

Memorandum

To: Members of the Board

From: Charles Adams, Superintendent

RE: ACH (direct deposit) Agreement with The Peoples Bank

The enclosed Agreement is a continuation of the ACH services the Board maintains with our depository, The Peoples Bank. The security/identifying information has been redacted or removed from the copy provided.

We are currently reviewing our internal control policies and recommendations for best practices. It is likely that a procedural amendment to the Agreement will be forthcoming in the next few months.

**THE PEOPLES BANK
ODFI/ORIGINATOR AGREEMENT**

Company: SPENCER CO BOARD OF EDUCATION
Hereafter referred to as "Company"

Tax Payer ID: _____

Approved Exposure Limit(s): Schedule [F]

Approved SEC Code(s): PPD

This Agreement is made this 4th day of December, 20 14, by and between the Company and The Peoples Bank (hereafter referred to as "Financial Institution").

RECITALS

A. Company wishes to initiate [Credit] Entries pursuant to the terms of this Agreement and the *NACHA Operating Rules and Guidelines* (the *Rules*), and Financial Institution is willing to act as an Originating Depository Financial Institution (ODFI) with respect to such Entries. The Company may only initiate transactions as provided in Section 33.

B. Unless otherwise defined herein, capitalized terms shall have the meanings provided in the *Rules*. The term "Entries" shall have the meaning provided in the *Rules* and shall also mean the data received from the Company hereunder from which the Financial Institution prepares Entries.

AGREEMENT

1. *NACHA Operating Rules and Guidelines* (the *Rules*). The Company has access to a copy of the *Rules*, acknowledges receipt of a copy, or may purchase a copy if they so desire. The Company agrees to comply with and be bound by the *Rules*. In the event the Company violates any of the applicable *Rules* and NACHA imposes a fine on the Financial Institution because of the Company's violation, the Financial Institution may charge the fine to the Company. The Financial Institution agrees to inform the Company of revisions to the *Rules* of which the Financial Institution has knowledge. The Financial Institution reserves the right to terminate or suspend this agreement for a breach of the *Rules*.
2. *U.S. Law*. It shall be the responsibility of the Company to ensure the origination of ACH transactions complies with U.S. law.
3. *Governing Law*. This Agreement shall be construed in accordance with and governed by the laws of the State of *Kentucky*.
4. *Security Procedures*.

- (a) The Company and the Financial Institution shall comply with the security procedure requirements described in the attached Schedule [A] with respect to Entries transmitted by the Company to the Financial Institution. The Company acknowledges that the purpose of such security procedures is to verify authenticity and not to detect an error in the transmission or content of an Entry. No security procedures have been agreed upon between the Financial Institution and the Company for the detection of any such error.
- (b) The Company is strictly responsible for establishing and maintaining commercially reasonable security measures to safeguard against unauthorized transmissions, network infections, and breaches of Protected Information (i.e. non-public data). The Company warrants that such measures will include, but not be limited to, security technology (e.g. secure web-servers) that provides a minimum level of security equivalent to 128-bit RC4 encryption technology for the entry and transmission of Entries over the Internet, and network security to safeguard account information and access from unauthorized parties. Schedule [A] outlines additional requirements.

Additionally, The Company warrants that no individual will be allowed to initiate transfers in the absence of proper supervision and safeguards, and agrees to take reasonable steps to maintain the confidentiality of security procedures and any passwords, codes, security devices and related instructions provided by the Financial Institution in connection with the security procedures detailed in Schedule [A]. If the Company suspects that any such information or instructions are accessed by unauthorized persons, the Company will notify the Financial Institution immediately. The occurrence of unauthorized access will not affect any transfers made in good faith by Financial Institution prior to receipt of notification and within a reasonable time period to prevent unauthorized transfers. The Financial Institution reserves the right to terminate or suspend this agreement for any data breach.

5. *Processing, Transmittal and Settlement by Financial Institution.*

- (a) Except as provided in Section 4, the Financial Institution shall (i) process Entries received from the Company to conform with the file specifications set forth in the *Rules*, (ii) transmit such Entries as an ODFI to *JHA Data Center* (the "ACH Operator"), and (iii) settle Entries as provided in the *Rules*.
- (b) The Financial Institution shall transmit such Entries to the ACH Operator by the deadline set forth in the attached Schedule [B] [one business day] prior to the Effective Entry Date shown in such Entries, provided (i) such Entries are received by the Financial Institution's related cut-off time set forth in attached Schedule [B] on a business day, (ii) the Effective Entry Date is at least 1 days after such business day, and (iii) the ACH Operator is open for business on such business day, e.g. excluding Federal Holidays. For purposes of this Agreement, Entries shall be deemed received by the Financial Institution, in the case of hand-delivered files, when received by the Financial Institution at the location set forth in Schedule [A], and in the case of electronic file transmission, when the transmission is completed as provided in Schedule [A].
- (c) If any of the requirements of clause (i), (ii), or (iii) of Section 5(b) are not met, the Financial Institution shall use reasonable efforts to transmit such Entries to the ACH Operator by the next deposit deadline on which the ACH Operator is open for business.

6. *On-Us Entries.* Except as provided in Section 7, in the case of an Entry received for credit or debit to an account maintained with the Financial Institution (an "On-Us Entry"), the Financial Institution shall credit or debit the Receiver's account in the amount of such Entry on the Effective Entry Date contained in such Entry, provided the requirements set forth in Section 5(b) are met. If either of those requirements is not met, the Financial Institution shall use reasonable efforts to credit or debit the Receiver's account on the next business day following such Effective Entry Date.

7. *Rejection of Entries.* The Financial Institution shall reject any Entry which does not comply with the requirements of Section 33 or Section 4, or which contains an Effective Entry Date more than N/A days after the business day such Entry is received by the Financial Institution. The Financial Institution shall have the right to reject an On-Us Entry for any reason for which an Entry may be returned under the *Rules*. The Financial Institution shall have the right to reject any Entry if the Company has failed to comply with its account balance obligations under Section 13. The Financial Institution shall notify the Company by phone, electronic transmission or in writing of such rejection no later than the business day such Entry would otherwise have been transmitted by the Financial Institution to the ACH Operator, or in the case of an On-Us Entry, its Effective Entry Date. The Financial Institution shall have no liability to the Company by reason of the rejection of any such Entry or the fact that such notice is not given at an earlier time than that provided for herein.

In the event that any Entries are rejected by the ACH Operator for any reason, it shall be the responsibility of the Company to remake such Entries. Should the file be rejected due to an error caused by the Financial Institution, the Financial Institution shall be responsible for remaking the file. In such a case, the Company will supply sufficient information, as required in Section 24, to allow the Financial Institution to recreate the entries for up to five (5) business days after midnight of the settlement date.

8. *Cancellation or Amendment by Company.* The Company shall have no right to the cancellation or amendment of any Entry after its receipt by the Financial Institution. However, the Financial Institution shall use reasonable efforts to act on a request by the Company for cancellation of an Entry prior to transmitting it to the ACH Operator, or in the case of an On-Us Entry, prior to crediting or debiting a Receiver's account. The Company shall reimburse the Financial Institution for any expenses, losses, or damages the Financial Institution may incur in effecting or attempting to effect the cancellation or amendment of an Entry.

9. *Notice of Returned Entries.* The Financial Institution shall notify the Company by phone, fax or electronic transmission of the receipt of a returned Entry from the ACH Operator no later than one business day, after the business day of such receipt.

10. *Notifications of Change.* The Financial Institution shall notify Company of all Notifications of Change received by the Financial Institution related to Entries transmitted by the Company by mail, fax, or electronic transmission no later than two (2) banking days after receipt thereof. The Company shall ensure that changes requested by Notifications of Change are made within six (6) banking days of the Company's receipt of the information or prior to initiating another Entry to the Receiver's account, whichever is later.

11. *Reinitiation of Entries.* The Company may not reinitiate Entries except as prescribed by the *Rules*.

12. *Payment by Company for Entries; Payment by ODFI for Entries.*

- (a) The Company shall pay the Financial Institution the amount of each credit Entry (including On-Us Entries) transmitted by the Financial Institution pursuant to this Agreement at such time on the Settlement Date with respect to such credit Entry as the Financial Institution, at its discretion, may determine.
- (b) The Company shall pay the Financial Institution the amount of each debit Entry returned by a Receiving Depository Financial Institution pursuant to this Agreement.
- (c) The Financial Institution shall pay the Company the amount of each debit Entry (including On-Us Entries) transmitted by the Financial Institution pursuant to this Agreement at such time on the Settlement Date with respect to such debit Entry as the Financial Institution, at its discretion, may determine.
- (d) The Financial Institution shall promptly pay the Company the amount of each credit Entry returned by a Receiving Depository Financial Institution pursuant to this Agreement.

13. *The Account.* The Financial Institution may, without prior notice or demand, obtain payment of any amount due and payable to it under the Agreement by debiting the account(s) of the Company identified in the attached Schedule [C], and shall credit the account for any amount received by the Financial Institution by reason of the return of an Entry transmitted by the Financial Institution for which the Financial Institution has previously received payment from the Company. Such credit shall be made as of the day of such receipt by the Financial Institution. The Company shall at all times maintain a balance of available funds in the account sufficient to cover its payment obligations under this Agreement. In the event there are not sufficient available funds in the account to cover the Company's obligations under this Agreement, the Company agrees that the Financial Institution may debit any account maintained by the Company with the Financial Institution or any affiliate of the Financial Institution or that the Financial Institution may set off against any amount it owes to the Company, in order to obtain payment of the Company's obligations under this Agreement.

Upon request of the Financial Institution, the Company agrees to promptly provide to the Financial Institution information pertaining to the Company's financial condition. The Financial Institution reserves the right to pull a credit report at any time to evaluate the Company's ongoing financial condition.

14. *Account Reconciliation and Periodic Statement.* The periodic statement issued by the Financial Institution for the Company's account will reflect Entries credited and debited to the Company's account. The Company agrees to notify the Financial Institution promptly of any discrepancy between the Company's records and the information shown on any such periodic statement. If the Company fails to notify the Financial Institution within 30 days of receipt of a periodic statement, the Company agrees that the Financial Institution shall not be liable for any other losses resulting from the Company's failure to give such notice, including any loss of interest or any interest equivalent with respect to an Entry shown on such periodic statement. If the Company fails to notify the Financial Institution within 60 days of receipt of a periodic statement, the Company shall be precluded from asserting such discrepancy against the Financial Institution.

15. *Company Representations and Agreements; Indemnity.* The Company agrees that (a) each person shown as the Receiver on an Entry received by the Financial Institution from the Company has

authorized the initiation of such Entry and the crediting of its account in the amount and on the Effective Entry Date shown on such Entry, (b) such authorization is operative at the time of transmittal or crediting by the Financial Institution as provided herein, (c) Entries transmitted to the Financial Institution by the Company are limited to those types of Entries set forth in this Agreement, (d) the Company shall perform its obligations under this Agreement in accordance with all applicable laws and regulations, and (e) the Company shall be bound by and comply with the *Rules* as in effect from time to time, including without limitation the provision thereof making payment of an Entry by the Receiving Depository Financial Institution to the Receiver provisional until receipt by the Receiving Depository Financial Institution of final settlement for such Entry; and specifically acknowledges that if such settlement is not received, the Receiving Depository Financial Institution shall be entitled to a refund from the Receiver of the amount credited and the Company shall not be deemed to have paid the Receiver. The Company shall indemnify the Financial Institution against any loss liability or expense (including attorneys' fees and expenses) resulting from any breach of any of the foregoing agreements.

16. *Financial Institution Responsibilities; Liability; Limitations on Liability; Indemnity.*

- (a) The Financial Institution shall be responsible only for performing the services expressly provided for in this Agreement, and shall be liable only for its negligence in performing those services. The Financial Institution shall not be responsible for the Company's acts or omissions (including without limitation to the amount, accuracy, timeliness of transmittal or due authorization of any Entry received from the Company) or those of any other person, including without limitation to any Federal Reserve Bank or transmission or communications facility, any Receiver or Receiving Depository Financial Institution (including without limitation to the return of an Entry by such Receiver or Receiving Depository Financial Institutions), and no such person shall be deemed the Financial Institution's agent. The Company agrees to indemnify the Financial Institution against any loss, liability or expense (including attorneys' fees and expenses) resulting from any claim of any person that the Financial Institution is responsible for, any act of omission by the Company or any other person described in this Section.
- (b) The Financial Institution shall only be liable for the Company's actual damages due to claims arising solely from the Financial Institution's obligations to the Company with respect to Entries transmitted pursuant to this Agreement. In no event shall the Financial Institution be liable for any consequential, special, punitive or indirect loss or damage that the Company may incur or suffer in connection with this Agreement, including losses or damage from subsequent wrongful dishonor resulting from the Financial Institution's acts or omissions pursuant to this Agreement.
- (c) The Financial Institution shall be excused from failing to act or delay in acting if such failure or delay is caused by legal constraint, interruption of transmission, or communication facilities, equipment failure, war, emergency conditions or other circumstances beyond the Financial Institution's control. In addition, the Financial Institution shall be excused from failing to transmit or delay in transmitting an Entry if such transmittal would result in Financial Institution's having exceeded any limitation upon its intra-day net funds position established pursuant to Federal Reserve guidelines or if the Financial Institution reasonably believes it would violate any provision of any risk control program of the Federal Reserve or any rule or regulation of any other U.S. governmental regulatory authority.
- (d) The Financial Institution's liability for loss of interest resulting from its error or delay shall be calculated by using a rate equal to the average Federal Funds Rate at the Federal Reserve Bank of

New York for the period involved. At the Financial Institution's option, payment of such interest may be made by crediting the Account.

17. *Compliance with Security Procedures.*

- (a) If an Entry (or a request for cancellation or amendment of an Entry) received by the Financial Institution purports to have been transmitted or authorized by the Company, it will be deemed effective as the Company's Entry (or request) and the Company shall be obligated to pay the Financial Institution the amount of such Entry (or request) even though the Entry (or request) was not authorized by the Company, whether or not the Financial Institution acted in compliance with the security procedure referenced in Schedule [A]. If signature comparison is to be used as a part of that security procedure, the Financial Institution shall be deemed to have complied with that part of such procedure if it compares the signature accompanying a file of Entries (or request) with the signature of an Authorized Representative of the Company and, on the basis of such comparison, believes the signature to be that of such Authorized Representative.

18. *Inconsistency of Name and Account Number.* The Company acknowledges and agrees that, if an Entry describes the Receiver inconsistently by name and account number, payment of the Entry transmitted to the Receiving Depository Financial Institution might be made by the Receiving Depository Financial Institution (or by the Financial Institution in the case of an On-Us Entry) on the basis of the account number even if it identifies a person different from the named Receiver, and that the Company's obligation to pay the amount of the Entry to the Financial Institution is not excused in such circumstances.

19. *Payment for Services.* The Company shall pay the Financial Institution the charges for the services provided for herein set forth in Schedule [D]. The Financial Institution shall provide the Company written notification of changes in fees and services 30 calendar days prior to such changes going into effect. Such charges do not include, and the Company shall be responsible for payment of, any sales, use, excise, value-added, utility or other similar taxes relating to the services provided for herein, and any fees or charges provided for in this Agreement between the Financial Institution and the Company with respect to the Account.

20. *Amendments.* From time to time the Financial Institution may amend any of the terms and conditions contained in this Agreement, including without limitation, any cut-off time, any business day, and any part of the Schedules attached hereto. Such amendments shall become effective upon receipt of notice by the Company or such later date as may be stated in the Financial Institution's notice to the Company.

21. *Notices and Instructions.*

- (a) Except as otherwise expressly provided herein, the Financial Institution shall not be required to act upon any notice or instruction received from the Company or any other person, or to provide any notice or advice to the Company or any other person with respect to any matter.
- (b) The Financial Institution shall be entitled to rely on any written notice or other written communication believed by it in good faith to be genuine and to have been signed by an Authorized Representative, and any such communication shall be deemed to have been signed by such person. The names and signatures of Authorized Representatives are set forth in Schedule [E] attached hereto. The Company may add or delete any Authorized Representative by written

notice to the Financial Institution signed by at least two Authorized Representatives other than that being added or deleted. Such notice shall be effective on the second business day following the day of the Financial Institution's receipt.

- (c) Except as otherwise expressly provided herein, any written Agreement shall be delivered, or sent to the following unless another address is substituted by notice delivered or sent as provided herein. Except as otherwise expressly provided herein, any such notice shall be deemed given when received:

Attention: The Peoples Bank-Attn: Pamela Mason

Address: P O Box 369

City, State, Zip: Taylorsville, KY 40071

And, if to Company, addressed to:

Attention: Spencer Co Board of Education-Attn: Vicki Goodlett

Address: 207 West Main Street

City, State, Zip: Taylorsville, KY 40071

22. *Data Retention.* The Company shall retain data on file adequate to permit remaking of Entries for 5 days following the date of their transmittal by the Financial Institution as provided here, and shall provide such data to the Financial Institution upon its request.
23. *Third Parties.* The Company shall enter into contract with and assume full liability for any action made by any Third-Party Processor used by the Company at its discretion to initiate Entries on its behalf. The Company will notify the Financial Institution of the use of any Third-Party.
24. *Reversing Entries.* The Company shall notify the Receiver that a reversing Entry has been transmitted to the Receiver's account no later than the Settlement Date of the reversing Entry. This notification may be made by the Company's method of choice (fax, telephone, etc.).
25. *Audit.* The Financial Institution has the right to audit the Company's compliance with the *Rules*, U.S. law, and Financial Institution policies.
26. *Termination.* The Financial Institution reserves the right to suspend or terminate this Agreement for breach of any of the *Rules* or other violation of this Agreement in a manner that permits the Financial Institution to comply with the *Rules*. Termination is effective immediately upon written notice of such termination to the Company. Any termination of this Agreement shall not affect any of the Financial Institution's rights or the Company's obligations with respect to Entries transmitted prior to such termination, or the payment obligations of the Company with respect to services performed by the Financial Institution prior to termination. The Company may terminate this Agreement with 30 day(s) notice. Such termination shall be effective on the second business day following the day of

the Financial Institution's receipt of written notice of such termination or such later date as is specified in that notice.

27. *Cooperation in Loss Recovery Efforts.* In the event of any damages for which the Financial Institution or the Company may be liable to each other or to any third-party pursuant to the services provided under this Agreement, the Financial Institution and the Company will undertake reasonable efforts to cooperate with each other, as permitted by applicable law, in performing loss recovery efforts and in connection with any actions that the relevant party may be obligated to defend or elects to pursue against any third-party.
28. *Entire Agreement.* This Agreement, including the Schedules attached hereto, together with the Account Agreement, is the complete and exclusive statement of the Agreement between the Financial Institution and the Company with respect to the subject matter hereof and supersedes any prior Agreement(s) between the Financial Institution and Company with respect to such subject matter. In the event of any inconsistency between the terms of this Agreement and the Account Agreement, the terms of this Agreement shall govern. In the event performance of the services provided herein would result in a violation of any present or future statute, regulation or government policy to which the Financial Institution is subject to, and which governs or affects the transactions contemplated by this Agreement, then this Agreement shall be deemed amended to the extent necessary to comply with such statute, regulation or policy, and the Financial Institution shall incur no liability to the Company as a result of such violation or amendment.
29. *Non-Assignment.* The Company may not assign this Agreement or any of the rights or duties hereunder to any person without the Financial Institution's prior written consent.
30. *Waiver.* The Financial Institution may waive enforcement of any provisions of this Agreement. Any such waiver shall not affect the Financial Institution's rights with respect to any other transaction or modification of the terms of this Agreement.
31. *Binding Agreement; Benefit.* This Agreement shall be binding upon and to the benefit of the parties hereto and their respective legal representatives, successors, and assigns. This Agreement is not for the benefit of any other person, and no other person shall have any right against the Financial Institution or the Company hereunder.
32. *Severability.* In the event that any provision of this Agreement shall be determined to be invalid, illegal or unenforceable to any extent, the remainder of this Agreement shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law.
33. *Transmittal of Entries by Company.* The Company shall transmit PPD credit Entries to the Financial Institution in compliance with the formatting and other requirements set forth in the attached Schedule [A].
34. *Exposure Limits.* The total dollar amount of Entries transmitted, frequency of origination and payment application (debits or credits) originated by the Company to the Financial Institution shall comply with limits set forth in the attached Schedule [F].

35. *Authorization.* The Company will obtain Authorization for PPD credit Entries in accordance with the *Rules* and U.S. law. The Company will retain a record of the Authorization for a period of two (2) years from the termination or revocation of the Authorization. The Company shall, upon request within 5 business days, provide the Financial Institution an original or copy of the Receiver's Authorization for PPD Entries.

36. *Prenotifications.* The Company will send prenotifications six (6) banking days prior to initiating the first Entry to a Receivers account. Such notice shall be provided to the Financial Institution in the format and on the medium provided in the *Rules* and Schedule A. Should the Company receive notice that any such pre-notification has been rejected by an RDFI or the ACH Operator, Entries shall not be initiated. Should the Company receive a Notification of Change from an RDFI, such Entries shall not be initiated unless the requested changes have been made.

37. *Reporting Requirement.* Financial Institution will provide reporting information to the National Association for Company regarding PPD Entries whose return rate for unauthorized Entries exceeds 1% as required by the *Rules*.

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

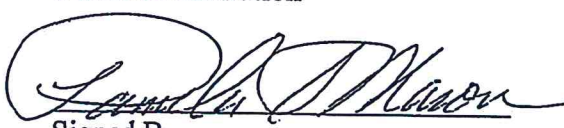
Spencer Co Board of Education
Company


Signed By

Charles Adams
Printed/Typed Name

Superintendent
Title

The Peoples Bank
Financial Institution


Signed By

Pamela S MASON
Printed/Typed Name

Vice President
Title

Schedule (A)
ACH Transmittal and Security Procedures

All files will be formatted in a NACHA or other pre-approved format; transmission specifications will be established by The Peoples Bank.

Security Procedures

- (a) The Financial Institution shall be entitled to rely on any written notice or other written communication believed by it in good faith to be genuine and to have been signed by the Authorized Representative, and any such communication shall be deemed to have been signed by such person.
- (b) The Financial Institution will not be responsible for verifying the authenticity of any person claiming to be an Authorized User of the Third-Party Sender or the authenticity of any instruction, direction or information provided.
- (c) The Financial Institution may, but is under no obligation to, hold suspicious files, files that do not adhere to established security, exceed exposure limits, violate the terms of this Agreement or the *Rules*, or for other reasons. Such files will require authorization by an Authorized Representative of the Third-Party Sender before transmission to the ACH Operator.
- (d) The Financial Institution requires the following minimum levels of network and computer security for all Originators:
 - Reliable, current and fully patched Security Suites including, at minimum, anti-virus, anti-malware, anti-botnet, and anti-spyware.
 - Hardware and software Firewalls.
 - Process to patch systems timely.
 - Written security policy and procedures designed to protect the Company's network from unauthorized access (i.e. data breach) and avoid disclosing Protected Information (i.e. account numbers, social security numbers, etc.).
 - Regular employee training.
 - Originator training.

The Originator shall supply evidence to the Financial Institution of the above security within 10 business days of request.

- (e) *Account Security*: The Financial Institution requires the following account security:
 - Files must be initiated and transmitted by authorized personnel and by using all pre-set procedures.
 - Out of Band Authentication by Call Back and Email Verification will be used.
 - The Third-Party Sender will not process files unless a fax is sent to them with Financial Institutions authorized signature.
 - New or altered credentials will require authorization before becoming active.

Schedule [B]
ODFI Processing Schedule

Consumer *Debit* Transactions

Delivery Method	Deadline	Day of Delivery
Transmission- Direct Online Banking	<u> 3:00 </u> p.m.	<u> 1 </u> Business Days Prior to Effective Entry Date*

Consumer *Credit* Transactions

Delivery Method	Deadline	Day of Delivery
Transmission- Direct Online Banking	<u> 3:00 </u> p.m.	<u> 1 </u> Business Days Prior to Effective Entry Date*

- Single entry reversals and corrections may be submitted for original entry effective date by 3:00 p.m. two business days prior to effective date.

**Schedule [D]
ODFI Fee Schedule**

One-time Fees

Conversion Fee	\$ <u> 0 </u>
Software Fee for Diskette/CD Processing	\$ <u> 0 </u>

Regular Monthly Fees

Debit Items Originated	\$ <u> 0 </u>
Reversing/Correcting Debit Items Originated	\$ <u> 0 </u>
Credit Items Originated	\$ <u> 0 </u>
Reversing/Correcting Credit Items Originated	\$ <u> 0 </u>
Per File Origination Fee	\$ <u> 0 </u>
Prenote Items Originated	\$ <u> 0 </u>
Addenda Records Originated	\$ <u> 0 </u>
Return Items and Notifications of Change Received	\$ <u> 0 </u>
Minimum Monthly Fee	\$ <u> 0 </u>