

# First State Bank, Shallowater, Texas

## Funds transfer agreement

This *FUNDS TRANSFER AGREEMENT* is dated as of \_\_\_\_\_, and is entered into between \_\_\_\_\_ (‘Customer’) and First State Bank, Shallowater. This agreement is made to set out the terms under which Customers may authorize funds transfers from First State Bank, Shallowater, accounts.

Bank and Customer agree as follows:

1. Wire Transfer Requests: Customer may submit wire funds transfer payment orders (‘Requests’) in accordance with the terms and conditions of this Agreement. Subject to the terms of this Agreement, Bank will execute wire funds transfers in accordance with Requests received in the name of Customer, whether such Requests are written, oral, or telephonic, unless otherwise specifically agreed in writing. Bank may charge the account specified in the Request, or any other account for Customer, for the amount of the Request and for all fees and charges, or other amounts due by Customer to Bank under this Agreement, and Customer must maintain available funds to cover all of the foregoing. Bank may choose the funds transfer mechanism( for example, FedWire, Correspondent Bank transfer, internal transfer, letter) to be used when acting upon a Customer’s request. Bank will forward all information required by law e.g. name, address, and account number. If there are multiple Requests, or if there are both Request and other instructions from Customer to Bank that would result in transfer from or credits to an account (for example, preauthorized transfers, checks or other negotiable instruments, or other instructions), then Bank may pay or honor all such Requests or instruction in any order determined by Bank at its sole discretion and notwithstanding the order of payment chosen by Bank may result in harm to Customer that could have been avoided or mitigated if some other order of payment were used; Bank will have no liability for any failure to pay any particular Request or honor any particular instruction in advance of any other notwithstanding knowledge by Bank of any prior pattern or other information available to Bank from Customer or customer’s prior transactions.
2. Security: Customer agrees that Bank security procedures, as set forth in Appendix A, are commercially reasonable. Customer agrees that Bank will use these procedures to verify the authenticity of a Request and to detect unauthorized Request. If Bank verifies the authenticity of a Request in compliance with the Security Procedures, then Customer will be obligated on the Request and it will be treated as Customer’s Request, whether or not authorized by Customer. Any Request actually authorized by Customer will obligate Customer, whether or no Bank acted in compliance with the Security Procedures. The Security Procedures may be changed by Bank from time to time. The Security Procedures are to

authenticate Requests and not to detect error.

Bank may assign to customer one or more confidential codes or passwords. When so assigned, Requests without the correct code will not be executed by Bank. Customer is responsible for maintaining the confidentiality of the Security Procedures including any codes or passwords. Customer will notify Bank immediately in the event Customer suspects that any Security Procedure used to verify the authenticity of Request (including but not limited to any confidential code or password) has been or may be compromised or rendered ineffective.

Bank may, but is not obligated to, record electronically any telephone calls between Bank and persons acting on customers behalf, and may keep these recordings for as long as bank wishes. Customer may obtain the consent of its Authorized Agents to such recordings. Customer agrees that these recordings, and any other messages (including telecopy or facsimile messages) received by Bank, will be treated as writing signed by Customer, and will control in the event of any differences with the records of Customer.

3. Payment to Bank: Unless otherwise agreed in writing, Customer must pay Bank the amount of any wire transfer, plus any applicable fee, before Bank will execute the Request. Bank's fees are subject to change.
4. Acceptance and Execution of Wire Transfer Requests: A Request is considered executed when Bank executes it. Request for a funds transfer must be received by Bank no later than 2:00 p.m. local time of Bank. Requests will be deemed received by Bank only when actually received by Bank, at the location and in the medium and format specified by Bank and the necessary call-back has been made. A Request received after this time will be executed the next Business Day of Bank. For purposes of this Agreement, the Bank's Business Days are the days on which the Bank and any funds transfer intermediary used by Bank are open for the business of processing funds transfers, excluding holidays, Saturday and Sunday.

Bank may reject a Request for any reason or for no reason, including insufficient collected funds in the account specified in the Request (the "Account"), inability to verify the authenticity of the Request in accordance with applicable Security Procedures, or otherwise. Bank will notify Customer by mail or phone if Bank rejects a Request.

Customer may not be able to amend or cancel a Request after the Request has been received by Bank. Bank may, at its discretion, use reasonable efforts to act on Customer's Request for amendment or cancellation, but will not be liable if it does so. Furthermore, Customer will indemnify and hold Bank harmless from any and all liabilities, costs and expenses Bank may incur in its amendment or Cancellation efforts.

When a Request contains a name and account number, payment may be made by Bank and/or by other bank to which a Request is forwarded based solely on the account number even if the account number identifies a beneficiary different from the beneficiary named by Customer. Customer acknowledges that Bank and other banks to which a Request is forwarded may rely on any bank identification number supplied by Customer as a means to identify any other bank, even if the identification number is different than the bank named by Customer. Customer's obligation to pay the amount of the funds transfer to Bank is not excused in such circumstances. Customer agrees to comply with all laws, rules and regulations applicable to it when seeking to initiate a funds transfer, including the sanctions laws administered by the Office of Foreign Asset Control (OFAC).

Customer acknowledges that any Request executed by Bank will be subject to rules and regulations applicable to payment orders, including record keeping and information transmittal requirements under the federal Bank Secrecy Act and its implementing regulations. Customer acknowledges and agrees that Bank may capture transmit information regarding Customer (for example, Customer's name, address and account number) and regarding any beneficiary (for example, beneficiary's name, address, other beneficiary identifiers, and beneficiary's account number) as part of the processing of a payment order. Customer agrees to assist Bank in connection with any requirements imposed on Bank in fulfilling Bank obligations in this regard.

5. Account Reconciliation: All wire and funds transfers will be reflected on Customer's periodic statement. Customer agrees to notify Bank promptly of any discrepancy between Customer's records and the information shown on any such statement or report. If Customer fails to notify Bank of any such discrepancy within 14 calendar days of receipt of a statement or containing such information, Customer agrees that Bank shall not be liable for any other losses resulting from Customer's failure to give such notice or any loss of interest with respect to a funds transfer that is or should have been shown. If Customer fails to notify Bank of any such discrepancy within one (1) year of receipt of such statement or report, Customer will be precluded from asserting the discrepancy against Bank.
6. Wire Funds Transfer Method: Bank may use Fed Wire or any other means for transmitting a wire funds transfer. Account transfers or Cashier's Checks will be done according to instructions received. Bank will not be responsible for failing to act or delay in acting if such failure is caused by legal constraint, interruption of transmission or communication facilities, equipment failure, war, emergency conditions or other circumstances beyond Bank's control. In addition, Bank shall be excused from failing to accept, execute or settle with respect to a Request if to do so would result in Bank's having exceeded any limitation upon its intra-day net funds position established pursuant to present or future Federal Reserve guidelines or in Bank's otherwise violating any provision of any present or future risk control program of the Federal Reserve or any rule or regulations of any other U.S. or

state governmental regulatory authority.

7. Liability: Bank will exercise reasonable care in processing Request. Customer will exercise reasonable care in observing Security Procedures, examining statements and records, and initiating Request. Customer is responsible for ensuring the accuracy of Requests, and Bank has no duty to verify the accuracy of a Request, nor will it be liable for any losses or damages arising out of Requests that contain erroneous information.

In no event shall Bank be liable for any consequential, special, punitive or indirect loss or damage which Customer may incur or suffer in connection with this Agreement, including without limitation, loss or damage from subsequent wrongful dishonor resulting from Bank's acts or omissions pursuant to this Agreement.

Bank will be liable for Customer's lost interest if Bank fails to exercise ordinary care, calculated as follows:

- (i) On analyzed accounts, through a credit to the account to reflect the applicable value date or otherwise through an adjustment to recalculate earnings credit;
- (ii) On non-interest bearing, non-analyzed accounts, at a rate equal to the average of the federal funds rate set by the Federal Reserve Bank of Dallas, less reserves, of the period in question; and
- (iii) On interest bearing, non-analyzed accounts, at the rate applicable to the account.

Customer will be liable for any losses or damages resulting from Customer's breach of this Agreement or to which Customer's negligence contributed, or which resulted from unauthorized, fraudulent or dishonest acts by Customer's current and/or former authorized agents (including instances where an authorized agent acted to the detriment of Customer).

8. Amendments: From time-to-time, Bank may amend any of the items and conditions contained in this Agreement, including without limitation, any cutoff time, any business day, and any part of Appendix A. Such amendments shall become effective upon receipt of notice by Customer or such later date as may be stated by Bank's notice to Customer.
9. Notices, Instructions, Ect.: Bank shall be entitled to reply on any written notice or other written communication believed by it in good faith to be genuine and to have been signed by an "Authorized Agent," any such communication shall be deemed to have been signed by such person. The names and signatures of Authorized Agents are set forth in Appendix A. Customer may add or delete any Authorized Agent by written notice to Bank in form and substance satisfactory to Bank. Such notice shall be effective on the second (2<sup>nd</sup>) Business day following the day of Bank's receipt thereof, unless otherwise specifically agreed to by bank. Customer

acknowledges the Bank may act on any Request in the name of the Customer if the authenticity of the Request is verified by Bank using the Security Procedures, and the Bank will not be responsible for otherwise verifying whether a Request was sent by any Authorized Agent or from any other person authorized by Customer to initiate funds transfers and Requests.

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 paid, or by express carrier, and, if to Bank, addressed to:

First State Bank, Shallowater, P.O. Box 160, One Commerce Park, Shallowater, Texas 79363

and, if to Customer, addressed to the Customer's address currently on file at Bank, unless another address is substituted by notice delivered or sent as provided herein.

Except as otherwise expressly provided herein, any such notice shall be deemed given when received.

10. Data Retention: Customer shall retain data on file adequate to permit remaking or reconstruction of all Request for one(1) year following the date of the execution of the Request to which such data relate, and shall provide such data to Bank upon its request.
11. Term and Termination: The term of this Agreement shall begin on the day a copy of the Agreement signed by Customer is delivered to and executed by Bank, and shall end at 12:01 a.m., local time of Bank, on the first anniversary thereof. Unless otherwise terminated by either party as set forth below, this Agreement shall automatically renew for successive terms of one(1) year each.

Customer may terminate this Agreement at any time. Such termination shall be effective on the second (2<sup>nd</sup>) Business Day following the day of Bank's receipt of written notice of such termination( unless Bank otherwise specifically agrees to earlier termination) or such later date as is specified in that notice. Bank reserves the right to terminate this Agreement immediately upon providing written notice of such termination to Customer.

12. Entire Agreement: This Agreement (including Exhibit A, which is attached hereto and incorporated herein), together with the agreement governing the Account (the "Account Agreement"), is the complete and exclusive statement of the agreement between Bank and Customer with respect to the subject matter hereof and supersedes any prior agreement(s) between Bank and Customer with respect to such subject matter. In the event of any inconsistency between the terms of this Agreement and the Account Agreement, the terms of this Agreement shall govern. Customer agrees that all funds transfer to or from an Account at Bank will remain subject to and limited by any limitations on the number of funds transfer to or from

that Account, as set forth in the Account Agreement.

13. Governing Law: This Agreement shall be construed in accordance with and governed by laws of the State of Texas.

**IN WITNESS WHEREOF** the parties hereto have caused this Agreement to be executed by their duly authorized officers or Customer.

Company\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By:\_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_