

We're here to help.

This Service Description is part of the Treasury Services Master Agreement (the "*Master Agreement*") currently in effect between you and BMO Harris Bank N.A. ("*we*," "*our*" or "*us*"). This Service Description is part of the Master Agreement, and is subject to all of the terms and conditions contained therein. Any references herein to the Master Agreement shall be deemed to include the terms of this Service Description, including any User Guide and set-up form. Any capitalized terms not defined herein shall have the same meaning as set forth in the Master Agreement.

### 1. Services.

We will provide to you our Image Cash Letter service (the "*Service*") in accordance with the terms and subject to the conditions of this Service Description and any related Service Documentation. This Service allows you to deposit checks to a deposit account or accounts (each an "*Account*" and collectively, "*Accounts*") that you maintain with us by transmitting digital images of checks to us electronically, or by presenting checks electronically for collection through us.

### 2. Definitions.

In this Service Description, the following terms have the meaning indicated:

- "*Consumer Information*" means non-public personally identifiable financial information as that term is defined by applicable Consumer Laws;
- "*Consumer Laws*" means consumer protection and privacy laws (including but not limited to the Gramm-Leach-Bliley Act), and the applicable regulations issued thereunder and judicial interpretations thereof;
- "*Image Deposit*" means a digital image of a check transmitted to us for deposit to an Account;
- "*Image Files*" means electronic files of Image Deposits and related data transmitted to us for processing;
- "*Reg CC*" means 12 C.F.R., Part 229, titled "Availability of Funds and Collection of Checks"; and
- "*UCC*" means the version of the Uniform Commercial Code in effect in the State of Illinois.

### 3. Authority.

If you are using the Service to make Image Deposits, you represent and warrant as follows: (a) you are authorized to deposit to each Account all items that are deposited to such Account; and (b) you are entitled to all funds deposited to such Account.

### 4. Image Files.

An Image File will not be deemed to be received by our processing center until it has been entered into our system and validated by us. It is understood that the Image Deposits transmitted to us in the form of Image Files are "items" as such term is defined in Article 4 of the UCC. Checks converted to ACH entries may not be included in an Image File unless we expressly permit them to be in writing. If we do permit ACH entries to be included in Image Files, you must comply with such operating standards as we may issue pursuant to Section 10, below, to govern the transmission of ACH entries.

## 5. Provisional Credit and Availability of Funds.

Upon acceptance of the Image File, we shall grant your Account Provisional Credit (as herein defined) for the total amount of the Image File. As used herein, "Provisional Credit" means that the credit is made to your Account subject to final payment of the Image Deposits and subject to the terms of the agreement governing the Account. For purposes of determining availability of funds, we may hold funds for the period of time permitted by Reg CC.

## 6. Your Responsibilities.

You agree to:

- (a) ensure that all items included in an Image File are "checks" (as such term is defined in Reg CC) drawn on accounts at institutions subject to regulation by one of the United States bank or credit union regulatory agencies, are denominated in United States dollars, and otherwise meet all applicable rules and standards for conversion to Image Deposits and creation of substitute checks;
- (b) acquire, maintain and upgrade the necessary hardware, software and supporting infrastructure to enable the Image Deposits to be captured and transmitted to our processing center and to store the Image Deposits and related data in your system;
- (c) ensure that all MICR line data is accurate. If any additions, adjustments or other changes are made to the MICR line data, you must ensure that the additions, adjustments or changes accurately reflect the information contained on the original check, it being understood that we may process the Image Deposit and accompanying data exactly as received from you;
- (d) endorse each check with an endorsement we have approved. Each endorsement must comply with applicable laws, regulations and industry standards and be clearly visible and appropriately positioned on each Image Deposit. The associated electronic record must comply with industry standards so that the item may be processed in electronic form;
- (e) specify the "bank of first deposit," including the ABA routing number, in a manner we have approved. The "bank of first deposit" information must conform to our specifications and must be clearly visible and appropriately positioned on each check and must be entered correctly in the associated electronic record of the item;
- (f) ensure that all checks included in an Image File are image compatible and that all Image Deposits are of sufficient quality for the creation of substitute checks, meaning that all checks and Image Deposits must at a minimum meet the standards set forth in Reg CC including ANSI standards;
- (g) use image quality assessment software that meets our requirements and test the Image Deposits as necessary before transmitting Image Files;
- (h) review on a daily basis all input and output, controls, exception and other reports, e-mail messages, and documentation, and verify on a daily basis that all transactions and file maintenance entries were correctly entered and that all check totals balance;
- (i) initiate timely remedial action to correct any improperly processed data;
- (j) use adequate password, user ID, personal identification numbers and other security devices to assure that unauthorized access does not occur, including without limitation assigning and revoking access privileges for your users, maintaining the confidentiality of such access privileges, and changing such access privileges periodically;

- (k) maintain record backup, retention and archival of all Image Deposits and related data transmitted to our processing center;
- (l) retain and store all checks in a secure place for an adequate period of time and then destroy the checks;
- (m) ensure that, once an Image File has been transmitted to us, it is not re-transmitted, and ensure that no item included in an Image File is duplicated and/or deposited in any other form through any other clearing channel unless the original item is returned or adjusted back to you;
- (n) use commercially reasonable efforts to promptly discover and report to us any error resulting from incorrect input;
- (o) promptly notify us if you become aware of or suspect the existence of a defect or malfunction in our systems;
- (p) immediately notify us if you become aware of or suspect that one or more checks or copies thereof or electronic files relating thereto, or information contained in one or more checks or electronic files, has been obtained by an unauthorized person or may be used in an unauthorized manner;
- (q) if and as we instruct, retrieve from storage any checks that did not produce an image of sufficient quality for processing, re-scan the checks, and transmit the new Image Deposits to our processing center and, if for any reason a check cannot be successfully converted to an acceptable image, then deposit the original check using your procedures for making paper check deposits;
- (r) designate an individual to be the primary contact for us, such individual to have responsibility for managing performance of your responsibilities;
- (s) not originate any transaction that violates the laws or regulations of the United States (such as, by way of example and not limitation, the laws and regulations issued by the U.S. Treasury Department's Office of Foreign Assets Control) or of any state or other governmental authority;
- (t) be solely responsible for the acts and omissions of any third party that you retain to perform any functions whatsoever on your behalf;
- (u) if you are the owner of an Account, comply with such deposit limits as we may prescribe from time to time; and
- (v) develop internal policies and procedures that ensure that your obligations relating to the Service are fully addressed and that the risks associated with presenting items electronically for deposit or collection are understood, acceptable and congruent with your compliance, audit and legal requirements. Such policies and procedures should cover the subjects addressed in clauses (a) through (u), above, as well as any other areas of concern to you. By way of example (and not limitation), your policies and procedures relating to the following areas should consider and address the issues indicated:
  - (i) The safety and privacy of the checks and Image Deposits and the related data, including any Consumer Information regarding the makers of the checks.
  - (ii) The retention of the original checks for an appropriate period of time. You understand that there are risks associated with the retention of the original checks, for example, the possibility of theft or fraud by an employee or other person. On the other hand, an original check may need to be retrievable for various reasons. Accordingly, you must

develop a time frame for check retention that suits your unique business requirements. Among the reasons a check may need to be retrievable are the following:

- A. To respond to third parties who have legal rights, e.g., the maker of a check has the right under current law to claim that data set forth in a substitute check is inaccurate and that reference to the original check is necessary to obtain the correct data.
  - B. To correct an image reject.
  - C. To deposit the original check as a paper check if it cannot be properly processed as an image.
  - D. To respond to other circumstances that might arise in which access to the original check is either desirable or required.
- (iii) The need to use appropriate methods for the destruction of checks, files and records, so that the information contained therein is no longer accessible or useable.
  - (iv) The recoverability of data, so that you can correct errors, resolve disputes, reconstruct transmissions, or recover from disasters.
  - (v) The need to implement risk management techniques, to minimize losses caused by errors, fraud, check kiting, embezzlement or other factors.
  - (vi) A back-up procedure for making paper check deposits, in the event your ability to use the Service is interrupted for any reason.
  - (vii) Systems and procedures to control the original checks and to catch duplicate transactions, whether in the form of the original checks, electronic images, substitute checks, ACH entries or any other transaction forms.

## **7. Our Responsibilities and Authorizations.**

- (a) Image File transmissions must be received by our processing center within the timeframes we specify in order for us to meet processing deadlines. Image Files received by our processing center after a deadline cut-off will be processed by the next applicable deadline. An Image File will be not be deemed to be received by our processing center until it has been entered into our system and validated by us. Upon validation of an Image File, we will verify receipt of the transmission. In the case of an Image Deposit, we will, upon verification, provisionally deposit funds to the appropriate Account, as set forth in Section 5, above.
- (b) We will reject any transmission that we deem inadequate or defective in any respect, notify you or your designee promptly of the rejection and the reason(s) therefor, and instruct you how to proceed.
- (c) We will direct the processing of the Image Deposits for forward presentment in such manner as we may choose, such as (without limiting the generality of the foregoing) printing substitute checks from the Image Deposits or transmitting the Image Deposits to a Federal Reserve Bank or other third party.
- (d) In the event of an error we cause, we will assist you in correcting the error through the most cost-effective means, which may include reprocessing the transaction to correct the error, if possible.

## **8. Adjustments.**

You and we will use standard adjustment procedures to handle and process adjustments. As between us and you, any adjustment will be accepted, held and, if necessary, absorbed by you, and we have authority to charge back to you all such adjustments as may arise, including without limitation those caused by the refusal of a collecting or paying bank to accept a non-conforming Image Deposit or substitute check (i.e., an Image Deposit or substitute check that does not meet the collecting or paying bank's standards). At our option, an Image Deposit returned to us because of an image quality issue may be converted by us to a substitute check and resubmitted for collection, which may create a delay in presentment and funds availability, and may also result in additional charges. We will provide you with supporting material as may be reasonably available and required by you to resolve adjustments.

## **9. Returns.**

Returns will normally be routed by the paying bank directly to the bank of first deposit based on the ABA routing number of the bank of first deposit indicated in the electronic record of the item. When an item is returned to us even though we are not the bank of first deposit, we will normally attempt to return the item to the bank of first deposit or a prior collecting bank or a Federal Reserve Bank, based on the available information. We may, in any case, at our discretion, re-deposit a returned item or debit one of the Accounts and return the item to you in accordance with our procedures. You agree to accept return items in any form.

## **10. Operating Standards.**

We reserve the right to prescribe operating standards to govern the Service. You agree to comply with any such operating standards, as we may update and modify from time to time, as well as the rules and regulations established by regulatory agencies and the rules of clearinghouses and other industry groups that may apply to us (such as, by way of example and not limitation, PaymentsNation, the Electronic Check Clearing House Organization and other check clearing arrangements that we are a party to).

## **11. Lost, Destroyed or Damaged Image Deposits or Image Files.**

We have no responsibility for Image Deposits or Image Files that are not received by our processing center for any reason or that are destroyed or damaged during transmission, i.e., prior to receipt and validation by our processing center. In the event and to the extent that any loss, destruction or damage of an Image Deposit or Image File is caused by us, we will assist you in reconstructing the checks from the best information available. In such event, there will be no charge for assistance provided by us in reconstructing the items involved. You shall cooperate as required by us, including without limitation requesting supporting information and data from your customer(s).

## **12. Limited Warranty; Limitation of Liability.**

We are not responsible for the quality of the Image Deposits transmitted to us or the validity of any item included in an Image File. Our obligations set forth in Paragraphs 7(d) and 11, above, constitute your sole remedy for occurrences of the type described therein. EXCEPT AS STATED HEREIN, WE DISCLAIM ALL OTHER WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WE WILL IN NO EVENT BE LIABLE FOR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, NOR WILL WE BE RESPONSIBLE TO INDEMNIFY YOU FOR THIRD PARTY CLAIMS. IN NO EVENT SHALL WE OR OUR PROCESSING CENTER BE LIABLE FOR THE FACE VALUE OF ANY ITEM.

### **13. Required Equipment; Security Procedures and Attestation.**

You agree to: (a) provide and maintain at least one personal computer ("PC") with the minimum hardware and software processing capability as we may recommend from time to time; and (b) physically restrict and otherwise limit access to this PC, the software, hardware and any checks. The ability to access the PC and any equipment used in conjunction with the Service and your ability to submit the Image Files must be protected by your use of passwords and user identifiers in order to prevent unauthorized access and transmission of unauthorized Image Files, Image Deposits or checks. We may also provide you with, or require you to establish a security token, digital certificate, encryption key, security phrase, and/or challenge questions and/or other procedures (collectively with passwords and user identifiers, "*Security Procedures*") to access the Service. We reserve the right to amend the Security Procedures, with or without prior notice to you. You agree to comply and safeguard the confidentiality and security of the Security Procedures applicable to you and to notify us immediately if you have any reason to believe that security or confidentiality has been or may be breached or compromised. Your use of the Service hereunder constitutes your agreement to and acceptance of your Security Procedures as commercially reasonable and as a means of authenticating Image Files received by us from or on behalf of you. You acknowledge that the Security Procedures are used only to verify the authenticity of, and not detect errors in, the Image Files received by us. You agree that we may rely upon and shall have no liability for accepting and processing in good faith any Image File and the corresponding Image Deposit purportedly sent by you using your Security Procedures, whether or not it was actually sent by you. We are not responsible for, and you hereby release us from, any and all Claims or damages resulting from, or related to, any computer virus or related problems that may be associated with electronic transmissions or the Internet. You hereby agree to scan your PC hardware and software on a regular basis using a reliable computer virus detection product in order to detect and remove computer viruses.

We may from time to time request information from you in order to evaluate a continuation of the Service to be provided by us hereunder and/or adjustment of any limits set by this Service Description. You agree to provide the requested financial information immediately upon request, in the form required by us. You authorize us to investigate or reinvestigate at any time any information provided by you in connection with this Service Description or the Service and to request reports from credit bureaus and reporting agencies for such purpose. You agree that if requested by us, you will complete a self-assessment of your operations, management, staff, systems, internal controls, training and risk management practices that would otherwise be reviewed by us in an audit of you. If you refuse to provide the requested financial information, or if we conclude, in our sole discretion, that the risk you present is unacceptable, or if you refuse to give us access to your premises, we may terminate the Service according to the provisions hereof.

### **14. Indemnification.**

In addition to the other indemnities set forth in the Master Agreement, you agree to indemnify and hold us harmless from and against any and all Claims relating to or arising in connection with:

- (a) your violation of any of your agreements or breach of any of your representations or warranties under this Service Description;
- (b) the data, information or instructions transmitted to us, or any error, inaccuracy or inadequacy therein;
- (c) any act or omission by you or your agents that results, directly or indirectly, in the payment or distribution of funds to any person or entity, real or fictitious, not entitled to all or any part of such funds or that results in an erroneous, untimely, improper or failed automatic clearinghouse fund transfer;
- (d) the alteration or multiple deposit of any item included in an Image File;

- (e) the reconversion of any item included in an Image File to a substitute check, or the failure, due to poor image quality, of a substitute check created from any such item to meet the requirements for legal equivalence set forth in Reg CC, in any such case regardless of whether we are the reconverting bank. To the extent that we are determined to be the reconverting bank under Reg CC or otherwise incur a loss of any kind or nature or for any reason as a result of the use of substitute checks created from the Image Deposits transmitted by you, the indemnification provided herein will apply;
- (f) any claim that the information contained in an Image Deposit, or in a substitute check created from an Image Deposit, does not conform to the information on the original check, or that the original check must be produced for any reason; or
- (g) any access into our computer network by or through you, and any “virus” or malware introduced through such access or through the transmission of Image Files, regardless of the nature of the damage or the circumstances under which such access occurred and regardless of whether there was fault or negligence on your part.

#### **15. Third Party Processor.**

If you use a third party processor to create and transmit Image Files to us, then to the extent of the functions performed by the third party processor, you will be responsible for assuring that the third party processor meets, and enables you to meet, all of the conditions and requirements applicable to you as set forth herein. You will be solely responsible for all fees and charges of your third party processor.

#### **16. Privacy.**

Each party shall establish and implement commercially reasonable measures to comply with such Consumer Laws as may apply to the clearing of checks electronically, including those addressing (i) the implementation and maintenance of safeguards designed to ensure the security and confidentiality of Consumer Information and protect against anticipated threats or hazards thereto and unauthorized access to or use thereof; (ii) notification of a breach of security regarding Consumer Information; and (iii) disposal of Consumer Information.

THIS SERVICE DESCRIPTION HAS BEEN EXECUTED AS PROVIDED IN THE SCHEDULE OF SERVICES FORMING A PART OF THE MASTER AGREEMENT.

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