will protect such PII by

rendering it unreadable and inaccessible by persons who do not have legal authority to access such PII.

**20. COOPERATION IN LOSS RECOVERY EFFORTS.** In the event of any Losses for which Prosperity or Customer may be liable to each other or to a third party pursuant to the Services provided under these Terms, Prosperity and Customer will undertake reasonable efforts to cooperate with each other, as permitted by Applicable Law, in performing loss recovery efforts and in connection with any actions that the relevant party may be obligated to defend or elects to pursue against a third party.

**21. AUDIT RIGHTS.** In addition to Prosperity's other audit rights under the Master Agreement, Customer hereby authorizes Prosperity (and its regulators and auditors), subject to Customer's physical and logical security procedures, to enter Customer's business premises for the purpose of verifying that Customer is in compliance with this Agreement and auditing Customer's operational controls, information security controls to maintain the confidentiality of Information (including PII), risk management practices, staffing and the need for training and ongoing support, and information technology infrastructure. Customer hereby acknowledges and agrees that Prosperity shall have the right to require specific internal controls at Customer's location(s) and Customer shall comply with any such requirement. As provided in the Master Agreement, these audit rights shall also apply with respect to Customer's Vendors, including any Third Party Service Provider.

**22. SAME DAY ENTRIES.** A credit or debit Entry with an Effective Entry Date as of the same date such Entry is Received by Prosperity by the applicable cut-off time (or any date prior to such date) is considered a Same Day Entry. If Same Day ACH origination is offered by Prosperity, Customer must opt-in to this service in the manner required by Prosperity and it must be accepted and implemented by Prosperity. Additional Fees may apply to the Same Day ACH service. Entries in excess of the amount permitted in the NACHA Rules are not eligible for Same Day ACH processing, and Customer agrees not to structure Entries so as to avoid such limit. Same Day ACH Origination is also not available where pre-funding is required.