



POSITIVE PAY SERVICE AGREEMENT

This Positive Pay Services Agreement (the "Agreement") sets forth the terms of the positive pay service described herein (the "Service") provided by Pacific Western Bank ("Bank," "we," or "us") to the Customer executing this Agreement ("Customer" or "you") with respect to the Authorized Accounts listed below only. This Agreement forms part of, and is incorporated by reference unto, Customer's Deposit Account Agreement and Disclosure dated March 2008 (and any subsequent amendments thereto) (the "Deposit Agreement"). Capitalized terms used but not defined in this Agreement shall have the meanings assigned in the Deposit Agreement.

1. Our Service.

- 1.1 You may use the Service to quickly identify and act upon fraudulent items as well as quickly reconcile your accounts. You provide the Bank with a file detailing all checks you have issued. This file is imported into the bank's system for comparison to checks being presented for payment against your account. In addition, you may establish Automated Clearing House (ACH) transaction rules to monitor ACH items.

2. Issued Check File.

- 2.1 You shall submit an Issued Check File to the Bank on every banking day that you issue checks.
- 2.2 The Issued Check File shall accurately state the check number, date, and the exact dollar amount of each check drawn on an Authorized Account since the last Issued Check File was submitted. Each Authorized Account shall require an Issued Check File for all checks issued.
- 2.3 You shall send the Issued Check File to the Bank in the format and medium, as specified by the Bank and agreed to by you.
- 2.4 In the event of system failure, either that of you or of the Bank and the Issued Check File cannot be received by the Bank or the Bank cannot process the file, the file shall be considered as not received, even if the Bank has possession of the file.

3. Payment of Presented Items and Reporting of Exception Items.

- 3.1 Bank shall compare each Presented Check by check number, if any and amount against each Issued Check File received by the Bank. Bank shall compare each ACH item by amount and/or type to the Customer initiated ACH authorization transaction rules. On each banking, day, the Bank:

3.1.2 May pay and charge to the Authorized Account each Presented Check that matched by check number and amount a check shown in any Issued Check file and/or ACH item that is preauthorized within the Customer's established ACH authorization rules.

3.1.3 Shall provide the Customer with an electronic notification of any exception checks presented for payment that do not exactly match to the Check Issued File items or ACH items that are authorized within the ACH transaction rules and in a form and time entitled "Exception Check Report." Bank shall make the Exception Check Report available by 9:00 am each business day.

4. Pay Request/Return Request.

- 4.1 The customer shall review the Exception Check Report and electronically communicate Pay Requests and Return Requests for all exceptions by 12:00 pm Pacific Time.

5. Pay Default.

- 5.1 You shall review and process all exceptions by 12:00 pm Pacific Time. If you miss the deadline, Bank will make final payment of the check(s) and charge the Authorized Account the checks are which are drawn against it.

6. Not Covered.

- 6.1 This Agreement does not cover a check if the Bank has already cashed, negotiated or paid or which the bank is already committed to honor or pay under applicable laws, regulations or rules governing such items.

7. Customer and Bank Communications.

- 7.1 The Customer or the Bank, at its discretion, may each submit to the other party a revision of any communication provided for under this Agreement. The revised communication must (i) be sent in its entirety and not in the form of a partial amendment to the communication originally sent (ii) identify the original communication, and (iii) be sent in the format and medium, by the deadline(s), and at the place(s) established by the receiving party. A properly submitted revised communication serves to revoke the original communication.

- 7.2 The Bank shall use only Issued Check Files that comply with Section 2 and have not been revoked in accordance with Section 7.1 in the preparation of Exception Check Reports under this Agreement.

- 7.3 The Customer shall use only Exception Check Reports that comply with Section 3 and have not been revoked in accordance with Section 7.1 in the preparation of Pay Requests and Return Requests. The Bank shall not be obligated to comply with any Pay Request or Return Request received in a format or medium, after a deadline, or at a place not permitted under this Agreement but may instead treat such a Pay Request or Return Request as though it had not been received.

- 7.4 The Bank is not responsible for detecting any Customer error contained in any Issued Check File, Pay Request or Return Request sent by the Customer to the Bank.

- 7.5 The Customer is responsible for providing accurate electronic addresses for communication in connection with transactions contemplated in this Agreement.

8. Limitation of Liability.

- 8.1 Except as otherwise stated in this Agreement, the Bank will be liable to Customer only for damages arising directly from our intentional misconduct or gross negligence in the performance of the Service. The Bank will not be responsible for any loss, delay, cost or liability which arises, directly or indirectly, in the whole or in part, from: (a) your actions or omissions, or those of third parties who are not within our immediate and reasonable control; (b) your negligence or breach of any agreement with us; (c) any ambiguity, inaccuracy or omission in any information of instructions provided to us; (d) any error, failure or delay in the transmission or delivery of data, records due to a breakdown in equipment, computer or communications facility; (e) accidents, strikes, labor disputes, civil unrest, fire, flood, water damage (e.g., from fire suppression systems), or acts of God; (f) causes beyond our reasonable control; (g) our inability to confirm to our satisfaction the authority of any person to act on your behalf; (h) or your failure to provide us with complete and correct data in accordance with this agreement and our Service instructions.

8.2 Except for losses caused by solely our (but not our third party processing agents') gross negligence or willful misconduct, our aggregate liability to you for claims relating to this Agreement or the Service, whether for breach, negligence, infringement, in tort or otherwise, shall be limited to an amount equal to the total fees paid by you for the Service during the prior (6) month period. The Bank will not be responsible under any circumstances for special, indirect, incidental, punitive, exemplary or consequential damages which you incur as a result of our agents' actions or omissions, including without limitation any loss of use or loss of business, revenue, profits, opportunity or good will, even if the Bank is aware of the possibility for such damages.

8.3 You agree to cooperate with us in any loss recovery efforts the Bank undertakes to reduce any loss or liability that arises in connection with the Service. You acknowledge that our Service fees have been established in contemplation of: (a) these limitations on our liability, (b) your agreement to review statements, confirmations, and notifications promptly and to notify us immediately of any discrepancies or problems; and (c) your agreement to assist us in any loss recovery effort.

9. Indemnification.

9.1 You will indemnify, defend, and hold us harmless against any and all actions, proceedings, liabilities, losses, costs (including attorneys fees) and claims, including (without limitation) warranty claims, that result from or arise in connection with: (a) our processing of Checks in accordance with this Agreement or your instructions; (b) your actions or omissions, including your negligence, willful misconduct or breach of any warranty or failure to comply with this Agreement; (c) any misuse of the Service by you, your employees or agents; (d) your failure to comply with applicable state and federal laws and regulations; (e) actions by third parties, such as an introduction of a virus, that delay alter or corrupt the transmission of information to us.

10. Notices

10.1 You agree to notify us immediately if you discover; (a) any error or discrepancy between your records and the information the Bank provides to you about your accounts or transactions (e.g. in a statement, confirmation or electronic report); (b) unauthorized transactions involving your account; (c) a breach in the confidentiality of the password; or (d) other problems related to the Service. Unless otherwise agreed, notices required by the agreement must be made in accordance with the Deposit Agreement. The Bank will provide notices to you as set forth in the Deposit Agreement.

11. Assignment.

11.1 The Bank may assign our rights and delegate our duties under this Agreement to a company affiliated with us or to a third party. You may not assign any right or delegate any obligation under this Agreement without our prior written consent. Any permitted assignees will succeed to and be bound by this Agreement. The Bank may subcontract any of the work, services, or other performance required of us under this Agreement without your consent, and the Bank will be responsible for the work of such subcontractors in accordance with this Agreement.

12. Change in Terms.

12.1 The Bank may add to, delete or change the terms herein of this Agreement at any time, with such notice as may be required by law.

13. Other Terms.

13.1 This agreement incorporates the terms of your Deposit Agreement with us. Please see your Deposit Account Agreement for additional terms. In the event of a conflict between the terms of this Agreement and the terms of the Deposit Agreement, the terms of this Agreement shall apply solely with respect to the Service and otherwise in the event such conflict the terms of the Deposit Agreement shall prevail.

13.2 Positive Pay fees are as outlined in the *VIPbanker™* Online Banking Pricing brochure.

13.3 The Bank may, on a monthly basis, debit a Customer account maintained at and selected by the Bank for payment of charges due, unless the Customer arranges another payment procedure acceptable to the Bank or designates a specific Customer account maintained at the Bank.

14. Termination or Suspension of Service.

14.1 The Bank may terminate your use of this Service at any time, with or without cause. The Bank may suspend or terminate the Service without prior notice to you if: you breach any agreement with us (including without limitation any agreement under the Deposit Agreement) or if the Bank discovers any willful misconduct by you; the Bank believes there has been a breach in the security of the Service or unauthorized activity involving your account; or the Bank is uncertain regarding the authorization completeness, or accuracy of the information sent to us. Any termination will not affect obligations arising prior to termination, such as the obligation to indemnify us. You agree not to develop a product or service substantially similar to the Service at any time. All provisions of this Agreement that are intended by their terms to survive termination of the Agreement will survive any such termination.

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Company			
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Authorized Signature	Date	PWB Authorized Signature	Date
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Print Name and Title		Print Name and Title	
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Mailing Address			
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