REMOTE DEPOSIT CAPTURE SERVICE AGREEMENT

BANK OF NORTH DAKOTA
OPERATIONS
SFN 59704 (9-2014)

THIS REMOTE DEPOSIT CAPTURE SERVICE AGREEMENT is made between THE BANK OF NORTH DAKOTA (BND) and

Name of Customer

RECITALS

WHEREAS, BND offers a remote deposit capture service ("the Service"), designed to allow customers to make electronic deposits of Electronic Items (as defined below) captured from checks into accounts designated by customers.

WHEREAS, Customer wishes to utilize the Service pursuant to the terms of this Agreement and other applicable rules, laws, and regulations.

NOW, THEREFORE, the parties agree as follows:

1. **Applicable Agreements**. This Agreement governs Customer's use of the Service. BND offers the Service under this Agreement only in association with one or more Designated Account(s) (as defined below) maintained by Customer at BND. The terms and conditions of the account agreement(s), as amended from time to time, governing the Designated Account(s) between BND and Customer shall apply to the use of the Designated Account(s), except as provided herein. Customer's access to and use of BND's On-Line (as defined below) services shall be governed by the applicable electronic access agreement(s), as amended from time to time, between Customer and BND. In the event of conflict between this Agreement and any other Agreement with BND, this Agreement shall prevail, unless otherwise provided herein.

2. **Definitions.** The following words or terms shall each have the meanings as provided below. Additional defined terms shall be provided throughout the Agreement. Unless otherwise defined therein, capitalized terms in the attached Schedules shall have the same meanings as such capitalized terms have in this Agreement.

a. "Additional Equipment" shall have the meaning set forth in Section 4(a)(i).

b. "Agreement" means this BND Remote Deposit Capture Service Agreement, as it may be amended from time to time, and all Schedules, as they may be amended from time to time, attached hereto and incorporated herein by reference.

c. "Authorized Representative" means Customer or a person authorized to act for or on behalf of Customer as designated in Schedule B.

d. "Banking Day" means a day on which BND is open to the public for carrying on the Service and substantially all of its business but does not include Saturdays, Sundays, or federal holidays.

e. As used in this Agreement, the term "check" shall have the meaning defined in Regulation CC of the Board of Governors of the Federal Reserve System ("Regulation CC").

f. "Designated Account(s)" means those transactional accounts of Customer maintained at BND listed in Schedule A into which Electronic Items may be deposited.

g. "Electronic Item" means an image of the front and back of a check, all of the information from the Magnetic Ink Character Recognition ("MICR") line on the original check and the enclosed amount and additional information about the original check, including any associated electronic records derived from the original check and any other information specified by BND, in the format specified by BND.

h. "Information and Systems" shall have the meaning set forth in Section 6(a).

i. "On-Line" refers to use of the BND software application used to transmit or receive electronic deposits, instructions, notices, or other communications but does not include transmissions by telephone, fax, in person, regular mail, express mail, or e-mail.

j. "Purchased Equipment" shall have the meaning set forth in Section 4(a)(i).

k. **"**Security Procedures" means the procedures set forth in Schedule C, as such procedures may be amended from time to time by BND in its sole discretion.

l. "Service Provider" shall have the meaning set forth in Section 15.

3. **The Service**.

a. The Service is designed to allow Customer to deposit Electronic Items into Customer's Designated Account(s) from locations owned or operated by Customer or its agent. Customer, using hardware and software meeting the specifications and requirements provided by BND, shall capture from each original check to be deposited: (i) an image of the front and back of the original check; (ii) all of the information in the MICR line on the original; (iii) the amount of the check, as entered by Customer for MICR encoding purposes; and (iv) additional information about the original check, including any associated electronic records derived from the original check, and any other information specified by BND.

b. Customer shall ensure that each original check is endorsed prior to imaging it for deposit without any restrictions or conditions, in accordance with any applicable procedures of BND. Customer shall identify BND as the Bank of First Deposit by placing BND's Routing Transit Number in the proper field, according to the current image exchange standards, of each Electronic Item. The Customer shall not identify any other financial institution, other than BND, as the Bank of First Deposit with respect to any Electronic Item.

c. Customer shall stamp the original of each check with "Processed," or similar language, after the process of scanning the check. Customer may utilize Purchased Equipment to fulfill this requirement.

d. Electronic Items must be transmitted in electronic files that conform to such specifications as BND requires, as modified from time to time by BND in its sole discretion (the "File(s)").

e. Customer warrants to BND that the legal amount of the original check is correctly encoded/recorded for each Electronic Item.

f. Customer shall transmit the Files to BND in accordance with BND's On-Line access procedures and any other applicable procedures, including security procedures, as made available by BND. Electronic Items, Files, notices, messages, acknowledgements, and information are delivered by Customer and received by BND when Customer has satisfactorily completed the applicable security procedures and the Electronic Items, Files, notices, messages, acknowledgements, and information have been placed on a BND storage device that makes the Electronic Items, Files, notices, messages, acknowledgements, and information available for BND to retrieve or review. For purposes of determining when Electronic Items, Files, notices, messages, acknowledgements, and information have been delivered and received, BND's records shall be determinative.

g. Files received by BND prior to 7:00 p.m. CST (the "Cutoff Time") on a Banking Day shall be eligible for processing on that Banking Day. Files received after the Cutoff Time, or on a day that is not a Banking Day, shall be and are eligible for processing on the next Banking Day.

h. Customer agrees that (i) the total dollar value of each File received by BND shall not exceed the dollar amount specified in Schedule A (the "Limit Per File"), and (ii) the total dollar value of all Files received on any one (1) Banking Day shall not exceed the amount specified in Schedule A (the "Limit Per Day"), which may be modified by BND in its sole discretion. If the Limit Per File or the Limit Per Day is exceeded, BND may, at its option, refuse to accept for processing any File and/or deposit that exceeds the Limit Per File or causes the Limit Per Day to be exceeded. Files received by BND after the Cutoff Time on a Banking Day, or on a day that is not a Banking Day, will be deemed received on the next Banking Day for purposes of this Section 3(h).

i. Once BND receives Electronic Items, it may review them to determine whether they will be accepted for processing or be rejected. BND shall provide notice to Customer regarding whether Electronic Items are accepted for processing or rejected. BND shall, in its sole discretion, determine whether Electronic Items are accepted for processing or rejected. It shall be Customer's responsibility to routinely review the relevant systems for notices from BND regarding whether Electronic Items have been accepted for processing or rejected. If Customer believes that Electronic Items have been sent to BND but Customer has not received a notice that the Electronic Items have been accepted for processing or rejected, it is Customer's responsibility to contact BND to inquire about the Electronic Items in question.

j. BND will provisionally credit the Designated Account(s) for the Electronic Items BND accepts for processing on the Banking Day of Receipt of Electronic Items, subject to the conditions set forth in this Agreement, and will handle the deposited items as check deposits in accordance with the applicable account agreement(s).

k. Customer shall securely store and maintain, in accordance with the specifications of Section 6, all original checks for a period of 90 days (or longer if requested by BND) after Customer has received notice from BND that the Electronic Items that reflect the original of the checks have been accepted for processing or rejected, after which time, Customer shall destroy the original checks using a method of destruction that provides commercially reasonable assurance that any sensitive information contained in the checks is protected from unauthorized disclosure.

l. When transmitting Electronic Items to BND and receiving Electronic Items from BND, Customer shall comply with the Security Procedures as set forth in Schedule C. Customer acknowledges that the purpose of the Security Procedures is for verification of authenticity and not to detect an error in the transmission or content of Electronic Items, Files, or information transmitted to or received from BND. In addition, Customer shall comply with any rules, requirements, or procedures prescribed by BND from time to time governing submission of Electronic Items and any applicable clearinghouse rules or requirements and provisions of agreements entered into by BND with third parties related to the Service.

4. Hardware and Software Requirements.

a. Purchased Equipment, Software, and Additional Equipment Requirements.

i. Customer shall be solely responsible for, at its own expense, properly obtaining, installing, managing, operating, maintaining, and using any Purchased Equipment and Additional Equipment and any software and licenses to use such software that is required in connection with the Service ("Additional Equipment") that complies with the specifications and requirements of BND. Only Purchased Equipment and Additional Equipment that complies with BND's specifications and requirements may be used in connection with the Service. Customer shall be solely responsible for, at its own expense, properly obtaining, installing, managing, operating, maintaining, and using an Internet communication connection used to transmit the File(s) and other information to BND and receive information from BND. Customer shall perform, or cause to be performed, all vendor-recommended maintenance, repairs, upgrades, and replacements to the Additional Equipment and Internet communication connection.

ii. BND HEREBY DISCLAIMS ANY AND ALL LIABILITY ASSOCIATED WITH ANY PURCHASED EQUIPMENT OR ADDITIONAL EQUIPMENT, INCLUDING BUT NOT LIMITED TO ANY OF BND's REQUIREMENTS RELATED TO SUCH PURCHASED EQUIPMENT OR ADDITIONAL EQUIPMENT AND MAKES NO WARRANTIES WHATSOEVER REGARDING THE FOREGOING. BND MAKES NO WARRANTIES REGARDING THE EFFECT THE PURCHASED EQUIPMENT OR ADDITIONAL EQUIPMENT MAY HAVE ON CUSTOMERS OTHER SYSTEMS AND ACCEPTS NO LIABILITY FOR ANY DAMAGE THE PURCHASED EQUIPMENT OR ADDITIONAL EQUIPMENT MAY CAUSE TO CUSTOMER'S OTHER SYSTEMS OR PROPERTY REGARDLESS OF WHETHER SUCH DAMAGE WAS DUE TO BND's SPECIFICATIONS OR REQUIREMENTS.

5. Electronic Items That May Be Deposited.

a. Customer hereby warrants that every Electronic Item shall have been captured by Customer from an original check. In its discretion, BND may terminate the Service immediately if Customer sends an Electronic Item that was not captured from an original check.

b. Customer hereby further warrants that it will send an Electronic Item for deposit only if the original check is:

i. payable to Customer and not to a third party; and

c. Customer agrees and warrants that Customer will *not* use the Service to transmit to BND for deposit any Electronic Item reflecting:

i. any original check, the deposit of which is prohibited by BND's then-current procedures pertaining to the Service or is in violation of any applicable law, regulation or rule;

ii. any original check that Customer knows or suspects or should suspect is fraudulent or otherwise not authorized by the owner of the account on which the original check is drawn;

iii. substitute checks or image replacement documents that are derived from or that purport to be substitute checks;

iv. any check that is drawn on or is payable by or at a financial institution that is located in a location that is outside of the contiguous United States, Alaska, Hawaii, the District of Columbia, Puerto Rico, or the U.S. Virgin Islands;

v. United States Savings Bonds;

vi. any check that is not permitted for deposit into a Designated Account, as provided in the applicable account agreement between Customer and BND; or

vii. any "remotely created check," as that term is defined in Federal Reserves Regulation CC, that is, any check that is not created by the paying bank and that does not bear a signature applied, or purported to be applied, by the person on whose account the check is drawn.

6. Security Requirements.

a. Customer shall be solely responsible for preventing and safeguarding against unauthorized transmissions and unauthorized access to the following, all of which is referred to collectively as "Information and Systems": (i) original checks; (ii) Electronic Items; and (iii) Customer information, systems, connections, and equipment that interface with, connect to or allow access to BND, its information, systems, and equipment, including but not limited to instructions, codes, passwords, procedures, including security-related procedures or any passwords, codes, or PINs ("Personal Identification Numbers") used in transmitting the Electronic Items or related information. Customer shall establish, maintain, and enforce physical and logical commercially reasonable security practices, techniques, and procedures with respect to access, storage, and maintenance to safeguard against unauthorized transmissions and unauthorized access to the Information and Systems.

b. Customer shall disclose security-related information and information concerning BND and the Information and Systems only to persons to whom disclosure is necessary for the conduct of Customer's business affairs, and Customer agrees to take commercially reasonable steps to maintain the confidentiality of all such security-related information and information concerning BND and the Information and Systems.

c. Customer warrants that no individual will be allowed to create Electronic Items and/or transmit them to BND in the absence of proper supervision and safeguards and that only Authorized Representatives shall authorize transactions pursuant to this Agreement and transmit the Electronic Items and instructions related thereto to BND. BND is entitled to rely on all instructions and information received from someone who is an Authorized Representative of Customer or someone whom BND believes in good faith to be an Authorized Representative of Customer.

d. Customer shall notify BND immediately, followed by written confirmation, if Customer has reason to believe or suspects there has been any unauthorized access to the Information and Systems or unauthorized transmissions.

7. Image and MICR Quality.

a. Customer understands and agrees that BND, any subsequent collecting bank, the paying bank, and the drawer with respect to each Electronic Item transmitted by Customer to BND may employ automated processes or sight review assessing the legibility, usability, or technical acceptability of the electronic image and the data that make up the Electronic Item, and that BND, any subsequent collecting bank, the paying bank, or the drawer may reject or return an Electronic Item (or a substitute check or other item derived from an Electronic Item) if such person or entity determines that the image or the data are unacceptable. If an Electronic Item is rejected or returned, Customer agrees to follow such re-clearing procedures as BND may establish with respect to rejected or returned Electronic Items.

i. Customer shall therefore make reasonable effort to ensure that the image of the original check in an Electronic Item shall be of such quality that the following information can be clearly read and understood by sight review of such image:

(1) Amount of the original check as written or printed in words and numbers by the drawer;

(2) Payee of the original check as written or printed by the drawer;

(3) Signature of the drawer of the original check;

(4) Date of the original check as written or printed by the drawer;

(5) Check number of the original check as written or printed on the original check;

(6) Any information identifying the drawer and the paying bank that is preprinted on the original check;

(7) MICR line of the original check; and

(8) All other information placed on the original check prior to the time an image of the original check is captured, including but not limited to any required identification and any endorsements.

ii. Customer shall make reasonable effort to ensure that each Electronic Item shall meet all standards for image quality established by the American National Standards Institute ("ANSI"), Board of Governors of the Federal Reserve System, or any other applicable regulatory agency, the Federal Reserve Banks, and any clearinghouse or association.

b. Customer shall ensure that each Electronic Item transmitted by Customer to BND shall contain in the appropriate field in the Electronic Item the following information pertaining to the MICR line of the original check:

i. Routing Transit Number;

ii. Account number on which the original check was drawn;

iii. The amount of the original check inserted by the Customer as required by Section 3(e); and

iv. If present in the original check, the serial number and the process control field of the original check as reflected on the original check.

8. Provisional Credit and Availability of Funds.

a. Upon acceptance of an Electronic Item for processing, BND shall provisionally credit Customer's Designated Account. Such provisional credit shall be subject to final payment of the Electronic Items by the paying bank and to the terms of any applicable agreement covering the Designated Account(s).

b. For purposes of determining the availability of funds, the terms of the account agreement applicable to the Designated Account(s) shall apply.

9. Returned Checks.

a. If Electronic Items that are deposited into Customer's Designated Account(s) pursuant to this Agreement are dishonored, rejected, or otherwise returned unpaid by the drawee bank, or are rejected or returned by a clearing agent or collecting bank for any reason, including, but not limited to, issues relating to the quality of the image, Customer understands and agrees that an original check will not be returned to Customer but that BND may charge back the amount of the original check and provide Customer with an image of the original check, a paper reproduction of the original check, or a substitute check. **Unless otherwise instructed by BND, Customer shall not attempt to deposit or otherwise negotiate an original check that has been imaged if it has been charged back to Customer.**

b. Customer agrees that BND may debit any of its accounts maintained with BND to obtain payment for any Electronic Item that has been rejected or returned, for any adjustment related to such Electronic Item or for any warranty claim related to such Electronic Item, whether or not the rejection, return, adjustment, or warranty claim was made timely. BND has no duty to Customer or to any other person to decline or dispute any such rejected or returned item, or to dispute or defend against such adjustment or warranty claim.

c. If the Customer's use of the Service causes the risk identification triggers or other benchmarks (related to, for example return rates, rejection rates, and dollar and item count volumes), which are set by BND in its sole discretion, to be met or exceeded, as applicable, BND may, in its sole discretion, immediately terminate the Service or impose such limitations and restrictions on the Service as BND deems appropriate.

10. Collection of Checks.

a. BND, in its sole discretion, shall determine the manner in which Electronic Items shall be presented for payment to the drawee bank.

b. BND, in its sole discretion, shall select the clearing agents used to collect and present the Electronic Items, and BND's selection of such clearing agents shall be considered to have been approved by Customer.

c. BND will collect Electronic Items through the check collection process pursuant to UCC Articles 3 and 4, Regulation CC, applicable clearinghouse rules, and any applicable agreements BND may enter into from time to time.

11. Contingency Plan. Customer agrees that, in the event Customer is not able to comply with the terms of this Agreement to transmit Electronic Items for any reason, including but not limited to any Equipment failure, communication connection interruptions, or outages, Customer shall transport to BND any original checks that the Customer wishes to deposit and shall deposit such original checks with BND until the problem is resolved. The deposit of original checks at BND shall be governed by the terms and conditions of the agreement applicable to the account in which the original checks are deposited.

12. Designated Account(s).

a. Customer shall maintain with BND one or more transactional accounts identified in Schedule A, referred to herein as “Designated Account(s),” to which deposits may be made pursuant to this Agreement (referred to as “Accounts”).

b. Customer agrees that, to the extent the provisions in this Section 12(b) are inconsistent with provisions in an agreement governing Customer's Designated Account(s), the provisions in this Section 12(b) shall prevail. Customer agrees that, pursuant to this Agreement, certain persons, who might or might not otherwise be authorized under the account agreement applicable to a Designated Account(s), may be authorized by this Agreement to perform certain transactions or provide certain information or instructions pursuant to this Agreement. Customer agrees that any provisions contained in account agreements applicable to Designated Account(s) concerning (i) the number of signatures that are required to authorize or perform certain transactions or provide information or instructions to BND or (ii) the specific persons who are identified as authorized to authorize or perform certain transactions or provide information or instructions to BND shall not apply to transactions performed pursuant to this Agreement.

c. Customer agrees that BND may debit any account (either now or in the future existing) maintained by Customer with BND in order to obtain payment of Customer's obligations under this Agreement, if necessary. Customer agrees that Customer's obligations under this Agreement, including, without limitation, any indebtedness or liability arising as a result of the provisions of this Agreement, will be secured by any collateral now or in the future held by BND or on which BND now or in the future has a lien or security interest for any other indebtedness Customer owes to BND, whether such other indebtedness has already been incurred or will be incurred in the future, and the instruments and agreements under which such collateral is provided are hereby amended to secure Customer's obligations under this Agreement. Customer hereby assigns all of its deposit accounts with BND and any affiliate of BND to BND to secure its obligations to BND under this Agreement. Customer expressly authorizes BND to debit any account maintained by Customer with BND or any affiliate of BND and/or set off any of Customer's obligations to BND under this Agreement against any amount it owes to Customer, in order to obtain payment of Customer's obligations under this Agreement.

13. <u>Customer Representations and Warranties and Indemnity</u>.

a. Customer represents and warrants to BND and agrees that:

i. Customer shall transmit only Electronic Items to BND for deposit that comply with the provisions of this agreement;

ii. Each Electronic Item transmitted by Customer to BND contains an accurate representation of the front and back of the original check;

iii. All information submitted by Customer to BND is complete and accurate and complies with the provisions of this Agreement;

iv. BND has the right to conduct on-site visits and audits of the Remote Deposit process of the Customer upon reasonable advance notice;

v. Customer is not a consumer; each Designated Account is used for business purposes and is not a consumer account, and the Service shall be used only for business purposes;

vi. All signatures on the original check from which an Electronic Item is derived are authentic and authorized;

vii. Each check from which an Electronic item is derived is authentic and has not been altered;

viii. Each Electronic Item transmitted to BND is an accurate, authentic replica of an original check, and the Electronic Item has not been altered;

ix. Customer is entitled to enforce each check from which an Electronic Item is derived;

x. No check for which an Electronic Item is derived is subject to a defense or claim in recoupment of any party that can be asserted against Customer;

xi. Customer has no knowledge of any insolvency proceedings commenced with respect to the maker or acceptor or in the case of an unaccepted check, the drawer of any checks from which an Electronic Item is derived;

xii. Customer shall not knowingly or unknowingly transmit or cause to be transmitted to BND any computer virus or any malicious code and shall take commercially reasonable steps to prevent such transmissions from occurring;

xiii. Customer will not: (1) create a duplicate Electronic Item of an original check; (2) transmit a duplicate Electronic Item to BND or to any other person for collection or presentment; or (3) deposit or otherwise negotiate the original of any check from which an Electronic Item has been created;

xiv. No subsequent transferee of an Electronic Item, including but not limited to BND, a collecting or returning bank, drawer, drawee, payee, or endorser, will be asked to pay an original check from which an Electronic Item was created or to pay a duplicate of an Electronic Item;

xv. No subsequent transferee of an Electronic Item, including but not limited to BND, a collecting or returning bank, drawer, drawee, payee, or endorser, shall sustain a loss as a result of an Electronic Item (or any item or returned check derived from the Electronic Item) being presented for payment or returned, instead of the original check;

xvi. Customer is authorized to enter into and perform its obligations under this Agreement; the person signing this Agreement on behalf of Customer is duly authorized to execute this Agreement; this Agreement is valid and enforceable against Customer; and entering into this Agreement shall not violate any law, regulation or rule, or conflict with any other agreement to which Customer is subject;

xvii. Individuals listed in Schedule B have been duly authorized to act in the capacity provided in that Schedule B and this Agreement by the Customer; and

xviii. Customer shall perform its obligations under this Agreement in accordance with, and shall not perform any acts or omissions that would cause BND to violate, any applicable rules (including but not limited to applicable rules of trade associations, clearinghouses, and payment processors), requirements, laws, regulations, sanctions, executive orders, and regulatory guidelines including, but not limited to, the following: U.S. federal or state laws and regulations; foreign laws, regulations and/or directives; the sanctions laws, regulations, and executive orders administered by the Office of Foreign Assets Control ("OFAC"); laws, regulations, and orders administered by FinCEN; any applicable Rules; Federal Reserve Operating Circulars; and any applicable state laws, regulations, orders, or regulatory guidelines.

14. BND Responsibilities, Liability; Limitations on Liability.

a. In the performance of the services required by this Agreement, BND shall be entitled to rely solely on the information, representations, and warranties provided by Customer pursuant to this Agreement, and shall not be responsible for the accuracy or completeness thereof. BND shall not be responsible for or liable for detecting any error of Customer contained in any Electronic Item transmitted by Customer. Notwithstanding the fact that BND may have received and accepted for processing an Electronic Item and provisionally credited a Designated Account(s), Customer shall remain liable to BND for any errors, inaccuracies, breach of warranties, and any other loss sustained by or claim made against BND.

b. BND shall be responsible for performing only the services expressly provided for in this Agreement and shall be liable only for its gross negligence or willful misconduct in performing those services, except as otherwise disclaimed herein or specifically required by law.

c. BND shall not be liable for claims, expenses, losses, or damages resulting from Customer's acts or omissions or alleged acts or omissions or those of any other person, including, without limitation, with respect to any check, the drawer, the payee, any endorser and/or any collecting or returning bank, Federal Reserve Bank, financial institution, clearinghouse, or payment processor.

d. Without limiting the generality of the foregoing provisions and to the extent permitted by law, BND shall not be liable and shall be excused from failing to act or delay in acting if such failure or delay is caused by legal constraint, interruption of transmission, or communication facilities, error in or inoperability of communication equipment or lines, natural disaster, fire, equipment failure, war, emergency conditions, or other circumstances beyond BND's control. In addition, BND shall not be liable for and shall be excused from failing to provide the Service if such action or omission would result, in BND's reasonable judgment, in a violation of any rule, law, regulation, executive order, or any requirements of any governmental authority, or cause BND to engage in an unsafe and unsound practice.

15. Third-Party Service Provider. Electronic Items and other related information may be processed on behalf of BND through any agent or third-party service provider ("Service Provider") of BND. Performance of services through a Service Provider does not affect any obligation or performance thereof which Customer has under this Agreement.

16. Account Reconciliation. Customer shall promptly examine each periodic report detailing transactions, including Electronic Items and checks processed by BND and the credit given for such Electronic Items and checks, made pursuant to this Agreement and notify BND in writing of any problem, error, or discrepancy between Customer's records and the information shown on any periodic report.

17. Notices, Instructions, Etc.

a. Except as otherwise expressly provided herein, BND shall not be required to act upon any notice or instruction received from Customer or any other person, or to provide any notice or advice to Customer or any other person with respect to any matter, except as provided herein.

b. Customer acknowledges that any e-mail systems Customer uses to submit information to BND or that BND may use to receive e-mails from Customer may not be secure. As such, Customer agrees that, to the extent it submits any information to BND in e-mail communications, such e-mail communications shall not contain any confidential or sensitive information.

c. BND shall be entitled to rely on any written notice or other communication believed by it to be genuine and to have been submitted by or signed by an Authorized Representative, and any such communication shall be deemed to have been signed by such person.

d. Customer certifies that the individuals listed in Schedule B are Authorized Representatives of Customer for purposes of this Agreement. These Authorized Representatives are authorized to act on behalf of Customer in order to perform or authorize transactions related to the Service, transmit checks and/or Electronic Items, and provide related information and instructions to BND. Until BND receives a written notice from Customer that revokes the authorization granted to any of the individuals listed in Schedule B, and has a reasonable opportunity to act on it, BND shall continue to rely upon the authority granted to such Authorized Representatives.

e. Except as otherwise expressly provided herein, any written notice or other written communication required or permitted to be given under this Agreement shall be delivered, or sent by United States registered or certified mail, postage prepaid, by express carrier, or facsimile to the addresses listed in Schedule A. Except as otherwise expressly provided herein, any such notice shall be deemed given when received.

18. Recording and Use of Communications. Customer and BND agree that all telephone conversations and/or data transmissions, including but not limited to, any and all On-Line transmissions made between them or their agents made in connection with this Agreement may be electronically recorded and retained by either party by use of any reasonable means.

19. Information and Records. All data storage media, security procedures, data, information, and related records used by BND for transactions contemplated by this Agreement shall be and remain BND's property. Except to the extent that BND is required by law to make information available to Customer, BND may, in its sole discretion, determine whether to make available such information upon Customer's request. Any expenses incurred by BND in making such information available to Customer shall be paid by Customer.

20. General Terms.

a. Amendments. From time to time, BND may amend any of the terms and conditions contained in this Agreement, including, without limitation, any Cutoff Time, any security requirements, and any part of any of the Schedules attached hereto. Such amendments shall become effective upon five (5) days prior written notice to Customer or such earlier or later date as may be stated herein or in BND's notice to Customer.

b. Termination. Customer may terminate this Agreement for any reason in its sole discretion upon thirty (30) days written notice. Such termination shall be effective thirty (30) days from the date that BND receives written notice of such termination or such later date as is specified in that notice. BND reserves the right to terminate this Agreement immediately upon providing written notice of such termination to Customer. Any termination of this Agreement shall not affect any of BND's rights and Customer's obligations with respect to any transactions already in process prior to such termination or the payment obligations of Customer with respect to services performed by BND prior to termination.

c. The following provisions and any other provisions herein that must survive to give effect to the purposes of this Agreement shall survive termination of this Agreement: Section, 3(k), Section 9(b) and Section 14.

d. **Entire Agreement**. This Agreement (including the Schedules attached hereto) is the complete and exclusive statement of the agreement between BND and Customer with respect to the subject matter hereof and supersedes any prior agreement(s) between BND and Customer with respect to such subject matter. In the event of any inconsistency between the terms of this Agreement, agreements pertaining to Designated Account(s), or the Schedules, the terms of this Agreement shall govern. In the event performance of the services provided herein in accordance with the terms of this Agreement would result in a violation of any present or future statute, regulation or government policy to which BND is subject, and which governs or affects the transactions contemplated by this Agreement, then this Agreement shall be deemed amended to the extent necessary to comply with such statute, regulation, or policy, and BND shall incur no liability to Customer as a result of such violation or amendment. No course of dealing between BND and Customer will constitute a modification of this Agreement, the Rules, or the Security Procedures or constitute an agreement between BND and Customer regardless of whatever practices and procedures BND and Customer may use.

e. **Non-assignment**. Neither party may assign this Agreement or any of the rights or duties hereunder without the express written consent of the other party.

f. **Binding Agreement; Benefit**. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors, and assigns. This Agreement is not for the benefit of any other person, and no other person shall have any right against BND or Customer hereunder.

g. **Miscellaneous**. Headings are used for reference purposes only and shall not be deemed a part of this Agreement. BND may waive enforcement of any provision of this Agreement. Any such waiver shall not affect BND's rights with respect to any other transaction or modify the terms of this Agreement. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. In the event that any provision of this Agreement shall be determined to be invalid, illegal, or unenforceable to any extent, the remainder of this Agreement shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law.

h. **Governing Law**. This Agreement, including all services provided by or relating to the services provided hereunder by BND, and all rights and obligations of the parties, shall be construed in accordance with and governed by the laws of the State of North Dakota. Any action commenced to enforce this Agreement must be brought in the District Court of Burleigh County, North Dakota.

i. **Confidentiality**. Without limiting other confidentiality and nondisclosure provisions in this Agreement, Customer agrees not to use or disclose any information it receives from BND under this Agreement which BND has previously identified as confidential or exempt from mandatory public disclosure except as necessary to carry out the purposes of this Agreement or as authorized in advance by BND. BND agrees not to disclose any information it receives from Customer which Customer has previously identified as confidential and which BND determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, North Dakota Century Code §44-04-18. The duty of BND and Customer to maintain confidentiality of information under this section continues beyond the term of this Agreement, including any extensions or renewals.

Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligation hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

This Agreement executed by the parties hereto as of _____, 20____.

Customer Name
By
Print Name
Title

BANK OF NORTH DAKOTA

By
Print Name
Title

SCHEDULE A

TO THE BND REMOTE DEPOSIT CAPTURE SERVICE AGREEMENT

Designated Accounts

Customer Name

Customer designates the following as accounts to which deposits of Electronic Items may be made pursuant to this Agreement and agrees that such deposits shall not exceed the limits set forth below.

	Account Number	Limit Per File	Limit Per Day
1		$	$
2		$	$
3		$	$
4		$	$
5		$	$
6		$	$

All notices provided pursuant to Section 17 of the Agreement shall be provided to the following addresses for each party:

If to BND:

Bank of North Dakota
PO Box 5509
Bismarck, ND 58506-5509

Fax: (701) 328-5632

If to Customer:

Name		
Address		
City	State	ZIP Code
Attention		
Fax Number		

Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligation hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

Customer Name	Title
Signature	Date

SCHEDULE B

TO THE BND REMOTE DEPOSIT CAPTURE SERVICE AGREEMENT

Authorized Representatives

Customer Name

The undersigned certifies that the individuals listed below are Authorized Representatives of Customer for purposes of this Agreement. These Authorized Representatives are authorized to act on behalf of Customer in order to perform or authorize transactions related to the Service, transmit checks and/or Electronic Items, and provide information and instructions to BND. Until BND receives written notice from Customer that revokes the authorization granted to any of the individuals listed below, and has a reasonable opportunity to act on it, BND shall continue to rely upon the authority granted hereunder to such Authorized Representatives and rely on all information provided by such Authorized Representatives.

Name	Signature	Telephone Number

Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligation hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

Customer Name	Title
Signature	Date

SCHEDULE C

TO THE BND REMOTE DEPOSIT CAPTURE SERVICE AGREEMENT

Security Procedures Agreement

Customer Name

1. The following sets forth the Security Procedure with which the Customer agrees to comply when using the Service:
   a. Files containing Electronic Items transmitted by Customer to BND shall be encrypted by at least ***[128 bit RC4 encryption]*** or its equivalent;
   b. Customer may be required to utilize a multi-factor authentication method as prescribed by BND;
   c. Customer will refer to the User Guide for procedural questions.
1. The Security Procedure is used for the purpose of verifying the identity of the immediate source from which BND receives Electronic Items and Files and communications and instructions related thereto. The Security Procedure is not used to validate or verify the authenticity of the content of an Electronic Item or File or any data related to an Electronic Item or File, or of an original check underlying an Electronic Item.
2. Customer agrees that the Security Procedure is commercially reasonable.
3. Customer agrees to be bound by any Electronic Items and Files and any communications and instructions related thereto in which this Security Procedure is used.

Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligation hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

Customer Name	Title	
Signature		Date