



DEFENSE AND INDEMNITY AGREEMENT

THIS DEFENSE AND INDEMNITY AGREEMENT ("Agreement") is made and executed between JACK HENRY & ASSOCIATES, INC. ("JHA") 663 West Highway 60, Monett, Missouri 65708 and Green Bank NA ("Customer") 4000 Greenbrier St, Houston TX, 77098-5204.

WHEREAS, JHA is engaged in the business of providing software and various data processing services for use by financial institutions; and

WHEREAS, Customer is a financial institution engaged in providing various financial services; and

WHEREAS, JHA contracted with Customer regarding the licensing and use of computer software programming designed by JHA and for certain data processing services provided by JHA pursuant to that certain Master Software License Maintenance and Services Agreement.

WHEREAS, JHA values its longstanding relationship with Customer and anticipates continued mutual benefits from said relationship; and

WHEREAS, Customer has been named as Defendant in Mirror Imaging LLC v. Green Bancorp, Inc. et al Case # 2:17-cv-00563 in the United States District Court for the Eastern District of Texas (the "Lawsuit"); and

WHEREAS, Customer has requested JHA to defend, indemnify and hold Customer harmless pursuant to the terms of the Licensing Agreement; and

WHEREAS, JHA desires to provide such protections to Customer with respect to the Lawsuit subject to the terms and conditions in the License Agreement as more specifically outlined in this Agreement. Defined terms not otherwise defined herein shall have the meaning as set forth in the License Agreement.

NOW, THEREFORE, in consideration of the premises and in further consideration of the performance of the terms and provisions herein contained, JHA and Customer do hereby contract and agree as follows:

I. **Defense and Indemnity Agreement:** JHA hereby agrees to defend, indemnify and hold harmless Customer from any and all losses related to the allegations asserted in the Lawsuit against Customer arising out of Software or Services provided to Customer by or through JHA subject to the following terms, and conditions:

a. JHA has retained, at its sole cost and expense, Polsinelli, P.C., and The Mazingo Firm, P.C. ("Defense Counsel") to act as counsel for Customer in defending the claims asserted against Customer in the Lawsuit. Defense Counsel will report to and coordinate with JHA and with Customer regarding the defense; however, JHA will not reimburse Customer for any legal fees other than the reasonable and necessary fees of Defense Counsel. In the event that JHA is later named as a defendant in the Lawsuit, Customer agrees

that Defense Counsel may undertake the joint defense of both Customer and JHA. Customer further agrees that JHA, at its sole discretion, may retain Defense Counsel to act as counsel for other current and future defendants in the Lawsuit.

b. Customer accepts and agrees to Defense Counsel serving as its attorneys in defense of the Lawsuit and agrees to cooperate fully with Defense Counsel in the defense, including but not limited to providing requested documents, allowing access to employees of Customer for interviews as needed, assisting Defense Counsel in responding to written discovery served on Customer, and assisting with presenting Customer's witnesses for depositions.

c. In the event that Defense Counsel is providing joint representation of both parties, JHA and Customer agree to advise each other and Defense Counsel immediately and in writing if any business or legal conflict or dispute arises between JHA and Customer, so that Defense Counsel can determine if they may continue as joint counsel of record or must terminate all or part of the joint representation. To the extent allowed by law, JHA agrees that in the event that Defense Counsel determines that they may not continue as joint counsel to both JHA and Customer, JHA will not object to Defense Counsel withdrawing as JHA's counsel of record and continuing to defend Customer as its counsel in the Lawsuit.

d. Defense Counsel's scope of representation under this Agreement will be limited to representing Customer, or both JHA and Customer in the event of joint representation, in defense of the Lawsuit. Defense Counsel will not hereafter provide any legal advice or services to either JHA or Customer with regard to any rights or obligations they may have between or among themselves. JHA and Customer are advised and agree to consult with independent counsel other than Defense Counsel with regard to any rights or obligations they may have between or among themselves. Defense Counsel has advised only the Customer in connection with the making of this Agreement; JHA having been represented by its corporate General Counsel in connection with the making of this Agreement.

e. Subject to a good-faith determination by JHA and notwithstanding anything herein to the contrary, JHA and Customer agree that should JHA determine, in JHA's sole discretion that a settlement of the Lawsuit is advisable, JHA shall have all authority necessary to enter into such a settlement on Customer's behalf. Customer and JHA agree that a determination that such a settlement is advisable may be made without regard to the merits of the Lawsuit. Customer and JHA agree that the terms of any settlement and any settlement agreement related thereto are the sole discretion of JHA. If JHA determines that a settlement is to be made necessary, JHA agrees to obtain, at a minimum, a dismissal of Plaintiff's claims asserted against Customer in the Lawsuit. Nothing in this Agreement should be construed as requiring JHA to obtain a license on Customer's behalf.

f. If JHA determines to its good faith satisfaction that Plaintiff's claims against Customer in the Lawsuit do not, in any way, in whole or in part, arise out of the Software and/or Services provided by JHA to Customer pursuant to the terms of any agreement between the parties, including the Licensing Agreement, JHA may terminate this Agreement upon 14 days written notice to Customer. In such event, Customer may retain new counsel to defend it in the Lawsuit or will make arrangements to continue to retain Defense Counsel at Customer's expense after the effective date of termination of this Agreement. The termination of this Agreement pursuant to this

paragraph shall not, however, affect or impair any rights Customer may have to seek a defense or indemnity from JHA pursuant to law or under any other contract or agreement without regard to this Agreement.

2. **Validity:** In the event any provision of this Agreement is legally determined to be invalid, void or unenforceable, the remaining provisions shall continue in full force and effect.

3. **Binding:** This Agreement shall be binding upon and inure to the benefit of all parties hereto and their respective assigns and successors.

4. **Assignability:** This Agreement shall not be transferable or assignable by Customer without prior written consent by JHA except in the case of a corporate transaction involving Customer such as a merger or acquisition. However, Customer may assign its rights and obligations under this Agreement by written document, to which JHA is a signing party, to any holding company which becomes a majority stockholder or parent company of Customer by voluntary action and with the written approval of Customer and its stockholders. In this event, both Customer and the assignee shall be responsible and liable to JHA for the performance of the obligations and duties of Customer pursuant to this Agreement.

5. **Counterparts:** This Defense and Indemnity Agreement may be executed in multiple counterparts or by electronic means, each of which shall constitute an original executed copy for all purposes.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be EXECUTED AND EFFECTIVE AS OF
August 30, 2017.

JACK HENRY & ASSOCIATES, INC.

BY: 

PRINT NAME: CRAG MORGAN, ESQUIRE

TTS: GENERAL COUNSEL

GREEN BANK

BY: 

PRINT NAME: Billye Smith

TTS: Chief Risk Officer