

# Electronic Funds Transfer Agreement

*E-Funds  
(Marica Brenner)*

## TERMS AND CONDITIONS

### 1. Introduction

Magic-Wrighter, Inc. (MWI) is the Parent company of e-Funds for Schools. This is our e-Funds for Schools/Magic-Wrighter, Inc. Agreement with you by which you can send electronic fund transfers through the Automated Clearing House (ACH) and the Bankcard Network.

MWI and you agree to be legally bound by these terms and conditions. This Agreement states the terms and conditions on which MWI, the Bankcard Network and the ODFI will receive, process and distribute payment files which you or MWI originate on your behalf. The detailed procedures for the use of each payment service are contained in the Exhibits that are part of this Agreement, and in other Documentation, which is referred to in the Exhibits and other material that MWI may supply to you. When you begin to use a particular service, you agree to be legally bound by all of the terms stated in the Documentation for that service. The Documentation is an integral part of this Agreement and is incorporated into it by this reference. This Agreement and the Documentation are intended to be read together. However, if there is any inconsistency between them, then the terms of the Documentation will control.

All transactions processed through ACH network are subject to and will conform with the National Automated Clearing House Association Rules "NACHA Rules" or "Rules", as outlined in (Exhibit E) and the rules of any applicable ODFI, Automated Clearing House or Federal Reserve Bank. Transactions which result in a debit or credit to a consumer's account are also subject to Regulation E of the Board of Governors of the Federal Reserve System. All transactions processed through the Bankcard Network are subject to the Bankcard rules and regulations. MWI and you agree to comply with the NACHA Rules, Regulations E, Bankcard Network rules and any other applicable laws, regulations and rules as amended from time to time. MWI represents and warrants that it will not transmit Payments that violate the laws of the United States, and you represent and warrants that it has agreed to assume the responsibilities of an Originator under the NACHA Rules and shall not instruct us to initiate Payments that violate the laws of the United States.

### 2. Originating Payment

MWI will process Payments that conform to the Rules and in the Documentation for the specific service. You agree to comply with all of the obligations of an Originator under the Rules and authorize MWI to transmit payments to your bank or, our partner bank whereby settlement will be made with your bank, on your behalf. You agree that any Payment transmitted by us pursuant to this Agreement on your behalf shall be deemed to have been authorized, initiated and transmitted by you, and any and all representations, agreements and indemnities provided by you to us in this Agreement shall apply to Payments transmitted by us hereunder.

You authorize us to Process the following Payment types: a) PPD - Consumer debit; b) WEB - Consumer debit; c) TEL - Consumer debit; and CCD - Corporate Account debit and credit to your account, including required adjustments. We will process these payments in compliance with the formatting and other requirements set forth in the NACHA Rules, this Agreement and any other documentation provided to us by the bank. MWI may reject any Payment, which does not comply with the requirements of this Agreement, including the Security Procedures, Risk Controls, and Account Limits listed in (Exhibit B), or for which we have reason to believe you have breached one or more of the warranties you made to us or for any other reason permitted under the Rules. We may also reject a Payment if, in our reasonable judgment, processing the Payment would cause us to violate any applicable law or regulation or if the Payment was not properly authorized.

If you ask us to cancel a Payment and your request complies with our Security Procedures, we will use reasonable efforts to comply with your request prior to transmitting it to the ACH or Bankcard Networks. However, we will not be liable to you if we are unable to cancel the Payment.

If a Payment is returned to us through the ACH or Bankcard Networks, we will notify you no later than the next business day. We will have no obligation to retransmit a returned Payment. You must retransmit the Payment to us unless you have selected the automated check re-presentation service offered by us.

### 3. Settlement for Payment

We may settle funds to your Account located at a participating MWI Bank directly or deposit Settlement Funds in your Account by instructing our Bank to do so on your behalf (Exhibit C). If a Payment is returned to us as uncollectable, unauthorized or contested by the Payer you agree to reimburse us for the payment collected and agree pay all Charge Back and Uncollectable fees assessed by the Bankcard Network or by the Bank. We reserve the right, and you grant us the right, to charge the amount of returned Payments to your Account. It will be your responsibility to accept all returned payments and provide required collection efforts.

We shall transmit Payments to the bank or their designated ACH Operator prior to the Effective Settlement Date shown in such Payments, provided (i) Payments are received and processed by us prior to the cut-off time on a Business Day, (ii) the Effective Payment Date is at least one day prior to Effective Settlement Date and (iii) the bank and ACH Operator is open for business on such Business Day. Payments shall be deemed received by us in the case of transmittal by electronic transmission, when the transmission (and compliance with any related Security Procedures provided for herein) is completed.

#### 4. Returns and Notifications of Change

1. **Returns.** We shall notify you by phone, fax, electronic transmission, email or in writing of the receipt of a returned Payment from the bank or ACH Operator no later than one Business Day after the Business Day of such receipt. We shall have no obligation to reinitiate a returned Payment to the bank or ACH Operator if we complied with the terms of this Agreement with respect to the original Payment. We shall not knowingly resubmit a Payment returned due to stop payment, revocation or termination of authorization. If a Payment is returned to us you shall be responsible for collecting any such funds due you by other means. We may debit your Account for all funds that you have received for Payments that are subsequently returned.

2. **Limits on Reinitiation of Returned Payments.** Effective September 18, 2015, our rights to reinitiate a returned Payment under the NACHA Rules will be limited: (i) where we may reinitiate Payments returned due to insufficient or uncollected funds, but not more than two times following the return; (ii) we may also reinitiate a Payment when corrective action has been taken to remedy the reason for the return; (iii) neither you nor us shall knowingly resubmit Payments returned due to stop payment unless reinitiation has been separately authorized by the Receiver after the Payment was returned; and (iv) we may not reinitiate Payments returned as unauthorized or returns due to revocation or termination of an authorization.

3. **Excess Return Rates.** We will monitor the return rates of payments processed on your behalf and may require corrective action in the event of excess return rates. Effective September 18, 2015, we will take all actions deemed necessary to reduce the excess return rates, including the immediate suspension of ACH Payment processing, in order to reduce return rates considered excessive under the NACHA Rules.

4. **Dishonor of Returned Payment.** We may dishonor a returned Payment to the RDFI if the returned Payment was untimely, contained incorrect information, was misrouted, was a duplicate, or, as of March 20, 2015, resulted in an unintended credit to a Receiver related to the reversal process. We will transmit any dishonored return Payment within five (5) Business Days of the Settlement Date of the return.

5. **Notification of Change.** We shall provide you all information, as required by the NACHA Rules, with respect to each Notification of Change ("NOC") Entry or Corrected NOC Entry received by us relating to Payments that we have processed. We will provide such information to you by phone, fax, electronic transmission, email or in writing no later than one Business Day after the Business Day of such receipt of each NOC or Corrected NOC Entry. We shall ensure that changes requested by the NOC or Corrected NOC are made within six (6) Business Days of receipt of the NOC information or prior to initiating another Payment to the Receiver's account, whichever is later. We may refuse an NOC containing incorrect or incomplete information.

#### 5. Reversals and Adjustments

a) **Reversals.** We may initiate Reversing Payments as permitted by the NACHA Rules in the event that previously originated data is erroneous or duplicated. In so doing, we agree to initiate Reversing Payments or files within 5 (five) Business Days of the original Payment or Payments and within 24 hours of discovery of the error. We will notify the account holder of a Reversing Payment and the reason for the reversal, no later than the settlement day of the reversal. For both Reversing Payments and files, you shall indemnify all parties to the transactions(s) from and against any claim, demand, loss, liability or expense.

b) **Adjustments.** We will give you with prompt notice of Payment Adjustments received by us, and we are authorized to debit or credit your Account for such Adjustments.

#### 6. Security Procedures

You will name one or more authorized representative(s) to act for you with respect to the services we provide under this Agreement as outlined in (Exhibit B). Our Security Procedures are designed to assure the authenticity of Payments issued to us. You also understand that Security Procedures are not designed to detect errors in the content of a Payment, and we assume no responsibility for doing so. If we follow the Security Procedures when accepting a Payment you agree that you will be liable for the Payment, whether or not the Payment was properly authorized and whether or not those Security Procedures are suitable, or "commercially reasonable", for you.

You acknowledge that after reading this Agreement, you have been advised of the various Security Procedures employed by us, that you understand them, and that the Payments that are issued to us under this Agreement will employ Security Procedures suitable to your particular circumstances.

## 7. Confidentiality of Security Procedures

Our Security Procedures are strictly confidential and should be disclosed to only those individuals who are required to know them. You shall instruct those individuals that they should not disclose the Security Procedures to anyone. You must establish and maintain procedures to assure the confidentiality of these Security Procedures.

We assume no responsibility to discover, audit or report to you any possible breach of security or unauthorized disclosure or use of such Security Procedures by your employees, agents or representatives, other than as set forth herein and the Documentation. Each party shall promptly notify the other party of any suspected compromise of security (whether or not involving the notifying party's employees). We reserve the right to change our Security Procedures upon notice to you.

## 8. Additional Terms and Conditions

- A. Recording Conversations** - you agree, on behalf of you and your employees that we may record any telephone conversation we have with you or with them, in connection with the services we provide to you under this Agreement. However, we will not be liable to you if we do not record a conversation. If you do not wish to have a telephone conversation recorded you must advise a MWI representative prior to any discussion, which must take place at the beginning of each telephone call.
- B. Confirmation, Account Reconciliation** - we will provide notice of all Payments to your Accounts through our report system. You are responsible for detecting and reporting to us any discrepancy between your records and the records we provide to you. If you do not detect and notify us of such a discrepancy within 60 days of your receipt of any report and your periodic bank statement, whichever is received first, then we are not required to make adjustments to your Account.
- C. Proprietary Information and Confidentiality** - you acknowledge that all computer programs, data bases, equipment, trade secrets, processes, proprietary data, Documentation and related materials which we provide or make available to you ("Products") are confidential and are owned exclusively by us, the ODFI or by the third parties from whom we have secured the right to use the Products. Except as required by law, you agree to treat the Products as confidential, not to copy the Products except to the extent necessary to use the services we provide, and not to disclose or otherwise make them available in any form to any person or entity except on a need-to-know basis to your own employees. You will instruct your employees to whom you permit access to the Products as permitted by this Agreement to keep them confidential in like manner.
- D. Fees and Payment for Services** - all fees for Payment services under this Agreement shall be in accordance with our most current published electronic payment services fee schedule, as outlined in Exhibit G, in effect at the beginning of each school year. You will be notified by mail of any changes to the fee schedule thirty (30) days prior to the beginning of each school year. Fees authorized by you will be electronically debited from your Account monthly, or if directed by you, fees will be withdrawn from your parent's or guardian's or other payee's Account with their authorization. If you do not pay the fees you authorized within thirty (30) days we may cease providing the services required by this Agreement and will be excused from the performance of all items in this Agreement and from all liability that may arise there from.
- E. Your Warranties, Indemnification and Liabilities** - you warrant to us that for each Payment submitted to us for processing, (1) you have obtained all authorizations from Payer which are required by the Rules, by Regulation E or other applicable law and this Agreement; and such authorizations are still valid and have not been revoked by operation of law or otherwise; (2) if required to be in writing, you will retain all such authorizations for a period of two years after their termination or revocation and provide a copy to us upon request; (3) each Payment has been submitted with your authorization and in accordance with all terms of this Agreement, including our security procedures; (4) you shall perform its obligations under this Agreement in accordance with all applicable laws and regulations, including, but not limited to, the sanctions laws, regulations and orders administered by OFAC, laws, regulations, and orders administered by the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) and any state laws, regulations, or orders applicable to the providers of ACH payment services.
- You shall, with respect to confidential and sensitive information transmitted or exchanged between you and us using an Unsecured Electronic Network (i) encrypt the information using a commercially reasonable security technology that, at a minimum, is equivalent to 128-bit encryption technology or (ii) transmit or receive the information via a secure session that provides a level of security that, at a minimum, is equivalent to 128-bit RC4 encryption technology. You agree to indemnify and defend us against and hold us harmless from any liability, losses, claims, demands, damages, including attorney fees, expenses, and costs arising out of your breach of the foregoing warranties or of any other provision of this Agreement.
- F. Our Warranties, Indemnification and Liabilities** - we will be liable only for our own negligence or willful misconduct, and for any breach of this Agreement by us and will not be responsible for any loss or damage arising from or in connection with (1) any inaccuracy, act or failure to act on the part of any person not within our reasonable control, or (2) any error, failure or delay in execution of any Payment resulting from circumstances beyond our reasonable control, including, but not limited to any inoperability of communications facilities or other technological failure, or (3) failing to act or delay in acting if such failure or delay is caused by legal constraint (including, but not limited to, suspected violations of an OFAC sanctions policy), (4) we shall be excused from failing or delaying the transmission of a Payment if such transmittal would result in our exceeding any limitation upon our intra-day limits established by the bank or if, in our reasonable judgment, such Payments involve possible fraudulent activity or would violate provisions of any present or future risk control program of the Federal Reserve, or any other rule or regulation of any other U.S. governmental regulatory authority.

- G. Provided we have complied with our obligations under this Agreement, you agree to indemnify and hold us harmless against any claim of a third party arising from or in connection with this Agreement or the services we provide hereunder, to the extent such claim arises from your wrongful act or omission.

We make no warranties, express or implied, in connection with the services we provide to you under this Agreement, including, without limitation, the warranties of merchantability and fitness for a particular purpose. In no event will we be liable for any consequential, incidental special or indirect losses, damages (including dishonor of checks or other items), or expenses (including counsel fees) which you may incur or suffer by reason of this Agreement or the services we provide hereunder, whether or not the possibility or likelihood of such loss, damage or expense is known to us.

- H. **Termination** – either you or we may terminate this entire Agreement or a particular service at any time, for any reason in the terminating party's sole discretion, by providing the other party thirty (30) days prior written notice. Either party may also terminate this Agreement or a particular service immediately if one or more of the following occurs: (1) The other party fails to perform or comply with any of the terms or conditions of this Agreement; (2) any warranty or representation the other party has made proves to be false or misleading; (3) any proceeding for voluntary or involuntary bankruptcy, insolvency or similar proceeding is commenced by or against the other party; or (4) in our, or the ODFI's, reasonable judgment we, or the ODFI, think there has been an adverse change in your financial condition.

- I. **Payment Facilitator** – at our discretion we may process credit card payments under the Payment Facilitator rules as established by the Bankcard Network. In doing so, MWI will be acting as the agent for the Acquirer (merchant account provider) identified in Schedule E. To comply with these rules, you agree to provide us information which may be requested from time to time including, but not limited to; (1) current address of school and administrative offices; (2) if you use a DBA "Doing Business As"; (3) services and products you use within the e-Funds for Schools payment system; and (4) changes to your website referencing the e-Funds for Schools payment service; (5) financial statements, (6) business license or charter license; (6) evidence of operations; and (7) visual images of facilities used.

The Bankcard Network may terminate the e-Funds for Schools Payment Facilitator services automatically and immediately if our Acquirer terminates its license with us or ceases conducting business. The Bankcard Network, or Acquirer, may immediately terminate services to you upon activity deemed to be fraudulent or otherwise wrongful.

You acknowledge and agree (1) to comply with all applicable Bankcard Standards, as amended from time to time; (2) that the Bankcard Network is the sole and exclusive owner of their respective Marks; (3) not to contest the ownership of the Marks for any reason; (4) the Bankcard Network may at any time, immediately, and without advance notice, prohibit you from using any of the Marks for any reason; (5) the Bankcard network has the right to enforce any provision of the Standards and to prohibit you and/or us, from engaging in any conduct that is deemed to injure or could create a risk of injury to the Bankcard Network, including injury to reputation, or that could adversely affect the integrity of the Bankcard Network, its Confidential Information, as defined in the Standards, or both; and you will not take any action that could interfere with, or prevent the exercise of this right by the Bankcard Network.

## 9. Confidentiality

MWI understands that you may be subject to a number of federal and state laws and their respective regulations regarding the safekeeping and privacy of Confidential Information. MWI acknowledges that you have a responsibility to keep records and information confidential and proprietary. MWI acknowledges and agrees that confidential data, non-public personal information and/or sensitive information relating to your organization may come into MWI's possession in connection with this Agreement.

MWI, on behalf of itself, its officers, employees, agents and successors, understands and agrees that Confidential Information provided to us by you remains your exclusive property.

MWI, on behalf of itself, its officers, employees, agents and successors, agrees not to disclose, either directly or indirectly, data you identify as Confidential Information that is non-public personal information under the Gramm Leach Bliley Act of 1999 or State Privacy Act to any person, agent, representative, firm or corporation. MWI, on behalf of itself, its officer, employees, agents and successors, agrees not to disclose, either directly or indirectly, information concerning matters affecting or relating to your organization, which MWI may come into contact with in performing services pursuant to this agreement. The provisions of this paragraph do not relate to information which is already in the public domain, is court ordered or is authorized in writing by you.

MWI agrees that it shall (or in the case of any third parties with whom it provides any services to you hereunder will cause such third parties to) fully comply with regulatory requirements and guidelines, all applicable laws governing privacy and confidentiality of information, including but not limited to the Federal Gramm-Leach-Bliley Act of 1999, Privacy of Consumer Financial Information, Interagency Guidelines for Establishing Information Security Standards, Proper Disposal of Consumer Information Under the Fair and Accurate Credit Transaction Act, FTC Standards of Safeguarding Consumer Information and the Fair Credit Reporting Act, together with any appendices or regulatory commentary that accompanies such laws (together "Laws").

#### **10. Disaster Recovery Plan**

MWI shall take reasonable precautions to prevent and mitigate any disaster that may affect the ability of MWI to provide the services to be performed by MWI under this Agreement. MWI shall maintain a documented and tested disaster recovery plan (the "DR Plan") during the term of this Agreement. The DR Plan will: (a) include the location of recovery site(s) for each MWI location at which the services are provided and/or where school data is stored; (b) address business continuation, disaster recovery, and crisis management issues; (c) be designed to recover business operations as soon as reasonably practical under the circumstances after a declared disaster; (d) provide for the ongoing testing of such DR Plan; and (e) provide you with evidence of satisfactory testing as required from time-to-time in order for you to meet and comply with your due diligence obligations. Upon the occurrence of a declared disaster at any of the MWI locations involved in the provision of services under this Agreement or where school data is stored, MWI shall implement the DR Plan and shall notify you of such implementation. Following recovery of operations, MWI shall provide to you a post-incident report that documents the implementation and efficacy of the DR Plan. MWI agrees to release such additional information as may be reasonably necessary to allow you to develop your own disaster recovery plan. For the avoidance of doubt, the DR Plan, any Summary Plan, and any information provided to you by MWI in connection with the DR Plan pursuant to this section shall be considered and treated as confidential information of MWI under this Agreement.

#### **11. Data File Ownership and Security**

MWI acknowledges that all Data Files provided by you is your property and that use of and access to such files does not create in MWI any right, title, or interest in such files, except as expressly provided in this Agreement. MWI shall utilize best industry practices to secure and protect Confidential Information and maintain physical, electronic, and procedural safeguards designed to (1) ensure the security and confidentiality of Data Files, (2) protect against any anticipated threats or hazards to the security or integrity of Data Files, (3) protect against unauthorized access to or use of such records or information, (4) ensure the proper disposal of Data Files and consumer information; and (5) maintain appropriate controls in place to limit user access to Confidential Information on its network and applications to employees with a "need to access" Confidential Information to perform MWI's contractual obligations. To that end, MWI represents and warrants that it maintains appropriate security in place to limit physical access to the MWI's data center and network components, all of which meet or exceed the minimum standards as defined and/or required by applicable laws. In regard to the foregoing, MWI represents and warrants that: (1) it maintains appropriate technical security layers access to use such as authentication of system users, firewalls, virus detection and worm scanning; (2) it maintains appropriate software and procedures for detecting security breaches and appropriate software and procedures to respond to breaches; and (3) it maintains appropriate internal and/or third party testing procedures to evaluate the effectiveness of its security program.

#### **12. Security Breach Notification**

MWI agrees to disclose to you, all physical or electronic breaches in security resulting in known or suspected unauthorized access to sensitive Confidential Information or systems where sensitive Confidential Information is maintained. For the purposes of this Section 12, Confidential Information shall expressly include, but not limited to, an individual's name and address in conjunction with the individual's back account number, credit or debit card number, or personal password that was not encrypted and would permit access to the individual's account (or such other information that applicable laws may define as sensitive information, non-public personal information, or confidential consumer information now or hereafter). When such known or suspected breaches occur, MWI will report to you the nature of the breach, the effect on your Confidential Information, and any corrective and responsive actions taken by MWI in response to the breach in security.

Prompt disclosure shall mean as soon as MWI has notice of such unauthorized access or potential unauthorized access and has reasonable time to investigate, take appropriate action(s) and notify you, but may not exceed requirements of applicable laws. When such breach occurs, MWI will report to you the nature of the breach, the effect on Confidential Information, breached data that may have been compromised, and any corrective and responsive actions taken by MWI in response to the breach. In the event of such breach, MWI shall provide all information required by applicable laws.

#### **13. Audits**

MWI agrees that it will provide you with an internal audit, third party PCI Security audit, SSAE-16 Soc-1 Type II audit and financial statements at least annually. You may conduct your own audits or acceptable substitutes. MWI will take reasonable steps to assist you in its audit however; audits may not interfere with the daily operations or MWI duties. Audits conducted by you will be at your expense including reasonable reimbursement for out of pocket expenses incurred by MWI. MWI will take reasonable steps to assist you and your regulators and examiners in conducting required audits.

**14. Definitions**

The following terms used in this Agreement have the meanings defined below:

"We", "Our", "Us", and MWI" means Magic-Wrighter, Inc.

"You" and "Your" means your school, school district or organization.

"ODFI" means Originating Depository Financial Institution and is the financial institution where payments are processed.

"Payment" means the payment of money from the deposit account or credit card of a Payer.

"Settlement Date" means the date of funds transfer to your with respect to Payments.

"Settlement Funds" means the amount that will be deposited into your Account.

"Bankcard Network" means the Visa, MasterCard, Discover Card and American Express networks that processes and settles credit card payments, which includes all the rules and regulations from each.

All other terms used in this Agreement and defined in the Rules have the meanings defined therein.

**15. Entire Agreement**

The terms of your account agreement(s) with us, the Acquirer and the ODFI are incorporated by reference and made a part of this Agreement. In the event of any inconsistency between such agreement(s) and this Agreement, then this Agreement shall control to the extent necessary. You agree that this Agreement, together with the Exhibits and Documentation, is the entire statement of the terms and conditions, which apply to the subject matter hereof. If any term or condition of this Agreement should be invalidated or unenforceable, all other terms and conditions will continue in full force and effect. This Agreement supersedes any prior agreements between us relating to these services for your Account. You and we agree that all warranties, indemnities, confidentiality requirements, representations, acknowledgements and understandings will survive the performance and termination of this Agreement.

**16. Changes**

From time to time, you may change information you have provided to us in Exhibits. You agree that we may rely on the information previously supplied by you until we receive written notice of any change on forms prescribed by us, signed by your duly authorized Account signer(s), and have a reasonable opportunity to act on such notice. Such changes will be subject to this Agreement.

From time to time, we may amend this Agreement or may change information specified in the Documentation by written notice to you. Such changes will become effective when you receive them and agree to them in writing.

**17. No Waiver**

Except for changes made in accordance with this Agreement, no deviation, whether intentional or unintentional, will constitute an amendment of this Agreement or will constitute a waiver of any right or duty of either of us.

**18. Notices**

Unless otherwise stated in this Agreement, all notices required by this Agreement or by law to be given by either of us shall be sent via first class U.S. Mail, by hand delivery, electronically or by any other means agreed upon between us. We will send written notice to you at the address given by you on Exhibit A. You will send written notices to us at the address given below.

Magic-Wrighter Inc.  
1039 Three Mile Road NW  
Grand Rapids, MI 49544

**19. Assignment, Successors**

This Agreement may not be assigned by either of us without the other's written consent. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors.

**20. Governing Law**

This Agreement will be governed by the laws of the state of Michigan with respect to any Entry subject to Article 4A of the Uniform Commercial Code and by Article 4A of the U.S. Uniform Commercial Code act.

**MAGIC-WRIGHTER, INC.**

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

\_\_\_\_\_  
Date

Liberty Common School  
School Name  
[Signature]  
Authorized Signer  
3.10.2016  
Date