

TERMS AND CONDITIONS SPECIFIC TO THE M&T MOBILE DEPOSIT SERVICE ARE FOUND IN SECTION G OF THE M&T DIGITAL SERVICES AGREEMENT. FOR YOUR CONVENIENCE, SECTION G IS PROVIDED BELOW.

THE ENTIRE M&T DIGITAL SERVICES AGREEMENT FOLLOWS THIS EXCERPT. PLEASE CAREFULLY REVIEW THE ENTIRE AGREEMENT BEFORE PROCEEDING SINCE THE TERMS AND CONDITIONS IN THE REST OF THE AGREEMENT ALSO IMPACT M&T MOBILE DEPOSIT AND OTHER DIGITAL SERVICES YOU HAVE WITH M&T.

## **G. M&T Mobile Deposit (for Business Accounts)**

This section sets forth the terms and conditions specific to M&T's Mobile Deposit Service ("MDS"). By enrolling in or using MDS, you agree to be legally bound by this section and the entire M&T Digital Services Agreement. Please see Section A2 for more information. MDS allows you to deposit certain checks into certain deposit accounts (i.e., the Billing Account) that are eligible to receive mobile check deposits ("Mobile Deposit Accounts") (see the Frequently Asked Questions, or FAQs, at <https://www.mtb.com/mobiledeposit> for a current listing of Mobile Deposit Accounts) via an application (the "App") installed on your supported mobile device. The App is considered part of the MDS. MDS is only available for eligible Business customers.

- 1. Miscellaneous.** For purposes of this section, the terms "we," "us," "our," and "M&T" refer not only to M&T Bank or our affiliates but also to third parties who assist M&T in providing the MDS ("Third Party Service Providers"). If there is a conflict between other provisions of the M&T Digital Services Agreement and this section, this section shall control concerning the MDS. If any portion of this section is deemed invalid or unenforceable, the remaining portions shall nevertheless remain in force.
- 2. Fee.** You agree to pay us a fee for the service as set forth in our fee schedule and as may be changed from time to time. **For fee information, please refer to Section M of this Agreement for the [Digital Services Fee Schedule](#).**
- 3. Equipment.** To use MDS, you must have a supported mobile device (e.g., smartphone, iPad, etc.) with a supported camera and a supported operating system, have a data plan for your mobile device, and download the App to your mobile device (collectively, the "MDS Mobile Device"). A list of MDS Mobile Devices (including the mobile device cameras, and mobile device operating systems) that we support for this service and instructions for downloading the App for such MDS Mobile Devices are available in the Guides. We do not guarantee that your particular mobile device, mobile device camera, mobile device operating system or mobile carrier will be compatible with MDS.
- 4. Limitations.** When using MDS, you may experience technical or other difficulties. We do not assume responsibility for any such difficulties or any resulting Damages that you may incur. For security reasons, MDS has qualification requirements and we reserve the right to change the requirements at any time without prior notice. We reserve the right to change, suspend or discontinue MDS, in whole or in part, or your use of MDS, in whole or in part, immediately and at any time without prior notice to you. We reserve the right to limit the number of mobile devices through which you may access MDS.

Except as expressly provided in this section, deposits made through MDS are subject to all limitations and terms set forth in the relevant deposit agreement governing your Mobile Deposit Account as it may be modified from time to time, including, but not limited to, those related to deposit acceptance, crediting, collection, endorsement, processing order and errors.

- 5. Eligible Checks and Items.** You agree (i) to scan and transmit only checks as that term is defined in Federal Reserve Regulation CC ("Reg CC") and only those checks that are permissible under this section or such other items as we, in our sole discretion, elect to include under MDS; (ii) that the image of the check transmitted to us shall be deemed an "item" within the meaning of Article 4 of the applicable Uniform Commercial Code; and (iii) that you will **not** use MDS to scan and deposit any of the following checks or other items:

- a. Checks or items payable to any person or entity other than you, or to you and another party.
- b. Checks or items containing alteration to any of the fields on the front of the check or item (including the MICR line), or which you know or suspect, or should know or suspect, are fraudulent or otherwise not authorized by the owner of the account on which the check or item is drawn.
- c. Checks or items previously converted to a substitute check, as defined in Reg CC.
- d. Checks or items drawn on a financial institution located outside the United States.
- e. Checks or items that are remotely created checks, as defined in Reg CC or other remotely created items.
- f. Checks or items not payable in United States currency.
- g. Checks or items dated more than 6 months prior to the date of deposit.
- h. Checks or items on which a stop payment order has been issued or for which there are insufficient funds.
- i. Checks or items prohibited by our current procedures relating to MDS or which are otherwise not acceptable under the terms of your Mobile Deposit Account.

Nothing in this section should be construed as requiring M&T to accept any check or item for deposit, even if M&T has accepted that type of check or item previously. Nor shall M&T be required to identify or reject any checks or items that you may scan and deposit that fail to meet the requirements of this section.

- 6. Security of Your Mobile Device and Account Information.** You are responsible for (i) maintaining the confidentiality and security of your Mobile Devices, access number(s), password(s), security question(s) and answer(s), account number(s), login information, and any other security or access information, used by you to access the MDS (collectively, "MDS Access Information"), and (ii) preventing unauthorized access to or use of the information, files or data that you store, transmit or use in or with the MDS (collectively, "Account Information"). You agree not to supply your MDS Access Information to anyone. You will be responsible for all electronic communications, including image transmissions, email and other data (referred to in MDS section as "Communications") entered using the MDS Access Information. Any Communications received through the use of the MDS Access Information will be deemed to be sent or authorized by you. You agree to immediately notify us if you become aware of any loss, theft or unauthorized use of any MDS Access Information, including your Mobile Devices. We reserve the right to deny you access to MDS (or any part thereof) if we believe that any loss, theft or unauthorized use of MDS Access Information has occurred.
- 7. Image Quality.** The image of a check or item transmitted to M&T using MDS must be clear and legible. The image quality of the checks and items must comply with the standards established from time to time by the American National Standards Institute, or any higher standard set by us, and with any requirements set by any clearing house we use or agreement we have with respect to processing checks or items. You agree that we shall not be liable for any Damages resulting from the poor image quality of a check or other item, including those related to rejection of or the delayed or improper crediting of such a check or item, or from any inaccurate information you supply regarding the check or item.
- 8. Endorsements and Procedures.** Before transmission, you agree to restrictively endorse any check or item transmitted through MDS as "For deposit only, M&T account # \_\_\_\_\_" or as otherwise instructed by M&T. You agree to follow any and all other procedures and instructions for use of MDS as we may establish from time to time. You agree to supply any information in your possession that we request regarding a check or item deposited or attempted to be deposited through MDS.
- 9. Receipt of Checks and Items; Crediting.** We reserve the right to reject any check or item transmitted through MDS, at our discretion, without liability to you. We are not responsible for checks or items we do not receive

in accordance with this section or for images that are dropped or damaged during transmission. An image of a check or item shall be deemed received when you receive a confirmation from M&T that we have received the image. Receipt of such confirmation does not mean that the transmission was error free, able to be processed or complete or that funds will be credited for that check or item.

As provided in the relevant deposit agreement governing your Mobile Deposit Account and the applicable M&T's funds availability policy, deposits received and accepted before a particular time of the day (the "Cutoff Time") on a Business Day are credited on the same day and deposits received and accepted after the Cutoff Time on a Business Day are credited on the next Business Day. M&T may establish later Cutoff Times for checks and items deposited via MDS, crediting your Mobile Deposit Account for such checks and items even if received and accepted after the applicable Cutoff Time specified in the relevant deposit account agreement governing your Mobile Deposit Account. In the event that M&T establishes later Cutoff Times for checks and items deposited via MDS, we reserve the right to change the Cutoff Times at any time as permitted by law. Regardless of whether M&T establishes later Cutoff Times for checks and items deposited via MDS, you understand and agree that checks and items must be received and accepted by M&T before the applicable Cutoff Time and must not be incomplete, illegible or erroneous to be eligible for same-day crediting. See the Guide for details on Cutoff Time for MDS.

- 10. Availability of Funds.** We will make funds available for checks and items received, accepted, and successfully processed through MDS according to our standard funds availability policy for your Mobile Deposit Account. For more information, see the FAQs and account disclosures.
- 11. Disposal of Transmitted Checks and Items.** After a check or item has posted to your account (see the FAQs for more details), you agree to prominently mark the check or item as "Electronically Presented" or "VOID." You agree never to represent to us or any other party a check or item that has been deposited through MDS unless we notify you that the check or item has not been accepted for deposit through MDS. You will promptly provide any check or item, or a sufficient copy of the front and back of the check or item, to M&T as requested to aid in the clearing and collection process, to resolve claims by third parties with respect to any check or item, or for M&T's audit purposes. You agree to safeguard and keep the original item for at least seventy calendar days after you have transmitted the item. You shall consult your legal counsel on the appropriate retention timeframe (exceeding seventy calendar days) for original paper Items based on your organizational requirements. You agree to destroy or otherwise properly dispose of checks and items that have been accepted for deposit through MDS and have cleared to ensure that such checks and items are not represented for payment and, prior to disposal or destruction, to safeguard such checks and items. You shall create and maintain written policies and procedures for the safe and secure retention and subsequent destruction of the original paper Items and/or copies of such Items.
- 12. Deposit Limits.** We reserve the right to impose limits on the amount(s) and/or number of deposits (over a period of time set by us) that you transmit using MDS. Deposits are subject to verification.
- 13. Presentment.** The manner in which the checks and items are cleared, presented (or represented) for payment, and collected shall be in M&T's sole discretion as set forth in the relevant deposit account agreement governing your Mobile Deposit Account.
- 14. Promises You Make to Us; Indemnity.** You warrant to M&T that:
  - a. You will only transmit eligible checks and items that you are entitled to enforce; all checks and items will include all signatures required for their negotiation.
  - b. Images will meet M&T's image quality standards in effect from time to time.
  - c. You will not transmit an image or images of the same check or item to us more than once and will not deposit or negotiate, or seek to deposit or negotiate, such check or item with any other party.

- d. You will not deposit or represent the original check or item with M&T or any other party.
- e. All information you provide to M&T is accurate and true, including that all images transmitted to M&T accurately reflect the front and back of the check or item at the time it was scanned.
- f. You will comply with this section and all applicable rules, laws and regulations.
- g. You will use MDS only for your own deposits and will not allow the use of MDS by way of a service bureau business, timesharing, or otherwise disclose or allow use of MDS by or for the benefit of any third party.

You agree to indemnify and hold harmless M&T from any loss for breach of this warranty provision or the terms of this section.

- 15. Changes to MDS.** We reserve the right to terminate, modify, add and remove features from MDS at any time in our sole discretion. You may reject changes by discontinuing use of MDS. Your continued use of MDS will constitute your acceptance of and agreement to such changes. Maintenance to MDS may be performed from time to time resulting in interrupted service, delays or errors in MDS and we shall have no liability for any such interruptions, delays or errors. Attempts to provide prior notice of scheduled maintenance will be made, but we cannot guarantee that such notice will be provided.
- 16. Cancellation By You; Termination, Suspension, or Refusal By Us.** You may cancel MDS at any time by calling 1-800-724-6070 and allowing us a reasonable opportunity to act upon your request. If you cancel, we will not refund any portion of any fee assessed for any checks and items previously deposited via MDS. We will have no obligation to honor any instruction, in whole or in part, that (i) we reasonably believe is used for any illegal or improper purpose or activity; (ii) we have reason to believe may not be authorized by you; (iii) would violate any law, rule or regulation applicable to us or MDS; (iv) is not in accordance with any other requirement stated in this section or any of our policies, procedures or practices; or (v) for our protection or yours, we have reasonable cause not to honor. We reserve the right in our sole discretion to refuse to honor an instruction, terminate your access to MDS, or suspend or terminate MDS, in whole or in part, at any time, with or without notice to you, with or without cause, including, without limitation, if: (a) we have reason to believe that your account has been compromised or mismanaged in any way, such as by unauthorized or erroneous use of your MDS Access Information; (b) we believe MDS is not being used for its intended, bona fide and lawful purposes under this section and the Agreement; (c) we have reason to believe MDS is being used in an anti-competitive manner or contrary to M&T's business interests; (d) your account is closed or access to your account is restricted for any reason; (e) you do not use MDS during any 90-day period; or (f) due to a change in law, regulation, or regulatory directive or guidance. Any cancellation, termination or refusal, whether or not described above, by us will not affect your liability or obligations under this section for actions we have taken on your behalf, or this Agreement or any other agreements you have with us.
- 17. Ownership and License.** You agree that M&T retains all ownership and proprietary rights in MDS, associated content, technology, and website(s). You agree not to copy, disassemble, decompile, or otherwise reverse engineer any part of MDS, including the App. You may use MDS only for your own benefit. You may not copy, reproduce, distribute or create derivative works from the content and agree not to reverse engineer or reverse compile any of the technology used to provide MDS. In the event that you attempt to use, copy, license, sublicense, sell or otherwise convey or to disclose the App or any other part of MDS, in any manner contrary to the terms of this section, we shall have, in addition to any other remedies available to us, the right to injunctive relief enjoining such actions.
- 18. Third Party Beneficiary.** You agree that our Third Party Service Providers, including Fiserv Solutions, Inc., may rely upon the provisions of this Agreement, including its disclaimer of warranties and any limitations of liability and that such Third Party Service Providers are, for the purpose of this Agreement, third party beneficiaries to this Agreement with the power to enforce this Agreement.



## Summary of Changes

### M&T Digital Services Agreement

*The following is a summary of selected changes. Please read the entire **M&T Digital Services Agreement** (formerly known as the Online Banking Agreement) carefully because the summary does not cover all changes or describe changes in detail. Some website windows referenced and service names used in the M&T Digital Services Agreement may reflect naming conventions for an upcoming systems update. If you have any questions on naming conventions used or to be used, please give us a call at (800) 790-9130.*

#### **Changes:**

- Please note that the M&T Digital Services Agreement encompasses terms for businesses and consumers using M&T Digital Services.
- For disputes between you and M&T Bank pertaining to Digital Services, the dispute resolution terms and process for underlying M&T account(s) applies. See Section L26 for details.
- The M&T Online Bill Pay service Bill Pay Guarantee terms have changed. Please see Section B5 for details.
- The fee for FinanceWorks™ will change effective January 1, 2015. Please see Section M for details.
- The minimum software and hardware requirements to use Digital Services have been restated. Please refer to Section A6 for details.
- If you add Personal Accounts to M&T Online Banking for Business, there are additional risks that you assume. Please refer to Section L25 for details.
- The timeframe for check retention before secure destruction has changed in the M&T Mobile Deposit (for Businesses) service. Please see Section G for details.

## M&T Digital Services Agreement

This M&T Digital Services Agreement (the “Agreement”) governs your use of M&T’s Digital Services, which include M&T Online Banking, M&T Online Banking for Business, M&T Online Bill Pay (a component of M&T Online Banking), M&T Mobile Banking, M&T Mobile Banking for Business, M&T Mobile Deposit service for businesses, and other online and mobile-based financial services functions which are now available or may be available sometime in the future (collectively, the “Digital Services”). **For fee information, please refer to Section M of this Agreement for the [Digital Services Fee Schedule](#).** Not all services within the Digital Services may be available to you because some services are for Consumers and some are for Businesses.

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## A. Preliminary General Provisions.

The following preliminary general provisions apply to all Digital Services, unless otherwise stated.

1. **Definitions.** In this Agreement, the following terms have the indicated meanings:

**“Administrator”** means the individual who will act on a Business’s behalf as the primary contact with M&T and who is authorized to give M&T instructions about a Business’s Eligible Accounts and Sub-Users.

**“Agreement”** means this M&T Digital Services Agreement, including any addendum and riders, all as it may be amended or modified from time to time.

**“Business”** (other than when used in the term “Business Day”) means a corporation, partnership, limited liability company, or other organization or sole proprietor whose Eligible Accounts are used primarily for business and commercial purposes.

**“Business Account”** means an Eligible Account owned by a Business.

**“Business Day”** means Monday through Friday, excluding federal holidays. Reference to time shall be to Eastern Time.

**“Card Data”** means the personal identification number from an M&T card (e.g., M&T ATM card, M&T debit card) and the multi-digit card number associated with the card. Card Data may also include other information on the card.

**“Customer”** or “you,” “your,” or “yours” means each Consumer or Business who is an owner of an Eligible Account or other relationship that is accessible through the Digital Services and any individual or Business authorized to use a Digital Service.

**“Damages”** means any claim, suit, expense, loss, liability or cost of any nature including, but not limited to, attorneys’ fees and expenses.

**“Digital Services”** means the financial services and products and the functions available now or in the future to the Customer through online, mobile or any other digital channel that we may support now or in the future. Please refer to the Agreement’s introductory paragraph for further information on the definition of Digital Services. The term “Digital Service” is a generic reference to a service offered under this Agreement. Not all electronic services offered by M&T are part of the Digital Services or are covered by this Agreement (see to Section L27(e) for more information).

**“eDocuments”** means the account and loan statements, notices (e.g., NSF notices, IRA and certificate of deposit renewal or maturity notices), disclosures and other communications, documents or materials for specified types of Eligible Accounts and services that we may make available electronically, now or in the future, through the Statements and Notices service. For the current types of Eligible Accounts and eDocuments that are available through the Statements and Notices service, refer to the Guide.

**“Eligible Account”** means each M&T deposit account, loan account, line of credit, mortgage, IRA, credit card, Portfolio Management Account (PMA) Checking Account, overdraft protection plan account, investment account and any other product or service the Customer may maintain with us that is identified with Customer’s Social Security Number or Taxpayer Identification Number and is accessible through the Digital Services. “Eligible Account” also includes each shareholder account advised, sponsored or distributed by M&T or one of its affiliated companies (each an “**Investment Account**”) that is identified with Customer’s Social Security Number or Taxpayer Identification Number and is accessible through the M&T Online Banking services. Eligible Account means collectively both Personal Accounts and Business Accounts.

**“Guide(s)”** means all documentation, brochures, guides, and information in any format (including help screens, contextual help, FAQs, instructions and tutorials), as amended from time to time, provided or made available to Customer by us regarding the Digital Services and their use.

**“Instruction”** means any transaction, transfer, loan advance, payment order or other request or instruction delivered to us via, or in connection with, the Digital Services.

**“Mobile Device”** means your mobile phone, tablet or other equipment with such mobile carrier, operating system, data plan, software and hardware supported by us now or in the future. A list of the supported Mobile Devices’ specifications can be found at [mtb.com/olb-systemrequirements](http://mtb.com/olb-systemrequirements).

**“M&T Mobile” or “M&T Mobile Banking”** means the mobile banking service that enables Customer to access certain financial services and products, and the functions now, or in the future, offered in the M&T Online Banking service, using a Mobile Device. Not all Eligible Accounts or financial services and products are accessible or available through M&T Mobile.

**“M&T Mobile Deposit”** means the mobile banking service that enables select Business Customers to deposit checks to the billing account in M&T Online Banking for Business using M&T’s application on their Mobile Devices.

**“M&T Online Banking services”** means the financial services and products, and the functions available now or in the future in standard online banking (e.g., the ability to view balances, make internal transfers, check image and statement view, bill pay service, and for Consumers, the ability to pay M&T loans). The term M&T Online Banking services includes both M&T Online Banking and M&T Online Banking for Business.

**“Personal Account”** means an Eligible Account owned by a natural person that is used primarily for personal, family or household purposes. A Personal Account may also be referred to as a “Consumer Account.” The term “Consumer” means a natural person. The term Consumer does not mean a natural person as a representative or owner of a Business Account.

**“Statements and Notices service”** means the Digital Service that makes eDocuments available to the Customer for online viewing, printing and downloading, rather than in paper form. This service may also be referred to as Statement and Document Delivery Service.

**“Sub-User”** means an individual granted authority by an Administrator of a Business Customer to access and use the Digital Services on behalf of the Business.

**“We,” “us,” “our,” “M&T” and “M&T Bank”** mean M&T Bank or our subsidiary or affiliate that holds Customer’s Eligible Account or other financial product or service that Customer can access through the Digital Services and, with respect to an eligible Investment Account, the entity that issues the investment product that is maintained in the Investment Account.

**“Website” or “Site”** means M&T’s current or future Internet website, and all related web pages or renderings, for offering the Digital Services.

Definitions of other capitalized terms can be found throughout the Agreement.

- 2. Accepting This Agreement.** When you or anyone you authorize agrees to this Agreement or enrolls in or uses a Digital Service, you agree to the terms and conditions of the entire Agreement. This means that when you enroll in a Digital Service in the future, you are agreeing to the version of Agreement in use at that time. Some enrollment windows and prompts may refer to an agreement or addendum for the specific Digital Service, but such references mean this entire M&T Digital Services Agreement, including the section pertaining to the specific Digital Service.

The terms of this Agreement are subject to the terms, instructions and other information appearing in the Guides. However, this Agreement will control if there are any irreconcilable conflicts between the terms of the Guides and this Agreement.

- 3. Eligible Accounts.** Access to the Digital Services requires that you have at least one Eligible Account with us that, according to our records, is identified with your Social Security Number or Taxpayer Identification Number and is a type of account that qualifies for the Digital Services. For Consumers, that account and all other existing and future Eligible Accounts identified with your Social Security Number or Taxpayer Identification Number will be automatically available to be accessed through your Digital Services relationship with us. For Consumers, Eligible Accounts that, in addition to your Social Security Number, have other Social Security Numbers identified with them (for example, joint checking accounts) will still qualify to be linked by you if you, acting alone, are authorized to access those accounts. For Businesses, some Eligible Accounts will be automatically accessible through the Digital Services and, during Customer's enrollment or after Customer has enrolled, Customer must specify the other accounts to be accessible through the Digital Services.

Accessibility of Eligible Accounts may vary based on the Digital Service(s) Customer uses. No account owned in a fiduciary capacity or which requires two or more individuals acting jointly through signature or otherwise to initiate a transaction or transfer is eligible for the Digital Services and Customer should notify us immediately if such an account appears as an Eligible Account. Customer understands, however, that if we receive an instruction for such an account, we are authorized to honor the instruction and Customer hereby releases us from any liability arising from honoring such an instruction.

- 4. Other Agreements.** All Eligible Accounts linked to the Digital Services will continue to be subject to the agreements Customer has for such accounts. Customer should refer to those agreements and any applicable disclosures for any restrictions, fees or other terms and conditions relating to the use of such accounts, including any terms that may affect or be affected by the use of the Digital Services. This Agreement will control if there are any irreconcilable conflicts between the terms of those agreements and this Agreement.
- 5. Fees.** There may be monthly or periodic fees or specific usage fees depending on which Digital Services you maintain and use. **The current list of those fees can be found in the Digital Services Fee Schedule (i.e., [Section M](#)) of this Agreement.** The fees are subject to change from time to time. Any fees for the Digital Services are in addition to the fees applicable to Eligible Accounts under the corresponding account agreement and documentation. Customer needs to specify an eligible deposit account from which fees will be paid (the "Billing Account") and Customer authorizes us to debit the Billing Account and, if there are insufficient funds in the Billing Account or if the Billing Account has been closed, any other account Customer has with M&T (but not if such other account is a trust or other fiduciary account for which Customer serves as a fiduciary, individual retirement account, other tax-deferred retirement account or other account that receives special tax treatment). If Customer closes the Billing Account, Customer must notify us and identify a new Billing Account. We may suspend or cancel Customer's access to the Digital Services at any time without prior notice due to insufficient funds in Customer's Billing Account or if Customer closes the Billing Account and does not timely notify us of a new Billing Account. After suspension or cancellation, Customer must call our Customer Service Center if Customer wishes to re-establish the Digital Services.

Upon our demand, Customer will pay any costs we incur in collecting fees or enforcing this Agreement, including reasonable attorneys' fees and disbursements. We are authorized to obtain payment by charging Customer's Billing Account, or if none is designated or funds in a Billing Account are insufficient, any other account Customer has with M&T (but not if such other account is a trust or other fiduciary account for which Customer services a fiduciary, individual retirement account, other tax-deferred retirement account or other account that receives special tax treatment). If payment is not made, in addition to our other remedies under applicable law and this Agreement, we may suspend or cancel access to the Digital Services and/or exercise our right of offset (subject to applicable law) against any or all of Customer's property held by us in any capacity.

- 6. Your Devices & Software.** To access the Digital Services, you must have a personal computer or Mobile Device (see below for details on Mobile Devices) with access to the Internet ("Equipment"), and software that is compatible with the Website and allows you to browse the Internet through an Internet Service Provider (the "Software"). Your Software must include a currently supported and updated Internet browser that supports

Secure Socket Layer with at least 128 bit encryption, JavaScript and enabled security features. For some Digital Services, you will also need Software that permits you to receive, access and retain Portable Document Format or "PDF" files, such as a currently supported version of Adobe® Reader® (available for download at <http://www.adobe.com>). You must have and provide to us your email address. Your Equipment must support such Software requirements. For a list of recommended Equipment and Software, please see [mtb.com/olb-systemrequirements](http://mtb.com/olb-systemrequirements). A specific Digital Service (e.g., M&T Mobile Banking) may have different or additional requirements as specified elsewhere in this Agreement and/or Guides. To access M&T Mobile Banking, Customers must have a supported Mobile Device. For a list of supported Mobile Devices, please go to [mtb.com/olb-systemrequirements](http://mtb.com/olb-systemrequirements). It is your responsibility to maintain, at your expense, your Equipment (including Mobile Devices), Software, and access to the Internet. We are not responsible for any Damages, including any errors or failures that may result, directly or indirectly, as a result of your use of any Digital Services from (i) any malfunction of your Equipment (including Mobile Device) or Software, or (ii) any computer virus, worm, Trojan horse, spyware or other malware; or (iii) use of any wireless Internet or mobile access. Subject to applicable law, we reserve the right to update, terminate, discontinue or change the Equipment (including Mobile Device) or Software necessary to access the Digital Services. To protect the security of your information and accounts, you agree to log out of the Digital Services and close your browser or application session when you are finished using the Digital Services.

7. **Guides.** We may provide Customer with Guides. Customer's use of the Digital Services is subject to the Guides. We are not responsible for any Damages arising from Customer's failure to abide by the Guides or understand the terms of the Guides, including, without limitation, understanding the deadlines or conditions for processing Instructions or the restrictions or conditions with regard to information or data accessed via the Digital Services. Terminology in the Guides may differ from this Agreement or other documentation with respect to the Digital Services. In the event you have questions, contact our Customer Service Center for clarification.
8. **Online Enrollment in Digital Services.** To enroll in Digital Services online, we will prompt you for certain information to authenticate you. The authentication information may vary and can include for example Card Data, Social Security Number, account number, and date of birth.

For Businesses, M&T may rely on the Card Data from the M&T Business Debit Card, M&T ATM Card for Business (with the All Activity Option) or Virtual Card that has been issued to an individual at a Business to identify the individual using the Card Data as the authorized user of the Card (or as someone who has been delegated the rights of an authorized card user) with the power and authority to enroll in Digital Services and enter into this Agreement on behalf of the Business. An M&T ATM Card for Business with the Balance Inquiry Option cannot be used to enroll in Digital Services.

9. **Your Access Codes.** To gain access to the Digital Services, you will need a access passcode ("Passcode"), user identification ("User ID") and other authentication factors that we may require from time to time, and for Businesses, concerning some Digital Services, you may also need to supply Customer's Card Data and/or Security Code (as defined below). The Passcode, User ID, Card Data, Security Code and other authentication factors that we may require from time to time may collectively be called the "Access Codes."

The Passcode will either be selected by you upon enrollment (if you enroll using Card Data) or will be supplied to you by us. You can change your User ID and/or Passcode online at any time. We recommend that you change any User ID and Passcode we provide to you. **You agree to keep all Access Codes confidential to prevent unauthorized access to your accounts and to prevent unauthorized use of the Digital Services.** For reasons of security, we may cancel your Access Codes at any time without notice. All electronic communications and instructions using these Access Codes will be deemed to be valid and authentic and we may act on such communications and instructions. You also agree that those electronic communications will be given the same legal effect as written and signed paper communications.

**In general, your Access Codes permit you to access all Eligible Accounts associated with your Social Security Number or Taxpayer Identification Number (Business setting) that are compatible with the Digital Services (including accounts you own individually and with others). If you co-own any account(s) with others, we strongly recommend that you not share your Access Codes with your co-owner(s), as such sharing will enable the co-owner(s) to gain access to information on any account(s) you own individually. Every owner of an account should obtain and use his or her own Digital Services relationship and Access Codes.**

In addition, for Business Accounts, the Administrator will select for each Sub-User an authorization identifier or security question ("Security Code"), a User ID, and a Passcode. Re-issuance of certain Access Codes may require the Administrator to use additional authentication or security procedures we establish from time to time.

For Personal Accounts and Business Accounts, if you believe that any of your Access Codes have been lost or stolen or compromised or that any transaction involving any of your Eligible Accounts may have been made without your authorization, you should contact us immediately. We strongly recommend that you do so by telephoning us at the Customer Service Center number provided below in this Agreement (Section L12), because that is the best way of limiting your losses. In addition to notifying us, we also strongly recommend that you immediately change your Passcode and other Access Codes, as appropriate.

*The following Section B outlines the Digital Services that make up the core M&T Online Banking services*

## **B. M&T Online Banking (for Personal Accounts and Business Accounts)**

This section sets forth the terms and conditions specific to M&T Online Banking services. By enrolling in or using this service, you agree to be legally bound by this section and the entire M&T Digital Services Agreement. Please see Section A2 for more information. **For fee information, please refer to Section M of this Agreement for the [Digital Services Fee Schedule](#).** M&T Online Banking services represent core Digital Services and include the following features:

### **1. Internal Transfers and M&T Loan Payments from External Accounts.**

a) **Enrollment and General Information.** You may use the M&T Online Banking service internal transfer function to transfer funds between Eligible Accounts at M&T and to pay M&T loans (including, for Consumers, the ability to make a payment to eligible M&T loans and eligible M&T mortgages from an External Account). In addition, Customers may take advances from eligible M&T lines of credit. Certain Consumers may also purchase or redeem shares in, or transfer funds between, eligible Investment Accounts and eligible deposit accounts.

To activate this service, you may be required to provide your Card Data. You may use the internal transfer function to set up recurring transfers from one Eligible Account at M&T to another (recurring transfers must be for the same amount). See the Guide for details and limitations on the acceptance and processing of your internal transfer Instructions. Any transfer of funds from a deposit account is subject to the availability of sufficient funds for withdrawal from that deposit account when the transfer is to be made.

Federal regulations limit the number of preauthorized electronic fund transfers and telephone transfers from money market deposit and savings accounts (see applicable account agreement and Section L18 for details).

b) **Investment Accounts.** You acknowledge that for purchases and redemptions in your Investment Account, you must use one of the M&T Bank deposit accounts (and that account must be an Eligible Account) that you have designated in writing in your investment fund application, or in a written or telephone instruction to the investment provider, as a bank account from which funds for Investment Account fund purchases are to be withdrawn and to which proceeds of investment fund redemptions are to be deposited ("Designated Settlement Account"). If you select any other M&T account when you attempt to initiate a

purchase or redemption transaction through the M&T Online Banking service, your transaction will be rejected and will require special handling, which will result in delay. If you are not certain which M&T Bank deposit account(s) you designated as your Designated Settlement Account(s), or if you wish to select additional accounts as Designated Settlement Accounts, contact Wilmington Funds shareholder services at (800) 836-2211.

Non-deposit investment products. You acknowledge that an investment in money market funds is not insured or guaranteed by the Federal Deposit Insurance Corporation or by any other governmental agency. Although money market funds seek to preserve the value of your investment at \$1.00 per share, it is possible to lose money by investing in a money market fund. You should consider a fund's investment objectives, risks, charges and expenses carefully before you invest. Information about these and other considerations is contained in the fund's prospectus, which is available on the Wilmington Funds website, [www.wilmingtonfunds.com](http://www.wilmingtonfunds.com). You should read the prospectus carefully before investing.

c) **Mortgages.** For M&T residential mortgage loan(s), we may not honor any instruction to pay such mortgage loan(s) (including any recurring funds transfer instruction) if such loan(s) is in default under the terms of the mortgage loan agreement(s).

d) **Stopping Recurring Payments.** You can stop recurring funds transfers using one of the following methods: (i) cancel your funds transfer instruction using the M&T Online Banking service internal transfer function by 11:59 PM on the Business Day before the date you have scheduled the next recurring funds transfer; or (ii) telephone us at 1-800-790-9130 or send us a written request at M&T Bank, P.O. Box 767, Buffalo, NY 14240 in time for us to receive your request at least three (3) of our Business Days before the next recurring funds transfer. If you call, we may require you to confirm your request in writing and get it to us within 14 days after the date you called us.

2. **Account Balance and Transaction History.** You can use the M&T Online Banking service to obtain balance and transaction history on all Eligible Accounts. Various types of account balance and transaction history data provided through the M&T Online Banking service are current as of different dates and times. For example, certain types of data provided are real-time, periodically updated through the day, or prior day information. More information may be available in the Guides. Information about a transaction posted to an Eligible Account will be available through the M&T Online Banking service generally for at least 60 (but no more than 90) days after the transaction posted to the Eligible Account. For Businesses, up to 90 days of balance summary and account transaction detail will generally be available for all Business checking and savings accounts enrolled in M&T Online Banking for Business.

**Account balance and other information obtained through the M&T Online Banking services (and through M&T Mobile Banking) may not include transactions that you have made or authorized but that have not cleared, certain debit card transactions (including gratuities associated with such transactions), deposits you have made but that have not been credited, and other transactions that have been made but that have not yet been processed. For lending products, balances indicated may not include fees or other charges and may not represent a payoff balance. For payoff information on your account, please contact our Customer Service Center.**

3. **Online Account Information and Check Images.** You may use this service to view certain of your checks and other information online for certain Eligible Accounts. Please see Guide(s) for more detailed instructions and limitations on the availability of checks and other information for viewing via this service. Note that checks that have been presented for payment and that are accessible through this service may not actually be, or have been, paid, (e.g., for reasons such as non-sufficient funds in the account or the existence of an outstanding stop payment order concerning the check).
4. **Data Export.** You may export account information for use with your personal financial management software (e.g., Quicken®) ("PFM Software") or other spreadsheet software (e.g., Microsoft Excel®) for up to 90 days of

history. This service is limited to certain Eligible Accounts and is not compatible with all versions of PFM Software. We reserve the right to change the file format or formats available for download on the M&T Online Banking services at any time, without notice.

**5. M&T Online Bill Pay.**

a) **Enrollment.** Either during your enrollment or after you have enrolled in M&T Online Banking services, you may enroll in the M&T Online Bill Pay service. To do so, you will be required to provide your Card Data. You may use the M&T Online Bill Pay service to make one-time, future-dated, and recurring payment transactions from an eligible checking, including a PMA Checking Account.

b) **Payment Instruction.** When you initiate a payment instruction through M&T Online Bill Pay, you authorize us, or our agent, to withdraw the necessary funds from the specified eligible checking or PMA Checking Account. The Business Day your payment instruction will be processed (*i.e.*, Business Day we debit your account for the payment and initiate or mail the payment) is called the "Withdrawal Date." Because of the time it takes to process and send a payment to a payee, there will be a delay between the Withdrawal Date and the date you schedule the payment to be delivered to the payee ("Delivery Date"). For payees you have previously paid, you can obtain an estimate of the number of Business Days it will take to process the payment by looking up the payee on your Payee List (listed as "Days to Deliver"). For payees not on your Payee List, it will take at least 5 Business Days to process and deliver the payment. To provide adequate time for payments to be received by a payee, the date you select as the Delivery Date must be no later than the date your payment is due, excluding any applicable grace periods.

**The cutoff time for entering a payment instruction on a Business Day using our system is 11:59 p.m.**

**ET. When a payment instruction is entered on our system after 11:59 p.m. ET or on a non-Business Day, the instruction will be considered received on the next Business Day.** We reserve the right to change our estimate of the number of Business Days it will take to process the payment for any payee at any time without notice to you. We recommend that you frequently check the processing time estimates on the Payee List for your payees in order for you to be aware of the Withdrawal Date for a payment instruction. These estimates are for your convenience only and you must schedule your payments as set forth in this section in order to qualify for the payment guarantee in this Agreement.

Notwithstanding any other provision of this Agreement, it shall be your responsibility to schedule bill payments sufficiently in advance of the payment due date so that the payment can be received and processed by the payee before any such due date. We shall not be responsible for any late fees, interest charges, and penalties imposed by a payee if you did not schedule the payment to allow for the time it takes us to process the payment and for the payee to receive and process the payment.

You agree that you will not initiate a payment unless there are, or will be, sufficient available funds in the specified Eligible Account (including amounts available for transfer or advance from an overdraft protection plan if you have such a plan) on the Withdrawal Date. If you do not have sufficient available funds when we attempt to post the payment to your account on the Withdrawal Date, M&T, in its sole discretion, will do one of the following: (i) debit your account on the Withdrawal Date for the full payment amount, in which case you will be charged applicable insufficient funds fee or overdraft fee, applicable overdraft transfer fee, and/or other applicable fees as outlined in Eligible Account product and fee schedule information, as may be amended from time to time; or (ii) not debit your account on the Withdrawal Date and instead try to complete the payment instruction on the next Business Day. If there are still insufficient available funds after this second attempt, M&T will cancel the bill payment and notify you of this through the U.S. mail at your last address in our records, by email, or via Internal Electronic Messaging.

c) **Limitations on Payments.** You agree that you will not use M&T Online Bill Pay to make payments: (i) to payees located outside the United States; (ii) to taxing authorities or other governmental entities; (iii) required under court order (*e.g.*, child support); or (iv) in connection with any unlawful activity or purpose. If you use M&T Online Bill Pay to make governmental or court-ordered payments, we shall not be responsible for any

penalties, interest, late fees or other similar amounts you may be assessed as a result of delays in the delivery, or the non-delivery of the payment, or the delayed or improper crediting of the payment. We reserve the right to refuse to make a payment to a particular payee or categories of payees through the M&T Online Bill Pay service.

d) **Incomplete Payments.** Payments will be made either by a check, or by electronic transfer, depending on arrangements with the payee. If a payee fails to cash a check within the time period we establish for cashing checks or if the payment is rejected as an electronic transfer, we will thereafter credit your account from which the payment was initially debited in the amount of the original payment instruction (without interest).

e) **Canceling Payments.** You can order us to cancel any payment initiated through the M&T Online Bill Pay service by canceling the instruction to make that payment. Cancellations initiated using the online cancellation feature must be received on or before 11:59 p.m. on the Business Day prior to the Withdrawal Date. The Withdrawal Date for a specific payment is listed on the "View Bill Payment Activity" screen. Please see the Guide as to how to cancel the instruction in this way. Once the withdrawal has been made from the specified account on a Withdrawal Date, it will not be possible to stop that payment from being made.

For recurring payment instructions, you can stop the recurring payment using one of the following methods: (i) cancel the payment instruction on the "View Bill Payment Activity" screen or (ii) telephone or send us written request at the phone number or P.O. Box listed in the Customer Service Section L12 in time for us to receive the request at least three (3) Business Days before the next Withdrawal Date. If you call, we may require you to confirm your request in writing and get it to us within 14 days after the date you called us.

f) **No Duty to Monitor Payments.** M&T does not have any duty to you to monitor the payments that are made through M&T Online Bill Pay.

g) **Bill Pay Guarantee.** We will cover up to \$50 in late fees if a payment using M&T Online Bill Pay is late and you (i) scheduled the payment sufficiently in advance of the payment due date (see above sub-section b) to allow for the payment to be processed and sent by us, and (ii) the date you selected as the Delivery Date was no later than the date your payment was due, excluding any applicable grace periods. Delivery timeframes are noted for each payee, indicated as "Days to Deliver" in your payee list – generally two or four Business Days. Further, your payment must be scheduled according to the requirements set forth in this Agreement and you must have sufficient available funds in your account. The maximum late fee payable under this guarantee is \$50 per late payment. In the event your payee does not receive payment on time and charges you a late fee, contact Customer Service Center. We reserve the right to discontinue the Bill Pay Guarantee at our discretion at any time.

*The following Sections C-K outline Digital Services beyond core M&T Online Banking services.*

### **C. Bank to Bank Transfer (for Personal Accounts).**

This section sets forth the terms and conditions specific to the Bank to Bank Transfer service. By enrolling in or using this service, you agree to be legally bound by this section and the entire M&T Digital Services Agreement. Please see Section A2 for more information. The Bank to Bank Transfer service for Personal Accounts allows you to request that we initiate an electronic funds transfer from a personal account held in your name at another financial institution (the "External Bank Account") to one of your Eligible Accounts (checking or savings accounts) held at M&T that is qualified for the Bank to Bank Transfer service ("Bank to Bank Eligible Accounts"). Not all Personal Accounts are eligible for the Bank to Bank Transfer service. The External Bank Account used in the Bank to Bank Transfer service must be in the United States of America. You also may use the Bank to Bank Transfer service to request that we initiate an electronic funds transfer from one of your Bank to Bank Eligible Accounts to one of your External Bank Accounts. The Bank to Bank Transfer service cannot be used to transfer funds to third parties or to or from an account that is held or owned solely by a person other than you. As used herein, a

"Transfer Instruction" is an Instruction you provide to us through the Bank to Bank Transfer service to request that we complete an electronic funds transfer from an External Bank Account to your Bank to Bank Eligible Account held at M&T, or from a Bank to Bank Eligible Account at M&T to an External Bank Account. **For fee information, please refer to Section M of this Agreement for the [Digital Services Fee Schedule](#).**

1. **Authorization to Complete a Funds Transfer.** By logging into M&T Online Banking services and providing a Transfer Instruction, you authorize us (including our service providers), to initiate electronic debits and credits (referred to as "funds transfer(s)" herein) to and from your Bank to Bank Eligible Account(s) and External Bank Account(s) in order to process your Transfer Instruction. This authorization shall remain in place until you cancel the Bank to Bank Transfer service and we have had a reasonable time to act upon your cancellation request.

Further, you also authorize us to correct any error and to make adjustments when a funds transfer is returned, reversed or cannot be completed. You authorize us to make such corrections and adjustments by initiating electronic debits or credits to and from your Bank to Bank Eligible Account(s) and External Bank Account(s) and by debiting any other account you have at M&T (but not if such account is a trust account, individual retirement account, other tax-deferred retirement account or other account that receives special tax treatment) if the erroneous, returned, reversed or incomplete transfer cannot be fully corrected or adjusted by debiting your Bank to Bank Eligible Account(s) or External Bank Account(s). This authorization shall survive termination of your Bank to Bank Transfer service.

You represent and warrant to us that: (a) you are an owner of both the Bank to Bank Eligible Account(s) at M&T and the External Bank Account(s); (b) you have all necessary authority and rights to register for the Bank to Bank Transfer service and to initiate funds transfers to and from the Bank to Bank Eligible Account(s) at M&T and the External Bank Account(s); (c) you are an individual Consumer and the Bank to Bank Eligible Account(s) and External Bank Account(s) are held and used by you solely for personal, family or household purposes, and are not held or used in connection with any Business enterprise; and (d) you will not use the Bank to Bank Transfer service for any purpose or activity that is in violation of any federal or state law, rule, statute or regulation, including the rules of any payment system used to process your Transfer Instruction.

M&T and the financial institution(s) holding the External Bank Account(s) may rely on the representations and the authorizations provided by you in the Agreement without investigation. We will use the Automated Clearing House ("ACH") network in order to initiate the electronic debits and credits to your Bank to Bank Eligible Account and the External Bank Account to process a Transfer Instruction. We may use other methods to process a Transfer Instruction, including a book transfer or wire transfer.

We make no representation or warranty to you that the financial institution that holds the External Bank Account will properly credit or debit funds arising from an incoming or outgoing funds transfer to or from your External Bank Account or will honor any instruction to credit or debit your External Bank Account.

2. **Processing of Funds Transfers.** We will process Transfer Instructions received before the time specified on the Website on a Business Day (currently 8:45 PM ET). Transfer Instructions that are received on a non-Business Day or after the time specified on the M&T Online Banking Website on a Business Day will be processed the next Business Day.

We have no obligation to complete a Transfer Instruction if (i) there are insufficient available funds in your Bank to Bank Eligible Account at M&T to complete the requested funds transfer to the External Bank Account, (ii) the ACH debit to the External Bank Account to fund a funds transfer is not processed or is returned for any reason by the financial institution holding the External Bank Account; (iii) the Transfer Instruction exceeds any dollar or frequency limitation placed on funds transfers by us; (iv) M&T or the financial institution holding the External Bank Account imposes any restriction, hold or limitation that would prevent the execution of the Transfer Instruction; or (v) we have any reason, in our sole discretion, to believe that processing the Transfer Instruction could expose us to a loss of any kind, including any Damages. We are not responsible for actions

taken by the financial institution that holds your External Bank Account, and we are not responsible if the financial institution does not properly credit or debit a funds transfer to or from your External Bank Account.

If a requested funds transfer cannot be completed for any reason, we will make a reasonable effort to complete the requested funds transfer one additional time and, if we are still unable to complete the funds transfer, we will notify you at the email address you have established in your M&T Online Banking services profile. This second processing attempt may delay the completion of the requested funds transfer. It is your responsibility to monitor your Bank to Bank Eligible Accounts through the Website and your External Bank Accounts to determine if your Transfer Instruction has been processed.

- 3. Reliance on Your Instructions.** We are not responsible for detecting any errors in a Transfer Instruction requested by you through the Bank to Bank Transfer service. You are responsible for the content of any Transfer Instruction, and we may rely upon the information you provide to us when processing the Transfer Instruction. We may rely solely on the account numbers and bank identifying numbers that you provide to us for identifying your External Bank Account(s) and financial institution(s) holding such accounts, regardless of whether or not you also provide the name of the account holder or the name of the financial institution. We and other financial institutions processing your funds transfers have no responsibility to identify or investigate any discrepancy between names and account numbers.
- 4. Types and Limitations on Transfers.** When you request that we process a Transfer Instruction you submit using the Bank to Bank Transfer service, we will generally process it 3 Business Days after the Business Day that we receive the Transfer Instruction. Any Transfer Instruction you submit after 8:45 p.m. ET on a Business Day or anytime on a non-Business Day will be considered received by us on the next Business Day.

The maximum aggregate dollar amounts of Transfer Instructions we will process for you through the Bank to Bank Transfer service per Business Day are as follows:

<b>Inbound Transfers</b> (transfers <b>to</b> a Bank to Bank Eligible Account at M&T)	\$20,000.00
<b>Outbound Transfers</b> (transfers <b>from</b> a Bank to Bank Eligible Account at M&T)	\$10,000.00

Each of these separate limits applies to the aggregate of each type of transfer to or from all of the Bank to Bank Eligible Accounts associated with your M&T Online Banking account. We may decline to process, or delay processing of, any or all of your Transfer Instructions at any time if we, in our sole discretion, are concerned that the requested transfer may be unauthorized or otherwise improper or inappropriate. In the event we decline to process, or delay processing, any Transfer Instruction: (i) we will promptly notify you via email, and (ii) we shall have no liability to you for any Damages of any kind associated with the declined or delayed Transfer Instruction. We may change the limitations set forth herein at any time by posting new limits on the Website.

Federal regulations limit the number of electronic fund transfers from money market deposit and savings accounts (see Section L18 for details). Each transfer from a savings or money market account at M&T using the Bank to Bank Transfer service is counted as one of the limited transfers you are permitted for each calendar month.

- 5. Cancellation of Requested Funds Transfer.** You may request a cancellation of a Transfer Instruction that you have previously requested through the Bank to Bank Transfer service if the Transfer Instruction has not been processed. To request a cancellation, you must use the cancellation feature on the Website. Cancellation instructions are set forth in the "HELP" link at the top right of the Make a Bank to Bank Transfer page. We will

take reasonable steps to act on your cancellation requests, but we shall not be responsible if we are unable to cancel a Transfer Instruction because we did not have sufficient time to act on the cancellation request. For recurring payment instructions, you can stop the recurring payment using one of the following methods: (i) cancel the payment instruction on the "View Transfers" screen within the Bank to Bank Transfer service or (ii) telephone or send us written request at the phone number or P.O. Box listed in the Customer Service Section L12 in time for us to receive the request at least three (3) Business Days before the next Withdrawal Date. If you call, we may require you to confirm your request in writing and get it to us within 14 days after the date you called us.

6. **Verification of Identity and Account Ownership.** When you register for the Bank to Bank Transfer service, you authorize us to obtain information from any financial institutions holding your External Bank Accounts in order to confirm your access to and/or ownership of the External Bank Accounts. You also authorize us to request information regarding you and your External Bank Accounts from other third party sources to verify your identity, account ownership, protect against fraud, confirm your pattern of use or exceptional use, comply with applicable law or otherwise as necessary to provide the Bank to Bank Transfer service to you. We are under no obligation to you or any other person to verify or confirm your registration information or your ownership of the External Bank Accounts or to confirm that the Bank to Bank Eligible Accounts at M&T and the External Bank Accounts are held in the same name and/or legal capacity. You agree to provide true, accurate, current and complete information about yourself and your accounts maintained at other financial institutions and you agree to not misrepresent your identity or your account information.

You must verify your control and authority to access the External Bank Accounts through the account verification methods specified in the Bank to Bank Transfer service portion of the Website.

\* Challenge Deposits. By using the Challenge Deposit Verification Service, you authorize us to make up to two micro-deposits (less than \$1.00) to the External Bank Account specified by you. You will thereafter verify to us the amounts of each micro-deposit made to the External Bank Account.

\* Online Access To Third Party Accounts. By using this method and providing us (and our service provider) with your online credentials (such as username and password), you authorize us (and our service provider) to access your External Bank Accounts online, and thereby verify your control and authority to access the External Bank Accounts. If you select this option for verification, you authorize us to access web sites and online banking systems of the financial institutions holding your External Bank Accounts, on your behalf, to retrieve information about your accounts. For all purposes hereof, you hereby grant us (and our service provider for the Bank to Bank Transfer service) a limited power of attorney, and you hereby appoint us and our service provider as your true and lawful attorney-in-fact and agent, with full power of substitution and re-substitution, for you and in your name, place and stead, in any and all capacities, to access third party internet sites (including the website of the financial institution that holds the External Bank Account(s)), servers or documents, retrieve information, and use your information, all as described above, with the full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection with such activities, as fully to all intents and purposes as you might or could do in person. YOU ACKNOWLEDGE AND AGREE THAT WHEN WE (OR OUR SERVICE PROVIDER) ACCESS AND RETRIEVE INFORMATION FROM THIRD PARTY SITES, WE (OR OUR SERVICE PROVIDER) ARE ACTING AS YOUR AGENT, AND NOT THE AGENT OF THE FINANCIAL INSTITUTION HOLDING THE EXTERNAL BANK ACCOUNT OR ANY THIRD PARTY. You agree that third party financial institutions holding External Bank Accounts shall be entitled to rely on the foregoing authorization, agency and power of attorney granted by you. You understand and agree that use of this verification process is not endorsed or sponsored by the financial institutions holding the External Bank Accounts or us, and you are not required to provide us with your online credentials in order to use the Bank to Bank Transfer services. You are licensing to us and our service provider any information, data, passwords, materials or other content (collectively, "Content") you provide to us. We (and our service provider) may use, modify, display, distribute and create new material using such Content in order to provide the requested Bank to Bank Transfer services to you. By submitting Content, you automatically agree that we (and our service

provider) may use the Content for the purposes set out above without any particular time limit and without the payment of any fees.

#### **D. Online Check Search and Stop Payment (for Personal Accounts and Business Accounts).**

This section sets forth the terms and conditions specific to the Online Check Search and Stop Payment service regarding checks you have written. This service excludes payments made via M&T Online Bill Pay. By enrolling in or using this service, you agree to be legally bound by this section and the entire M&T Digital Services Agreement. Please see Section A2 for more information. You may use the Online Check Search and Stop Payment service to search for the status of checks you have written and place stop payments on checks you have written that have not cleared. You will be charged a stop payment fee under the terms of your Eligible Account on which the check was drawn. Before placing your stop payment, verify the check(s) has (have) not cleared your account. You understand that M&T is unable to stop payment on checks and other items that have already been paid before M&T has received and had a reasonable time to act on a stop payment order. In addition to the check number, we may require you to supply the following information when you request a stop payment: the number of the account on which the check is drawn, the amount of the check, the date of the check, the name of the payee, and the reason for stopping payment. Please see the Guide for more detailed instructions and limitations. Stop Payments will be in effect for 6 months. A verification form may be required. We do not guarantee the ability to cancel or stop any payment.

#### **E. Statements and Notices service (for Personal Accounts and Business Accounts).**

This section sets forth the terms and conditions specific to the Statements and Notices service. By enrolling in this service, you agree to be legally bound by this section and the entire M&T Digital Services Agreement. Please see Section A2 for more information.

1. **Enrollment.** The Statements and Notices service is an option for you to obtain eDocuments electronically for online viewing, printing and downloading, rather than in paper form. "eDocuments" mean the account and loan statements, notices (e.g., NSF notices, IRA and certificate of deposit renewal or maturity notices), disclosures and other communications, documents or materials for specified types of Eligible Accounts and services that we may make available electronically, now or in the future, through the Statements and Notices service. Availability of certain eDocuments may be limited in certain jurisdictions and by applicable law. Information about the current types of Eligible Accounts and eDocuments that are available through the Statements and Notices service is available in the Guides, including at [mtb.com/olb-edeliveryeligibility](http://mtb.com/olb-edeliveryeligibility).

When you enroll in the Statements and Notices service, you will be confirming that you: (i) have Equipment and Software necessary to allow you to receive electronically, view, print and/or save the eDocuments, including Software that permits you to receive, access and retain "PDF" files (for necessary Equipment and Software, see Section A6); (ii) have a valid email address at which to receive your eDocuments and/or notice that your eDocuments are available for you at the Website; and (iii) agree to discontinue receipt of checks or printed images of canceled checks, if, prior to agreeing to receive your statements electronically, you received checks or printed images of canceled checks with your account statement.

2. **Accessing your Electronic Statements and Disclosures.** Once Statements and Notices service takes effect for eDocuments, whenever any eDocument is made available to you at the Website, we will send to the most recent email address you have provided to us for use with M&T Statements and Notices service a notice that the eDocument is available to you at the Website. The eDocument will be available to you at the Website for 24 months, so long as you have access to the M&T Online Banking services. **We recommend that you print and/or save copies of your statements and other eDocuments as they become available.** Except when applicable law requires otherwise, the notice we send to your most recent email address will be the only notice to you about the availability of the eDocument at the Website. You acknowledge that the notice will constitute delivery of the eDocument whether or not you view or print such eDocument. If the email notice is

returned to us as undeliverable, we will send you a letter advising that an eDocument is available and that we were unable to deliver your email notice, and asking us to provide us with a new email address for use with Statements and Notices service.

- 3. Changing Statement or Electronic Disclosure Delivery Option.** At any time and at no charge\*, you can change your delivery preference (that is, electronic delivery or paper delivery) for an eDocument that you have enrolled in the Statements and Notices service. You may change your delivery option by going to the M&T Online Banking site's Settings and Support tab. When you change your delivery option, the change will take effect in your next statement cycle, or when the next document or notice would be sent. We always reserve the right to communicate with you in writing using the U.S. Postal Service, no matter what other options you have chosen.

***\*Important Note:** Although there are no charges to switch from electronic to paper delivery or from paper to electronic delivery, there may be differences in account related charges based on whether you receive your account statements electronically. For example, there may be a discount on the monthly service charge on an account if you have electronic delivery of account statements. Please refer to the applicable account product disclosure(s) and account fee schedule for details on whether or not there is such a discount and the amount of such discount (if applicable).*

- 4. Email Address.** It is your responsibility to notify us of any change in the email address to be used for you with Statements and Notices service. See Section L12 for contact information.
- 5. Paper Copies.** At any time after you enroll in Statements and Notices service, we may discontinue mailing you paper copies of eDocuments. For as long as we are required by applicable law to keep a copy of any eDocument, you may request a paper copy of such eDocument by contacting us at Customer Service (Section L12 below). You must pay us any applicable charge for the paper copy. Your request for the paper copy will not constitute a request to cancel Statements and Notices service or a request to discontinue receipt of eDocuments. Even if we discontinue sending you paper copies of eDocuments, we may (but shall have no duty to) resume sending them at any time for any reason, including, but not limited to, because we believe that you are not receiving notices that a eDocument is available to you at the Website or because we believe that a change in Equipment or Software required for Statement Delivery service creates a risk that you may not be able to receive electronically, view and retain eDocuments.
- 6. Termination of Enrollment.** We may terminate your enrollment in Statements and Notices service at any time, without notice to you. The termination will take effect when we specify. You may terminate your enrollment in Statements and Notices service by notifying us via phone or by mail (see Customer Service Section L12). The termination will not take effect until we have had a reasonable time to act on your notice, which can be as long as 60 days. Any termination of your enrollment in Statements and Notices service (i) may be effective for all Eligible Accounts, or for select accounts; and (ii) will not affect the validity or legal effect of any eDocument provided to you at the Website prior to the effective date of such termination.
- 7. Joint Account.** If any Eligible Account is a joint account, any holder of that Eligible Account may enroll in or terminate enrollment in Statements and Notices service. All joint account holders of any Eligible Account will be bound by the enrollment or termination of enrollment by any account holder.
- 8. Combined Statements.** All accounts that are part of a combined statement mailing must be delivered in the same fashion. Requesting that a single account within a combined statement be changed to another delivery format will result in all accounts within that statement being sent in the same format. If accounts that are part of a combined statement mailing are not entirely or partially owned by the person enrolling in Statements and Notices service, we will not discontinue delivery of paper statements and the delivery settings will be set to paper and electronic.

9. **Fees.** M&T Bank does not currently charge a fee for the Statements and Notices service. **For fee information, please refer to Section M of this Agreement for the [Digital Services Fee Schedule](#).**

## **F. M&T Mobile Banking (for Personal Accounts and Business Accounts)**

**M&T Mobile Banking.** This section sets forth the terms and conditions specific to M&T Mobile Banking (“M&T Mobile”). By enrolling in or using M&T Mobile, you agree to be legally bound by this section and the entire M&T Digital Services Agreement. Please see Section A2 for more information. After you have enrolled in the M&T Online Banking services, you can use M&T Mobile to access some financial services and products and the functions from M&T Online Banking using a Mobile Device. Not all Eligible Accounts are accessible through M&T Mobile. Currently, you can use M&T Mobile in three ways (1) via text messages sent to a mobile phone (through SMS); (2) by downloading an application to a Mobile Device; or (3) by visiting [www.mtb.com](http://www.mtb.com) on your Mobile Device. To use M&T Mobile, you must have a Mobile Device. A list of the supported Mobile Devices’ specifications can be found at [mtb.com/olb-systemrequirements](http://mtb.com/olb-systemrequirements).

1. **M&T Text Banking.** M&T Text Banking allows you to access certain Eligible Account information (e.g., balances and recent transaction history). To take advantage of M&T Text Banking, you must have a supported Mobile Device that can send and receive text messages, have a text messaging service plan through a supported mobile carrier, and enroll in this service (through M&T Online Banking ).
2. **M&T Mobile App and Mobile Web Banking.** The M&T Mobile App and Mobile Web Banking allow you to access certain Eligible Account information, make transfers between Eligible Accounts, and easily locate M&T Bank ATMs and branches. In addition, if you are enrolled in the M&T Online Bill Pay service, you may pay payees that you previously set up in M&T Online Bill Pay service. To use M&T’s Mobile App, you must have a supported Mobile Device and download the M&T Mobile application to it. To use Mobile Web Banking, you must have a supported Mobile Device that can access [m.mtb.com](http://m.mtb.com) through the device’s web browser. Instructions for the M&T Mobile App and Mobile Web Banking are available at [www.mtb.com/mobile](http://www.mtb.com/mobile) or for Business Customers at [www.mtb.com/mobilebiz](http://www.mtb.com/mobilebiz).
3. **Limitations.** You may only edit payee information or pay payees that you previously set up in M&T Online Bill Pay. Please refer to the M&T Online Bill Pay service section of Agreement for additional limitations.
4. **Notices Applicable to M&T Mobile Services.** YOU AGREE THAT THERE ARE RISKS ASSOCIATED WITH USING A MOBILE DEVICE, AND THAT IN THE EVENT OF THEFT, COMPROMISE, OR LOSS OF THE MOBILE DEVICE, YOUR CONFIDENTIAL INFORMATION COULD BE COMPROMISED. For this reason, you should consider password protecting your Mobile Device and/or taking additional security precautions with your phone. In the event of the loss, theft, compromise of, or destruction of your Mobile Device whose phone number is registered with us for M&T Text Banking or which has the M&T Mobile App, you should immediately (i) reset your M&T Online Banking Passcode and (ii) notify your wireless carrier to disable wireless telecommunications service (voice and data) from your lost or stolen Mobile Device. You agree not to use any personally identifiable information when creating nicknames for your Eligible Accounts. You agree that M&T Bank cannot guarantee and is not responsible for the availability of the data services provided by your mobile carrier, and that service may not be available from time to time.

Use of M&T Mobile Banking is subject to the directions, limitations and requirements described in Guides. At any time and without notice, M&T Bank reserves the right to: (i) terminate its support of any Mobile Device, operating system or mobile carrier; (ii) remove or modify the types of accounts, features and functionality available through M&T Mobile; and (iii) modify any security procedures or requirements M&T requires to gain access to M&T Mobile.

You may cancel M&T Mobile Banking at any time via your M&T Online Banking account or by calling us at Customer Service (See Section L12). You may unenroll in M&T Text Banking by deleting all registered mobile

phone numbers using the Maintain M&T Mobile Numbers link within the customer service section of M&T Online Banking or text "STOP" to MandT (62638) for Consumer Accounts or MTBBIZ (682249) for Business Accounts.

- 5. Fees.** For fee information, please refer to Section M of this Agreement for the [Digital Services Fee Schedule](#). M&T does not currently charge a fee for M&T Mobile Banking. However, you are responsible for any data or text message charges or other fees you may incur that may be billed by your mobile carrier. Check with your mobile carrier for details on specific fees and charges that may be applicable.

## **G. M&T Mobile Deposit (for Business Accounts)**

This section sets forth the terms and conditions specific to M&T's Mobile Deposit Service ("MDS"). By enrolling in or using MDS, you agree to be legally bound by this section and the entire M&T Digital Services Agreement. Please see Section A2 for more information. MDS allows you to deposit certain checks into certain deposit accounts (i.e., the Billing Account) that are eligible to receive mobile check deposits ("Mobile Deposit Accounts") (see the Frequently Asked Questions, or FAQs, at <https://www.mtb.com/mobiledeposit> for a current listing of Mobile Deposit Accounts) via an application (the "App") installed on your supported mobile device. The App is considered part of the MDS. MDS is only available for eligible Business customers.

- 1. Miscellaneous.** For purposes of this section, the terms "we," "us," "our," and "M&T" refer not only to M&T Bank or our affiliates but also to third parties who assist M&T in providing the MDS ("Third Party Service Providers"). If there is a conflict between other provisions of the M&T Digital Services Agreement and this section, this section shall control concerning the MDS. If any portion of this section is deemed invalid or unenforceable, the remaining portions shall nevertheless remain in force.
- 2. Fee.** You agree to pay us a fee for the service as set forth in our fee schedule and as may be changed from time to time. **For fee information, please refer to Section M of this Agreement for the [Digital Services Fee Schedule](#).**
- 3. Equipment.** To use MDS, you must have a supported mobile device (e.g., smartphone, iPad, etc.) with a supported camera and a supported operating system, have a data plan for your mobile device, and download the App to your mobile device (collectively, the "MDS Mobile Device"). A list of MDS Mobile Devices (including the mobile device cameras, and mobile device operating systems) that we support for this service and instructions for downloading the App for such MDS Mobile Devices are available in the Guides. We do not guarantee that your particular mobile device, mobile device camera, mobile device operating system or mobile carrier will be compatible with MDS.
- 4. Limitations.** When using MDS, you may experience technical or other difficulties. We do not assume responsibility for any such difficulties or any resulting Damages that you may incur. For security reasons, MDS has qualification requirements and we reserve the right to change the requirements at any time without prior notice. We reserve the right to change, suspend or discontinue MDS, in whole or in part, or your use of MDS, in whole or in part, immediately and at any time without prior notice to you. We reserve the right to limit the number of mobile devices through which you may access MDS.

Except as expressly provided in this section, deposits made through MDS are subject to all limitations and terms set forth in the relevant deposit agreement governing your Mobile Deposit Account as it may be modified from time to time, including, but not limited to, those related to deposit acceptance, crediting, collection, endorsement, processing order and errors.

- 5. Eligible Checks and Items.** You agree (i) to scan and transmit only checks as that term is defined in Federal Reserve Regulation CC ("Reg CC") and only those checks that are permissible under this section or such other items as we, in our sole discretion, elect to include under MDS; (ii) that the image of the check transmitted to

us shall be deemed an "item" within the meaning of Article 4 of the applicable Uniform Commercial Code; and (iii) that you will **not** use MDS to scan and deposit any of the following checks or other items:

- a. Checks or items payable to any person or entity other than you, or to you and another party.
- b. Checks or items containing alteration to any of the fields on the front of the check or item (including the MICR line), or which you know or suspect, or should know or suspect, are fraudulent or otherwise not authorized by the owner of the account on which the check or item is drawn.
- c. Checks or items previously converted to a substitute check, as defined in Reg CC.
- d. Checks or items drawn on a financial institution located outside the United States.
- e. Checks or items that are remotely created checks, as defined in Reg CC or other remotely created items.
- f. Checks or items not payable in United States currency.
- g. Checks or items dated more than 6 months prior to the date of deposit.
- h. Checks or items on which a stop payment order has been issued or for which there are insufficient funds.
- i. Checks or items prohibited by our current procedures relating to MDS or which are otherwise not acceptable under the terms of your Mobile Deposit Account.

Nothing in this section should be construed as requiring M&T to accept any check or item for deposit, even if M&T has accepted that type of check or item previously. Nor shall M&T be required to identify or reject any checks or items that you may scan and deposit that fail to meet the requirements of this section.

- 6. Security of Your Mobile Device and Account Information.** You are responsible for (i) maintaining the confidentiality and security of your Mobile Devices, access number(s), password(s), security question(s) and answer(s), account number(s), login information, and any other security or access information, used by you to access the MDS (collectively, "MDS Access Information"), and (ii) preventing unauthorized access to or use of the information, files or data that you store, transmit or use in or with the MDS (collectively, "Account Information"). You agree not to supply your MDS Access Information to anyone. You will be responsible for all electronic communications, including image transmissions, email and other data (referred to in MDS section as "Communications") entered using the MDS Access Information. Any Communications received through the use of the MDS Access Information will be deemed to be sent or authorized by you. You agree to immediately notify us if you become aware of any loss, theft or unauthorized use of any MDS Access Information, including your Mobile Devices. We reserve the right to deny you access to MDS (or any part thereof) if we believe that any loss, theft or unauthorized use of MDS Access Information has occurred.
- 7. Image Quality.** The image of a check or item transmitted to M&T using MDS must be clear and legible. The image quality of the checks and items must comply with the standards established from time to time by the American National Standards Institute, or any higher standard set by us, and with any requirements set by any clearing house we use or agreement we have with respect to processing checks or items. You agree that we shall not be liable for any Damages resulting from the poor image quality of a check or other item, including those related to rejection of or the delayed or improper crediting of such a check or item, or from any inaccurate information you supply regarding the check or item.
- 8. Endorsements and Procedures.** Before transmission, you agree to restrictively endorse any check or item transmitted through MDS as "For deposit only, M&T account #\_\_\_\_\_" or as otherwise instructed by M&T. You agree to follow any and all other procedures and instructions for use of MDS as we may establish from time to time. You agree to supply any information in your possession that we request regarding a check or item deposited or attempted to be deposited through MDS.

- 9. Receipt of Checks and Items; Crediting.** We reserve the right to reject any check or item transmitted through MDS, at our discretion, without liability to you. We are not responsible for checks or items we do not receive in accordance with this section or for images that are dropped or damaged during transmission. An image of a check or item shall be deemed received when you receive a confirmation from M&T that we have received the image. Receipt of such confirmation does not mean that the transmission was error free, able to be processed or complete or that funds will be credited for that check or item.

As provided in the relevant deposit agreement governing your Mobile Deposit Account and the applicable M&T's funds availability policy, deposits received and accepted before a particular time of the day (the "Cutoff Time") on a Business Day are credited on the same day and deposits received and accepted after the Cutoff Time on a Business Day are credited on the next Business Day. M&T may establish later Cutoff Times for checks and items deposited via MDS, crediting your Mobile Deposit Account for such checks and items even if received and accepted after the applicable Cutoff Time specified in the relevant deposit account agreement governing your Mobile Deposit Account. In the event that M&T establishes later Cutoff Times for checks and items deposited via MDS, we reserve the right to change the Cutoff Times at any time as permitted by law. Regardless of whether M&T establishes later Cutoff Times for checks and items deposited via MDS, you understand and agree that checks and items must be received and accepted by M&T before the applicable Cutoff Time and must not be incomplete, illegible or erroneous to be eligible for same-day crediting. See the Guide for details on Cutoff Time for MDS.

- 10. Availability of Funds.** We will make funds available for checks and items received, accepted, and successfully processed through MDS according to our standard funds availability policy for your Mobile Deposit Account. For more information, see the FAQs and account disclosures.
- 11. Disposal of Transmitted Checks and Items.** After a check or item has posted to your account (see the FAQs for more details), you agree to prominently mark the check or item as "Electronically Presented" or "VOID." You agree never to represent to us or any other party a check or item that has been deposited through MDS unless we notify you that the check or item has not been accepted for deposit through MDS. You will promptly provide any check or item, or a sufficient copy of the front and back of the check or item, to M&T as requested to aid in the clearing and collection process, to resolve claims by third parties with respect to any check or item, or for M&T's audit purposes. You agree to safeguard and keep the original item for at least seventy calendar days after you have transmitted the item. You shall consult your legal counsel on the appropriate retention timeframe (exceeding seventy calendar days) for original paper Items based on your organizational requirements. You agree to destroy or otherwise properly dispose of checks and items that have been accepted for deposit through MDS and have cleared to ensure that such checks and items are not represented for payment and, prior to disposal or destruction, to safeguard such checks and items. You shall create and maintain written policies and procedures for the safe and secure retention and subsequent destruction of the original paper Items and/or copies of such Items.
- 12. Deposit Limits.** We reserve the right to impose limits on the amount(s) and/or number of deposits (over a period of time set by us) that you transmit using MDS. Deposits are subject to verification.
- 13. Presentment.** The manner in which the checks and items are cleared, presented (or represented) for payment, and collected shall be in M&T's sole discretion as set forth in the relevant deposit account agreement governing your Mobile Deposit Account.
- 14. Promises You Make to Us; Indemnity.** You warrant to M&T that:
- a. You will only transmit eligible checks and items that you are entitled to enforce; all checks and items will include all signatures required for their negotiation.
  - b. Images will meet M&T's image quality standards in effect from time to time.

- c. You will not transmit an image or images of the same check or item to us more than once and will not deposit or negotiate, or seek to deposit or negotiate, such check or item with any other party.
- d. You will not deposit or represent the original check or item with M&T or any other party.
- e. All information you provide to M&T is accurate and true, including that all images transmitted to M&T accurately reflect the front and back of the check or item at the time it was scanned.
- f. You will comply with this section and all applicable rules, laws and regulations.
- g. You will use MDS only for your own deposits and will not allow the use of MDS by way of a service bureau business, timesharing, or otherwise disclose or allow use of MDS by or for the benefit of any third party.

You agree to indemnify and hold harmless M&T from any loss for breach of this warranty provision or the terms of this section.

**15. Changes to MDS.** We reserve the right to terminate, modify, add and remove features from MDS at any time in our sole discretion. You may reject changes by discontinuing use of MDS. Your continued use of MDS will constitute your acceptance of and agreement to such changes. Maintenance to MDS may be performed from time to time resulting in interrupted service, delays or errors in MDS and we shall have no liability for any such interruptions, delays or errors. Attempts to provide prior notice of scheduled maintenance will be made, but we cannot guarantee that such notice will be provided.

**16. Cancellation By You; Termination, Suspension, or Refusal By Us.** You may cancel MDS at any time by calling 1-800-724-6070 and allowing us a reasonable opportunity to act upon your request. If you cancel, we will not refund any portion of any fee assessed for any checks and items previously deposited via MDS. We will have no obligation to honor any instruction, in whole or in part, that (i) we reasonably believe is used for any illegal or improper purpose or activity; (ii) we have reason to believe may not be authorized by you; (iii) would violate any law, rule or regulation applicable to us or MDS; (iv) is not in accordance with any other requirement stated in this section or any of our policies, procedures or practices; or (v) for our protection or yours, we have reasonable cause not to honor. We reserve the right in our sole discretion to refuse to honor an instruction, terminate your access to MDS, or suspend or terminate MDS, in whole or in part, at any time, with or without notice to you, with or without cause, including, without limitation, if: (a) we have reason to believe that your account has been compromised or mismanaged in any way, such as by unauthorized or erroneous use of your MDS Access Information; (b) we believe MDS is not being used for its intended, bona fide and lawful purposes under this section and the Agreement; (c) we have reason to believe MDS is being used in an anti-competitive manner or contrary to M&T's business interests; (d) your account is closed or access to your account is restricted for any reason; (e) you do not use MDS during any 90-day period; or (f) due to a change in law, regulation, or regulatory directive or guidance. Any cancellation, termination or refusal, whether or not described above, by us will not affect your liability or obligations under this section for actions we have taken on your behalf, or this Agreement or any other agreements you have with us.

**17. Ownership and License.** You agree that M&T retains all ownership and proprietary rights in MDS, associated content, technology, and website(s). You agree not to copy, disassemble, decompile, or otherwise reverse engineer any part of MDS, including the App. You may use MDS only for your own benefit. You may not copy, reproduce, distribute or create derivative works from the content and agree not to reverse engineer or reverse compile any of the technology used to provide MDS. In the event that you attempt to use, copy, license, sublicense, sell or otherwise convey or to disclose the App or any other part of MDS, in any manner contrary to the terms of this section, we shall have, in addition to any other remedies available to us, the right to injunctive relief enjoining such actions.

**18. Third Party Beneficiary.** You agree that our Third Party Service Providers, including Fiserv Solutions, Inc., may rely upon the provisions of this Agreement, including its disclaimer of warranties and any limitations of liability

and that such Third Party Service Providers are, for the purpose of this Agreement, third party beneficiaries to this Agreement with the power to enforce this Agreement.

## **H. FinanceWorks™ (for Personal Accounts and Business Accounts)**

This section (also referred to as FinanceWorks Agreement) sets forth the terms and conditions specific to the FinanceWorks™ service. By enrolling in or using this service, you agree to be legally bound by this section and the entire M&T Digital Services Agreement. Please see Section A2 for more information.

FinanceWorks service (the "FW Service") allows you to retrieve, view and maintain information regarding your accounts with M&T and select, unaffiliated providers of financial services ("Other Financial Institutions") through a single website. The FW Service also allows you to track your spending habits, categorize your expenses and measure your progress against budgeting "goals" that you set.

In this section on the FW Service, the terms "we," "us," "our," and "M&T" refer not only to M&T Bank or our affiliates but also to third parties who assist M&T in providing the FW Service ("Third Party Service Providers"). If there is a conflict between other provisions in this Agreement and this section, this section shall control concerning issues pertaining to the FW Service.

1. **Fees.** You agree to pay us a fee for the FW Service as set forth in our fee schedule and as may be changed from time to time. **For fee information, please refer to Section M of this Agreement for the [Digital Services Fee Schedule](#).**
2. **License Grant and Restrictions.** For Consumers, you are granted a personal, limited, non-exclusive, non-transferable license, to electronically access and use the software which operates the FW Service (the "Software"), solely to manage your financial data for personal, family or household purposes. For Businesses, you are granted a limited, non-exclusive, non-transferable license, to electronically access and use the software which operates the FW Service (the "Software"), solely to manage your financial data (and not the financial data of your customers or other third parties). You agree not to resell or make any commercial use of the FW Service.

As used in this section, the term "Software" includes any other programs, tools, internet-based services, components and any "updates" (for example, Software maintenance, service information, help content, bug fixes, or maintenance releases, etc.) of the Software that is made available to you. Certain Software may be accompanied by, and will be subject to, additional terms. You are not licensed or permitted to do any of the following and shall not allow any third party to do any of the following: (i) access or attempt to access any other systems, programs or data that are not made available for public use; (ii) copy, reproduce, republish, upload, post, transmit, resell or distribute in any way the material from our website; (iii) permit any third party to benefit from the use or functionality of the Software or FW Service via a rental, lease, timesharing, service bureau, or other arrangement; (iv) transfer any of the rights granted to you under this license; (v) work around any technical limitations in the Software, use any tool to enable features or functionalities that are otherwise disabled in the Software, or decompile, disassemble, or otherwise reverse engineer the Software except as otherwise permitted by applicable law; (vi) perform or attempt to perform any actions that would interfere with the proper working of the Software or FW Service, prevent access to or the use of the Software or FW Service by other licensees or customers, or impose an unreasonable or disproportionately large load on the infrastructure; or (vii) otherwise use the Software except as expressly allowed under this section.

3. **Ownership of Rights to FW Service and Software.** You acknowledge and agree that we own all rights in and to the FW Service and the Software. You are permitted to use the FW Service only as expressly authorized by this section.

4. **Security of Your Account Information.** When in your possession, you are responsible for (i) maintaining the confidentiality and security of your access number(s), password(s), security question(s) and answer(s), account number(s), login information, and any other security or access information, used by you to access the Software, FW Service and accounts at Other Financial Institutions (collectively in this section, "Access Information"), and (ii) preventing unauthorized access to or use of the information, files or data that you store or use in or with the Software and the FW Service, including information from Other Financial Institutions regarding account balances, transactions, debits, deposits and trades (collectively, "Account Information").

If you supply your Access Information to another person, you are responsible for his or her use of the Software and FW Service and you must ensure that he or she complies with this agreement as such pertains to the FW Service. You will be responsible for all electronic communications, including account registration and other account holder information, email and financial, accounting and other data (in this section referred to as "Communications") entered using the Access Information. Any Communications received through the use of the Access Information will be deemed to be sent or authorized by you. You agree to immediately notify us if you become aware of any loss, theft or unauthorized use of any Access Information. We reserve the right to deny you access to the Software or the FW Service (or any part thereof) if we reasonably believe that any loss, theft or unauthorized use of Access Information has occurred.

For us to display information regarding your accounts at Other Financial Institutions, you must provide us with the Access Information you use to access the websites maintained by such institutions. You hereby grant to us permission to use this Access Information to provide the FW Service to you, address errors or FW Service interruptions and to enhance the types of data and FW Services we may provide to you in the future.

You should read the agreements you have with Other Financial Institutions (and any third parties they may employ), as supplying us with your Access Information may place you in breach of such agreements. You agree to comply with any Access Information restrictions or limitations set forth in those agreements.

If you change the Access Information associated with an account you maintain at an Other Financial Institution, you must notify us immediately. If you do not, our regular attempts to update the information regarding that account using outdated Access Information may lock you out of the website maintained by the Other Financial Institution. We shall have no liability to you if this occurs or if you are otherwise harmed by our attempts to gain access to your accounts at Other Financial Institutions with outdated Access Information.

You understand that by consolidating your financial information on the FW Service, someone with the Access Information for the FW Service could gain access to all of your Account Information. Except as set forth in this Agreement with respect to accounts you maintain with us, we will have no liability to you for any Damages of any kind associated with any such unauthorized access.

5. **Your Use of the FW Service.** In connection with your use of the Software and FW Service and as part of their functionality, you may have access to certain functions that may be made available by us ("Functions"), including online banking and online investment account download. The Software is designed to allow you to access these Functions (if and to the extent provided by us) to set up banking information, schedule the Software to access your accounts at Other Financial Institutions, download Account Information into the Software and otherwise aggregate information from your accounts with us and Other Financial Institutions. You acknowledge and agree that, from time to time or permanently, you may not be able to use the Software to access Account Information for accounts you may have with us and Other Financial Institutions and you agree that we will have no liability whatsoever for any actions or inactions on the part of Other Financial Institutions resulting in your inability to use the Software to access Account Information, obtain data, download transactions, or otherwise use or access the Functions. We do not review, approve, monitor, endorse, warrant, or make any representations with respect to the Other Financial Institutions whose accounts you may access through the FW Service, except for affiliates of M&T Bank.

**6. Collection of Account Information from Other Financial Institutions.** You acknowledge that in accessing Functions through the Software, the Access Information and Account Information associated with accounts at Other Financial Institutions may be collected and stored in the Software. You authorize us and our third party vendors, in conjunction with the operation and hosting of the Software, to use your Access Information to (i) collect your Account Information, (ii) reformat and manipulate your Account Information, (iii) create and provide hypertext links to your Other Financial Institutions, (iv) access the websites of Other Financial Institutions using your Access Information, and (v) take such other actions as are reasonably necessary to perform the actions described in (i) through (iv).

You represent to us that that you are the legal owner of every account at an Other Financial Institution for which you supply us with Access Information and that you have the authority to give us Access Information for every such account and permit us to provide you with FW Service regarding every such account without violating the rights of any third party. You further represent that you have the authority to appoint us as your attorney-in-fact. You hereby grant us, as your true and lawful attorney-in-fact, with full power of substitution and re-substitution, for you and in your name, place and stead, in any and all capacities, to access web sites of Other Financial Institutions, retrieve Account Information, and use your Access Information and Account Information, for the purpose of accessing your accounts and operating the FW Service, with full power and authority to do and perform each and every act and thing requisite and necessary to be done in connection with such activities, as fully to all intents and purposes as you might or could do in person. Once we have actual knowledge that you wish to cease using the FW Service as provided in this section or as otherwise permitted in this agreement and have a reasonable opportunity to act on such knowledge, this limited power of attorney is automatically revoked; provided, however, that any act done by us in good faith before we have actual knowledge of termination by you shall be deemed to be authorized by you.

You further acknowledge that we do not review your Account Information, and you agree that we are not responsible for its completeness or accuracy. We do not have the capacity to initiate transactions affecting your accounts at Other Financial Institutions or provide notices or instructions regarding accounts you have at Other Financial Institutions. We assume no responsibility for any such transactions, notices or instructions. When you access a website of an Other Financial Institution through the FW Service, you open a new browser window to directly connect you to that website and submit information you have designated to allow further access to that site. YOU UNDERSTAND AND AGREE THAT WHEN WE ACCESS INFORMATION FROM AN OTHER FINANCIAL INSTITUTION, WE ACT AS YOUR AGENT AND NOT AS AN AGENT ON BEHALF OF THE OTHER FINANCIAL INSTITUTION. You are solely responsible for any charges assessed by an Other Financial Institution.

**7. Limitations on Information from website of Other Financial Institutions.** You acknowledge and agree that (i) Other Financial Institutions may not allow the Software to access your Account Information, (ii) Other Financial Institutions may make changes to their websites, with or without notice to us, that may prevent, delay or otherwise adversely affect proper aggregation or presentation of Account Information from such websites, and (iii) the Software "refreshes" Account Information nightly, so your most recent transactions may not be reflected in any account balances or other information presented to you in the Software. If you see a discrepancy in the Account Information, and in any case before making any transactions or decisions based on such account information presented in the Software, you should check the last refresh date for the account and confirm that the Account Information is correct by following the link back to the applicable Other Financial Institution or otherwise confirm that the Account Information is up to date and accurate. The information provided through the FW Service is for informational purposes only and is not intended for trading or transactional purposes. For the most up-to-date Account Information regarding accounts with Other Financial Institutions, you should contact those institutions directly.

**8. Changes to the FW Service.** We reserve the right to terminate, modify, add and remove features from the Software or FW Service at any time in our sole discretion. You may reject changes by discontinuing use of the Software and FW Service to which such changes relate. Your continued use of the Software or FW Service will constitute your acceptance of and agreement to such changes. Maintenance to the Software or FW Service may be performed from time to time resulting in interrupted FW Service, delays or errors in the Software or

FW Service and we shall have no liability for any such interruptions, delays or errors. Attempts to provide prior notice of scheduled maintenance will be made, but we cannot guarantee that such notice will be provided.

- 9. Cancellation.** You may cancel the FW Service at any time by calling 1-800-790-9130 and allowing us a reasonable opportunity to act upon your request. If you cancel, we will not refund any portion of any fee you have paid for the FW Service during the cycle in which you cancel.

We will have no obligation to honor any instruction, in whole or in part, that (i) we reasonably believe is used for any illegal or improper purpose or activity; (ii) we have reason to believe may not be authorized by you; (iii) would violate any law, rule or regulation applicable to us or the FW Service; (iv) is not in accordance with any other requirement stated in this section or any of our policies, procedures or practices; or (v) for our protection or yours, we have reasonable cause not to honor.

We reserve the right to refuse to honor an instruction or suspend or terminate the FW Service, in whole or in part, at any time with or without cause and with or without notice, and may immediately do so including, without limitation, if: (a) we have reason to believe that your account has been compromised or mismanaged in any way, such as by unauthorized or erroneous use of your Access Information; or (b) we believe the FW Service is not being used for its intended, bona fide and lawful purposes under this section and the entire M&T Digital Services Agreement; or (c) your account is closed, access to your account is restricted for any reason, or you do not use the FW Service for a period of time after being notified by us.

Termination will not affect your liability or obligations under this section or the rest of this Agreement for actions we have taken on your behalf.

- 10. Privacy (for Consumers).** This sub-section applies only to information about individuals using the FW Service primarily for personal, family or household purposes. Our Privacy Policy states our promise to protect your financial information and use it responsibly. Through the FW Service, you are able to aggregate information about your accounts with M&T and Other Financial Institutions so that you may view them in one online location. We will use such information to help improve your personal use of the FW Service, and to understand what product or FW Service offers would best meet your needs. This information is subject to all of the protections set forth in our Privacy Policy. In addition to these protections, you may at any time choose to limit our use of Account Information from M&T and/or Other Financial Institutions for marketing purposes by following the instructions set forth in our Privacy Policy in the section captioned "To Limit Our Sharing."
- 11. Privacy (for Businesses).** Information about companies or individuals using the FW Service for business and commercial purposes is treated as set forth in Section L. Through the FW Service, you are able to aggregate information about your accounts with M&T and Other Financial Institutions so that you may view them in one online location. We will use such information to help improve your personal use of the FW Service, and to understand what product or FW Service offers would best meet your needs.
- 12. Third Party Beneficiary.** You agree that our Third Party Service Providers, including Digital Insight, may rely upon your authorization and grant of a limited power of attorney, disclaimer of warranties and any limitations of liability contained in this section or Agreement pertaining to the FW Service and Section L, and that such Third Party Service Providers are, for the purpose of this Agreement, third party beneficiaries to this Agreement with the power to enforce this Agreement.
- 13. Securities Quotations.** WE MAKE NO REPRESENTATIONS, WARRANTIES OR OTHER GUARANTEES AS TO THE ACCURACY, COMPLETENESS OR TIMELINESS OF ANY PRICE QUOTES, NOR DO WE MAKE ANY REPRESENTATIONS, WARRANTIES OR OTHER GUARANTEES AS TO THE PRESENT OR FUTURE VALUE OR SUITABILITY OF ANY SALE, TRADE OR OTHER TRANSACTION INVOLVING ANY PARTICULAR SECURITY OR ANY OTHER INVESTMENT. You understand that we are not a broker or dealer in securities and we are not an investment or financial advisor. You are solely responsible for your investment research. Prior to undertaking

any securities transaction, you should consult a broker or other financial advisor with respect to the price, suitability, value or other aspects of any stock, mutual fund, security or other investment.

- 14. FinanceWorks Alerts.** In addition to the other types of alerts that we provide through other Digital Services, the FW Service enables you to receive a notice via email concerning account Information. We refer to these notices in this section as “FW Alerts.” Through the FW Service, you can set certain types of alerts for your accounts with M&T and Other Financial Institutions. You are responsible for determining the criteria that govern the FW Alerts, and the FW Service will send FW Alerts to you based upon the instructions you provide to us. Your instructions are neither reviewed nor verified by us prior to or following the activation of any FW Alert. At any point, you can enable or disable an FW Alert, or delete the FW Alert altogether. We do not guarantee the delivery or the accuracy of the contents of each alert. FW Alerts are also subject to the other terms of this Agreement that are applicable to all alerts.

### **I. Direct Connect (for Personal Accounts and Business Accounts)**

This section (also referred to as the Direct Connect Agreement) sets forth the terms and conditions specific to M&T’s Direct Connect service (the “DCS”), which allows you to view account information and initiate payments and transfers through compatible personal financial management software installed on your computer. If there is a conflict with other sections of this Agreement and this section pertaining to DCS, this section shall control. In this section, “PFM Software” means personal financial management software compatible with M&T Online Banking. By enrolling in or using DCS, you agree to be legally bound by this section and the entire M&T Digital Services Agreement. Please see Section A2 for more information.

- 1. Fee.** Once you enroll, you agree to pay us a fee for DCS as set forth in our fee schedules and as may be changed from time to time. **For fee information, please refer to Section M of this Agreement for the [Digital Services Fee Schedule](#).**
- 2. Software Requirements.** To access DCS, you must have the Equipment and Software specified for M&T Online Banking. Additionally, you must have PFM Software compatible with M&T Online Banking. For Consumers, details regarding compatible PFM Software (and versions thereof) are available at <https://mtb.com/directconnectrequirements>. For businesses, details regarding compatible PFM Software (and versions thereof) are available at <https://mtb.com/businessdirectconnectrequirements>. In general, DCS is designed to work with current versions of PFM Software, subject to support by the vendor of the PFM software. Unless otherwise noted, instructions on how to use PFM Software provided through M&T’s Website are supplied by the manufacturer(s) of compatible PFM Software and the accuracy of such instructions has not been verified by M&T. We do not review, approve, monitor, endorse, warrant, or make any representations with respect to PFM Software, and the inclusion of any reference to a particular brand of PFM Software in DCS is not and does not imply an affiliation, sponsorship, endorsement, approval, investigation, verification or monitoring by us of any information contained in any PFM Software. In no event will we be responsible for the information contained in such PFM Software or for your use of or inability to use such PFM Software. PFM Software access and use is at your own risk.
- 3. Your Use of the Direct Connect Service.** To the extent supported by your PFM Software, you may use DCS to obtain information regarding Eligible Accounts, pay select bills from an eligible checking account and transfer money between your Eligible Accounts subject to the following:
  - a) Eligible Account information that you obtain through PFM Software generally does not include transactions that have posted to your account since the end of the prior Business Day.
  - b) M&T does not review or have any control over the on-screen instructions, messages, prompts, menus or fields (collectively, “PFM Software Directions”) displayed in or provided by or through the PFM Software. If these PFM Software Directions are in any way unclear, you should contact the manufacturer of your PFM Software for clarification.

c) Except as provided in this section, bill payments and transfers of money initiated through your PFM Software are subject to the same limitations and restrictions (including cutoff and processing times) applicable to bill payments and transfers of money initiated through M&T Online Banking and M&T Online Bill Pay service as described elsewhere in this Agreement. In addition to complying with the limitations and restrictions applicable to bill payments and transfers of money initiated through the M&T Online Banking services, to qualify for the reimbursement of the losses or Damages described in this Agreement, any bill payment or transfer of money initiated through the PFM Software must have been initiated in compliance with the PFM Software Directions and the failure to properly complete the bill payment or funds transfer must not have been caused in whole or in part by the PFM Software or the PFM Software Directions.

d) Certain payment and transfer options and other functions available through the M&T Online Banking services may not be available through the PFM Software. In addition, information available directly through the M&T Online Banking services may not be available via the PFM Software, may be described using different terminology or may be more current than the information available via the PFM Software. The method of entering instructions via the PFM Software may also differ from the method of entering instructions directly through the M&T Online Banking services. We are not responsible for such differences, whether or not attributable to your use of the PFM Software.

e) In the event that you wish to contact us via email regarding DCS or Eligible Accounts, you agree to do so via the secure internal electronic messaging service available through the M&T Online Banking services and not via any messaging feature available through the PFM Software.

f) You agree to use DCS exclusively for lawful purposes. You acknowledge and agree that we own all rights in and to DCS. You are permitted to use DCS only as expressly authorized by this section.

DCS is fully integrated with M&T's Online Banking services, which are accessible through the Internet. Accordingly, after you submit an instruction through your PFM Software, you can immediately log on to M&T Online Banking and/or the M&T Online Bill Pay service and confirm M&T's receipt of that instruction. You may also be able to cancel, edit or modify that instruction through M&T Online Banking and/or the M&T Online Bill Pay service, subject to the limitations on such actions set forth in this Agreement. Given that DCS is fully integrated with the M&T Online Banking services, we strongly recommend that you log on to the M&T Online Banking services and confirm any information obtained from or instructions submitted through your PFM Software, particularly if you believe that such information is inaccurate or such instructions were not properly submitted or processed. If you cannot confirm the information or instructions through the M&T Online Banking services, you should contact us immediately.

**4. Security of Your Account Information.** PFM Software accesses DCS using your confidential Access Codes and, as such, anyone with access to your PFM Software may also gain access to your account information. You agree to safeguard the computer or other device running your PFM Software by, for example, protecting it with a password. You also agree to immediately notify us if you become aware of any loss, theft or unauthorized use of the computer or device on which you have installed PFM Software. We reserve the right to deny you access to DCS (or any part thereof) if we reasonably believe that any loss, theft or unauthorized use of the PFM Software or the computer on which it runs has occurred. You understand that the manufacturer of your PFM Software is not under M&T's control and is not subject to M&T's Privacy Policy or information security procedures.

**5. Changes to DCS.** We reserve the right to terminate, modify, add and remove features from DCS at any time in our sole discretion. You may reject changes by discontinuing use of DCS. Your continued use of DCS will constitute your acceptance of and agreement to such changes. Maintenance to DCS may be performed from time to time resulting in interrupted service, delays or errors in DCS and we shall have no liability for any such interruptions, delays or errors. Attempts to provide prior notice of scheduled maintenance may be made, but we cannot guarantee that such notice will be provided.

6. **Cancellation.** You may cancel DCS at any time by calling us at 1-800-790-9130 and allowing us a reasonable opportunity to act upon your request. If you cancel, we will not refund any fee you have paid for DCS during the cycle in which you cancel.

We will have no obligation to honor any instruction, in whole or in part, that we have reason to believe (i) is used for any illegal or improper purpose or activity; (ii) may not be authorized by you; (iii) would violate any law, rule or regulation applicable to us or DCS; (iv) is not in accordance with any other requirement stated in this section or any of our policies, procedures or practices; or (v) is necessary for our protection or yours. We reserve the right to refuse to honor an instruction or suspend or terminate DCS, in whole or in part, at any time with or without cause and with or without notice, and may immediately do so including, without limitation, if: (a) we have reason to believe that your account has been compromised or mismanaged in any way, such as by unauthorized or erroneous use of your Access Information; or (b) we believe DCS is not being used for its intended, bona fide and lawful purposes under this Agreement; or (c) your account is closed, access to your account is restricted for any reason, or you do not use DCS for a period of time after being notified by us.

Termination will not affect your liability or obligations under this agreement for actions we have taken on your behalf.

7. **Liability. WE SHALL NOT BE LIABLE FOR ANY ERROR THAT RESULTS FROM (A) OUR ACTING OR FAILING TO ACT ON INFORMATION TRANSMITTED TO US THROUGH YOUR PFM SOFTWARE THAT, WHEN DELIVERED TO US, IS ERRONEOUS, INCOMPLETE OR NOT COMPATIBLE WITH DCS OR THE M&T ONLINE BANKING SERVICES; (B) YOUR FAILURE TO PROPERLY USE THE PFM SOFTWARE OR TO FOLLOW THE PFM SOFTWARE DIRECTIONS; OR (C) YOUR RELIANCE ON UNCLEAR OR ERRONEOUS PFM SOFTWARE DIRECTIONS. SEE SECTION L FOR ADDITIONAL LIMITATIONS ON LIABILITY.**

8. **Miscellaneous.** You agree not to resell DCS. You also agree to use DCS exclusively to access your own Eligible Accounts and not to access or to permit anyone else to access the accounts of your customers or other third parties.

## **J. Credit Score (for Personal Accounts)**

This section (also referred to as the Credit Score Agreement) sets forth the terms and conditions specific to the Credit Score service that enables you to access certain credit score information provided by Equifax (in this section referred to as the "CSS"). The credit score information within CSS is provided by Equifax Consumer Services LLC and its affiliates and suppliers and for the purposes of this section and the provision of CSS, references to "we" or "us" includes M&T Bank and Equifax and each of their affiliates, subsidiaries and suppliers. If there is a conflict with other sections of this M&T Digital Services Agreement and this section, this section shall control concerning CSS. By enrolling in or using CSS, you agree to be legally bound by this section and the entire M&T Digital Services Agreement. Please see Section A2 for more information.

**NOTICE: CSS, and any information within CSS, does not constitute a "Credit Repair Clinic" or a "Credit Repair Service." We do not claim that we can "clean up" or "improve" your credit record, credit history, credit rating, or debt-to-income ratio and we do not give advice or assistance concerning these matters.**

1. **Equifax and Provision of Product.** CSS allows you to view your FICO® credit score and key factors affecting your score (provided by Equifax). The credit score information within CSS is provided by Equifax and will include a single credit score each month and related information and may also include offers of products or services from Equifax and its affiliates. To prepare information within CSS, Equifax relies on information provided in whole or in part by third parties and you should note that we have no control over those parties or the accuracy of the information that they provide. Your submission of a request for CSS constitutes your agreement to abide by each of the terms and conditions of this section.

- 2. Request for Product.** In addition to all disclaimers of warranty contained in the Agreement, you acknowledge and agree that no warranty or guarantee of any kind is provided with respect to CSS or the underlying credit information. You agree that by requesting CSS you are providing "written instructions" in accordance with the Fair Credit Reporting Act ("FCRA") and you authorize and instruct Equifax to obtain, monitor, and compile your credit information in order to provide CSS to you and you authorize us to provide CSS to you through the Website. You agree that CSS is provided for informational purposes only and is intended to provide helpful information concerning the subjects that it addresses. You agree that by processing your request for CSS as provided herein, M&T is not acting as a credit reporting agency or a credit repair organization, and we are not offering to sell, provide or perform any service to you for the express or implied purpose of either improving your credit record, credit history or credit rating or providing advice or assistance to you with regard to improving your credit record, credit history or credit rating. You acknowledge and agree that information within CSS is based on a statistical analysis of information contained in your credit file, and neither you nor anyone else has the right to have accurate and current information removed from your credit report. However, if information in your report is inaccurate, you have the right to dispute it by contacting Equifax Information Services LLC ("EIS"), the nationwide credit reporting company that maintains the credit file information relied upon to prepare CSS. Under the FCRA, you have the right to receive certain credit report information at no cost during specified time periods and/or under certain circumstances from each of the three national credit reporting agencies (Experian, Equifax, and TransUnion). You are entitled to at least one free credit report from each credit reporting company per year. To access your free report, please go to [www.annualcreditreport.com](http://www.annualcreditreport.com). In addition, you may also be entitled to receive additional credit reports without charge (or for a nominal fee) if you believe your credit report contains inaccurate or incomplete information. Furthermore, if you wish to obtain additional credit reports for reasons other than those described herein, you can go to [www.equifax.com](http://www.equifax.com) and purchase these Equifax Credit Reports. You may also be able to receive free credit reports as permitted by state law. For information on obtaining free credit report information, you may contact Experian, Equifax or TransUnion at [www.experian.com](http://www.experian.com), [www.equifax.com](http://www.equifax.com) and [www.transunion.com](http://www.transunion.com).
- 3. Fees; Content; Questions.** Once you enroll, CSS will be provided each month for a monthly fee. **For fee information, please refer to Section M of this Agreement for the [Digital Services Fee Schedule](#).** The fee will be charged on the last day of each monthly service charge cycle for your account. You may cancel at any time; however, we do not provide partial or prorated refunds. Your price may be lower depending on your checking account type and your Custom Add-on selections. Each month, CSS will include one credit score (and related information). The payment of your monthly fee will be made automatically by a direct charge to the M&T checking account that you select (referred to in this section as your "Account"). You authorize us to initiate pre-authorized transfers from your Account in the amount of each monthly enrollment fee. Your request for CSS and agreement to these Terms is your written authorization to pay your recurring monthly enrollment fees. You may cancel your enrollment in CSS as described below. Unless you cancel prior to any monthly charge, your enrollment will continue automatically, and you will be charged the monthly fee. Any questions or disputes regarding the accuracy of any information in CSS must be directed to, and will be handled by, Equifax.
- 4. Term.** Your enrollment in CSS will continue on a month-to-month basis until either you or we cancel as described below.
- 5. Changes to Section.** We reserve the right to amend this section in accordance with this Agreement. We may terminate, suspend, change, or restrict access to all or any part of CSS at any time without notice or liability.
- 6. Cancellation.** This section is effective until terminated by either you or us as described below. If you want to terminate your right to continue receiving CSS, you may do so by: (a) selecting the "Cancel Credit Score" link at the bottom of the product web page; or (b) writing to us at M&T Bank, PO Box 4627, Buffalo, NY 14240. We may terminate your right to receive CSS should you fail to make payment of any monthly enrollment fee or at any time without notice.

- 7. Miscellaneous.** You should note that the credit score you receive may vary from credit scores that may be prepared by other parties. Lenders, including M&T, are likely to use a score different from the one provided in CSS when evaluating your creditworthiness. We do not control your credit score. Your access to CSS is non-transferable and you agree that only you may access CSS.

## **K. Alerts Service (for Personal Accounts)**

Alerts Service. This section sets forth the terms and conditions specific to the Alerts Service. By enrolling in or using this service, you agree to be legally bound by this section and the entire M&T Digital Services Agreement. Please see Section A2 for more information. Through the M&T Online Banking services, we offer Automatic Alerts and Optional Alerts as described below. (We also offer special types of alerts through the FinanceWorks Service as described in the section for that service).

- 1. Automatic Alerts:** We automatically provide certain types of alerts (“Automatic Alerts”) to customers enrolled in M&T Online Banking services (for example, security alerts). Automatic Alerts are notifications sent to you following certain types of important account activities or when certain changes are made to your Digital Services, Eligible Accounts, or related information (for example, a change in your email address, user ID, passcode, or irregular or otherwise potentially suspicious transactions using a card or Card Data associated with your Eligible Account). We send these types of alerts to you automatically. You do not need to enroll in or activate these Automatic Alerts. Although we may permit you to suppress some of these Automatic Alerts, we strongly recommend that you do not do so since they provide important information related to your security and certain important account activities.
- 2. Optional Alerts:** We also offer certain optional alerts in which you may enroll (“Optional Alerts”). You can choose which Optional Alerts you wish to receive and are responsible for determining the variable criteria and options that govern each alert. We have no obligation to review or verify the criteria or options you set for any Optional Alert. If you wish, you can enable or disable an Optional Alert or modify any variable criteria or options for an Optional Alert from time to time.
- 3. Terms Applicable to All Alerts:** Both Automatic Alerts and Optional Alerts are subject to the following terms.

Although we offer many useful types of alerts, we do not provide alerts for every type of transaction or situation arising with respect to Eligible Accounts, your security or your online or mobile banking. For example, alerts for approved and declined card transactions cover only certain card purchases and withdrawals, not transfers made using a card. We may add new Automatic Alerts or Optional Alerts from time to time, or modify or cancel existing alerts. We will generally notify you when we modify or cancel alerts, but we do not have to do so.

Alerts may be sent to you via email, text message, push notification (i.e., using an application you have downloaded) or other means we may make available. Not all types of alerts may be available for delivery via all delivery methods. Alerts sent by email will be sent to the email address you have provided as your email address for M&T Online Banking services. You must enroll your mobile telephone number in M&T Text Banking in order to be eligible to receive alerts through text message. You may enroll up to two mobile telephone numbers to receive alerts via text messages. To be eligible to receive alerts by push notification, you must download the eligible application and ensure the notifications are enabled. Logging into the application is also required to activate the device for push notifications. If your email address or your mobile phone number changes, you must correctly update that information in the M&T Online Banking service. Changes to your email address or a mobile device enrolled in Mobile Banking could impact your alerts.

Although we do not currently charge for alerts, we reserve the right to begin charging fees at any time. **For fee information, please refer to Section M of this Agreement for the [Digital Services Fee Schedule](#). In addition, please note that text, data charges or rates, or other charges may be imposed by your carrier or application provider in connection with alerts. Check your carrier plan for details.**

We provide alerts as a convenience to you for informational purposes only. Alerts are designed to be a helpful account management tool but they are not a substitute for other types of information, security and fraud precautions, and account management techniques, including, but not limited to, maintaining a check register, verifying your statements, and being aware of your outstanding payments and available balance. You are responsible for understanding the information provided in an alert and how that information relates to your particular account and situation (e.g., whether you will incur overdraft or insufficient funds fees based on the available or the total balance in your account, whether you have overdraft protection to cover a transaction, etc.). We do our best to provide alerts in a timely manner with accurate information but we do not guarantee the delivery or timeliness of any alert or the accuracy of the contents of any alert, whether you are within or outside the United States. You understand that information reflected in an alert may be reflected on our systems and records at a different time (earlier or later) than the time we delivered the alert and that certain transactions or triggers may result in the generation of more than one alert, each of which may be delivered at different times. You acknowledge and agree that delivery of an alert may be delayed, misdirected or prevented by a variety of factors, including factors outside our control (e.g., unavailability of mobile or email service, settings such as “do not disturb” times) and our technical and administrative processes (e.g., for system maintenance and processing customer instructions). We shall not be liable for any losses, missed opportunities or other Damages incurred by you due to the delay in delivery, non-delivery, inconsistent delivery or misdirected delivery of an alert or type of alert, for any errors in the content of an alert, or for any actions taken or not taken by you or any third party in reliance on an alert.

Because alerts are not encrypted, we will never include your passcode or full account number. However, alerts may include your name and some information about your accounts and activity. Depending upon which alerts you select, information such as your account balance or the due date for your credit card payment may be included. Anyone with access to your email or mobile device(s) will be able to view the contents of these alerts. You understand and accept that an alert is transmitted electronically and you acknowledge that you have no expectation of privacy with respect to such information. You acknowledge that the information in the alert is unencrypted and can be accessed, used, or misappropriated by unintended third party recipients.

You acknowledge and agree that, although the primary purpose of alerts is to provide transactional and relationship messages, alerts also may sometimes include marketing or other content and you agree to receive this marketing and other content.

#### **L. General Provisions for Digital Services (for Personal Accounts and Business Accounts unless stated otherwise)**

The following general provisions apply to all Digital Services, unless otherwise stated.

- 1. What Law Applies.** This Agreement shall be governed by the laws of New York State without regard to its conflict of law provisions and, to the extent required, by federal law.
- 2. Force Majeure.** In no event will M&T be liable to you for any Damages, default, or delay in performance arising out of or related to this Agreement or the M&T Digital Services to the extent such Damages or the default or delay is caused by circumstances beyond our control, including civil disorders; wars; terrorism; lack of available resources from persons other than parties to this Agreement; labor disputes; electrical failures; denial of service attack; postal delays or strikes; virus or other malware; fires; floods; acts of God; federal, state or municipal actions, statutes, ordinances, or regulations.
- 3. Authorization.** You authorize us or our agents and service providers to take on your behalf any action necessary to complete any transaction initiated through the Digital Services. This authority includes, without limitation, the withdrawal of funds from any of your accounts or obtaining of a loan under any of your loan accounts effective as though you had signed a check or withdrawal form to make the withdrawal or signed a direct loan check to obtain the loan.

- 4. International Access.** The M&T Digital Services may contain software and/or other technology that is subject to United States (U.S.) export controls. You agree that you will comply with such export controls. You agree not to use Digital Services in any jurisdiction outside of the United States where use of the Digital Services would be in violation of applicable law, including sanction-related laws of the United States of America. For more information, please refer to the United States Office of Foreign Assets Control Internet site and other United States government sites pertaining to sanctions and trade restrictions.
- 5. Entire Agreement, Waiver.** This Agreement is the final and complete agreement between you and M&T concerning the M&T Digital Services and supersedes prior agreements, oral or written, or other communications between you and us related to the M&T Digital Services, including any marketing or other similar materials. Captions are for reference purposes only. If any provision or part of this Agreement is determined by a court of competent jurisdiction or applicable regulatory agency to be invalid, the part or provision shall be deemed amended to the extent necessary to be valid, and all other provisions shall remain in effect. We may waive, or delay exercising, any of our rights under this Agreement without notifying you. Such waiver or delay will not affect any other rights we may have. The waiving of any of our rights on any occasion shall not be deemed to be a waiver of such rights in the future. This Agreement may not be amended by course of dealing. You agree that a copy of this Agreement and/or evidence that you entered into the agreement online, kept in the normal course of our business, may be entered in evidence as an original. Except as otherwise indicated in the Agreement, no third party shall be a beneficiary of this Agreement.
- 6. Amendment.** Except as otherwise required by law, rule, regulation, or this Agreement, M&T may change the terms of this Agreement (including fees) from time to time and at any time. When material changes are made, we may notify you by mail, through Internal Electronic Messaging and/or by posting the amendment at the M&T Online Banking Website. We will update the Agreement on the M&T Online Banking Website on or before the effective date of the change, unless the change must be made before we can update the Agreement in order to maintain the security of the system or unless a law, rule or regulation requires that the change be made at an earlier time. If such a change is made, and it cannot be disclosed without jeopardizing the security of our system, this Agreement will be updated within thirty (30) days after the change. You may choose to accept or decline changes by continuing or discontinuing the use of the M&T Online Banking services. Your continued use of the M&T Online Banking services shall constitute your acceptance of the amended Agreement.
- 7. Assignment.** We may assign our rights and delegate our duties under this Agreement to any of our affiliates or any other party. You shall not assign this Agreement or your rights hereunder, voluntarily or involuntarily, by operation of law (e.g., a merger) or in any other manner, without our prior written consent. Any purported assignment in violation of this section is null and void. This Agreement shall be binding on Customer and Customer's successors and assigns and shall inure to our benefit and the benefit of our successors and assigns.
- 8. Cancellation.** You can cancel the M&T Digital Services at any time by notifying us in writing at the address, or calling us at the telephone number, for the Customer Service Center as stated in this Agreement. The cancellation will not take effect until we receive the notice and have a reasonable time to act on it. We may cancel all or any one of the Digital Services (i) upon ten (10) Business Days' notice to you, which notice may be by internal or external email, US mail or posting on the Website, or (ii) without notice to you if you do not access or process any transactions for the M&T Online Banking services for any three (3) month period, (iii) without notice for security reasons; or (iv) without notice if you or any of the Eligible Accounts are subject to the automatic stay in bankruptcy. Further, we reserve the right to cancel the M&T Online Bill Pay service and the Bank to Bank Transfer service without notice if you do not schedule or process a payment or transfer for any three- (3-) month period. Once the cancellation by you or us takes effect, we will not complete any transaction initiated through the M&T Online Banking services (for example, any order to transfer funds or any pending or recurring M&T Online Bill Pay transaction). The cancellation by you or us will not affect any of your obligations under this Agreement.

**9. Notices and Change of Address.** Any notice we send you concerning this Agreement or the Digital Services may be sent: (i) to the most recent external email address you provided to us in connection with the Digital Services; (ii) using Internal Electronic Messaging; or (iii) to your current mailing address shown in our records. If your mailing or external email address changes, you must promptly notify us in writing of the new address.

**10. Electronic Messaging.** External email sent over the Internet is not a secure method to send messages to us. We have, therefore, provided secure internal electronic messaging forms after you have signed onto the Digital Services for you to communicate with us ("Internal Electronic Messaging"). You should only communicate with us about the Digital Services via this Internal Electronic Messaging. If we receive any Internal Electronic Message you send between 12:00 a.m. (midnight) and 3:00 p.m. ET on any Business Day, we will review the Internal Electronic Message on that Business Day. If we receive the Internal Electronic Message on any Business Day after 3:00 p.m. ET or on a Saturday, Sunday or federal holiday, we will review the Internal Electronic Message on the next Business Day. Please note that we will not have to take any action based on any Internal Electronic Message sent to us until we receive it and have a reasonable time to act on it. In any event, we strongly recommend that you do not use Internal Electronic Messaging to communicate URGENT information (for example, a report of a lost or stolen card or a report of an unauthorized transaction involving a deposit or credit account) or matters unrelated to the Digital Services.

You agree that M&T may, but is not required to, send to you via external email (e.g., JCustomer@AOL.com) certain account messages or alerts, some of which may contain personal information (for example, that your bill payment was unsuccessful due to lack of funds). You acknowledge that there are risks associated with sending a notice to an email address, including, because email (external) is not private or secure, unauthorized access to the notice and information it contains.

Email Address Maintenance. It is your responsibility to notify us if you change your email (external) address (e.g., JCustomer@AOL.COM). You agree to update your M&T Online Banking profile if you change your email address. You may change your email address by going to the M&T Online Banking Settings and Support tab, clicking "My Profile," then making your update.

**11. General Limitation of Liability. M&T IS ONLY RESPONSIBLE FOR PERFORMING THE DIGITAL SERVICES AS EXPRESSLY STATED IN THIS AGREEMENT. THERE IS NO GUARANTEE THAT ACCESS TO THE DIGITAL SERVICES WILL BE AVAILABLE AT ALL TIMES AND WE SHALL NOT BE LIABLE IF YOU ARE UNABLE TO ACCESS THE DIGITAL SERVICES. THE DIGITAL SERVICES ARE PROVIDED "AS IS" AND, EXCEPT AS PROHIBITED BY LAW, WE AND OUR SERVICE PROVIDERS DISCLAIM ANY EXPRESS OR IMPLIED WARRANTIES CONCERNING THE DIGITAL SERVICES, EQUIPMENT OR SOFTWARE, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF ANY PARTIES' PROPRIETARY RIGHTS.**

**IN NO CASE SHALL M&T OR ANY OF OUR SERVICE PROVIDERS BE LIABLE FOR ANY LOSS OF DATA, PROFIT, GOODWILL, OR SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE SUFFERED BY YOU ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE SOFTWARE, THE EQUIPMENT OR THE DIGITAL SERVICES WHETHER OR NOT SUCH CLAIM FOR DAMAGES IS BASED ON TORT OR CONTRACT OR WHETHER WE HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SHOULD HAVE KNOWN OF THE LIKELIHOOD OF SUCH DAMAGES, EXCEPT AS MAY BE EXPLICITLY REQUIRED BY THE ELECTRONIC FUNDS TRANSFER ACT ("EFTA") AND THE EFTA'S IMPLEMENTING REGULATION E OR OTHER APPLICABLE LAW. IN STATES THAT DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, M&T'S AND OUR SERVICES PROVIDERS' LIABILITY IS LIMITED TO THE EXTENT PERMITTED BY APPLICABLE LAW.**

Except to the extent otherwise provided under the terms of this Agreement, an agreement that otherwise governs your Eligible Account, or applicable law, you agree and acknowledge that: (i) you are personally responsible for your conduct while using, and your use of, the Digital Services, as well as for the conduct of,

and use of Digital Services by, anyone you authorize to use the Digital Services or to whom you give access to your Card Data or Access Codes; and (ii) you agree to defend, indemnify and hold us, our directors, officers, employees and agents harmless from all loss, liability, claims demands, judgments and expenses including, but not limited to, reasonable attorney fees, arising out of or in any way connected with such use or conduct. Your obligations under this section survive termination of this Agreement.

**12. Customer Service.** If you have questions about the Digital Services, please contact our Customer Service Center:

Telephone us at: 1-800-790-9130  
Write us at: M&T Bank, P.O. Box 4627, Buffalo, New York 14240-4627.  
Communicate with us through Internal Electronic Messaging.

**13. Your Liability for Unauthorized Transfers. (Personal Accounts)**

This section applies to Personal Accounts that are deposit accounts (referred to in this section as “Personal Deposit Accounts”).

*NOTE: If you perform transactions from a home equity line of credit or other mortgage account, another credit account, or investment account, please see the agreements and disclosures for those accounts for information about your liability for unauthorized charges or other errors, or for questions relative to those accounts.*

(a) **Your Liability for Unauthorized Transfers or Payments:** Tell us AT ONCE if you believe your Access Codes have been lost or stolen, or if you believe that an electronic funds transfer has been made without your permission from any of your Personal Deposit Accounts. Telephoning is the best way of keeping your possible losses down. You could lose all the money in your Personal Deposit Account (plus your maximum overdraft line of credit, credit card or the balance in any other account connected to your account for overdraft protection, if applicable). If you tell us within two (2) Business Days after you learn of the loss or theft, you can lose no more than \$50 if someone used your Access Codes without your permission.

If you do not tell us within two (2) Business Days after you learn of the loss or theft of your Access Codes, and we can prove that we could have stopped someone from using Access Codes without your permission if you had told us, you could lose as much as \$500.

Also, if your statement shows transfers that you did not make, tell us at once. If you do not tell us within 60 days after the statement was mailed to you or otherwise made available to you, you may not get back any money you lost after the 60 days if we can prove that we could have stopped someone from taking the money if you had told us in time.

If a good reason, such as a long trip or a hospital stay, kept you from telling us, we will extend the time periods.

(b) **Contact in the event of unauthorized transfer:** If you believe that your Access Codes have been lost or stolen or that someone has made payments, transferred, or may transfer money from your Personal Deposit Account without your permission, notify us at ONCE by:

- Telephoning us at: 1-800-790-9130
  - Writing us at: M&T Bank, P.O. Box 4627, Buffalo, New York 14240-4627
- (OR)
- Communicating with us through Internal Electronic Messaging.

**(c) Our Liability for Failure to Complete Certain Transactions.**

If we do not properly complete a transfer to or from your Personal Deposit Account on time or in the correct amount according to our Agreement with you, we will be liable for your losses or Damages. (*This liability is in addition to the payment guarantee for bill payments*). However, there are some exceptions. We will not be liable, for instance, if:

- Through no fault of ours, on the date a transfer was to be made or on the Withdrawal Date for a payment scheduled through M&T Online Bill Pay: (i) you did not have sufficient available funds in the account and the transfer or payment would exceed any credit line or available balance in any other overdraft protection account, (ii) the account is closed, or (iii) the money in the account is subject to hold or a court order restricting its removal or is the subject of a dispute.
- Your account with the payee of an M&T Online Bill Pay was not in good standing, the information you provide to us about the intended payee was incorrect, the payee fails to properly credit any payment that we make, or the payee fails to cash a payment check within the time period we establish for cashing checks, or it rejects an electronic transfer.
- The third party holding an external account associated with a transfer or payment to or from an Eligible Account mishandles or delays processing, sending or posting a transfer or payment.
- You failed to properly follow the instructions for the use of the Digital Service used for the payment or transfer, or you did not comply with the terms of this Agreement.
- We, in good faith, believe that the instruction was given without your authorization, has not been properly authenticated or is fraudulent or we have other reasonable cause not to honor an instruction for your or for our protection.
- The Digital Services or your Equipment or Software was not working properly and you knew about the breakdown when you began the request for the payment or transfer.
- The failure to make the transfer or payment is justified by any provision of this Agreement, any provision of any other agreement between you and us concerning any of your accounts, or by applicable law.
- Circumstances or persons beyond our control prevent or delay the making of the payment or transfer, despite reasonable precautions that we have taken. Such circumstances include, but are not limited to, computer failure, failure of any funds transfer system, denial of service attack, telecommunication outages, acts of war, terrorism, postal delays, postal strikes and other labor unrest, delays caused by payees, fires, floods, and other natural disasters.

Note, specific services or sub-services under this Agreement may list additional exceptions to our liability for that service context.

**14.) Error Resolution Notice. (Personal Accounts)**

This section applies to Personal Accounts that are deposit accounts (referred to in this section as “Personal Deposit Accounts”).

*NOTE: Please see the agreements and disclosures for home equity lines of credit or other mortgage accounts, other credit accounts or investment accounts for information about unauthorized charges or other errors, or for questions relative to those accounts.*

In Case of Errors or Questions About your Electronic Transfers Telephone us at:

**1-800-790-9130**

Write to us at:

**M&T Bank, P.O. Box 4627, Buffalo, New York 14240-4627**

(OR)

Communicate with us through Internal Electronic Messaging.

Contact M&T as soon as you can if you think that your statement is wrong or if you need more information about a transfer listed on the statement. We must hear from you no later than 60 days after we sent the FIRST statement on which the problem or error appeared.

- (1) Tell us your name and account number.
- (2) Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.
- (3) Tell us the dollar amount of the suspected error.

If you tell us orally, we may require that you send us your complaint or question in writing within 10 Business Days.

We will determine whether an error occurred within 10 Business Days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 days to investigate your complaint or question. If we decide to do this, we will recredit your account within 10 Business Days for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within 10 Business Days, we may not recredit your account.

For errors involving new accounts, point-of-sale, or foreign-initiated transactions, we may take up to 90 days to investigate your complaint or question. For new accounts, we may take up to 20 Business Days to credit your account for the amount you think is in error.

We will tell you the results within three (3) Business Days after completing our investigation. If we decide there was no error, we will send you a written explanation. You may ask for copies of the documents that we used in our investigation.

#### **15. Customer's Liability. (Business Accounts)**

Customer authorizes us to act upon, and Customer agrees to be bound by, any Instruction, whether or not actually authorized, effected by the use of the Access Codes, without further inquiry and we shall have no liability for unauthorized Instructions or other use of the Digital Services under this Agreement effected by the use of such Access Codes, unless otherwise required by law. Customer agrees that use of the Access Codes and the procedures set forth in this Agreement are commercially reasonable security procedures for all purposes, including for purposes of Article 4A of the Uniform Commercial Code (UCC 4A), to verify the authenticity of any Instruction. Customer has sole responsibility for maintaining the security at Customer's website, within Customer's organization, and of the Access Codes and similar elements of security procedures. We are liable only for Damages required to be paid under UCC 4A. Customer agrees to implement any other authentication or security procedures we establish from time to time. IN NO EVENT, WILL WE HAVE ANY LIABILITY FOR DAMAGES TO CUSTOMER FOR ANY UNAUTHORIZED INSTRUCTION, INCLUDING ANY PAYMENT, TRANSFER OR STOP PAYMENT ORDER, MADE USING THE ACCESS CODES THAT OCCURS BEFORE CUSTOMER HAS NOTIFIED US OF POSSIBLE UNAUTHORIZED USE AND WE HAVE HAD A REASONABLE OPPORTUNITY TO ACT ON THAT NOTICE. In addition to Customer's obligations under Section L11 and elsewhere in this Agreement, Customer further agrees to defend, indemnify, and hold us, our directors, officers, employees and agents harmless from all loss, liability, claims demands, judgments and expenses including, but not limited to, reasonable attorney fees, arising out of or in any way connected with this Agreement or the acts of any third party. Your obligations under this section shall survive termination of this Agreement.

#### **16. Limitation on Our Liability. (Business Accounts)**

For Business Accounts, we only will be responsible for performing the Digital Services as expressly stated in this Agreement and the Guide. Except as set forth in this Agreement, we will not be liable for Damages arising out of or related to this Agreement or the Digital Services, except for Damages that arise or directly result

from our gross negligence or intentional misconduct. In no event shall our total liability for Damages exceed the total Fees Customer paid in the 6 months prior to the date of any claim.

#### **17. Customer Warranties.**

Now and during the term of this Agreement, Customer (a) represents and warrants that Customer has the power and authority to enter into this Agreement; (b) covenants that Customer shall comply with all applicable federal and state laws and regulations; (c) shall report any unauthorized transaction or other Instruction to us by telephone as soon as possible after learning of such unauthorized transaction, and provide a written report promptly, but in no event later than timeframes specified in the applicable agreement for the Eligible Account to which the unauthorized transaction relates, or in the case of Personal Deposit Accounts as provided in this Agreement; and (d) shall assist us, as necessary, in our efforts to recover any misdirected funds and otherwise comply with Customer's payment or fund transfer Instructions. If we cause an incorrect amount of funds to be credited to Customer's account or to be posted to Customer's loan account, or paid to a Payee, Customer agrees that we may take any action appropriate to correct the error and prevent Customer from being unjustly enriched.

#### **18. Limitations on Transfers and Use of Digital Services.**

In addition to the transaction and other limitations specified elsewhere in this Agreement, the following limitations apply:

- a) **Excessive Transfers Out of a Savings or Money Market Deposit Account.** Federal Reserve Regulation D limits the total number of transfers out of a savings or money market deposit account made by check, telephone, Online Banking, Mobile Banking, and overdraft protection transfers, as well as preauthorized transfers (including debit card purchases, automatic transfers and wire transfers) to six per calendar month. Regarding M&T Online Banking and M&T Mobile Banking, internal transfers from your money market deposit accounts or savings accounts to pay your M&T loans are not counted towards this limit. M&T Bank may impose an excess activity fee for each transaction exceeding these limitations. See product disclosures and applicable account fee schedules for details.
- b) **Security Limitations.** For security reasons, there are limits on the number of transfers you can make using Digital Services.
- c) **Geographic Limitations.** Use of Digital Services may be restricted or limited in some jurisdictions outside the United States.
- d) **Internet Gambling.** M&T Bank reserves the right, but not the obligation, to reject any transaction involving Internet gambling.

#### **19. Information Sharing.**

We will disclose information to third parties about your accounts or the transfers you make:

- That we believe is necessary to document or complete transactions, or
- To investigate possible unauthorized transaction(s), or
- To resolve errors or claims, or
- In order to verify the existence and condition of your Account for a third party, such as a credit bureau, another financial institution or merchant, or
- In order to comply with government agency or court orders, or
- If you give us your written permission.

Also, please refer to the following sub-section on Privacy for additional information.

#### **20. Privacy.**

For Consumers, disclosure of information about you and your accounts and transactions is governed by M&T's Privacy Policy, as it may be amended from time to time.

For Businesses, we will treat as confidential Customer's transactions and data that are not in the public domain; provided, however, that Customer acknowledges that we may be required to disclose information concerning certain kinds of transactions and data under federal and state regulations and court orders and

may disclose information to our affiliates or our agents, contractors or other parties used to perform certain services in connection with Digital Services.

**21. Account Statements.** In addition to making information about your Eligible Accounts available through the Digital Services, we will continue to mail or otherwise deliver periodic statements for your Eligible Account(s) with the regularity provided for the relevant account agreements. In addition to reflecting your other account activity, your statements will include any M&T Online Bill Pay payments and funds transfers done through the M&T Online Banking services or Bank to Bank Transfer services.

**22. Eligible Account Information.** Although we strive to provide accurate and current information about your Eligible Account(s), information we provide using Digital Services may not be provided on a real-time basis and therefore there may be a delay between the time in which a transaction occurs and when it appears on your Eligible Account as reflected in Digital Services. We are not liable or responsible for problems you may experience due to inconsistencies or delays in information being reflected on your Eligible Accounts within Digital Services.

**23. Administrator and Sub-Users. (for Businesses)**

The following applies to Business Accounts using Digital Services.

- (a) Responsibilities.** The initial Administrator is the individual who enrolls a Business for the Digital Services. That person must be an authorized signer on ALL Eligible Accounts enrolled in the Digital Services. Customer authorizes the Administrator to, among other matters, (i) receive, maintain and distribute all Access Codes; (ii) set up Sub-Users on the Digital Services; (iii) assign and delegate Digital Services privileges and restrictions to Sub-Users based on Customer's business needs and requirements including, without limitation, account access, initiation access, initiation approval levels, and transaction initiation capabilities; (iv) designate another to be a successor Administrator who will thereafter possess the Administrator's capabilities; and (v) utilize all other functions provided via the Digital Services. We may act on any Instruction of the Administrator until we have received from the Administrator or a senior individual authorized to transact business on Customer's behalf, and had a reasonable time to act on, written notice re-assigning the authority of the Administrator. Any Eligible Account on which the new Administrator is not an authorized signer shall be dropped from the Digital Services. There must be an Administrator at all times. The Administrator is responsible for ensuring that each Sub-User maintains confidentiality of his or her Access Codes.
- (b) Internal Disagreement.** If we are notified or otherwise become involved in an internal disagreement concerning the appropriate individual to be the Administrator, the designation of an individual to be a Sub-User or some other Customer internal matter that affects the provision of the Digital Services, we shall notify both Customer and the individual designated as the Administrator that there is an internal disagreement to be resolved. In the event of such a Customer internal disagreement, we, in our sole discretion, may continue to provide the Digital Services, suspend all or some of the Digital Services or suspend the ability of a Sub-User or the Administrator (as the case may be) to have access to all or any part of the Digital Service(s) pending (a) instructions from a senior individual authorized to transact business on Customer's behalf; (b) adequate resolution of such Customer internal disagreement (e.g., by court order or agreement by disagreeing parties); or (c) order of a court. We may request such supporting documentation, as we deem necessary.
- (c) Delegation of Authority.** The Administrator may designate in writing or through the use of the M&T Online Banking services the individuals to be Sub-Users. Customer, as delegated by Administrator, grants to Sub-Users the authority to initiate Instructions, perform other activities delegated by the Administrator, and enroll in M&T Mobile. Such authority shall continue to be effective until and unless Customer gives written notification to us that such authority has been revoked or the Administrator removes the individual as a Sub-User from the "Settings and Support," "Manage Users" section of the M&T Online Banking services and we have had a reasonable period of time to react to such revocation. Deletion of a Sub-User who has future or recurring payments or transfers will require the Administrator to delete those outstanding payments/transfers or reassign those items to another Sub-User with the same transaction rights.

- (d) Reliance on Instructions.** At all times while appointed as a Sub-User, we may rely on, and Customer authorizes, all Instructions from a Sub-User on an Eligible Account or the Digital Services including those Customer did not want or intend. Customer agrees that it is solely responsible for those Instructions and corresponding transactions. The Sub-User authority, and our right to rely on Instructions from Sub-User, exists notwithstanding any contrary instruction on any signature card for the Eligible Accounts or elsewhere regarding authorized representatives or minimum number of signatures required to perform in accordance with an Instruction. Customer releases M&T from all Damages for honoring all Instructions from such Sub-Users.
- (e) Agent of Customer.** Customer represents and warrants that the Sub-User will be acting as Customer's agent on Customer's behalf, will be bound by this Agreement and any other agreement governing the Eligible Accounts and is fully authorized by Customer to act based on the rights the Administrator delegates. A Sub-User appointed by an Administrator will be considered to be authorized by all owners of the Eligible Accounts.
- (f) Sub-User's Representations and Warranties.** Each Sub-User agrees as follows: (i) Sub-User hereby agrees to the terms and conditions in this Agreement and any other agreement governing the Eligible Accounts; (ii) Sub-User may not further delegate online authority to other persons to issue Instructions or make transactions on that Eligible Account; and (iii) Sub-User will access and use the account in accordance with the authority given by the Administrator. Each time Sub-User provides an Instruction on an Eligible Account, Sub-User represents and warrants to M&T that Sub-User's action is authorized by the Administrator and the owner of the Eligible Account. If we receive conflicting instructions, or if we believe that an Eligible Account's security or our security may be at risk as a result of Sub-User being a Sub-User, we may at our sole discretion terminate Sub-User as a Sub-User, or prevent Sub-User from being a Sub-User, without prior notice to Sub-User, the Administrator or any owner of the Eligible Account.
- (g) Termination of Sub-User Authority.** The authority of a Sub-User will terminate: (i) when we are notified by the Administrator to terminate that authority as outlined above; (ii) in the case of sole-proprietor Business Accounts, upon our receiving written notice of the death or incapacity of the owner of the Eligible Account from a court of competent jurisdiction or from a source that we consider official and reliable; or (iii) at our sole discretion if the Administrator, the owner of the Eligible Account or Sub-User breaches any provision of this Agreement.

**24. Third Party Services and Websites.** Consistent with our Privacy Policy and in connection with your use of Digital Services, you may be made aware of services, products, offers and promotions provided by third parties, ("Third Party Services"). If you decide to use Third Party Services, you are responsible for reviewing and understanding the terms and conditions governing any Third Party Services. You agree that the third party, and not M&T Bank, is responsible for the performance of the Third Party Services.

The Software may contain or reference links to websites operated by third parties ("Third Party Websites"). These links are provided as a convenience only. Such Third Party Websites are not under our control. We are not responsible for the content of any Third Party Website or any link contained in a Third Party Website. We do not review, approve, monitor, endorse, warrant, or make any representations with respect to Third Party Websites, and the inclusion of any link in the software or Digital Services is not and does not imply an affiliation, sponsorship, endorsement, approval, investigation, verification or monitoring by us of any information contained in any Third Party Website. In no event will we be responsible for the information contained in such Third Party Website or for your use of or inability to use such website. Access to any Third Party Website is at your own risk, and you acknowledge and understand that linked Third Party Websites may contain terms, privacy policies, and security policies that are different from ours. We are not responsible for such provisions, and expressly disclaim any liability for them.

**25. Addition of Personal Accounts to M&T Online Banking for Business.** Business Customer understands that, if Personal Accounts are added to M&T Online Banking for Business and/or to other Digital Services intended for the Business Customer (for purposes of this sub-section generically referred to as "M&T Online Banking for Business"),

there may be an increased risk of potential loss or Damages, including improper transfers. You certify that Business Customer has adequate internal controls to mitigate the risk of inappropriate transfers between accounts, and that each owner of the Business Customer knows of and agrees to allow the inclusion of the Personal Accounts in the M&T Online Banking for Business relationship for the Business Customer. M&T does not have an obligation to monitor any transfers or transactions between accounts. Before adding Personal Accounts to the M&T Online Banking for Business relationship, M&T may, but is not obligated to, require Business Customer to enter into further agreement(s).

When you authorize us to combine Personal Accounts and Business Accounts together in a combined M&T Online Banking for Business relationship, you agree that anyone using the Administrator's Access Code can perform transactions and other business for any or all of the Business Customer's Business Accounts and the added Personal Account(s) (in this sub-section referred to as "Combined Access Accounts"); including transfers and payments between or from these Combined Access Accounts whether or not the transfer or payment is for an authorized purpose and even though the Combined Access Accounts may be owned by different companies or persons or the transfer or payment benefits one Combined Access Account at the expense of another, which may have a different owner. Allowing Combined Access Accounts to be accessed through the combined M&T Online Banking for Business relationship also means that anyone using the Administrator's Access Code can perform any transaction that is permitted under this Agreement with respect to the Combined Access Accounts. In addition, if a joint account owner or other person is authorized to perform transfers or other transactions from any of the Administrator's Personal Combined Access Accounts, that owner or person will have access (via check and all other available means) to funds that may be transferred into such account from any other Combined Access Account using the Administrator's Access Code. Also, if the Administrator's Access Code is stolen or otherwise compromised, then ALL of the Combined Access Accounts are vulnerable to theft and unauthorized access. Transfers, payments and unauthorized access through such a lost or stolen Access Code may result in the loss of any and all monies in any or all of the Combined Access Accounts.

**No Bank Responsibility; Indemnity:** When you authorize us to combine Personal Accounts and Business Accounts together in a combined M&T Online Banking for Business relationship, you understand that we allow you to do this for your convenience only. By authorizing and directing us to combine Eligible Accounts together in a combined M&T Online Banking for Business relationship, Business owners and Administrator agree that (1) M&T Bank is not responsible for any transactions or access permitted in accordance with this Agreement as a result of the combined M&T Online Banking for Business relationship; and (2) M&T Bank is not responsible for unauthorized transactions performed by any person authorized to access any of the Combined Access Accounts (including any transfers to, from or between the Combined Access Accounts). The Administrator, Business Customer and the Business Customer's owners agree, jointly and severally, to indemnify, protect, hold harmless and defend M&T Bank from and against any and all Damages, expenses, liabilities or costs (including attorney's fees and court costs), of whatever kind or nature, arising from or relating to (a) M&T Bank's providing M&T Online Banking for Business services to any of the Combined Access Accounts, or (b) allowing any Combined Access Account to be linked for access as provided in this sub-section.

**Notice to Bank of Changes:** Business Customer and Business Customer's owners agree to notify M&T Bank as provided in this Agreement of any change of owners of equity interests in the Business and of any change of Administrator.

## 26. Dispute Resolution

**Note:** For Consumer Accounts, if you notice an error regarding an electronic funds transfer or an unauthorized electronic funds transfer on your deposit account related to Digital Services, please refer to Section L13 and L14.

- a. Any disputes between you and M&T concerning or involving a transaction or Digital Service relating to an Eligible Account are controlled by the dispute resolution process and provisions (including

arbitration provisions and your elections with respect thereto, when applicable) in the agreements for the Eligible Account(s) involved in or connected to the transaction(s) or Digital Services to which the dispute relates. Examples of transactions or Digital Services relating to an Eligible Account include, but are not limited to, payments made from your deposit account using M&T Online Bill Pay, transfers between accounts or to pay a loan, Alerts relating to an Eligible Account, and Statements and Notices relating to an Eligible Account.

If a dispute involves more than one Eligible Account and those accounts are governed by different agreements (e.g., a transfer from your checking account to an M&T loan), the dispute resolution process and provisions (including arbitration provisions and your elections with respect thereto, when applicable) are controlled by:

- i. the deposit account agreement applicable to your primary M&T checking account (or the agreement applicable to any other M&T deposit account if you do not have an M&T checking account); or
  - ii. if you do not have a deposit account with M&T, the agreement governing the Eligible Account involved in the dispute that was opened or originated first in time.
- b. The terms and process for resolving any other dispute between you and M&T relating to the Digital Services or this Agreement are controlled by the dispute resolution provisions (including arbitration provisions and your elections with respect thereto, when applicable) in the following account agreements:
- i. the deposit account agreement applicable to your primary M&T checking account (or the agreement applicable to any other M&T deposit account if you do not have an M&T checking account); or
  - ii. if you do not have a deposit account with M&T, the agreement governing the Eligible Account involved in the dispute that was opened or originated first in time.

Examples of these other types of disputes may include, but are not limited to: (a) a dispute that does not involve a transaction or Digital Service relating to an Eligible Account (such as a dispute relating generally to this Agreement, including your acceptance of its terms, or to a general security matter); and (b) a dispute relating to a Digital Service that is not directly tied to an Eligible Account (such as Credit Score, Finance Works, or Alerts relating to changes in your Digital Services relationship, e.g., changes in your e-mail address or password).

- c. Notwithstanding subsections a. and b. above, in any dispute arising out of a Home Equity Line of Credit (HELOC) or mortgage transaction, the agreement governing the Home Equity Line of Credit (HELOC) or mortgage loan will govern the dispute.
- d. Please refer to Eligible Account documentation for applicable dispute resolution provisions. If you do not currently have a copy of Eligible Account documentation, please ask us for a copy.

**27. Additional Miscellaneous General Items.**

- (a) If any portion of this agreement is deemed invalid or unenforceable, the remaining portions shall nevertheless remain in force.
- (b) Geographic Constraints and Office of Foreign Assets Control (“OFAC”). You agree that you will not use Digital Services in locations that are prohibited under U.S. law and regulations, including laws and regulations issued by the Office of Foreign Assets Control. Some transfers may not be processed, timely processed or may need to be frozen if we perceive the transfer may be in violation of United States OFAC sanction programs or other applicable laws.
- (c) You agree not to use Digital Services in any illegal activity.

- (d) By providing us with a phone number to your Mobile Device, you are expressly consenting to receive account servicing or requested communications at that number from us and our agents. Such communications may include, but are not limited to, prerecorded or artificial voice message calls, text messages, and/or calls made by an automatic telephone dialing system.
- (e) For Businesses, some other services (i.e., M&T Online Payroll, Merchant Services, ACH and Wire Payment, Remote Check Deposit using an approved desktop check scanner)\*\* may be referenced in the Digital Services portion of Website with links to sites where you may obtain further information and/or log into such other services. Such other services are not part of the M&T Digital Services Agreement and are subject to other contracts, terms and conditions.

\*\*Inquire for details. Other services may be subject to credit approval. All services offered to customers through mtbonlinepayroll.com are provided directly by SurePayroll, Inc., a third-party service provider unaffiliated with M&T Bank and M&T Bank is not responsible or liable for the delivery of such services. M&T Bank Merchant Services are available subject to completion of a Merchant Services application. Merchant Services are provided subject to the terms and conditions of M&T Bank's Merchant Services Agreement. M&T Bank's ACH and wire services are provided subject to our M&T ACH and wire agreements, fees and terms and conditions.

- (f) Microsoft and Microsoft Excel are either registered trademarks or trademarks of Microsoft Corporation in the United States and/or other countries. FinanceWorks is a trademark of Digital Insight, iPad is a trademark of Apple Inc., registered in the U.S. and other countries. App Store is a service mark of Apple Inc. Android is a trademark of Google Inc. Use of this trademark is subject to Google Permissions. Adobe and Reader are registered trademarks of Adobe Systems, Inc. SurePayroll is a registered trademark of SurePayroll, Inc. FICO is a registered trademark of Fair Isaac Corporation. Quicken is a registered trademark of Intuit, Inc. The trademark BlackBerry is owned by Research In Motion Limited and is registered in the United States and may be pending or registered in other countries. M&T Bank is not endorsed by, sponsored by, affiliated with or otherwise authorized by Research In Motion Limited. All trademarks, service marks and trade names referenced in this material are the property of their respective owners.
- (g) M&T Bank is a Member FDIC, Equal Housing Lender, and Equal Opportunity Lender. Loans and credit lines are subject to credit approval and involve interest and other costs. Please inquire for details.

## M. Digital Services Fee Schedule

### 1) Digital Services Fees for Personal Accounts:

M&T Online Banking (including M&T Online Bill Pay service):

There are no monthly fees or per transaction fees for M&T Online Banking.

Bank to Bank Transfer service:

Bank to Bank Transfers: \$3.00 for each outgoing transfer.

There is no fee for each incoming transfer.

Online Check Search and Stop Payment service:

You will be charged a stop payment fee under the terms of your Eligible Account on which the check was drawn.

Statements and Notices service:

M&T Bank does not charge a fee for Statements and Notices service.

M&T Mobile Banking: M&T does not charge a fee for M&T Mobile Banking.

FinanceWorks™ service: \$0.99 per month

Effective January 1, 2015, FinanceWorks™: \$1.99 per month

Direct Connect service: M&T Direct Connect is \$9.95 per month

Credit Score service: Credit Score service is \$2.99 per month.

Alerts Service: M&T does not charge a fee for Alerts Service.

**2. Digital Services Fees for Business Accounts:**

M&T Online Banking (including M&T Online Bill Pay service):

There are no monthly fees or per transaction fees for M&T Online Banking unless stated below.

Account transaction detail access is available for up to 90 days. There is no charge for account transaction detail access for up to 1,000 items ("items" include, but are not limited to, checks paid, deposit tickets, checks deposited, ACH credits and ACH debits) per month. Deposits are included whether the deposit is physical, created virtually in connection with an ATM, mobile, remote check deposit or by other electronic means. The "no charge" for account transaction detail access for up to 1,000 items is an aggregate 1,000 items across all of your enrolled checking and savings accounts. For example, if you have one deposit consisting of ten checks to your enrolled checking account and one deposit consisting of an ACH transfer to your enrolled savings account, the aggregate number of items from the two transactions is twelve. There is an additional "reporting fee" of \$.15 charged for each item exceeding the limit of 1,000, not to exceed \$25 per month. This reporting fee is in addition to any checking account fees for those transactions indicated in the Commercial Deposit Services Fees schedules applicable to your accounts.

Online Check Search and Stop Payment service:

You will be charged a stop payment fee under the terms of your Eligible Account on which the check was drawn.

Statements and Notices service:

M&T Bank does not charge a fee for Statements and Notices service.

M&T Mobile Banking: M&T does not charge a fee for M&T Mobile Banking.

M&T Mobile Deposit service: The first two deposits each month are free. Each additional deposit is \$.99.

FinanceWorks service: \$0.99 per month

Effective January 1, 2015, FinanceWorks: \$1.99 per month

Direct Connect service: M&T Direct Connect is \$9.95 per month

Alerts Service: M&T does not charge a fee for Alerts Service.

**3. Additional Fee Related Information For Personal Accounts and Business Accounts**

- a) Any fees for the Digital Services are in addition to the fees applicable to Eligible Accounts under the corresponding account agreement and applicable Eligible Account related fee schedule (e.g., insufficient funds or overdraft fee).
- b) Use of Digital Services requires internet and/or data access through a computer or mobile device. Mobile carrier text message and data charges may apply. Check your carrier plan for details. Check with your Internet Service Provider for charges. You are responsible for such charges.
- c) The fees represent current fees. Fees are subject to change.
- d) If you cancel a Digital Service, we do not provide partial or prorated refunds.

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