

AMARILLO NATIONAL BANK

REMOTE CAPTURE AGREEMENT

This Remote Capture Agreement ("**Agreement**") is effective the _____ day of _____, 20____ ("**Effective Date**") by and between Amarillo National Bank ("**ANB**") and the commercial banking customer of ANB whose name and address appears on the signature page below and the customer's affiliates and related entities that accept or receive services under this Agreement ("**Customer**").

1. **Purpose of Agreement.** This Agreement (1) permits Customer to capture the electronic image of Original Checks it receives in the ordinary course of business, (2) permits Customer to electronically transmit a file of those images to ANB for deposit and collection, and (3) specifies the duties, representations, warranties and indemnifications being made by Customer when performing these tasks (collectively, such tasks are referred to as "**Remote Capture**"). This Agreement shall have no effect on Customer's deposit agreement with ANB that governs the terms, conditions or fees associated with its deposit accounts, except as expressly provided for herein. Furthermore; so long as this Agreement is in effect, Bank shall be the principal depository in which substantially all of Customer's funds are deposited, and the principal bank account of Customer, and Customer shall grant Bank an opportunity to provide any corporate banking services required by Customer. Under no circumstances will remote capture equipment provided by Amarillo National Bank or its designated vendor be used for image transfer to any other financial institution. Customer agrees to use Remote Capture only to submit valid and legitimate transactions in compliance with all laws, rules and regulations.
2. **Definitions.** The defined terms used herein are provided in ANB's "Remote Capture Services Procedures, Terms and Conditions", which is made a part of this Agreement for all purposes whatsoever.
3. **Access.** The Remote Capture activities performed by Customer shall enable Customer to convert Original Checks or Substitute Checks into electronic images for deposit into Customer's account(s) with ANB. Customer may only convert a Substitute Check into an electronic image using the Processing Equipment and Processing Software when it has been received by Customer as a returned item which was previously deposited but not collected. Customer and ANB shall comply with the terms and provisions of the "Remote Capture Services Procedures, Terms and Conditions" with respect to performance of the Remote Capture activities.
4. **Representations and Warranties.** It is the intention of the parties that the warranties deemed given by a depositor of a check to a bank under the Uniform Commercial Code (UCC) as applicable from time to time in the State of Texas shall also apply to any image or electronic representation of an Original Check or a Substitute Check transferred by Customer to ANB as if such image or electronic representation were a paper check within the meaning of the UCC. Accordingly, except to the extent that any warranties deemed given under the UCC are expressly superseded by CTA or Check21, Customer understands that Customer shall be deemed to have given to ANB all of the warranties that Customer would have given under the UCC for the deposit of an Original Check by transferring to ANB: (i) any Substitute Check; (ii) an item purporting to be a Substitute Check, but that fails to meet the requirements of Check21, or; (iii) any electronic file that contains or purports to contain a Sufficient Image Copy of an Original Check or a Substitute Check. The above warranties are deemed given to ANB and any person, company or bank to which ANB transfers, presents or returns any of the images included in such electronic file as a Sufficient Image Copy, or that purports to be a Sufficient Image Copy, or a Substitute Check created by ANB or any subsequent bank receiving a copy of such image. Customer understands the processes and procedures that it must follow relating to Remote Capture and hereby authorizes ANB to periodically and without notice to audit Customer's processes, procedures, information technology, security and all other matters relating to Remote Capture. As a condition to using and continuing to use Remote Capture, Customer will comply with all mandates, controls, processes, procedures and technology recommended by ANB.

5. **Fees.** Customer agrees to pay ANB the fees as set forth on Amarillo National Bank's Fees for Banking Services, as the same may be in effect from time to time, for the related services rendered by ANB hereunder.
6. **Termination.** This Agreement shall commence on the Effective Date and shall continue thereafter until terminated by either party upon thirty (30) days advance written notice to the other party, unless otherwise terminated as provided herein. ANB may terminate this Agreement immediately by giving written notice if it discovers any negligent or willful misconduct (including bad checks or fraudulent activities) on the part of Customer or any other party with respect to electronic images submitted by Customer. Either party shall have the right to terminate this Agreement by written notice if the other party (i) files or has filed against it a petition in bankruptcy that has not been dismissed within sixty (60) days of filing (or in the event of ANB, has filed against it a claim of insolvency by the FDIC), (ii) makes a general assignment for the benefit of creditors, or (iii) appoints or has appointed for it a receiver for all or substantially all of its assets. If this Agreement has been terminated by ANB, it may accelerate all amounts due and to become due under this Agreement and Customer shall promptly make full payment to ANB of all amounts due and amounts incurred under this Agreement.
7. **ANB Liability.** Customer acknowledges that the deposit of funds to its account at ANB via Remote Capture is an Internet activity, which depends on many third parties not under the direct or indirect control of ANB to effectively cause the electronic file to be delivered. As a result, ANB is not responsible for service interruptions to the Processing Software or Processing Equipment, the failure of ANB to receive such file, or the corruption of any portion of such file caused by problems outside ANB's firewall or that are otherwise beyond ANB's reasonable control. ANB shall not have any liability for any breach of any representation, warranty or covenant of this Agreement to the extent caused by: (i) the unavailability of the external connection services and other Internet network functions; (ii) Customer's use of any software, equipment or other systems not supplied by ANB; (iii) the use by Customer of inadequate procedures, training or security; and (iv) the altering of any logical or physical information on any electronic file. **TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT (INCLUDING ANY SCHEDULE, ATTACHMENT, OR EXHIBIT), ANB MAKE NO WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, ABOUT THE PROCESSING SOFTWARE, PROCESSING EQUIPMENT, OR THE SERVICES OF ANB DESCRIBED IN THIS AGREEMENT, AND HEREBY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT. IN NO EVENT WILL ANB BE LIABLE TO CUSTOMER FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, PUNITIVE, OR SPECIAL DAMAGES (INCLUDING WITHOUT LIMITATION, LOSS OF REVENUE OR ANTICIPATED PROFITS, EVEN IF ANB HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) THAT ARE DIRECTLY OR INDIRECTLY RELATED TO THIS AGREEMENT, ANY ATTACHMENT OR THE USE OF THE PROCESSING SOFTWARE OR PROCESSING EQUIPMENT, EVEN IF SUCH DAMAGES ARE CAUSED BY THE ORDINARY NEGLIGENCE OF ANB. SUBJECT TO THE EXPRESS LIMITATIONS ON LIABILITY SET FORTH HEREIN, IF ANB BREACHES THIS AGREEMENT, IT SHALL BE LIABLE TO CUSTOMER FOR DIRECT CONTRACT DAMAGES ARISING OUT OF SUCH BREACH OF ITS OBLIGATIONS UNDER THIS AGREEMENT LIMITED IN THE AGGREGATE TO THE GREATER OF \$50,000 OR THE FEES PAID BY CUSTOMER TO ANB FOR REMOTE CAPTURE SERVICES.**
8. **Customer Indemnity.** Customer assumes liability for, and hereby agrees to indemnify, protect and hold harmless ANB, its agents, officers, directors, employees, successors and assigns (the "**ANB Parties**"), from and against any and all liabilities, obligations, losses and expenses, including reasonable attorney's fees, of any kind or nature ("**Damages**") arising out of this Agreement and the services related to this Agreement, including without limitation, the use, condition (including latent defects and whether or not discoverable by Customer or ANB), operation, ownership, selection, delivery, installation or licensing of any item of Processing Equipment, or the license of the Processing Software, regardless of where, how, why and by whom operated, or any failure on the part of Customer to perform or comply with any condition of this Agreement or the Procedures. The indemnities and assumptions of liabilities and obligations herein provided for shall continue in full force and effect, notwithstanding the termination of this Agreement. Customer is an independent entity from ANB, and nothing contained in this Agreement shall authorize Customer or any person to operate or otherwise deal in or with the Processing Equipment or the Processing Software in a

manner that would incur or impose any liability or obligation of or on behalf of ANB. Customer shall fully indemnify the ANB Parties for any Damages they suffer as a result of the breach by Customer of any the warranties given by Customer under this Agreement. Customer shall fully indemnify the ANB Parties for any Damages they suffer as a result of any indemnification they are deemed to have given to any bank or person pursuant to Section 229.53 of Check21.

9. **Force Majeure.** Neither party shall be liable for delays in its performance hereunder due to causes beyond its reasonable control, including acts of God, fire, war, riots, strikes or inability to obtain labor or materials on time, but force majeure shall not excuse the failure to pay fees due hereunder.
10. **Independent Contractor.** In performing services hereunder, both parties shall be considered the independent contractor of the other. Nothing shall be construed to create a partnership, joint venture or agency relationship between the parties. Each party will be solely responsible for payment of all compensation owed to its employees, as well as employment related taxes and benefits.
11. **Survival.** Notwithstanding anything contained in this Agreement to the contrary, the obligations created by Sections 4, 6, and 8 or any other provision that by its terms or operations is intended to survive the termination of this Agreement shall survive any termination, expiration or cancellation of this Agreement.
12. **No Waiver.** The failure of either party to enforce any rights granted under this Agreement or to take action against the other party in the event of breach shall not be deemed a waiver by that party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.
13. **Compliance with Laws.** Each party agrees to comply with the provisions of all applicable federal, state, county, or municipal laws, regulations or ordinances, and shall be responsible for obtaining any and all authorizations from any applicable governmental authority that may be required for the party to perform hereunder. Customer agrees that it shall not use the Processing Software or Processing Equipment in any manner that is designed or has the effect of violating or evading any laws with regards to currency controls, money laundering or bank secrecy.
14. **Notices.** All notices or other communications required to be given pursuant to this Agreement shall be in writing and given by (i) personal delivery, (ii) expedited delivery service with proof of delivery, or (iii) United States mail, postage prepaid, registered or certified mail, return receipt requested, sent to Customer's Designated Representative at the address set forth on the currently effective Customer Contact Form and shall be deemed to have been received either, in the case of personal delivery as of the time of personal delivery, in the case of expedited delivery service as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of mail upon actual receipt. Either party shall have the right to change its address for notice hereunder to any other location within the continental United States by notice to the other party of such new address at least thirty (30) days prior to the effective date of such new address. ANB shall have a reasonable time, not to exceed five business days (any date the Bank is open for business), to implement any Notice actually received by Bank from Customer. Customer expressly agrees that all notices to be sent by ANB hereunder, except any notice of termination of this Agreement, may be sent by e-mail to the e-mail address or to subsequent e-mail address Customer has last given to ANB for such Designated Representative on the currently effective Customer Contact Form.
15. **Severability.** The invalidity or unenforceability of any particular provision of this Agreement shall not affect the validity or enforceability of the other provisions hereof, the remaining provisions being deemed to continue in full force and effect.
16. **Integration and Modification.** This Agreement together with the Remote Capture Services Procedures, Terms and Conditions, constitutes the entire agreement between ANB and Customer concerning the subject matter hereof, and supersedes in full all prior written and oral agreements, understandings, proposals, promises and representations of the parties concerning the subject matter hereof. No representation or promise hereafter made, nor any modification of this Agreement shall be binding upon either party unless in writing and signed by duly authorized representatives of both parties. Changes to Procedures by ANB, however, shall be deemed to be an amendment or modification of this Agreement. Without providing any

notice to Customer, ANB reserves the right to implement changes and modifications to the services the subject of this Agreement, including, without limitation, to address security issues, conform to changes in technology, protect customer information, address internal or external threats, changing business or legal issues, etc.

17. **Headings.** The headings, captions, and arrangements used in this Agreement are for convenience only, and shall not affect the interpretation of this Agreement.
18. **Successor and Assigns.** Customer may not assign this Agreement or any rights obtained hereunder without the prior written approval of ANB. Customer acknowledges that ANB may use contractors to perform some or all of its services without Customer's consent. Any assignment made in contravention of this Section shall be null and void for all purposes. To the extent that there are successors or assigns permitted under this Section, this Agreement shall be binding on and inure to the benefit of the parties and their respective successors and assigns.
19. **Governing Law.** The parties agree that Texas is the state with the greatest nexus with this contract and is a state in which all or part of the Agreement is performable. The parties agree that Federal law and, to the extent not superseded or preempted by Federal law, Texas substantive law shall govern this Agreement. The parties hereby consent and submit to jurisdiction in the federal or state courts of Amarillo, Potter County, Texas.
20. **Counterparts.** This agreement may be executed in any number of counterparts, each of which when taken together shall constitute one and the same agreement, and either of the parties to this Agreement may execute the Agreement by signing any of the counterparts.
21. **Authorization.** **Customer represents, warrants and agrees that (i) the execution, delivery and performance by the Customer under the Agreement are within the Customer's powers, have been duly authorized by all necessary action and do not contravene the Customer's organizational documents (if any) or any law or contractual restrictions; (ii) no authorization, approval or other act, and no notice to or filing with any governmental authority or regulatory body is required for the execution, delivery and performance by the Customer of the Agreement; (iii) the Agreement constitutes the legal, valid and binding obligation of the Customer and the Agreement is enforceable against the Customer in accordance with the terms of the Agreement; (iv) no information furnished by the Customer to ANB in connection with the Agreement is inaccurate in any material respect, contains any material misstatement of fact, or omits any fact necessary to make such statements not misleading, as of the date it is dated, or if not dated, the date it is given to ANB; and (v) the Customer has not been induced to enter into the Agreement by any representations or statements, oral or written that have not been expressly incorporated herein by reference.**
22. **Dispute Resolution and Irrevocable Waiver of Jury.** Customer and Bank each agree that this is a commercial contract between sophisticated parties regularly engaged in commerce. Each party to this Agreement, acting on behalf of itself and any of its affiliates directly or indirectly involved in any dispute, controversy or claim arising out of or related to this Agreement, agrees that if such dispute, controversy or claim cannot be resolved by conciliation, then any litigation arising out of such dispute, controversy or claim shall be exclusively brought in Texas state or federal district courts sitting in Amarillo, Potter County, Texas. **EACH PARTY, FOR ITS SELF AND ITS AFFILIATES SUCCESSORS AND ASSIGNS, HEREBY IRREVOCABLY WAIVES ANY RIGHT TO DEMAND THAT A JURY HEAR, BE PRESENT OR DECIDE ANY LITIGATION MATTER BETWEEN THE PARTIES, IT BEING THE PARTIES' INTENTION THAT A JUDGE SHALL BE THE SOLE TRIER OF FACT IN ANY SUCH DISPUTE. To the maximum extent permitted by applicable law, no action, regardless of form, arising out of this Agreement, may be brought by either party more than one (1) year after the claiming party knew or should have known of the cause of action.**

EXECUTED as of the Effective Date.

CUSTOMER

By:

Printed Name:

Address:

Attn:

AMARILLO NATIONAL BANK

By:

Printed Name:

Address:

410 S. Taylor

Amarillo, TX 79101

P.O. Box 1

Amarillo, TX 79105

Attn:

AMARILLO NATIONAL BANK

Remote Capture Services Procedures, Terms and Conditions

A. Remote Captures Services.

The Check Clearing for the 21st Century Act, which became effective October 28, 2004, and which is also known as Check 21, permits Amarillo National Bank's banking customers the opportunity to participate in new electronic depository banking services. Specifically, checks received in the ordinary course of business may be captured digitally and their images electronically transmitted to Amarillo National Bank for deposit and collection. Under this process, Amarillo National Bank's banking customers may truncate the original checks received in payment and subsequently destroy the checks after a period of time. These tasks are collectively referred to as remote capture and such services are offered solely to Amarillo National Bank commercial banking customers.

B. Definitions.

The meanings of the defined terms set forth below are also applicable to the Remote Capture Agreement. If any capitalized term is used in Regulation CC (Vol. 12 of the U.S. Code of Federal Regulations, part 229) promulgated by the Board of Governors of the Federal Reserve Board (the "**FRB**"), as it may be amended, substituted for, or recodified from time to time ("**Reg. CC**"), then such term generally shall have the meaning assigned to it in Reg. CC. To the extent that any of the defined terms use a term not defined herein but otherwise defined in Reg. CC, then such definition also incorporates the meaning assigned to the applicable term as set forth in Reg. CC. Other non-grammatical capitalized terms used in the Agreement, if defined herein or in the Agreement, are given the meaning assigned to such terms the first time the term is used. All other non-grammatical capitalized terms used that are not otherwise defined herein shall have the meaning given to such term in Article 3 or Article 4 of the Uniform Commercial Code effective in Texas as amended from time to time ("**UCC**").

- "**Agreement**" means the Remote Capture Agreement by and between Customer and Amarillo National Bank.
- "**ANS X.9.13**" means the standard promulgated by ANSI entitled "Specifications for Placement and Location of MICR Printing" for Original Checks or any amended or successor standard designated by the FRB.
- "**ANS X.9.100-140**" means the image quality standard promulgated by ANSI entitled "Specifications for an Image Replacement Document – IRD" or any amended or successor standard designated by the FRB.
- "**ANSI**" means the American National Standards Institute.
- "**Authorized Users**" means the person(s) designated by Customer according to Section C.3.
- "**Business Days**" means each day other than a Saturday or Sunday on which Amarillo National Bank is open for regular banking activities.
- "**Check 21**" means FRB Reg. CC, Subpart D, promulgated to implement the provisions of the Check Clearing for the 21st Century Act.
- "**CTA**" means the Check Clearing for the 21st Century Act, which became effective October 28, 2004.
- "**Claimant Bank**" means a bank that submits a claim for a recredit for a Substitute Check to an indemnifying bank under Section 229.55 of Check 21.
- "**Collecting Bank**" means any bank handling a check for forward collection, except the paying bank.
- "**Electronic Deposit**" means a file that contains information regarding each Sufficient Image Copy to be transmitted by Customer to Amarillo National Bank in the same batch as the Electronic Deposit and that meets all of the requirements imposed from time to time by Amarillo National Bank in the Procedures.
- "**Indemnifying Bank**" means a bank that provides an indemnity under Section 229.53 of Check 21 with respect to a Substitute Check.
- "**Magnetic Ink Character Recognition Line**" or "**MICR Line**" mean the numbers, which may include the routing number, account number, check number, check amount and other information, that are printed near the bottom of a check in magnetic ink in accordance with the Standards.
- "**Original Check**" means the first paper check issued to or endorsed in favor of Customer with respect to a particular payment transaction.

- **“Procedures”** means the **Amarillo National Bank Remote Capture Services Procedures, Terms and Conditions**, which outlines the administration and use of remote capture activities.
- **“Reconverting Bank”** means (1) the bank that creates a Substitute Check; or (2) with respect to a Substitute Check that was created by a person that is not a bank, the first bank that transfers, presents, or returns that Substitute Check or, in lieu thereof, the first paper or electronic representation of that Substitute Check.
- **“Standards”** means the applicable standards set for in CTA, Check 21 or as promulgated by ANSI for image quality and transmission protocols, including but not limited to, ANS X.9.100-140 and ANS X.9.13, (or any amendment or substitute for such standards as may be promulgated from time to time), whether such standard pertains to the MICR Line, the image quality of the Original Check, the placement of an image of the Original Check on the Substitute Check, or the manual or electronic transfer of a Sufficient Image Copy or other electronic representation of an Original Check or a Substitute Check, unless the FRB, by rule or order determines that a different standard is to apply.
- **“Substitute Check”** means a paper reproduction of an Original Check that (1) contains an image of the front and back of the Original Check; (2) bears a MICR line that, except as provided under the applicable Standard, contains all the information appearing on the MICR line of the Original Check at the time that the Original Check was issued and any additional information that was encoded on the Original Check’s MICR line before an image of the Original Check was captured; (3) conforms in paper stock, dimension, and otherwise with ANS X9.100-140 (unless the FRB by rule or order determines that a different standard applies); and (4) is suitable for automated processing in the same manner as the Original Check.
- **“Sufficient Copy”** and **“Copy”** means (1) a sufficient copy is a copy of an Original Check that accurately represents all of the information on the front and back of the Original Check as of the time the Original Check was truncated or is otherwise sufficient to determine whether or not a claim is valid. (2) A copy of an Original Check means any paper reproduction of an Original Check, including a paper printout of an electronic image of the Original Check, a photocopy of the Original Check, or a Substitute Check.
- **“Sufficient Image Copy”** means an electronic image of an Original Check or Substitute Check that is capable of printing a Sufficient Copy of such Original Check or Substitute Check.
- **“Truncate”** means to remove an Original Check from the forward collection or return process and send to a recipient, in lieu of such Original Check, a Substitute Check or, by agreement, information relating to the Original Check (including data taken from the MICR line of the Original Check or an electronic image of the Original Check), whether with or without the subsequent delivery of the Original Check.

C. Service Terms and Conditions.

1. **Remote Capture Standards.** It is the parties’ intent that at all times the images captured and transmitted by Customer through Remote Capture shall be sufficient for Amarillo National Bank or any subsequent Reconverting Bank, to print and distribute a Substitute Check in compliance with the Standards.
2. **Designated Representative.** Customer shall appoint one person to serve as its “Designated Representative” for the receipt of notices from Amarillo National Bank hereunder. By written notice sent to Amarillo National Bank at P.O. Box 1, Amarillo, Texas, 79105, attention Darren Jenks, for mail delivery or at 410 S. Taylor, Amarillo, Texas 79101 between the hours of 8:00 a.m. and 5:00 p.m. on a Business Day for personal delivery, Customer may designate from time to time a different person to serve as the Designated Representative.
3. **Remote Capture Administrator.** Customer shall designate at least one person as its “Remote Capture Administrator.” The Remote Capture Administrator may be, but does not have to be, the same person as the Customer’s Designated Representative. By written notice sent to Amarillo National Bank at P.O. Box 1, Amarillo, Texas, 79105, attention Darren Jenks, for mail delivery or at 410 S. Taylor, Amarillo, Texas 79101 between the hours of 8:00 a.m. and 5:00 p.m. on a Business Day for personal delivery, Customer may designate from time to time a different person to serve as the Remote Capture Administrator. The Remote Capture Administrator may designate Customer personnel and establish userIDs and passwords for individuals who may perform Remote Capture for Customer (**“Authorized Users”**).
4. **Amarillo National Bank Responsibilities.**

(a) Amarillo National Bank will provide the required userID and passcode to the Remote Capture Administrator in order to engage in Remote Capture activity.

(b) Amarillo National Bank will accept for deposit and collection to the Customer's designated account(s) the electronic images of Original Checks and Substitute Checks that are transmitted to Amarillo National Bank in compliance with this Agreement. Electronic images shall be deemed received by Amarillo National Bank based upon time of receipt as well as successful receipt of the transmission of such images that are complete, usable, and adhere to the Standards. If electronic images are not complete, are not usable, or do not adhere to the Standards, the images may not be processed by Amarillo National Bank, in which event Customer's deposit will be adjusted and notification provided.

(c) Amarillo National Bank will process the Customer's electronic images that are Sufficient Image Copies after Amarillo National Bank has received Customer's transmission of electronic images. Amarillo National Bank will use commercially reasonable efforts to present the Sufficient Image Copies for collection under the Check 21 framework. Unless Amarillo National Bank notifies Customer otherwise, Amarillo National Bank will provide same day ledger credit to Customer's deposit account for all Sufficient Image Copies transmitted by Customer and received by Amarillo National Bank in accordance with the requirements of this Agreement and within the timelines established by Amarillo National Bank. However, Amarillo National Bank shall not be responsible for providing ledger credit on the same day a file is begun to be transmitted to Amarillo National Bank by Customer unless the file containing the electronic deposit is fully received by Amarillo National Bank prior to the depository cut-off time.

(d) If a Drawee Financial Institution returns an image representing an item to Amarillo National Bank unpaid, Amarillo National Bank will charge Customer's respective deposit account for such returned item and may either (i) return the item to Customer, or (ii) represent it to the Drawee Financial Institution before returning it to the Customer. Items may be returned as Image Exchange Items, rather than Substitute Checks. If a Drawee Financial Institution or other third party makes a claim against Amarillo National Bank or seeks recredit with respect to any electronic item, Amarillo National Bank may provisionally freeze or hold aside a like amount in the Customer's deposit account pending investigation and resolution of the claim.

(e) If an emergency condition exists such that an immediate change is necessary to protect the integrity of the system or the confidentiality of either Customer or Amarillo National Bank information, then Amarillo National Bank may immediately make such change as it reasonably deems, in its sole discretion, to mitigate the effects of such emergency condition, and shall make commercially reasonable efforts within twenty-four (24) hours of making such change, to deliver an e-mail notice to Customer's Designated Representative advising Customer of the change or directing Customer to the Amarillo National Bank web site area devoted to Remote Capture services for a notice of the change. Despite the lack of notice, the change is effective immediately and Customer shall be bound to comply with such procedures at that time.

(f) If Amarillo National Bank desires to change its Procedures and no such emergency condition exists as noted above, then Amarillo National Bank will send an e-mail or a letter by U.S. Mail to Customer's Designated Representative no later than ten (10) business days prior to the effective date of the change, summarizing the change in the Procedures, together with the then-current copy of the Procedures, as well as the new Procedures to be effective once the change takes place. Any use by Customer after the change is effective shall constitute its acceptance of the change and reaffirmation of its agreement to comply with the Procedures then in effect.

5. **Customer Responsibilities.**

(a) Customer will only use Remote Capture to Truncate Original Checks or Substitute Checks it has received in the ordinary course of business, to transmit images in an ANB acceptable file format of such Original Checks and Substitute Checks to Amarillo National Bank for credit to its deposit account maintained at Amarillo National Bank. Customer may not perform Remote Capture services for any third party, and any attempt to do so shall automatically terminate this Agreement, except those provisions that are expressly to survive such termination.

(b) Customer will only perform Remote Capture on Processing Equipment specifically approved by Amarillo National Bank, such approval to be in the sole discretion of Amarillo National Bank. Customer will be responsible for paying an approved vendor for annual maintenance for the Remote Capture Processing Equipment. Vendors approved by Amarillo National Bank for this maintenance agreement entered into between Customer and the vendor will be at the sole discretion of Amarillo National Bank.

(c) Customer shall store and process all Original Checks and Substitute Checks in a manner reasonably likely to not demagnetize the MICR Line, including using care not to store or process checks near sources of measurable electro-magnetic radiation.

(d) Files that contain electronic images for deposit that purport to come from an Authorized User of the Customer will be deemed by Amarillo National Bank to have been lawfully transmitted by the Customer with full authorization. Accordingly, Amarillo National Bank recommends that Customer limit the Authorized Users to its trusted or bonded employees that routinely handle cash and deposit checks for Customer, plus a limited number of supervisory personnel.

(e) Customer will be responsible for maintaining security and control over all userIDs and passcodes of Customer's Authorized Users, and shall use security for such items comparable to the security and control Customer would use for cash, or a mechanical check-signing machine, but in no event less than reasonable security and control in the circumstances.

(f) Customer will transmit to Amarillo National Bank only a Sufficient Image Copy of Original Checks or Substitute Checks for electronic deposit. No image transmitted by Customer to Amarillo National Bank using Remote Capture represents an Original Check or Substitute Check which has already been collected.

(g) Customer shall retain each Original Check or Substitute Check that is truncated through any Remote Capture activity for a reasonable period of time as determined by Customer, but in no event fewer than thirty (30) business days from the date of deposit or such longer time as Amarillo National Bank may request from time to time with respect to any specific Original Check or Substitute Check. Customer understands that in all cases it is solely responsible for safeguarding all items it retains as required or permitted by this Agreement from destruction, alteration or theft.

(h) Customer will restrict physical access to each Original Check and each Substitute Check to those employees as would ordinarily have access to Customer's own cleared checks, or other personnel designated to specifically have access to such items pursuant to Customer's system of internal control.

(i) The Original Checks and Substitute Checks so stored shall be maintained in deposit date order sequence for a period of not less than thirty (30) business days, and shall be made available to Amarillo National Bank promptly upon the request of Amarillo National Bank. In the absence of retaining the relevant Original Check or Substitute Check for the time period specified, Customer shall be solely responsible for the cost of any claim brought by the Drawer of the check that for resolution would reasonably require access to relevant Original Check or Substitute Check.

(j) Customer agrees that it will be able to retrieve and produce for Amarillo National Bank any Sufficient Image Copy (or, at the Customer's option, the Original Check) in question within seventy-two (72) hours of a written (including e-mail) request by Amarillo National Bank. In the absence of retaining the relevant Sufficient Image Copy for the time period specified, Customer shall be solely responsible for the cost of any claim brought by the Drawer of the check that for resolution would reasonably require access to the relevant Sufficient Image Copy, and shall indemnify Amarillo National Bank in accordance with the terms of Section 8 of the Agreement.

(k) Prior to transmittal to Amarillo National Bank of any electronic file that contains an image of any Original Check or Substitute Check, Customer shall conduct an analysis of such images (and such analysis may be through the use of the Processing Software) that will evaluate the image quality, image placement and image usability of each image transmitted, to insure that such image complies with the requirements of the Procedures and the Standards. In the event such analysis reveals that the image quality, image

placement or image usability is below that required by the Procedures and the Standards, then Customer shall reprocess such Original Check or Substitute Check until a Sufficient Image Copy is produced in compliance with the Procedures and the Standards or Customer may manually submit the item for deposit at Amarillo National Bank. Customer shall also manually prepare a total of the amount of the expected Electronic Deposit and shall compare that amount to the amount the Processing Software indicates is the total for the batch of images associated with that Electronic Deposit and systematically correct any discrepancies.

(l) Customer understand that Amarillo National Bank is relying on the truth and veracity of all electronic records transferred by Customer to Amarillo National Bank, and warrants that such records accurately reflect original documents that are, or at the time of the creation of the electronic records, were in the possession of Customer. Accordingly, Customer agrees that Amarillo National Bank may, upon one (1) business day notice, have its personnel or auditors and examiners appointed by Amarillo National Bank or a banking regulatory authority, inspect Customer's premises, the Processing Equipment, the Processing Software, and any of Customer's records pertaining to the matters set forth in the Agreement. Amarillo National Bank shall make all commercially reasonable efforts to avoid significant disruption of Customer's business operations in conducting such audit or inspection, and shall comply with Customer's reasonable workplace rules that have been communicated to the audit or inspection personnel in writing. Customer understands that Amarillo National Bank is a federally insured financial institution that is subject to examination by the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC) or other banking agencies, and to the extent that any such examination request access to any audit or inspection report of Amarillo National Bank, or access to the records, Processing Equipment, Processing Software or other documents that are the subject of this Agreement, Customer shall fully cooperate with such examiners.

(m) Customer has become familiar with and understands the risks associated with Remote Capture and accepts those risks.

D. Processing Equipment and Processing Software

To enable Customer to perform Remote Capture, Customer must use Processing Equipment approved by Amarillo National Bank. The Processing Equipment shall be used solely for the performance of Remote Capture, and solely for the benefit of Customer and no third party. All transmitted files must be in a format deemed acceptable to ANB.

E. Fees

Fees due to Amarillo National Bank for the services contemplated hereunder in connection with Remote Capture activities of Customer, shall be as set forth on Amarillo National Bank's Fees for Banking Services, as the same may be in effect from time to time, unless other duly authorized compensation arrangement have been made in writing between Customer and Amarillo National Bank, and will be shown on the account analysis report of the Customer's deposit account. Applicable fees do not include, and the Customer will be solely responsible for payment to outside 3rd parties for the equipment and software necessary to remotely capture items as discussed herein and any sales, use, excise, value added, utility tax, or tariffs relating to Remote Capture services provided hereunder, and for all Internet access service charges, tolls, tariffs, and other costs for Remote Capture initiated by the Customer or the Customer's Authorized Users.

F. ANB Web Site Terms and Conditions

To the extent not in conflict with this Agreement, the ANB Web Site Terms and Conditions, which are incorporated herein by reference, are also applicable to the Remote Capture Services provided pursuant to this Agreement.