Digital Banking Platform Subscription Agreement (fictional)

Redline for The bank (Larkmoor Bank & Trust), the customer · Fair Ask sample

Signable once the data license, liability cap, breach notice, regulator access and exit terms are fixed; the rest is ordinary vendor-favorable paper.

Blue = added ~~Red~~ = deleted [n] = comment

This Digital Banking Platform Subscription Agreement (the "Agreement") is entered into as of October 1, 2026 (the "Effective Date") between Ostrander Digital, Inc., a Delaware corporation ("Ostrander"), and Larkmoor Bank & Trust, an Ohio state-chartered bank ("Customer").

1. Services.

1.1 Ostrander will provide Customer with access to its hosted online and mobile banking platform, including account access, bill pay, person-to-person payments and remote deposit capture (the "Platform"), as described in the Order Form.

1.2 Ostrander may modify, add or remove Platform features at any time. Ostrander will use reasonable efforts to notify Customer of material changes.

1.3 Ostrander may use subcontractors and third-party hosting providers, ~~located inside or outside the United States,~~ to provide the Platform, remains responsible for their performance, and will not store Customer Data outside the United States without ~~notice to or~~Customer's consent ~~from Customer~~.[7]

[7] Offshore storage of account-holder data raises regulatory questions for the Bank. Ostrander keeps full freedom to choose U.S. subcontractors and hosts.

2. Term and Renewal.

2.1 The initial term is five (5) years from the Effective Date. The Agreement then renews automatically for successive three (3) year terms unless either party gives notice of non-renewal at least three hundred sixty-five (365) days before the end of the then-current term.

3. Fees.

3.1 Customer shall pay the fees set out in the Order Form, invoiced monthly and payable within fifteen (15) days after the invoice date. Ostrander may increase fees ~~at~~only ~~any~~upon ~~time~~renewal, by no more than five percent (5%), on ~~thirty~~notice ~~(30)~~given ~~days'~~before ~~notice~~the non-renewal deadline[8].

[8] The Bank is committing to five years and needs predictable pricing. Notice before the renewal deadline lets it budget or decide in time.

3.2 Late payments bear interest at one and one-half percent (1.5%) per month. Ostrander may suspend the Platform if any amount is more than ten (10) days past due.

4. Customer Data.

4.1 As between the parties, Customer owns the data it and its account holders submit to the Platform ("Customer Data").

4.2 Customer grants Ostrander a ~~perpetual, irrevocable,~~ royalty-free license during the term to use Customer Data to provide the Platform and, in aggregated ~~or~~and de-identified form~~, for~~that identifies neither Customer nor any ~~purpose~~account holder~~, including~~ to ~~develop~~improve ~~and~~the ~~train Ostrander's products, analytics and machine-learning models and to share with Ostrander's business partners~~Platform[1].

[1] Account-holder financial data carries privacy and confidentiality duties the Bank cannot pass on to partners. This keeps Ostrander's ability to run and improve the Platform.

5. Security.

5.1 Ostrander will maintain commercially reasonable administrative, technical and physical safeguards for Customer Data.

5.2 Ostrander will notify Customer without undue delay, and in any event within seventy-two (72) hours, after Ostrander confirms a security breach that has resulted in unauthorized access to or acquisition[4] of Customer Data.

[4] The Bank has its own regulatory and account-holder notice deadlines and needs a fixed outer limit. The clock still runs from Ostrander's confirmation.

6. Service Levels.

6.1 Ostrander will use commercially reasonable efforts to make the Platform available 99.0% of each calendar month, excluding scheduled maintenance and events outside Ostrander's reasonable control. Service credits under the Order Form are Customer's sole and exclusive remedy for any failure to meet this target.

7. Records and Audit.

7.1 Ostrander will provide Customer, once per year and on request, a copy of its most recent SOC 1 ~~report~~and SOC 2 Type II reports. Except for examinations by Customer's banking regulators, ~~if~~which ~~available.~~Ostrander will permit as required by law, Customer has no other right[5] to audit or inspect Ostrander's facilities, systems or records.

[5] Bank examiners expect access to critical service providers, and SOC 2 covers the security controls. We have not asked for Bank on-site audits.

8. Termination.

8.1 Either party may terminate this Agreement if the other party materially breaches it and fails to cure the breach within sixty (60) days after written notice.

8.2 If Customer terminates this Agreement for any reason other than Ostrander's uncured material breach, ~~including~~or as ~~a~~directed ~~result of a merger, acquisition or change of control of~~by Customer's banking regulator, Customer shall pay an early termination fee equal to ~~one hundred~~fifty percent (~~100~~50%)[6] of the fees that would have been payable for the remainder of the then-current term.

[6] A full-term payout exceeds Ostrander's actual loss, since it avoids the cost of serving the Bank. The Bank cannot refuse a regulator's direction to exit.

8.3 Upon termination, Ostrander will make Customer Data available for download in Ostrander's standard export format for ~~thirty~~ninety (~~30~~90) days[9], after which Ostrander may delete it. Any additional deconversion or transition assistance will be provided at Ostrander's then-current rates.

[9] Converting a bank's digital platform takes longer than thirty days. Deconversion help is still billed at Ostrander's rates.

9. Warranties.

9.1 THE PLATFORM IS PROVIDED "AS IS." OSTRANDER DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY THAT THE PLATFORM WILL COMPLY WITH LAWS OR REGULATIONS APPLICABLE TO CUSTOMER.

10. Indemnification.

10.1 Customer shall defend and indemnify Ostrander against any claim arising from Customer's use of the Platform in breach of this Agreement or law,[10] Customer Data, or the acts or omissions of Customer's account holders.

[10] As drafted, the Bank would indemnify claims caused by Platform defects. This keeps the Bank responsible for its own misuse.

11. Limitation of Liability.

11.1 OSTRANDER'S TOTAL LIABILITY ARISING OUT OF THIS AGREEMENT SHALL NOT EXCEED THE FEES PAID BY CUSTOMER IN THE ~~THREE~~TWELVE (~~3~~12) MONTHS[2] BEFORE THE EVENT GIVING RISE TO THE CLAIM. EXCEPT FOR NOTIFICATION COSTS AND REGULATORY FINES CAUSED BY OSTRANDER'S BREACH OF SECTION 5, IN NO EVENT[3] SHALL OSTRANDER BE LIABLE FOR LOST DATA, LOST PROFITS, REGULATORY FINES OR PENALTIES, OR ANY INDIRECT OR CONSEQUENTIAL DAMAGES.

[2] Three months of fees is out of proportion for a core banking system. Twelve months keeps the cap tied to fees, which is how most enterprise SaaS caps work.

[3] These are the costs the Bank would actually incur from a vendor breach. They remain inside the cap and arise only from Ostrander's own Section 5 failures.

12. General.

12.1 Ostrander may assign this Agreement without Customer’s consent. Customer may not assign this Agreement without Ostrander’s prior written consent.

12.2 Customer may not identify Ostrander as its vendor in any public statement without Ostrander’s consent. Ostrander may identify Customer as a customer in its marketing materials.

12.3 This Agreement is governed by Delaware law. Any dispute shall be resolved by confidential binding arbitration in Wilmington, Delaware.

12.4 This Agreement, with the Order Form, is the entire agreement of the parties and supersedes all prior proposals, including any responses to Customer’s requests for proposal.