



CASH MANAGEMENT MASTER AGREEMENT

Customer: INDIAN RIVER COUNTY

TD Bank, N.A. (“Bank”) provides a broad range of non-consumer cash management products and services to its customers. The customer identified above (“Customer”) wishes to use, and Bank is willing to provide to Customer, those services that have been checked below:

- 1. TD eTreasury Services (Appendix I)
- 2. TD ACH Origination Services (Appendix II)
- 3. TD Wire Transfer Services (Appendix III)
- 4. TD Sweep Services (Appendix IV).....
- 5. TD Positive Pay Services (Appendix V).....
- 6. TD Controlled Disbursement Services (Appendix VI)
- 7. TD Lockbox Services (Appendix VII).....
- 8. TD Digital Express Services (Appendix VIII).....
- 9. TD Account Reconciliation Services - Full (Appendix IX)
- 10. TD Account Reconciliation Services – Partial (Appendix X).....
- 11. TD Deposit Reconciliation Services (Appendix XI)
- 12. TD Check Imaging Services (Appendix XII).....
- 13. TD Zero Balance Account Services (Appendix XIII).....
- 14. TD Currency Services (Appendix XIV).....
- 15. TD EscrowDirect Services (Appendix XV).....
- 16. TD Information Reporting File Transmission Services (Appendix XVI)
- 17. TD Data Exchange Services (Appendix XVII).....
- 18. TD ACH Third Party Sender Services (Appendix XVIII)
- 19. TD Image Cash Letter Services (Appendix XIX)
- 20. TD Healthcare Remittance Management Services (Appendix XX).....
- 21. TD Data Transmission Services (Appendix XXI).....
- 22. TD ACH Positive Pay Services (Appendix XXII).....
- 23. TD Currency Services for Smartsafe (Appendix XXIII).....

- 24. TD Electronic Bill Payment Presentment & Payment Services (Appendix XXIV)
- 25. TD Integrated Payables Processing Services (Appendix XXV).....
- 26. TD Electronic Lockbox (Bill Payment Aggregation) Services (Appendix XXVI).....
- 27. TD Paymode-X Services (Appendix XXVII)
- 28. TD Integrated Receivables Services (Appendix XXVIII)

The “Cash Management Service(s)” or “Service(s)” shall hereafter mean the cash management service(s) identified above and provided by Bank (and/or Bank’s third-party service providers) to Customer pursuant to this Agreement, the Appendices, including Amended Appendices, as defined below, exhibits, Setup Form(s), and any service guides or manuals made available to Customer by Bank.

Agreement

This Cash Management Master Agreement (this “Agreement”) is by and between Bank and Customer. Bank agrees to provide to Customer and Customer agrees to use certain Cash Management Services (as defined above) offered and approved by Bank for Customer’s use. Bank and Customer agree that the Cash Management Services will be governed by the general terms and conditions of this Agreement and the rules and procedures applicable to each of the Services (collectively, the “Rules”). The Rules are contained in the Appendices to this Agreement, and are hereby incorporated in and made a part of this Agreement.

By signing this Agreement, Customer agrees to be bound by the terms and conditions of this Agreement and all applicable Appendices, as the same may be amended from time to time as further described below. This Agreement becomes effective with respect to a Cash Management Service(s) described herein when this Agreement has been executed without modification by Customer, and the Agreement becomes effective for any subsequent Cash Management Service(s) that Customer may wish to use when any relevant Appendices have been executed without modification by Customer. Bank will provide use of a Cash Management Service when Bank has received all required and properly executed agreements and forms and when Customer has satisfactorily completed Bank’s implementation, testing and training requirements, if any, in the use of the Service(s). Customer may not modify any portion of this Agreement or any Appendices to this Agreement without Bank’s prior written consent and agreement, and any attempt by Customer to do otherwise shall render Customer’s Agreement null and void.

The following terms and conditions are applicable to all Cash Management Services provided to Customer hereunder.

1. Definitions. Capitalized terms used in this Agreement and in any Appendix, unless otherwise defined herein or therein, shall have the meanings set forth below:

“Access Devices” means collectively all security, identification and authentication mechanisms, including, without limitation, security codes or tokens, PINs, electronic identities or signatures, encryption keys and/or individual passwords associated with or necessary for Customer’s access to and use of any Cash Management Services.

“Account” means an Account, as such term is defined in the Account Agreement, used in connection with any Cash Management Services.

“Account Agreement” means the Business Deposit Account Agreement issued by Bank and governing Customer’s deposit relationship with Bank, as the same may be amended from time to time.

“Affiliate(s)” means, with respect to any party, any company controlled by, under the control of, or under common control with such party.

“Amended Appendix” means an amendment to an Appendix that supplements or revises, but does not revoke in its entirety, a prior Appendix for a particular Service.

“Appendix” means a description of the rules and procedures applicable to a particular Service to be provided by Bank to Customer. Each such Appendix, including any Amended Appendix, is incorporated herein by reference and made a part hereof, and all references herein to Agreement shall be deemed to include all Appendices unless otherwise expressly provided. If there is any conflict between the provisions of this Agreement and any Appendix or Amended Appendix, the Appendix or Amended Appendix shall govern, but only to the extent reasonably necessary to resolve such conflict.

“Authorized Representative” means a person designated by Customer as an individual authorized to act on behalf of Customer with respect to certain matters and/or authorized to access and use the Services, as evidenced by certified copies of resolutions from Customer’s board of directors or other governing body, if any, or other certificate or evidence of authority satisfactory to Bank, including, without limitation, any Customer enrollment or Setup Form(s) completed by Customer.

“*Bank Internet System*” means Bank’s Internet-based electronic information delivery and transaction initiation system, as may be offered by Bank from time to time, including but not limited to Bank’s eTreasury Services.

“*Bank Internet System Appendix*” means the agreement issued by Bank that governs Customer’s use of the Bank Internet System.

“*Business Day*” has the meaning given to it in the Account Agreement.

“*Calendar Day*” has the meaning given to it in the Account Agreement.

“*Primary Account*” means the Account designated by Customer to which any direct Service fees due Bank may be charged in accordance with this Agreement. Unless otherwise agreed upon in writing by Bank, the address for Customer associated with the Primary Account shall be the address to which all notices and other communications concerning the Services may be sent by Bank.

“*Substitute Check*” has the meaning given to it in Section 3(16) of the *Check Clearing for the 21st Century Act* (“Check 21”), P.L. 108-100, 12 U.S.C. § 5002(16).

2. The Services.

2.1 Bank shall provide to Customer, subject to this Agreement and the applicable Appendix, all Cash Management Services that Customer may request and that Bank may approve from time to time. Bank shall not be required to provide any Services specified in an Appendix unless Customer also provides all information reasonably required by Bank to provide to Customer the Service(s) specified therein.

2.2 Customer, through its Authorized Representative, may use the Services solely in accordance with the terms and conditions of this Agreement and the related Appendices.

2.3 With the exception of scheduled off-peak downtime periods, Bank shall make all reasonable efforts to make the Services available to Customer each Business Day.

2.4 Access to on-line or Internet-based Services may be denied for various reasons, including if invalid Access Devices are used or if the user exceeds the number of invalid attempts allowed by Bank.

2.5 Customer is authorized to use the Services only for the purposes and in the manner contemplated by this Agreement.

2.6 Customer agrees to cooperate with Bank, as Bank may reasonably request, in conjunction with the performance of the Services.

2.7 Customer agrees to comply with the Rules, as they may be amended from time to time by Bank.

2.8 A number of Bank’s Services are subject to processing cut-off times on a Business Day. Customer can obtain information on Bank’s current cut-off time(s) for Service(s) by reviewing the relevant Service’s Setup Form(s), as applicable, or by calling Treasury Management Services Support at 1-866-475-7262, or by contacting Customer’s Treasury Management Services Representative. Instructions received after a cut-off time or on a day other than a Business Day will generally be deemed received as of the next Business Day.

2.9 Bank may make changes to this Agreement and any Appendix at any time by providing notice to Customer in accordance with the terms of this Agreement or as may be required by applicable law. Notwithstanding anything to the contrary herein, any Appendix that provides for an alternative form and method for making changes to such Appendix and for providing notice of the same shall govern for that Service. Further, notwithstanding anything to the contrary in this Agreement or in any Appendix, if Bank believes immediate action is necessary for the security of Bank or Customer funds, Bank may immediately initiate changes to any security procedures associated with the Services and provide prompt subsequent notice thereof to Customer.

2.10 In connection with this Agreement and the Services, Customer agrees that it shall present, and Bank shall have a duty to process, only Substitute Checks that are created by financial institutions; provided, however, that this limitation shall not apply to Substitute Checks created with data from Customer pursuant to any Appendix for Services involving the creation of electronic check images using check conversion technology.

3. Covenants, Representations and Warranties.

3.1 Customer represents and warrants that the individual(s) executing this Agreement and any other agreements or documents associated with the Services has/have been authorized by all necessary Customer action to do so, to issue such instructions as may be necessary to carry out the purposes and intent of this Agreement and to enable Customer to receive each selected Service. Each Authorized Representative whom Customer permits to access and use the Services is duly authorized by all necessary action on the part of Customer to (i) access the Account(s) and use the Services; (ii) access any information related to any Account(s) to which the Authorized Representative has access; and (iii) engage in any transaction relating to any Account(s) to which the Authorized Representative has access.

3.2 Bank may unconditionally rely on the validity and accuracy of any communication or transaction made, or purported to be made, by an Authorized Representative and in accordance with the terms of this Agreement.

3.3 Customer shall take all reasonable measures and exercise all reasonable precautions to prevent the unauthorized disclosure or use of all Access Devices associated with or necessary for Customer's use of the Services.

3.4 Customer is not a "consumer" as such term is defined in the regulations promulgated pursuant to the Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 et seq., nor a legal representative of a "consumer."

3.5 Customer shall use the Services only for its own lawful business purposes. Customer shall not use the Services for or on behalf of any third party, except as may otherwise be approved by Bank in its sole and exclusive discretion, and as further described in Section 33. Customer shall take all reasonable measures and exercise reasonable precautions to ensure that Customer's officers, employees and Authorized Representatives do not use the Services for personal, family or household purposes, or for any other purpose not contemplated by this Agreement.

3.6 Customer agrees not to use or attempt to use the Services (a) to engage in any illegal purpose or activity or to violate any applicable law, rule or regulation, (b) to breach any contract or agreement by which Customer is bound, or (c) to engage in any Internet or online gambling transaction, whether or not gambling is legal in any applicable jurisdiction, or (d) to engage in any transaction or activity that is not specifically authorized and permitted by this Agreement. Customer acknowledges and agrees that Bank has no obligation to monitor Customer's use of the Services for transactions and activity that is impermissible or prohibited under the terms of this Agreement; provided, however, that Bank reserves the right to decline to execute any transaction or activity that Bank believes violates the terms of this Agreement.

3.7 Customer and Bank shall comply with (i) all applicable federal, state and local laws, regulations, rules and orders; (ii) the Account Agreement; (iii) all applicable National Automated Clearing House Association ("NACHA") rules, regulations, and policies; (iv) the Uniform Commercial Code; (v) Office of Foreign Asset Control ("OFAC") requirements; and (vi) all applicable laws, regulations and orders administered by the U.S. Department of the Treasury's Financial Crimes Enforcement Network ("FinCEN") (collectively (i) through (vi), "Compliance Laws").

4. Account Agreement; Service Fees.

4.1 Bank and Customer agree that any Account established by Customer in connection with Services offered by Bank shall be governed by the Account Agreement, including one or more fee schedules issued by Bank for the Account. If there is any conflict between the terms and provisions of this Agreement and the Account Agreement, the terms and provisions of this Agreement shall govern, but only to the extent reasonably necessary to resolve such conflict.

4.2 Customer agrees to compensate Bank for all Accounts and Services that Bank provides pursuant to this Agreement, including any Appendices, in accordance with the applicable fee schedules or agreements between Bank and Customer in effect from time to time that apply to the Services (the "Service Fees"). By signing below, Customer acknowledges receipt of the Account Agreement and acceptance of the Service Fees, and agrees to be bound by their terms, as those terms may be amended from time to time in accordance with the terms of this Agreement.

4.3 Customer authorizes Bank to charge the Primary Account for all applicable charges and fees to the extent that such charges and fees are not offset by earnings credits or other allowances for Customer's Account(s). If the balance of available funds in the Primary Account is not sufficient to cover such fees, Bank may charge such fees to any other deposit Account maintained on Bank's records in Customer's name. Customer also agrees to pay all sales, use or other taxes (other than taxes based upon Bank's net income) that may be applicable to the Services provided by Bank hereunder.

4.4 Bank may amend Service Fee(s), in aggregate or individually, at any time. To the extent that such changes adversely affect Customer, Bank will use commercially reasonable efforts to give notice to Customer of such changes, in accordance with applicable law, or as may otherwise be agreed to by the parties.

5. Customer Information. Customer agrees to provide to Bank, before Bank begins providing any Services to Customer, any and all information required to comply with applicable law and Bank's policies and procedures relating to customer identification and authority. Such information may include, without limitation, official certificates of customer existence, copies of Customer formation agreements, business resolutions or equivalent documents, in a form acceptable to Bank authorizing Customer to enter into this Agreement and to receive Services from Bank pursuant hereto, and designating certain individuals as Customer's Authorized Representatives.

6. Software.

6.1 Bank may supply Customer with certain software owned by or licensed to Bank to be used by Customer in connection with the Services ("Software"). Customer agrees that all such Software is and shall remain the sole property of Bank and/or the vendor of such Software. Customer agrees to comply with all of the terms and conditions of all license and other agreements which are provided to Customer by Bank and/or the Software vendor and/or which govern Customer's use of Software associated with the Services. Unless otherwise agreed in writing between Bank and Customer, Customer shall be responsible for the payment of all costs of installation of any Software provided to Customer in connection with the Services, as well as for selection, installation, maintenance and repair of all hardware required on Customer's premises for the successful operation of the Software.

6.2 Except as otherwise expressly prohibited or limited by applicable law, Customer shall indemnify, defend and hold harmless Bank, its successors and assigns, from and against any loss, damage or other claim or liability attributable to Customer's unauthorized distribution or disclosure of any Software provided with the Services or any other breach by Customer of any Software license. The provisions of this paragraph shall survive termination of this Agreement.

6.3 Any breach or threatened breach of this Section will cause immediate irreparable injury to Bank, and Customer agrees that injunctive relief, including preliminary injunctive relief and specific performance, should be awarded as appropriate to remedy such breach, without limiting Bank's right to other remedies available in the case of such a breach. Bank may apply to a court for preliminary injunctive relief, permanent injunctive relief and specific performance, but such application shall not abrogate Bank's right to proceed with an action in a court of competent jurisdiction in order to resolve the underlying dispute.

7. Computer Requirements. For certain Cash Management Services, Customer will need to provide, at Customer's own expense, a computer or similar Internet-enabled device, software and Internet or other connections and equipment as needed to access the Services (collectively, the "Computer"). Customer's Internet or other web browser software must support a minimum 128-bit SSL encryption or other security measures as Bank may specify from time to time. Customer's browser must be one that is certified and supported by Bank for optimal performance. Customer is responsible for the installation, maintenance and operation of the Computer and all related charges, including without limitation all Internet service provider, telephone and other similar charges incurred in connecting to the Services. Customer is responsible for installing and maintaining appropriate virus protection software on Customer's Computer. Bank recommends that Customer routinely scan the Computer using reliable virus protection products, and to remove any viruses found using such products. Bank is not responsible for any errors or failures caused by any malfunction of the Computer. Bank is not responsible for any Computer virus or related problems that may be associated with access to or use of the Services, any Software, the Computer or other Internet access, including but not limited to any virus, Trojan horse, worm, keystroke logger, rootkit, spyware, dishonest adware, crimeware or other malicious or unwanted software or related problems that may be associated with access to or use of the Services, any Software or the Computer. Bank also is not responsible for any losses or delays in transmission of information Customer provides to Bank or otherwise arising out of or incurred in connection with the use of any Internet or other service provider providing Customer's connection to the Internet or any browser software. From time to time, Bank may require that Customer upgrade or install software to the Computer to ensure the proper operation of the Services. Customer agrees to promptly load any such upgrades or additional installations upon Bank's notice to Customer.

8. Bank Third Parties.

8.1 Customer acknowledges that certain third parties, agents or independent service providers (hereinafter "Third Parties") may, from time to time, provide services ("Third Party Services") to Bank in connection with Bank's provision of the Services to Customer and that accordingly, Bank's ability to provide the Services hereunder may be contingent upon the continuing availability of certain services from such Third Parties. Third Party Services may involve the processing and/or transmission of Customer's data, instructions (oral or written) and funds. In addition, Customer agrees that Bank may disclose Customer's financial information to such Third Parties (i) where it is necessary to provide the Services requested; (ii) in order to comply with laws, government agency rules or orders, court orders, subpoenas or other legal process or in order to give information to any government agency or official having legal authority to request such information; or (iii) when Customer gives its written permission.

8.2 Bank will be responsible for the acts and omissions of its Third Parties in the same manner as if Bank had performed that portion of the Services itself, and no claim may be brought by Customer against such Third Parties. Notwithstanding the foregoing, any claims against Bank (with respect to the acts or omissions of its Third Parties) or its Third Parties shall be subject to the limitations of liability set forth herein to the same extent as if Bank had performed that portion of the Services itself. However, Bank will not be deemed to be the agent of, or responsible for, the acts or omissions of any person (other than its Third Parties), and no such person shall be deemed Bank's agent.

9. Customer Communications; Security Procedures.

9.1 In providing the Services, Bank shall be entitled to rely upon the accuracy of all information and authorizations received from Customer or an Authorized Representative and, where applicable, the authenticity of any signatures purporting to be of Customer or an Authorized Representative. Customer agrees promptly to notify Bank of any changes to any information or authorizations provided to Bank in connection with the Services, and further agrees to promptly execute any new or additional documentation Bank reasonably deems necessary from time to time in order to continue to provide the Services to Customer.

9.2 Customer agrees that it shall be solely responsible for ensuring its compliance with any commercially reasonable security procedures established by Bank in connection with the Services, as such may be amended from time to time, and that Bank shall have no liability for any losses sustained by Customer as a result of a breach of security procedures if Bank has complied with the security procedures.

9.3 Bank shall be entitled to rely on any written list of Authorized Representatives provided to Bank by Customer until revoked or modified by Customer in

writing. Customer agrees that Bank may refuse to comply with requests from any individual until Bank receives documentation reasonably satisfactory to it confirming the individual's authority. Bank shall be entitled to rely on any notice or other writing believed by it in good faith to be genuine and correct and to have been signed by an Authorized Representative. Bank may also accept verbal instructions from persons identifying themselves as an Authorized Representative, and Bank's only obligation to verify the identity of such person as an Authorized Representative shall be to call back such person at a telephone number(s) previously provided to Bank by Customer as part of the Account or Services' Setup Form(s). Bank may, but shall have no obligation to, call back an Authorized Representative other than the Authorized Representative from whom Bank purportedly received an instruction. Bank may, but shall have no obligation to, request additional confirmation, written or verbal, of an instruction received from an Authorized Representative via telephone at any time or for any reason whatsoever prior to executing the instruction. Bank may also in its discretion require the use of security codes for Authorized Representatives and/or for receiving instructions or items from Customer. Customer understands and agrees, and Customer shall advise each Authorized Representative that, Bank may, at Bank's option, record telephone conversations regarding instructions received from an Authorized Representative.

9.4 Any security procedures maintained by Bank are not intended to detect errors in the content of an instruction received from Customer or Customer's Authorized Representative. Any errors in an instruction from Customer or Customer's Authorized Representative shall be Customer's sole responsibility. Customer agrees that all security procedures described in this Agreement and applicable Appendix are commercially reasonable and that Bank may charge Customer's Account for any instruction that Bank executed in good faith and in conformity with the security procedures, whether or not the transfer is in fact authorized.

9.5 Customer agrees to adopt and implement its own commercially reasonable internal policies, procedures and systems to provide security to information being transmitted and to receive, store, transmit and destroy data or information in a secure manner to prevent loss, theft or unauthorized access to data or information ("Data Breaches"). Customer also agrees that it will promptly investigate any suspected Data Breaches and monitor its systems regularly for unauthorized intrusions. Customer will provide timely and accurate notification to Bank of any Data Breaches when known or reasonably suspected by Customer and will take all reasonable measures, which may include, without limitation, retaining and/or utilizing competent forensic experts, to determine the scope of and data or transactions affected by any Data Breaches, and promptly providing all such information to Bank, subject to any limitation imposed on Customer by law enforcement or applicable law.

9.6 BANK'S SECURITY PROCEDURES ARE STRICTLY CONFIDENTIAL AND SHOULD BE DISCLOSED ONLY TO THOSE INDIVIDUALS WHO ARE REQUIRED TO KNOW THEM OR AS OTHERWISE PROVIDED BY LAW. IF A SECURITY PROCEDURE INVOLVES THE USE OF ACCESS DEVICES, THE CUSTOMER SHALL BE RESPONSIBLE TO SAFEGUARD THESE ACCESS DEVICES AND MAKE THEM AVAILABLE ONLY TO DESIGNATED INDIVIDUALS. CUSTOMER HAS THE SOLE RESPONSIBILITY TO INSTRUCT THOSE INDIVIDUALS THAT THEY MUST NOT DISCLOSE OR OTHERWISE MAKE AVAILABLE TO UNAUTHORIZED PERSONS THE SECURITY PROCEDURE OR ACCESS DEVICES. CUSTOMER HAS THE SOLE RESPONSIBILITY TO ESTABLISH AND MAINTAIN ITS OWN PROCEDURES TO ASSURE THE CONFIDENTIALITY OF ANY PROTECTED ACCESS TO THE SECURITY PROCEDURE.

10. Fraud Detection / Deterrence; Positive Pay. Bank offers certain products and services such as Positive Pay (with or without payee validation), ACH Positive Pay, and Account blocks and filters that are designed to detect and/or deter check, automated clearing house ("ACH") or other payment system fraud. While no product or service will be completely effective, Bank believes that the products and services it offers will reduce the likelihood that certain types of fraudulent items or transactions will be paid against Customer's Account. Failure to use such products or services could substantially increase the likelihood of fraud. **Customer agrees that if, after being informed by Bank or after Bank otherwise makes information about such products or services available to Customer consistent with Section 27 of this Agreement, Customer declines or fails to implement and use any of these products or services, or fails to follow these and other Bank-identified or recommended precautions reasonable for Customer's particular circumstances, Customer will be precluded from asserting any claims against Bank for paying any unauthorized, altered, counterfeit or other fraudulent item that such product, service, or precaution was designed to detect or deter, and Bank will not be required to re-credit Customer's Account or otherwise have any liability for paying such items, except to the extent that Bank has failed to exercise the required standard of care under the Uniform Commercial Code.**

11. Duty to Inspect. Customer is responsible for monitoring all Services provided by Bank, including each individual transaction processed by Bank, and notifying Bank of any errors or other problems within ten (10) Calendar Days (or such longer period as may be required by applicable law) after Bank has made available to Customer any report, statement or other material containing or reflecting the error, including an Account analysis statement or on-line Account access. Except to the extent otherwise required by law, failure to notify Bank of an error or problem within such time will relieve Bank of any and all liability for interest upon correction of the error or problem (and for any loss from any subsequent transaction involving the same error or problem). In the event Customer fails to report such

error or problem within thirty (30) Calendar Days after Bank made available such report, statement or on-line Account access, the transaction shall be deemed to have been properly authorized and executed, and Bank shall have no liability with respect to any error or problem. Customer agrees that its sole remedy in the event of an error in implementing any selection with the Services shall be to have Bank correct the error within a reasonable period of time after discovering or receiving notice of the error from Customer.

12. Overdrafts; Set-off. Bank may, but shall not be obligated to, complete any transaction in connection with providing the Services if there are insufficient available funds in Customer's Account(s) to complete the transaction. In the event any actions by Customer result in an overdraft in any of Customer's Accounts, including but not limited to Customer's failure to maintain sufficient balances in any of Customer's Accounts, Customer shall be responsible for repaying the overdraft immediately, without notice or demand. Bank has the right, in addition to all other rights and remedies available to it, to set off the unpaid balance of any amount owed it in connection with the Services against any debt owing to Customer by Bank, including, without limitation, any obligation under a repurchase agreement or any funds held at any time by Bank, whether collected or in the process of collection, or in any other Account maintained by Customer at, or evidenced by any certificate of deposit issued by, Bank. Except as otherwise expressly prohibited or limited by law, if any of Customer's Accounts become overdrawn, under-funded or for any reason contain a negative balance, then Bank shall have the right of set-off against all of Customer's Accounts and other property or deposit Accounts maintained at Bank, and Bank shall have the right to enforce its interests in collateral held by it to secure debts of Customer to Bank arising from notes or other indebtedness now or hereafter owing or existing under this Agreement, whether or not matured or liquidated.

13. Transaction Limits.

13.1 In the event that providing the Services to Customer results in unacceptable credit exposure or other risk to Bank, or will cause Bank to violate any law, regulation, rule or order to which it is subject, Bank may, in Bank's sole and exclusive discretion, without prior notice, limit Customer's transaction volume or dollar amount and refuse to execute transactions that exceed any such limit, or Bank may terminate any Service then being provided to Customer. Bank will provide notice of such limits to Customer in accordance with the terms of this Agreement.

13.2 Customer shall, upon request by Bank from time to time, provide Bank with such financial information and statements and such other documentation as Bank reasonably determines to be necessary or appropriate showing Customer's financial condition, assets, liabilities, stockholder's equity, current income and surplus, and such other information regarding the financial condition of Customer as Bank may reasonably request to enable Bank to evaluate its exposure or risk. Any limits established by Bank hereunder shall be made in Bank's sole discretion and shall be communicated promptly to Customer.

14. Term and Termination.

14.1 This Agreement shall be effective when (i) signed by an Authorized Representative of Customer and accepted by Bank, and (ii) Customer delivers to Bank all documents and information, including any Setup Form(s) and electronic data, reasonably required by Bank prior to commencing to provide the Services. Bank will determine the adequacy of such documentation and information in its sole discretion and may refuse to provide the Services to Customer until adequate documentation and information are provided.

14.2 This Agreement shall continue in effect until terminated by either party with thirty (30) Calendar Days' prior written notice to the other. Either party may terminate an Appendix in accordance with the provisions of this Section without terminating either this Agreement or any other Appendix. Upon termination of this Agreement or any Appendix, Customer shall, at its expense, return to Bank, in the same condition as when delivered to Customer, normal wear and tear excepted, all property belonging to Bank and all proprietary material delivered to Customer in connection with the terminated Service(s).

14.3 If an Appendix is terminated in accordance with this Agreement, Customer must contact Treasury Management Services Support for instructions regarding the cancellation of all future dated payments and transfers. Bank may continue to make payments and transfers and to perform other Services that Customer has previously authorized or may subsequently authorize; however, Bank is not under any obligation to do so. Bank will not be liable if it chooses to make any payment or transfer or to perform any other Services that Customer has previously authorized or subsequently authorizes after an Appendix had terminated.

14.4 Notwithstanding the foregoing, Bank may, without prior notice, terminate this Agreement and/or terminate or suspend any Service(s) provided to Customer pursuant hereto (i) if Customer or Bank closes any Account established in connection with the Service(s) that is necessary for the ongoing use of the Service(s) or necessary for Bank to charge Service Fees, including, but not limited to, closure of the Primary Account, (ii) if Bank determines that Customer has failed to maintain a financial condition deemed reasonably satisfactory to Bank to minimize any credit or other risks to Bank in providing Services to Customer, including the commencement of a voluntary or involuntary proceeding under the United States Bankruptcy Code or other statute or regulation relating to bankruptcy or relief of debtors, (iii) in the event of a material breach, default in the performance or observance of any term, or material breach of any representation or warranty by Customer, (iv) in the event of default by Customer in the payment of any sum owed by Customer to Bank hereunder or under any note or other agreement, as may be defined therein, (v) if there has been a seizure, attachment, or garnishment of Customer's Accounts, assets or properties, (vi) if Bank believes immediate action is necessary for the

security of Bank or Customer funds or (vii) if Bank reasonably believes that the continued provision of Services in accordance with the terms of this Agreement or any Appendix would violate federal, state or local laws or regulations, or would subject Bank to unacceptable risk of loss. In the event of any termination hereunder, all fees due Bank under this Agreement as of the time of termination shall become immediately due and payable. Notwithstanding any termination, this Agreement shall remain in full force and effect with respect to all transactions initiated prior to such termination.

14.5 TERMINATION IN REGARDS TO F.S. 287.135: Bank certifies that it and those related entities of Bank as defined by Florida law are not on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725 of the Florida Statutes, and are not engaged in a boycott of Israel. Customer may terminate this Contract if Bank, including all wholly owned subsidiaries, majority-owned subsidiaries, and parent companies that exist for the purpose of making profit, is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel as set forth in section 215.4725, Florida Statutes. In addition, if this agreement is for goods or services of one million dollars or more, Bank certifies that it and those related entities of Bank as defined by Florida law are not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473 of the Florida Statutes and are not engaged in business operations in Cuba or Syria. Customer may terminate this Contract if Bank is found to have submitted a false certification as provided under section 287.135(5), Florida Statutes, been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, as defined by section 287.135, Florida Statutes.

15. Limitation of Liability; Disclaimer of Warranties.

15.1 Customer acknowledges that Bank's fees and charges for the Services are very small in relation to the amounts of transfers initiated through the Services and, as a result, Bank's willingness to provide the Services is based on the limitations and allocations of liability contained in this Agreement. Unless expressly prohibited or otherwise restricted by applicable law, the liability of Bank in connection with the Services will be limited to actual damages sustained by Customer and only to the extent such damages are a direct result of Bank's gross negligence, willful misconduct, or bad faith. In no event shall Bank be liable for any consequential, special, incidental, indirect, punitive or similar loss or damage that Customer may suffer or incur in connection with the Services, including, without limitation, attorneys' fees, lost earnings or profits and loss or damage from subsequent wrongful dishonor resulting from Bank's acts, regardless of whether the likelihood of such loss or damage was known by Bank and regardless of the basis, theory or nature of the action on which a claim is asserted. Unless expressly prohibited by or otherwise restricted by

applicable law, and without limiting the foregoing, Bank's aggregate liability to Customer for all losses, damages, and expenses incurred in connection with any single claim shall not exceed an amount equal to the monthly billing paid by, charged to or otherwise assessed against Customer for Services over the three (3) month-period immediately preceding the date on which the damage or injury giving rise to such claim is alleged to have occurred or such fewer number of preceding months as this Agreement has been in effect. Notwithstanding any of the foregoing, for transactions which are subject to Article 4A of the UCC, Bank shall be liable for such damages as may be required or provided under Article 4A or the Fedwire Regulations, as applicable, except as otherwise agreed in this Agreement. This Agreement is only between Bank and Customer, and Bank shall have no liability hereunder to any third party.

15.2 Except as otherwise expressly provided in Section 8 of this Agreement, Bank shall not be liable for any loss, damage or injury caused by any act or omission of any third party; for any charges imposed by any third party; or for any loss, damage or injury caused by any failure of the hardware or software utilized by a third party to provide Services to Customer.

15.3 Bank shall not be liable or responsible for damages incurred as a result of data supplied by Customer that is inaccurate, incomplete, not current, or lost in transmission. It is understood that Bank assumes no liability or responsibility for the inaccuracy, incompleteness or incorrectness of data as a result of such data having been supplied to Customer through data transmission.

15.4 Bank is not liable for failing to act sooner than required by any Appendix or applicable law. Bank also has no liability for failing to take action if Bank had discretion not to act.

15.5 Bank shall not be responsible for Customer's acts or omissions (including, without limitation, the amount, accuracy, timeliness of transmittal or due authorization of any entry, funds transfer order, or other instruction received from Customer) or the acts or omissions of any other person, including, without limitation, any Automated Clearing House processor, any Federal Reserve Bank, any financial institution or bank, any transmission or communication facility, any receiver or receiving depository financial institution, including, without limitation, the return of an entry or rejection of a funds transfer order by such receiver or receiving depository financial institutions, and no such person shall be deemed Bank's agent. Bank shall be excused from failing to transmit or delay in transmitting an entry or funds transfer order if such transmittal would result in Bank's having exceeded any limitation upon its intra-day net funds position established pursuant to Federal Reserve guidelines or otherwise violating any provision of any risk control program of the Federal Reserve or any rule or regulation of any other U.S. governmental regulatory authority. In no event shall Bank be liable for any damages resulting from Bank's action or inaction which is consistent with regulations issued by the Board of Governors of the Federal Reserve System, operating circulars issued by a Federal Reserve Bank or

general banking customs and usage. To the extent required by applicable laws, Bank will compensate Customer for loss of interest on funds as a direct result of Bank's failure to comply with such laws in executing electronic transfers of funds, if such failure was within Bank's control. Bank shall not be liable for Customer's attorney's fees in connection with any such claim.

15.6 EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT, CUSTOMER EXPRESSLY AGREES THAT USE OF THE SERVICES IS AT CUSTOMER'S SOLE RISK, AND THE SERVICE IS PROVIDED "AS IS," AND BANK AND ITS SERVICE PROVIDERS AND AGENTS DO NOT MAKE, AND EXPRESSLY DISCLAIM ANY, WARRANTIES, EITHER EXPRESSED OR IMPLIED, WITH RESPECT TO THE SERVICES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, OR THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE, WITHOUT BREACHES OF SECURITY OR WITHOUT DELAYS. IN THOSE STATES THAT DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY, THE LIABILITY OF BANK AND ITS SERVICE PROVIDERS AND AGENTS IS LIMITED TO THE FULLEST POSSIBLE EXTENT PERMITTED BY LAW.

15.7 The provisions of this Section 15 shall survive termination of this Agreement.

16. Indemnification.

16.1 Except as otherwise expressly prohibited or limited by law, Customer shall indemnify and hold Bank harmless from any and all liabilities, losses, damages, costs, and expenses of any kind (including, without limitation, the reasonable fees and disbursements of counsel in connection with any investigative, administrative or judicial proceedings, whether or not Bank shall be designated a party thereto) which may be incurred by Bank due to any claim or action by any person, entity or other third-party against Bank to the extent such claim or action relates to or arises out of:

(i) any claim of any person that (a) Bank is responsible for any act or omission of Customer or (b) a Customer payment order contravenes or compromises the rights, title or interest of any third party, or contravenes any law, rule, regulation, ordinance, court order or other mandate or prohibition with the force or effect of law;

(ii) any failure by Customer to observe and perform properly all of its obligations hereunder or any wrongful act of Customer or any of its Affiliates;

(iii) any breach by Customer of any of its warranties, representations or agreements;

(iv) any action taken by Bank in reasonable reliance upon information provided to Bank by Customer or any Affiliate or subsidiary of Customer; and

(v) any legal action that Bank responds to or initiates, including any interpleader action Bank commences, involving Customer or Customer's Account(s), including without limitation, any state or federal legal process, writ of attachment, execution, garnishment, tax levy or subpoena.

16.2 The provisions of this Section 16 shall survive termination of this Agreement.

17. RESERVED.

18. **Force Majeure.** Neither party shall bear responsibility for non-performance of this Agreement to the extent that such non-performance is caused by an event beyond that party's control, including, but not necessarily limited to, fire, casualty, breakdown in equipment or failure of telecommunications or data processing services, lockout, strike, unavoidable accident, act of God, riot, war or the enactment, issuance or operation of any adverse governmental law, ruling, regulation, order or decree, or an emergency that prevents Bank or Customer from operating normally.

19. **Documentation.** The parties acknowledge and agree that all documents evidencing, relating to or arising from the parties' relationship may be scanned or otherwise imaged and electronically stored and the originals (including manually signed originals) destroyed. The parties agree to treat such imaged documents as original documents and further agree that such reproductions and copies may be used and introduced as evidence at any legal proceedings including, without limitation, trials and arbitrations, relating to or arising under this Agreement.

20. **Entire Agreement.** Bank and Customer acknowledge and agree that this Agreement and any amendments hereto, all other documents incorporated by reference therein, and Appendices constitute the complete and exclusive statement of the agreement between them with respect to the Services, and supersede any prior oral or written understandings, representations, and agreements between the parties relating to the Services.

21. **Amendments.** Bank may, at any time, amend this Agreement, the Services or Appendices in its sole discretion and from time to time. Except as expressly provided otherwise in this Agreement, any such changes generally will be effective as provided in the notice to Customer as described below. Customer will be deemed to accept any such changes if Customer accesses or uses any of the Services after the date on which the change becomes effective. Customer will remain obligated under this Agreement and any Appendices, including without limitation, being obligated to pay all amounts owing thereunder, even if Bank amends this Agreement or any Appendices. Notwithstanding anything to the contrary in this Agreement or in any Appendix, if Bank believes

immediate action is necessary for the security of Bank or Customer funds, Bank may immediately initiate changes to any security procedures and provide prompt subsequent notice thereof to Customer. As set forth in Section 14.2, Customer may terminate this Agreement or any Appendix upon its receipt of any notice of change that is not acceptable to Customer.

22. Severability. If any provision of this Agreement shall be determined by a court of competent jurisdiction to be unenforceable as written, that provision shall be interpreted so as to achieve, to the extent permitted by applicable law, the purposes intended by the original provision, and the remaining provisions of this Agreement shall continue intact. In the event that any statute, regulation or government policy to which Bank is subject and that governs or affects the transactions contemplated by this Agreement, would invalidate or modify any portion of this Agreement, then this Agreement or any part thereof shall be deemed amended to the extent necessary to comply with such statute, regulation or policy, and Bank shall incur no liability to Customer as a result of Bank's compliance with such statute, regulation or policy.

23. Assignment and Delegation. Bank may assign any of its rights or delegate any of its responsibilities in whole or in part without notice to or consent from Customer. Customer may not assign, delegate or otherwise transfer its rights or responsibilities under this Agreement without Bank's prior written consent, which consent Bank may grant or withhold in its sole discretion.

24. Successors. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns.

25. Non-Waiver. No deviation from any of the terms and conditions set forth or incorporated in this Agreement shall constitute a waiver of any right or duty of either party, and the failure of either party to exercise any of its rights hereunder on any occasion shall not be deemed to be a waiver of such rights on any future occasion.

26. Governing Law. Any claim, controversy or dispute arising under or related to this Agreement shall be governed by and interpreted in accordance with federal law and, to the extent not preempted or inconsistent therewith, by the laws of the State of New Jersey.

27. Notices.

27.1 Except as otherwise expressly provided in this Agreement, all notices that are required or permitted to be given by Customer (including all documents incorporated herein by reference) shall be sent by first class mail, postage prepaid, and addressed to Bank at the address provided to Customer in writing for that purpose. All such notices shall be effective upon receipt.

27.2 Customer authorizes Bank to, and Customer agrees that Bank may, send any notice or communication that Bank is required or permitted to give to

Customer under this Agreement, including but not limited to notice of any change to the Services, this Agreement or any Appendix, to Customer's business mailing address or Customer's business e-mail address as it appears on Bank's records, or electronically by posting the notice on Bank's website, on an Account statement or via facsimile, and that any such notice or communication will be effective and deemed delivered when provided to Customer in such a manner. Customer agrees to notify Bank promptly about any change in Customer's business mailing or Customer's business e-mail address and acknowledges and agrees that no such change will be effective until Bank has had a reasonable opportunity to act upon such notice. Customer agrees that Bank may consider any such notice or communication as being given to all Account owners when such notice or communication is given to any one Account owner.

28. Jury Trial Waiver. BANK AND CUSTOMER EACH AGREE THAT NEITHER BANK NOR CUSTOMER SHALL (I) SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM, OR ANY OTHER ACTION BASED UPON, OR ARISING OUT OF, THIS AGREEMENT OR ANY ACCOUNT OR THE DEALINGS OF THE RELATIONSHIP BETWEEN BANK AND CUSTOMER, OR (II) SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANOTHER IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THE PROVISIONS OF THIS SECTION SHALL BE SUBJECT TO NO EXCEPTIONS. NEITHER BANK NOR CUSTOMER HAS AGREED WITH OR REPRESENTED TO THE OTHER THAT THE PROVISIONS OF THIS SECTION WILL NOT BE FULLY ENFORCED IN ALL INSTANCES. BANK AND CUSTOMER EACH ACKNOWLEDGE THAT THIS WAIVER HAS BEEN KNOWINGLY AND VOLUNTARILY MADE. The provisions of this Section 28 shall survive termination of this Agreement.

29. Beneficiaries. This Agreement is for the benefit only of the undersigned parties hereto and is not intended to and shall not be construed as granting any rights to or otherwise benefiting any other person.

30. Recording of Communications. Customer and Bank agree that all telephone conversations or data transmissions between them or their agents made in connection with this Agreement and related to the Services may be recorded and retained by either party by use of any reasonable means, except as otherwise expressly prohibited or limited by applicable law.

31. Facsimile Signature. The parties acknowledge and agree that this Agreement and any Appendix or Amended Appendices may be executed and delivered by facsimile, and that a facsimile signature shall be treated as and have the same force and effect as an original signature. Notwithstanding the foregoing, Bank may, in its sole and exclusive discretion, also require Customer to deliver this Agreement and any Appendix or Amended Appendices with an original signature for its records.

32. Relationship. Customer and Bank are not, and Customer and Bank's licensors are not, partners, joint venturers or agents of each other as a result of this Agreement.

33. Third-Party Service Provider Activities.

33.1 Customer As a Third-Party Service Provider. Subject to Bank's prior approval and in its sole and exclusive discretion, Customer may be permitted to use one or more of the Services provided hereunder on behalf of and in conjunction with Accounts that belong to Customer's clients, who may or may not otherwise be customers of Bank, as well as on Customer's own behalf (hereinafter, when acting in such capacity, referred to as "Customer As Service Provider"). Customer shall execute any such other agreement(s) or documents as deemed necessary or appropriate by Bank prior to the initiation or continuation by Customer of any Services in such capacity. Customer agrees that Bank retains the right to reject any request by Customer to engage in Customer As Service Provider activities as well as any transactions initiated by Customer in such capacity, in Bank's sole discretion. In the event Bank approves Customer's use of the Services in the capacity of Customer As Service Provider, then the following shall also apply:

(a) Customer represents and warrants to Bank that each Customer client has given Customer authority to access and conduct transactions with respect to its Accounts through use of any of the Services to the same extent as if Customer owned them, including in the capacity of a "third party service provider;"

(b) each reference to "Customer" in the Agreement will be deemed to be a collective reference to Customer and each Customer client whose Accounts are included in Bank's implementation of Customer's set-up for the Services;

(c) all of the provisions set forth in the Agreement will apply to Customer client's Account(s) as if Customer owned them;

(d) each person who is authorized to act on Customer's behalf with respect to a Service is also authorized to act on Customer's behalf to the same extent with respect to the Accounts of each Customer client whose Accounts are included in Bank's implementation of Customer's set-up for that Service; and

(e) Customer shall be liable for all monetary, confidentiality and other obligations to Bank under this Agreement as they relate to Customer's use of the Services for itself as well as each such Customer client. Bank may require written confirmation from each Customer client that it has authorized Customer to include its Accounts in Bank's

implementation of Customer's set-up for the Services, and Customer agrees to notify Bank immediately if that authority is revoked or changed.

33.2 Customer Engaging a Third-Party Service Provider. Subject to Bank's prior approval and in its sole and exclusive discretion, Customer may appoint a third-party service provider to act as Customer's agent to use one or more of the Services (hereinafter such third-party to be referred to as "Customer's Third-Party Service Provider"). In such event, all transactions received by Bank from Customer's Third-Party Service Provider are hereby authorized by Customer. All acts and omissions of Customer's Third-Party Service Provider shall be the acts, omissions and responsibility of Customer and shall be governed by the provisions of this Agreement. Customer agrees, jointly and severally with Customer's Third-Party Service Provider, to indemnify and hold Bank harmless from any and all liabilities, losses, damages, costs and expenses of any kind (including, without limitation, the reasonable fees and disbursements of counsel in connection with any investigative, administrative or judicial proceedings, whether or not Bank shall be designated a party thereto) which may be incurred by Bank relating to or arising out of the acts or omissions of Customer's Third-Party Service Provider on behalf of Customer. Customer and Customer's Third-Party Service Provider shall execute any such other agreement(s) or documents as deemed necessary or appropriate by Bank prior to the initiation or any continuation by Customer's Third-Party Service Provider of any Services on Customer's behalf. Notice of any termination of Customer's Third-Party Service Provider's authority to use one or more of the Services on Customer's behalf shall be given to Bank in writing. The effective date of such termination shall be ten (10) Business Days after Bank receives written notice of such termination. Customer agrees that Bank retains the right to reject any transactions initiated by Customer's Third-Party Service Provider in its sole discretion.

34. Section Headings. The section headings used in this Agreement are only meant to organize this Agreement, and do not in any way limit or define Customer's or Bank's rights or obligations.

35. E-Verify. Bank is registered with and will use the Department of Homeland Security's E-Verify system (www.e-verify.gov) to confirm the employment eligibility of all newly hired employees for the duration of this agreement, as required by Section 448.095, F.S. Bank is also responsible for obtaining an affidavit from all subcontractors, as required in Section 448.095(5)(b), F.S., stating the subcontractor does not employ, contract with, or subcontract with an unauthorized alien.

IN WITNESS WHEREOF, Customer and Bank have duly caused this Agreement, including all applicable Appendices, to be executed by an Authorized Representative.

Date: _____

INDIAN RIVER COUNTY
(Customer)

TD Bank, N.A.

(Address)

By: _____
(Signature of Authorized Representative)

By: _____
(Signature of Authorized Representative)

Print Name: Joseph H. Earman,

Print Name: _____

Title: Chairman

Title: _____

By: _____
John A. Titkanich, Jr., County Administrator

By: _____
Ryan L. Butler, Clerk of the Circuit Court and Comptroller

Attest:
By: _____

Approved as to Form and Legal Sufficiency:

By: _____
William K. DeBaal, County Attorney

Governmental



EXHIBIT TO CASH MANAGEMENT MASTER AGREEMENT:

GOVERNMENTAL ENTITY SERVICES

This Exhibit is incorporated by reference into the parties' Cash Management Master Agreement (the "Agreement") and applies to all Cash Management Services made available by Bank to Customer, as a governmental entity or unit. All capitalized terms used herein without definition shall have the meanings given to them in the Agreement. Bank and Customer agree that, notwithstanding anything to the contrary contained in the Agreement, the following terms and provisions shall apply to the Agreement:

TERMS AND CONDITIONS

1. Section 26, "Governing Law," of the Agreement is hereby deleted in its entirety and replaced with the following:

26. Governing Law. Any claim, controversy or dispute arising under or related to this Agreement shall be governed by and interpreted in accordance with the laws of the jurisdiction pursuant to which Customer was incorporated or otherwise organized, except where applicable federal law is controlling. In the event of a conflict between the provisions of this Agreement and any applicable law or regulation, this Agreement shall be deemed modified to the extent necessary to comply with such law or regulation.

2. The following new Section 35 is hereby added immediately after Section 34:

35. Additional Representations and Warranties. For purposes of this Section, "Governmental Unit" means: (A) any town, city, county or similar local governmental unit, including without limitation any school district or school administrative unit of any nature, water district, sewer district, sanitary district, housing authority, hospital district, municipal electric district or other political subdivision, agency, bureau, department or other instrumentality thereof, or similar quasi-governmental corporation or entity defined by applicable law, and (B) any state government or any agency, department, bureau, office or other instrumentality thereof.

(a) If Customer is a Governmental Unit of the type included in (A) above, Customer and the individual signing below represent, warrant and agree: (i) that this Agreement has been duly executed by the Treasurer, Finance Director, or other officer authorized by law with signatory authority to enter into banking services agreements; (ii) that this Agreement has been duly authorized and approved

by the governing body of Customer in accordance with applicable law, and, at Bank's request, as evidenced by the certification of the Secretary or other legal authority of the governing body and provided with this Agreement; (iii) that only persons authorized to disburse Customer funds from any Account will be enrolled as Authorized Users having access to wire transfer, ACH or Account transfer functions; (iv) that if this Agreement remains in effect for more than one budget year, upon request of Bank, Customer will ratify and provide evidence of the renewal of this Agreement in subsequent years; and (v) that this Agreement is the valid and binding obligation of Customer, enforceable against Customer in accordance with its terms.

(b) If Customer is a Governmental Unit of the type included in (B) above, Customer and the individual signing below represent, warrant and agree: (i) that this Agreement has been duly executed by a financial or other officer authorized by law with signatory authority to enter into banking services agreements on behalf of Customer; (ii) that this Agreement has been duly authorized by a senior or similar officer of Customer; (iii) that Customer has complied with all state laws and regulations, including any regulations or policies adopted by Customer with respect to electronic commerce in entering into and performing this Agreement and any related ACH or wire transfer service agreement; (iv) that only persons authorized to disburse Customer funds from any Account will be enrolled as Authorized Users having access to wire transfer, ACH or Account transfer functions; and (v) that this Agreement is the valid and binding obligation of Customer, enforceable against Customer in accordance with its terms.

(c) For a Customer of the type included in either (A) or (B) above, Customer and the individual signing below further represent, warrant and agree: (i) that upon Bank's request, Customer shall provide evidence of those persons authorized to disburse Customer funds as described in (a)(iii) and (b)(iv)

above; (ii) that upon Bank's request, Customer will certify its compliance with (a) or (b), as applicable, on an annual or other periodic basis; and (iii) that Customer will provide notice to Bank if any person authorized to disburse Customer funds as described in (a)(iii) and (b)(iv) is no longer so authorized or his/her position of such authority is terminated for any reason.

3. Effectiveness. Customer agrees to all the terms and conditions of this Exhibit. The liability of Bank under this Exhibit shall in all cases be subject to the provisions of the Cash Management Master Agreement, including, without limitation, any provisions thereof that exclude or limit warranties made by, damages payable by or remedies available from Bank. This Exhibit shall remain in full force and effect until such time as a different or amended Exhibit is accepted in writing by Bank or the Cash Management Master Agreement is terminated.

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APPENDIX I

TD eTREASURY SERVICES

This Appendix is incorporated by reference into the parties' Cash Management Master Agreement and governs Customer's use of the Bank Internet System (the "Services" or "eTreasury"). All capitalized terms used herein without definition shall have the meanings given to them in the parties' Cash Management Master Agreement. Except as otherwise expressly provided in this Appendix, to the extent that this Appendix is inconsistent with the provisions of the Cash Management Master Agreement, this Appendix and any amendment hereto from time to time shall control, but only to the extent necessary to resolve such conflict.

TERMS AND CONDITIONS

1. Definitions.

"*Account(s)*" means, with respect to eTreasury, a checking, regular statement savings, money market deposit, certificate of deposit, investment or commercial loan or line of credit account(s) Customer maintains with Bank for business or non-consumer purposes that is designated by Customer for use with the Services, as described below.

"*Account Agreement*" means, in addition to the meaning contained in the parties' Cash Management Master Agreement, any and all agreements between Customer and Bank which govern Customer Accounts (as defined above) and which were provided to Customer when Customer opened its Account(s), or any other documents governing Customer's Account(s), each as may be amended from time to time.

"*Administrator*" or "*Account Administrator*" means Customer's employee(s) or other person(s) that Customer (or any Administrator designated by Customer) designates on the Services' Setup Form(s) (or by on-line changes to such designations as described below) as being its Authorized Representative, or as authorized to act on Customer's behalf, with respect to the Services.

"*Authorized User*" means any person Customer's Administrator designates as being authorized to access or use any of the Services on Customer's behalf.

"*Login ID*" means the electronic identification, in letters and numerals, assigned to Customer by Bank or to any additional Authorized Users designated by Customer's Account Administrator.

"*Payment*" means a transfer of funds to or from Customer's Account(s).

2. Services.

2.1 This Appendix describes the terms and conditions under which Bank will provide Customer with access to and use of any of the electronic information

delivery and transaction initiation services that Bank makes available using the Bank Internet System.

2.2 By accessing the Services with the Access Devices (as defined in the Cash Management Master Agreement), Customer may perform any or all of the Services described in this Appendix and selected for use in the Services' Setup Form(s) and that Bank has approved for Customer's use. Bank reserves the right to reject Customer's Services' Setup Form(s), schedules and other required documents and to refuse Customer access to or use of the Services for any reason and in Bank's sole discretion. Bank may, in its sole and exclusive discretion, introduce new features of the Services from time to time but is not required to notify Customer of the availability of any such new features.

2.3 By subscribing to the Services, Customer will have access to the Services' basic features, which include but may not be limited to, in Bank's sole and exclusive discretion, the following:

2.3.1 Previous-Day Balance Reporting. Previous-Day Balance Reporting allows Customer to review the balances and transaction history in Customer's checking, savings, money market deposit and loan Account(s) for such period of time as described in the Services' Setup Form(s). Customer may also view images of deposit tickets, deposit items, paid checks and return deposited items. This information may be viewed upon implementation of the Services. The scope of the time periods for which transactional history and check images may be viewed (including pre-implementation periods) may vary and depend upon various factors, such as when Account(s) were opened and when the Services were first implemented and set-up.

2.3.2 Real-Time Balance Reporting. Real-Time Balance Reporting allows Customer to review current Account balance(s) and transaction activity in real-time.

2.3.3 Book Transfers. Book Transfers allows Customer to make intra-Bank fund transfers between Customer's checking, savings and loan Accounts.

2.3.3.1 **General.** Book

Transfers may be made as one-time or recurring, same-day or in the future. Book Transfers may also be initiated from (i) one-Account-to-one-Account, (ii) one-Account-to-many-Accounts, or (iii) many-Accounts-to-one-Account. Recurring Book Transfers may utilize one of several repeating frequency options (weekly, monthly, etc.), as set forth in the Services. Book Transfer templates may be created and saved for frequently executed transfers. Pending Book Transfers and templates may be edited or deleted (cancelled) through the Services by Authorized Users at any time prior to the Business Day on which the associated transfer is scheduled to occur. Book Transfer amounts and the order in which such transfers occur are limited to the available balance in the Account(s) on the effective date of the transfer. For same-day transactions, Customer will need to have a sufficient available balance in the Account from which funds are to be transferred to cover the amount of the Book Transfer. For future or recurring Book Transfers, Customer will need to have sufficient available funds on the day the transaction is to occur. The number of Book Transfers from interest bearing checking and savings Accounts are subject to the terms of the Account Agreement and federal regulations. Book Transfers that Customer transmits by Bank's cut-off time as set forth on the Services' designated website or the Services' Setup Form(s) on a Business Day will be posted to the Account as of that Business Day; however, a request (whether a same-day funds transfer or a future-dated transfer) may not result in an immediate transfer of funds or immediate availability because of the time required to process the transaction. Customer is solely responsible for the review of the previous day's transaction report and the status of the Book Transfer request within the Services to ensure that the transaction was processed. Only Book Transfers initiated through the Services will be displayed on the Services' "Transfer" reports tab. All transfers are subject to the Account Agreement.

2.3.3.2 **Future-Dated**

Book Transfer. In conjunction with Book Transfers, a request to transfer funds between Customer's Accounts may be initiated and approved for a future date. The future transfer date may be scheduled for such date in advance as may be permitted from time to time by Bank and as set forth within the Bank Internet System. Future-dated transfers may be scheduled as a one-time request or a recurring request in a pre-determined amount, based on the instructions entered by Customer with the request. Future-dated Book Transfers will be initiated on the Business Day requested by Customer, not on the date Customer entered the transaction using the Services.

2.3.4 **Stop Payment.** Stop

payments of checks drawn on Customer's Account(s) are subject to the terms and conditions of the Account Agreement. Notwithstanding anything in the Account Agreement to the contrary, Customer may use the Services to initiate stop payment orders for an individual check or a range of checks. Bank shall have no responsibility for losses resulting from any delay in Bank's receipt of stop payment orders transmitted by means of the Bank Internet System or for Customer not taking additional actions when a response

message from the Bank Internet System indicates a response other than a successful confirmation. Customer must provide Bank with the **EXACT CHECK NUMBER OR RANGE OF CHECK NUMBERS**. When known, Customer should also provide the **EXACT AMOUNT OF THE CHECK**. If the check number is incorrect in any way or the amount of the check is inaccurate by one cent or more in the stop payment order, payment will not be stopped and Bank will not be responsible for resulting losses. All other information must be reasonably accurate. Requests are generally effective when successfully entered and submitted by Customer via the Services. Notwithstanding the foregoing, Customer understands that if the stop payment request comes too late for Bank to have a reasonable time to act on it prior to paying, settling for, posting or becoming accountable for the check described in the request, then Customer's stop payment request shall be of no effect. Stop payments requested using the Bank Internet System are effective for three hundred sixty-five (365) Calendar Days unless renewed before the end of the 365-day period. Customer is solely responsible for confirming the status of a stop payment order. Except as otherwise provided by Compliance Laws or the terms of the Cash Management Master Agreement, Customer shall not have the right to stop payment on or recall any electronic fund transfers or similar payment order or transfer request given hereunder after it has been transmitted to Bank. Only stop payment orders initiated or recalled through the Bank Internet System will be displayed on the Bank Internet System's Stop Payments" screen. Stop payment orders that are not initiated through the Bank Internet System may also be cancelled through the Bank Internet System.

2.3.5 **E-Learning.** E-Learning is

a self-paced, interactive educational tool available via the Services that Customer may use to learn more about the various features or modules related to the Services, as well as how to use them.

2.3.6 **Customizable Dashboard.**

Using this feature, Customer can configure and save Account balance views, as well as command one-click access to detailed information, balance and payment reports, and high-use transaction initiation features. It is Customer's responsibility to view the "Dashboard" for Bank notices when designating another section of the Bank Internet System as the desired landing page.

2.3.7 **FedWire 1031 Drawdown Request Origination.**

When made available by Bank, Customer may originate an outgoing service message to a specified third-party financial institution ("Receiving Financial Institution") to request a transfer of funds from an account at the Receiving Financial Institution to Customer's Account at Bank via FedWire (a method of electronic funds or wire transfer operated by the Federal Reserve System for participating financial institution members). Customer is responsible for completing all required information, which may include, but is not limited to, the following: the routing number of the Receiving Financial Institution, the account number at the Receiving Financial Institution and the amount of the requested wire drawdown. Bank shall have no

responsibility for losses resulting from any action or failure to act by Receiving Financial Institution.

2.4 In addition to the Services as described in this Appendix and/or in the Services' Setup Form(s), additional features, modules or other Cash Management Services related to eTreasury may be offered from time to time by Bank, in its sole and exclusive discretion, including but not limited to the following:

2.4.1 **Wire Transfers.** Wire transfers are subject to the terms and conditions of the TD Wire Transfer Services Appendix. Once approved by Bank for use by Customer, this Service allows Customer to transfer funds electronically using the Fedwire or similar funds transfer system, typically from Customer's Account(s) to other account(s) with Bank or to account(s) at other banks. Domestic or foreign wire transfers entered through the Services will be processed as set forth in the TD Wire Transfer Services Appendix.

2.4.2 **ACH Originations.** ACH originations are subject to the terms and conditions of the TD Automated Clearing House (ACH) Origination Appendix, the TD Third-Party Sender Services Appendix or the TD ACH Third Party Service Provider Agreement, as applicable. Once approved by Bank for use by Customer, this Service allows Customer to initiate and approve ACH transactions that Customer desires Bank to enter into the ACH network on Customer's behalf. ACH transactions entered through the Services will be processed and settled as set forth in the TD Automated Clearing House (ACH) Origination Appendix, the TD Third-Party Sender Services Appendix or the TD ACH Third Party Service Provider Agreement, as applicable.

2.4.3 **File Transfers.** File transfers is a method for Customer and Bank to send and receive reports and files (including, but not limited to, ACH, Reconciliation, Lockbox, and BAI files) to each other through the Internet and are subject to the terms and conditions of applicable Appendices. Such reports and files may also be auto-generated and auto-delivered.

3. Hours of Access. Customer generally may access the Services 24 hours a day, seven (7) days a week. Customer may not be able to access some or all of the Services from time to time, however, during any special or other scheduled maintenance periods, or during emergencies, interruptions or delays due to causes beyond Bank's control.

4. Account Designation.

4.1 Customer may designate any of Customer's Accounts maintained with Bank for business or non-consumer purposes for use with the Services. Generally, the taxpayer identification number for each Account must be the same, and each Account is subject to the other conditions set forth in this Appendix, except as Bank, in its sole discretion, may otherwise permit. Bank reserves the right to deny any Account designation for use with the Services in its sole discretion.

4.2 Customer may at any time add or delete any Account that Customer has designated for use with any of the Services, or change the Services associated with any Account, by notifying Bank in writing.

5. Administrator(s) and Authorized Users.

5.1 Customer shall designate Administrator(s) with Bank as set forth in the Services' Setup Form(s). Customer is solely responsible for designating its Administrator(s).

5.2 The Administrator(s) may designate other Administrators and/or Authorized Users. Customer accepts as its sole responsibility the Administrator's designation of other Administrators and Authorized Users. Customer understands that the Administrator(s) will control, and Customer authorizes the Administrator(s) to control, access by other Administrators and Authorized Users of the Services through the issuance of Access Devices. The Administrator(s) may add, change or terminate Customer's Authorized User(s) from time to time and in his/her sole discretion. Bank does not control access by any of Customer's Authorized Users to any of the Services. If Customer designates more than one (1) Administrator, Bank recommends that Customer manage its use of the Services and its Administrators by requiring dual control to set up new Authorized Users. Bank also recommends that Customer review and assign limits for Authorized Users that create and/or approve wire transfers and ACH transactions, as established on the Services' Setup Form(s). In the event that Bank, in its sole and exclusive discretion, assists Customer in any way with the establishment, addition or general set-up of Authorized Users, Customer understands and agrees that the Administrator(s) shall remain responsible for verifying the accuracy thereof and shall otherwise control access by any of Customer's Authorized Users to any of the Services.

5.3 Customer will require each Administrator and each Authorized User to comply with all provisions of this Appendix and all other applicable agreements. Customer acknowledges and agrees that it is fully responsible for the failure of any Administrator or any Authorized User to so comply. Customer is responsible for any Payment, transfer and other use of the Services and charges incurred by any Administrator and any Authorized User, even if such Administrator or Authorized User exceeds his/her authorization. Bank recommends that Customer require its Administrator(s) to review all entitlement reports available through the Services with respect to Customer's Authorized User(s).

5.4 Customer acknowledges and agrees that an Authorized User is not permitted to authorize other persons/entities to use its Access Devices. Notwithstanding the foregoing, if an Authorized User does authorize other persons/entities to use the Authorized User's Access Devices in any manner, such authorization will be considered by Bank as unlimited in amount and manner, and Customer is responsible for any transactions made by such persons/entities, until Customer's Administrator has

deactivated the subject Authorized User's Access Devices. Bank will not be liable for and will not reimburse Customer for any losses that may occur as a result of this authorized use of an Authorized User's Access Devices.

5.5 Whenever any Authorized User leaves Customer's employ or Customer otherwise revokes the authority of any Authorized User to access or use the Services, the Administrator(s) are solely responsible for deactivating such Authorized User's Access Devices. Customer shall notify Bank in writing whenever a sole Customer Administrator leaves Customer's employ or Customer otherwise revokes a sole Administrator's authority to access or use the Services.

6. Access Devices; Security Procedures.

6.1 Upon successful enrollment, Customer can access the Services from Bank's designated website by using Customer's Computer or, as may be permitted by Bank from time to time in its sole discretion and in accordance with Bank's terms and conditions for such access, using mobile or other Internet-enabled system(s) or device(s), along with the Services' security procedures as described from time to time. A company ID assigned to Customer by Bank, a unique Login ID and an individual password will be used for log-in by Customer's Administrator(s) and Authorized User(s). The Administrator(s) and Authorized User(s) must change his or her individual password from time to time for security purposes, as prompted by the Bank Internet System or more frequently (subject to the additional security procedures described below).

6.2 Customer acknowledges that the Administrator(s) will, and Customer authorizes the Administrator(s) to, select other Administrators and Authorized Users by issuing to any person a unique Login ID and password (subject to the additional security procedures described below). Customer further acknowledges that the Administrator(s) may, and Customer authorizes the Administrator(s) to, change or de-activate the unique Login ID and/or password from time to time and in his or her sole discretion (subject to the additional security procedures described below).

6.3 Customer acknowledges that, in addition to the above individual passwords, access to the Services includes, as part of the Access Devices, additional security procedures, including as described below:

6.3.1 Additional security procedures include a risk-based authentication security procedure for Customer, including Customer's Administrator and Authorized Users. This additional security procedure involves an additional credential for each user that is in addition to Login IDs and individual password security (hereinafter "Enhanced Authentication Security," and/or "Enhanced Log-in Security"). With Enhanced Authentication Security, additional information regarding each Authorized User's Computer and method of website access will be collected and validated automatically with the set-up process. An electronic access identity will be created for each Authorized User by combining a number of key

identification points, such as IP address, Internet service provider, PC and browser settings, time of day and geographic location. These access identities are used by Bank to authenticate Authorized Users. Further authentication may occur automatically due to the detection of unusual source occurrences in relation to that access identity.

6.3.2 An additional security procedure incorporates use of a physical security device or token ("Token") for, by way of example only, initial log-in and/or certain transactional or administrative functionality. A Token may be issued to any Authorized User(s), for example, for use in initiating and/or approving ACH transactions and wire transfers, to log in to the Services, as well as with certain administrative functionality, and/or for the creation of ACH and wire templates. Physical security of each Token is Customer's sole responsibility. With the Token, each Authorized User will receive a PIN number that the Authorized User must keep in a secure place. When an Authorized User (or Administrator) leaves Customer's employ, his or her Login ID must be deleted by Customer (or by Bank upon Customer's request) and, if a Token had been issued to such Authorized User (or Administrator), Bank must be promptly notified so that Bank may deactivate such Authorized User's (or Administrator's) Token. Any additional Authorized User requiring a Token must be authorized, in writing by Customer to Bank, for Token creation or re-creation and deployment. If applicable, fees may be assessed for additional Tokens.

6.4 Customer further acknowledges and agrees that all wire transfers and ACH transactions initiated through the Services require "dual control" or separation of duties. With this additional security feature, one Authorized User will create, edit, cancel, delete and restore ACH batches or wire transfer orders under his/her unique Login ID, password and Token; a second *different* Authorized User with his/her own unique Login ID, password and Token will be required to approve, release or delete ACH batches or wire transfer orders.

6.5 Customer accepts as its sole responsibility the selection, use, protection and maintenance of confidentiality of, and access to, the Access Devices. Customer agrees to take reasonable precautions to safeguard the Access Devices and keep them confidential. Customer agrees not to reveal the Access Devices to any unauthorized person. Customer further agrees to notify Treasury Management Services Support immediately at 1-866-475-7262 if Customer believes that the confidentiality of the Access Devices has been compromised in any manner.

6.6 The Access Devices identify and authenticate Customer (including the Administrator and Authorized Users) to Bank when Customer accesses or uses the Services. Customer authorizes Bank to rely on the Access Devices to identify Customer when Customer accesses or uses any of the Services, and as signature authorization for any Payment, transfer or other use of the Services. Customer acknowledges and agrees that Bank is authorized to act on any and all communications or instructions received using the Access Devices, where such communications were provided to Bank in accordance with

the security procedures and other terms as set forth in the Cash Management Master Agreement, regardless of whether the communications or instructions are authorized. Bank owns the Access Devices, and Customer may not transfer them to any other person or entity.

6.7 Customer acknowledges and agrees that the Access Devices and other security procedures applicable to Customer's use of the Services and set forth in this Appendix, as well as such security best practices as described by Bank from time to time and made available on the Bank Internet System, are a commercially reasonable method for the purpose of verifying whether any Payment, transfer or other use of the Services was initiated by Customer. Customer also agrees that any election Customer may make to change or waive any optional security procedures recommended by Bank is at Customer's risk and that any loss resulting in whole or in part from such change or waiver will be Customer's responsibility. Customer further acknowledges and agrees that the Access Devices are not intended, and that it is commercially reasonable that the Access Devices are not intended, to detect any errors relating to or arising out of a Payment, transfer or any other use of the Services.

6.8 If Customer has reason to believe that any Access Devices have been lost, stolen or used (or may be used) or that a Payment or other use of the Services has been or may be made with any Access Devices without Customer's permission, Customer must contact its Administrator and Bank. In no event will Bank be liable for any unauthorized transaction(s) that occurs with any Access Devices, where such communications or instructions were provided to Bank in accordance with the security procedures and other terms as set forth in the Cash Management Master Agreement.

6.9 Bank may, from time to time, propose additional or enhanced security procedures to Customer. Customer understands and agrees that if it declines to use any such additional or enhanced procedures, it will be liable for any losses that would have been prevented by such procedures. Notwithstanding anything else contained in this Appendix, if Bank believes immediate action is required for the security of Bank or Customer funds, Bank may initiate additional security procedures immediately and provide prompt subsequent notice thereof to Customer.

7. Debiting Customer's Account(s). Customer authorizes Bank to charge and automatically deduct the amount of any Payment from Customer's Account(s) (or any other Account that Customer maintains with Bank, if necessary), in accordance with the Cash Management Master Agreement and the Account Agreement.

8. Electronic Statements.

8.1 As an eTreasury user, and subject to Bank's approval and applicable set-up and enrollment requirements, Customer may elect to stop or resume the mailing of paper statements for eligible Accounts by requesting this feature from Bank.

8.2 Only Accounts accessible via the Services may be enrolled for electronic statement delivery. Eligible Accounts are displayed on the "Statements" page of the Services. If Customer currently receives a consolidated periodic statement that includes multiple Accounts and Customer selects electronic statement delivery, all Accounts shown on the consolidated statement will be automatically enrolled for electronic statement delivery. For joint Accounts, only one Account owner need enroll for electronic statement delivery; provided, that each Account owner must separately enroll if that Account owner wishes to receive and have access to its Account statements electronically.

8.3 Customer's electronic statement will generally be available within 24 hours after the statement cut-off date. The statement cut-off date for Customer's electronic statement is the same as Customer's paper statement. Once made available as described herein, the information contained in Customer's electronic statement shall be deemed to have been delivered to Customer personally, whether actually received or not. Customer may view, print and download current statements and such period of statement history as set forth on the Bank Internet System. To view or print an electronic statement, Customer must have an appropriate version of Adobe Acrobat software installed on Customer's Computer sufficient to support access to a PDF file.

8.4 At Customer's request, Bank will send Customer a paper copy of Customer's electronic statement previously delivered through the Services at any time. Bank's standard fee then in effect and charged for paper delivery of copies of Account statements will apply. A request for a paper copy does not cause a termination of the electronic statement feature. A paper copy can be obtained until the copy is no longer required to be maintained by Bank as a record for the designated Account under applicable law or regulation.

8.5 Customer may revoke consent for the electronic statement feature for Customer's Accounts at any time by contacting Customer's Relationship Manager. Electronic posting of Customer's electronic statement on the Services' site and transmission of related email notices will continue until: (i) termination of the electronic statement feature; (ii) termination of Customer's designated Accounts with Bank; or (iii) termination of this Appendix, the Cash Management Master Agreement or Customer's use of the Services.

8.6 Bank may discontinue the electronic statements feature at any time in Bank's discretion and resume mailing paper statements to Customer. Bank may also add, modify or delete any feature of the electronic statements feature in Bank's discretion. Bank will provide Customer with notice of any change or termination in the electronic statement feature in accordance with the terms of the parties' Cash Management Master Agreement.

9. Alerts.

9.1 The Services allow Customer to voluntarily choose alert messages regarding Customer's Account(s), including but not limited to messages to alert Customer about high or low Account balance thresholds, debit or credit transactions cleared, and payment status for ACH and wire transactions. Bank may add new alerts from time to time, or cancel existing alerts. If Customer has opted to receive an alert that is being canceled, Bank will notify Customer in accordance with the terms of the parties' Cash Management Master Agreement. Each alert has different options available, and Customer will be asked to select from among these options upon activation of Customer's alerts service.

9.2 Voluntary Alerts.

9.2.1 Electronic alerts will be sent to the email address Customer has provided as Customer's primary email address for the Services or via the Services' secure messaging feature. If Customer's email address changes, Customer is responsible for informing Bank of the change. Customer can also choose to have alerts sent to a secondary email address. Changes to Customer's primary and secondary email addresses will apply to all of Customer's alerts.

9.2.2 Customer understands and agrees that Customer's alerts may be delayed or prevented by a variety of factors. Bank will use commercially reasonable efforts to provide alerts in a timely manner with accurate information. Bank neither guarantees the delivery nor the accuracy of the contents of any alert. Customer also agrees that Bank shall not be liable for any delays, failure to deliver, or misdirected delivery of any alert; for any errors in the content of an alert; or for any actions taken or not taken by Customer or any third party in reliance on an alert. Customer agrees that Bank is not responsible for any costs or fees incurred as a result of alerts sent to email addresses or phone numbers connected with mobile or similar devices.

9.2.3 Alerts are not encrypted and will never include Customer's Access Devices or full Account number(s). However, alerts may include Customer's name and some information about Customer's Accounts, depending upon which alert(s) Customer selects. Anyone with access to Customer's email address will be able to view the contents of these alerts.

9.2.4 Customer may, at its option, customize the subject line of Customer's alerts for easier identification by Customer. Customer acknowledges and agrees that Customer should not include full Account number(s) or other sensitive Customer or Account information in any customized subject line.

10. Use of Financial Management (FM) Software. Use of the Services may be supplemented by use of certain FM software. Compatibility and functionality of the FM software with the Services may vary depending upon the FM software Customer is using, and Bank makes no representations or guarantees regarding use of the Services with Customer's FM software. Customer is responsible for obtaining and maintaining the FM software. Customer's use

of the FM software is governed by the software license agreement(s) included with each software application. Customer must agree to the terms and conditions of the software license agreement(s) during the installation of the FM software on Customer's Computer. Customer is responsible for the correct set-up and installation of the FM software, as well as maintenance, updates and upgrades to the FM software and/or Customer's Computer. Bank will provide Customer with reasonable assistance, when requested, to enable Customer's use of the Services with FM software. Bank is not responsible for any problems related to the FM software itself, Customer's Computer or Customer's ability to connect using the FM software as described in this Appendix. Customer should verify all Account data obtained and any transactions that may be executed on Customer's Accounts using FM software, as applicable. Bank's records of transactions, instructions and communications regarding Customer's Accounts and use of the Services supersede any records stored or created on Customer's Computer through the use of FM software. Customer is responsible for any and all obligations to any software vendor arising from Customer's use of that vendor's FM software. Customer acknowledges and agrees that the FM software versions supported by Bank for purposes of use with the Services shall be in accordance with the sunset policy of the FM software provider.

11. Additional Security Terms. In addition to the other terms of this Appendix and of the parties' Cash Management Master Agreement, Customer agrees not to disclose any proprietary information regarding the Services to any third party (except to Customer's Administrator(s) and Authorized User(s)). Customer acknowledges that there can be no guarantee of secure transmissions over the Internet and agrees to comply with any operating and commercially reasonable security procedures Bank may establish from time to time with respect to the Services. Customer will be denied access to the Services if Customer fails to comply with any of these procedures. Customer is responsible for reviewing the transaction reports Bank provides on-line and in Customer's monthly statements to detect unauthorized or suspicious transactions. In addition to any other provision hereof regarding authorization of transactions using the Services or in the parties' Cash Management Master Agreement, all transactions will be deemed to be authorized by Customer and to be correctly executed thirty (30) Calendar Days after Bank first provides Customer with a statement or online transaction report showing that transaction, unless Customer has provided written notice that the transaction was unauthorized or erroneously executed within that period. In order to minimize risk of loss, Customer agrees to cause its Administrator or designated Authorized User(s) to review the transaction audit log available with the Services to detect unauthorized or erroneous transactions not less frequently than once every five (5) Calendar Days.

12. Terminating this Appendix; Liability.

12.1 This Appendix may be terminated in accordance with the terms and conditions of the Cash Management Master Agreement.

12.2 The provisions of this Appendix relating to Customer's and Bank's liability and the disclaimer of warranties set forth in the Cash Management Master Agreement and incorporated herein by reference shall survive the termination of this Appendix.

13. Changes to the Services and this Appendix. Bank may change the Services and this Appendix (including any amendments hereto) in accordance with the terms and conditions of the Cash Management Master Agreement.

14. Notices. Notices required by this Appendix shall be provided in accordance with the terms and conditions of the Cash Management Master Agreement.

15. Effectiveness. Customer agrees to all the terms and conditions of this Appendix. The liability of Bank under this Appendix shall in all cases be subject to the provisions of the Cash Management Master Agreement, including, without limitation, any provisions thereof that exclude or limit warranties made by, damages payable by or remedies available from Bank. This Appendix replaces and supersedes all prior agreements on file with respect to the Services and shall remain in full force and effect until termination or such time as a different or amended Appendix is accepted in writing by Bank or the Cash Management Master Agreement is terminated.

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APPENDIX II

TD ACH ORIGINATION SERVICES

This Appendix is incorporated by reference into the parties' Cash Management Master Agreement and the parties' Bank Internet System Agreement, as applicable. This Appendix applies to all automated clearing house ("ACH") Services made available to Customer, in Customer's capacity as an Originator, by Bank, as an Originating Depository Financial Institution ("ODFI"). All capitalized terms used herein without definition shall have the meanings given to them in either the Cash Management Master Agreement or the *NACHA Rules* (as defined below), as applicable. Except as otherwise expressly provided in this Appendix, to the extent that this Appendix is inconsistent with the provisions of the Cash Management Master Agreement, this Appendix and any amendment hereto from time to time shall control, but only to the extent necessary to resolve such conflict.

TERMS AND CONDITIONS

1. Services. The ACH network is a funds transfer system which provides for the interbank clearing of electronic credit and debit Entries for participating financial institutions. The ACH system is governed by the National Automated Clearing House Association's ("NACHA") *Operating Rules and Operating Guidelines* (collectively the "*NACHA Rules*").

2. Customer Obligations.

2.1 Customer will comply and shall cause its employees, officers, directors, agents and its Authorized Representative(s) and Administrator(s) to comply with (i) the *NACHA Rules* as amended from time to time and (ii) any specifications, advisories, interim policies, or instructions related to ACH transactions issued, from time to time, by Bank, NACHA or any federal or state regulatory authorities. The duties of Customer set forth in this Appendix in no way limit the requirement that Customer comply with the *NACHA Rules*. Customer specifically adopts and makes to Bank all representations and warranties of an Originator under the *NACHA Rules*, including that Customer will not initiate Entries in violation of the laws of the United States. Customer has access to a copy of the *NACHA Rules* and acknowledges receipt of a copy. (The *NACHA Rules* may be obtained at NACHA's website at www.NACHA.org or by contacting NACHA directly at 703-561-1100.) Customer agrees to subscribe to receive revisions to the *NACHA Rules* directly from NACHA.

2.2 Customer will maintain a checking Account ("Settlement Account") at Bank with available balances as of the Effective Entry Date sufficient to offset any Entries submitted and against which any rejected or returned Entries may be credited or debited. Bank reserves the right, in its sole and exclusive discretion and at any time, to require ACH pre-funding of credit Entries requested by Customer, in accordance with the terms and conditions of any agreement between Bank and Customer relating to pre-funding of such Entries, including as otherwise set forth in this Appendix. Bank also reserves the right, in its sole and exclusive discretion and at any time, to delayed settlement of debit Entries requested by

Customer, in accordance with the terms and conditions of any agreement between Bank and Customer relating thereto.

2.3 Customer agrees from time to time, upon Bank's request and in accordance with this Appendix and the parties' Cash Management Master Agreement, to promptly provide Bank with information pertaining to Customer's financial condition as Bank may request, including without limitation, the name(s) of other financial institutions that Customer is using to originate Entries.

2.4 Nothing in this Appendix or any course of dealing between Customer and Bank (i) constitutes a commitment or obligation of Bank to lend money to Customer, (ii) obligates Bank to extend any credit to Customer, to make a loan to Customer or otherwise to advance funds to Customer to pay for any payment order contrary to Bank's published availability schedules and the settlement timing as reflected herein, and in such other documents and materials as may be provided to Customer by Bank with regard to the Services from time to time, (iii) constitutes a modification of this Appendix, the *NACHA Rules*, or the Security Procedures, or (iv) otherwise constitutes an agreement between Bank and Customer regardless of whatever practices and procedures Bank and Customer may use.

2.5 Customer is responsible for all tariffs, duties or taxes (excluding U.S. federal, state and local taxation of the income of Bank) that may be imposed by any government or governmental agency in connection with any payment order executed pursuant to this Appendix, including without limitation any international tariffs, duties or taxes related to international ACH Entries as further described in Section 6 below.

2.6 Customer shall be liable for all fines including without limitation any international fines related to international ACH Entries as further described in Section 6 below, that may be incurred by Bank that are attributable to Customer's failure to comply with (i) the *NACHA Rules*, or (ii) the laws, regulations and orders administered by the U.S., including without limitation, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") and the U.S. Department of the Treasury's Financial Crimes Enforcement Network ("FinCEN").

3. Risk Exposure Limits.

3.1 Bank will establish for Customer, in Bank's sole and exclusive discretion, a transactional "Credit Exposure Limit" and a "Debit Exposure Limit" ("Exposure Limit(s)"). Each Exposure Limit will be established as an aggregate limit over multiple Settlement Dates with other not-yet-settled transactions issued by Customer through any ACH application with Bank. The Exposure Limits are based on Customer's financial condition and anticipated or historical level(s) of Entry instructions with Bank. Bank will notify Customer of Customer's Exposure Limits prior to implementation of the Services.

3.2 Customer shall promptly notify Bank if Customer anticipates a significant increase or decrease in the dollar amount of any of its ACH transactions. Bank may, from time to time, in its sole discretion, change the amount of Customer's Exposure Limits. Bank may, on an annual or more frequent basis, in Bank's sole discretion, review Customer's Exposure Limits and make any adjustments to Customer's Exposure Limits that Bank may deem appropriate.

3.3 Bank monitors all Exposure Limits for every customer that originates ACH transactions. Bank may suspend or reject processing of any Entry instructions if such Entry exceeds Customer's Exposure Limit(s). Bank may, in its sole and exclusive discretion, but shall have no obligation, to elect to process occasional Entry instructions that would exceed Customer's Exposure Limit(s). If Customer's Entry instructions exceed its Exposure Limit(s), Bank may elect to process such instructions subject to there being sufficient available funds in the Settlement Account, or in any other Customer Account(s) authorized by Bank for ACH transaction purposes, for the total amount of all credit Entries submitted to Bank for processing. In such event, Bank may elect to reduce available funds in the Settlement Account, as well as place a hold on available funds in any other Customer Account(s) authorized by Bank for ACH transaction purposes to the extent necessary to cover the total amount of the ACH credit Entries, on the Business Day that Bank begins processing Customer's ACH file. Customer's Settlement Account will be debited on the effective Settlement Date of the file, simultaneously with removal of the hold on funds in the other Customer Account(s). Alternatively, if Customer's Entry instructions exceed Customer's Exposure Limit(s), Bank may elect to process such instructions and release a file against insufficient collected funds, subject to Customer promptly depositing collected funds in the Settlement Account in the form of a cash deposit, wire transfer, intra-bank fund transfer or loan advance to cover Customer's funding obligation.

4. File Transmission Methods; Addenda.

4.1 Customer may elect, in accordance with the Services' Setup Form(s), to transmit a NACHA-formatted file to Bank via the following methods, or via such other

methods as Bank may permit from time to time in its sole and exclusive discretion:

4.1.1 **Bank Internet System Transmission.** Customer may transmit a NACHA-formatted file to Bank via the service described in the Bank Internet System Appendix. Customer agrees to the terms of the Bank Internet System Appendix and its related security procedures when initiating Entries as described therein.

4.1.2 **Direct Electronic Transmission.** Customer may transmit a NACHA-formatted file directly to Bank, as described in or as otherwise permitted by Bank's Appendix for Data Transmission Services. Connectivity between Bank and Customer must be established and successfully tested prior to live transactions.

4.2 **Electronic Data Interchange ("EDI").** EDI consists of the electronic movement of data between Customer and Bank in a structured, computer-retrievable data format that permits information to be transferred between a computer program at Customer's location and a computer program at Bank's location without re-keying. Customer and Bank may transmit between each other an ACH file that contains ACH Addenda which conform to the *NACHA Rules* via EDI, and as described in or as otherwise permitted by Bank's Appendix for Data Transmission Services. Bank will process and forward Addenda information along with financial transactions through the ACH network. Bank will, upon Customer's request, forward Addenda information to Customer within two (2) Business Days of Bank's receipt of such information.

5. Transmittal of Entries by Customer.

5.1 Customer will send file(s) of credit and debit Entries to Bank (i) with computer readable information; (ii) with an ACH file and format consistent with current NACHA file and Bank specifications; and (iii) on the medium as agreed by the parties and in accordance with the security procedures associated with that transmission medium. Customer agrees to initiate Entries described herein in accordance with the requirements of, and in compliance with its responsibilities, representations and warranties as an Originator under, the *NACHA Rules*.

5.2 With respect to any credit and debit Entries initiated and transmitted by Customer that involve consumers, Customer will comply with, each as may be amended from time to time: (i) all authorization, disclosure and other requirements of the *NACHA Rules* and (ii) all applicable federal and state laws and regulations, including, without limitation, any applicable requirements of Regulation E of the Consumer Financial Protection Bureau (or any successor entity who administers Regulation E) (hereinafter "Regulation E") and the Federal Electronic Funds Transfer Act.

5.3 Customer acknowledges the right of a consumer Receiver of an unauthorized debit Entry, as applicable and as described in the *NACHA Rules*, to obtain a refund of the funds debited from Receiver's account by such Receiver sending a written notice to Receiver's Receiving

Depository Financial Institution (“RDFI”) in accordance with the *NACHA Rules* (i.e., a Written Statement of Unauthorized Debit), and where such notification is received in time and in a manner that reasonably allows the RDFI to meet the deadline for transmitting a Return Entry as provided in the *NACHA Rules*. Customer also acknowledges the right of a corporate Receiver of a debit Entry, as applicable and as described in the *NACHA Rules*, to obtain a refund of the funds debited from such Receiver’s account by such Receiver sending a notice to Receiver’s RDFI within two (2) Business Days following the Settlement Date of the original Entry. Customer indemnifies Bank against any such claim for a refund by any Receiver.

5.4 In accordance with this Appendix, Customer may use the Services to initiate and transmit credit and debit Entries with certain Standard Entry Class (“SEC”) Codes. Authorized SEC Codes include PPD, PPD+, CCD, CCD+ and CTX. All other SEC Codes may be used with proper designation on the Services’ Setup Form(s) and in accordance with additional instructions from and requirements by Bank, as applicable. Bank may also suspend or terminate Customer’s use of one or more SEC Codes at any time in Bank’s sole and exclusive discretion.

5.5 Bank may suspend Customer’s use of one or more inactive ACH set-ups after 12 months of inactivity and subsequently terminate Customer’s use of the inactive ACH set-up on one or more channels of delivery, after 16 months of inactivity. Non-use of ACH Origination for 16 months, may result in the termination and removal of the ACH Service.

6. International ACH Transactions (“IAT Entries”).

6.1 An IAT Entry is a debit or credit Entry that is part of a payment transaction involving a Financial Agency located outside of the territorial borders of the United States, which is processed through the domestic ACH network, pursuant to the *NACHA Rules*, including the rules pertaining to International ACH Transactions. IAT Entries also include those that are funded directly by an incoming international wire or similar funding source. The *NACHA Rules* establish SEC Code “IAT” for all International ACH Transactions. Customer agrees to be bound by the *NACHA Rules* and all other statutes and regulations pertaining to IAT Entries, including all applicable OFAC and FinCEN rules and regulations associated with IAT Entries. Customer acknowledges that IAT Entries require additional mandatory information, according to special formatting requirements, in the computer record for such Entries within an ACH batch file. Customer expressly agrees to identify and properly initiate all IAT Entries. Bank will facilitate IAT Entries to Receivers located in foreign countries approved by Bank and facilitated by the ACH or the Gateway Operator (hereinafter in this Section, collectively, “ACH Operator”). Bank will process each IAT Entry in accordance with (a) the laws and payment system rules and requirements of the receiving foreign country (“Foreign Country Rules”), (b) any agreement governing IAT Entries between Bank and the ACH Operator through which Bank processes the IAT Entry, the terms of which Bank communicates to Customer

prior to Customer’s use of the Services or from to time thereafter, and (c) the *NACHA Rules*.

6.2 Customer acknowledges and agrees that IAT Entries may be subject to laws, regulations and restrictions of U.S. and foreign governments relating to foreign exchange transactions. Before initiating an IAT Entry, Customer agrees to understand and accept the Foreign Country Rules. An IAT Entry must be authorized by the Receiver. The form and content of the Receiver’s authorization, including whether such authorization is oral, electronic or written, is governed by Foreign Country Rules. Customer assumes the risk of rejection of its Entries according to Foreign Country Rules, Bank and the ACH Operator. Customer expressly acknowledges and agrees that Outbound IAT Entries, once transmitted, are irrevocable and are subject to the Foreign Country Rules; furthermore, the time frames for return of an Entry are determined by the Foreign Country Rules and may exceed the sixty (60) day return window for consumer Entries defined by the U.S. ACH system and the *NACHA Rules*, as well as the return window for non-consumer Entries. Customer also agrees that IAT Entries may not be dishonored, reversed or settled upon a specific date, and that pre-notifications are not permitted with respect to IAT Entries involving certain foreign countries. To the extent not otherwise prohibited by law, in connection with IAT Entries, (1) Customer assumes the risk of all fluctuations in foreign exchange rates or availability, and (2) Customer assumes the risk of loss for creating any and all erroneous IAT Entries. Customer acknowledges and agrees that the processing, settlement and/or availability of such Entries may be delayed or suspended in the event that Bank determines that enhanced scrutiny or verification of such Entries is necessary under the *NACHA Rules* and/or applicable U.S. law. The ACH Operator through which Bank processes the IAT Entry, in its sole discretion, may also refuse to handle IAT Entries. Customer acknowledges that Bank shall have no liability for such delay or refusal.

6.3 In addition to the provisions of Section 22 of this Appendix, Customer makes the following additional representations and warranties with respect to any IAT Entry submitted by Customer or on Customer’s behalf:

6.3.1 Customer is in compliance with U.S. law, including, but not limited to, Customer’s obligations under programs administered by OFAC and FinCEN; and

6.3.2 The origination of an Outbound IAT Entry is in compliance with the Foreign Country Rules, including any requirements regarding authorization with respect to an IAT Entry.

6.4 Bank will not be liable for (a) any failure or delay by the ACH Operator, any intermediary financial institution, or the financial institution designated to receive the IAT Entry in the receiving country in processing or failing to process any IAT Entry that is transmitted to the receiving country, or (b) the acts or omissions by a third party, including without limitation, the delay or failure of any third party to process, credit or debit any IAT Entry. Bank is also not responsible for the transmission or

settlement of IAT Entries on foreign holidays or other days on which foreign countries may not process Entries.

6.5 With respect to credit IAT Entries that Customer wishes to originate in the currency of a designated foreign government or intergovernmental organization ("Foreign Currency"), Bank will originate the IAT Entries in U.S. dollars ("USD") only. Once the Entry is transmitted by Bank to the ACH Operator, the ACH Operator will convert the amount to be transferred from USD to the Foreign Currency. If the financial institution designated to receive the funds does not pay the Receiver specified in the Entry, or if the Entry is subsequently determined to be erroneous, the ACH Operator will convert the amount to be returned from the Foreign Currency to USD. Bank will not be liable for any difference in the amount of the original Entry after it has been converted from the Foreign Currency to USD. Further, if Customer designates the currency to arrive at the receiving financial institution in Foreign Currency, and the designated Receiver account at the receiving financial institution is a USD account, Customer acknowledges that the receiving financial institution may: (1) elect to convert the currency back to USD and post the transfer to the Receiver's account accordingly, or (2) return the Entry, in which case the amount transferred is converted from Foreign Currency back to USD to post back to Customer's account. Customer assumes all foreign exchange risk associated with any of the foregoing.

7. Security Procedures.

7.1 Customer and Bank shall comply with the security procedures set forth or incorporated by reference in this Appendix, the Cash Management Master Agreement, the Bank Internet System Appendix, Data Transmission Services Appendix and/or associated documents provided by Bank, including without limitation the Services' Setup Form(s) (collectively the "Security Procedures"), with respect to Entries transmitted by Customer to Bank. Customer acknowledges and agrees the Security Procedures are a commercially reasonable method for the purpose of verifying the authenticity of Entries (or any request for cancellation or amendment thereof). Customer further acknowledges that the purpose of the Security Procedures is not to detect an error in the transmission or content of an Entry. No security procedures have been agreed upon between Bank and Customer for the detection of any such error.

7.2 Customer is strictly responsible for establishing, implementing, maintaining and (as appropriate) updating its own security procedures (a) to safeguard against unauthorized transmissions, and (b) relating to the initiation, processing and storage of Entries. As required by the *NACHA Rules* with respect to the protection of ACH information (non-public information, including financial information of Receivers and Customer's customers, used to create, or contained within, an ACH Entry and any related addenda record), Customer shall ensure that its security policies, procedures and systems:

- Protect the confidentiality and integrity of the protected information,

- Protect against anticipated threats or hazards to the security or integrity of protected information until its destruction, and
- Protect against unauthorized use of protected information that could result in substantial harm to the Receiver/customer.
- Abide by all rules pertaining to commercially reasonable data security as prescribed within the *NACHA Rules*

Customer warrants to Bank that no individual will be allowed to initiate transfers in the absence of proper supervision and safeguards, and Customer agrees to take reasonable steps to maintain the confidentiality of the Security Procedures and any passwords, codes, security devices and related instructions Bank provides in connection with the Security Procedures. If Customer believes or suspects that any such information or instructions have been known or accessed by an unauthorized person, Customer agrees to notify Bank immediately by calling 1-866-475-7262, followed by written confirmation to TD Bank, N.A., Attn: Treasury Management Services Support, 6000 Atrium Way, Mt. Laurel, New Jersey, 08054. The occurrence of unauthorized access will not affect any transfers Bank makes in good faith prior to, and within a reasonable time period after, its receipt of such notification.

7.3 Bank may, from time to time, propose additional or enhanced security procedures to Customer. Customer understands and agrees that if it declines to use any such enhanced procedures, it will be liable for any losses that would have been prevented by such procedures. Notwithstanding anything else contained in this Appendix, if Bank believes immediate action is required for the security of Bank or Customer funds, Bank may initiate additional security procedures immediately and provide prompt subsequent notice thereof to Customer.

8. Compliance with Security Procedures.

8.1 If an Entry (or a request for cancellation or amendment of an Entry) received by Bank purports to have been transmitted or authorized by Customer, it will be deemed effective as Customer's Entry (or request), and Customer shall be obligated to pay Bank the amount of such Entry (or request) even though the Entry (or request) was not authorized by Customer, provided Bank acted in compliance with the Security Procedures.

8.2 If an Entry (or a request for cancellation or amendment of an Entry) received by Bank was transmitted or authorized by Customer, Customer shall be obligated to pay the amount of the Entry as provided herein, whether or not Bank complied with the Security Procedures and whether or not that Entry was erroneous in any respect or that error would have been detected if Bank had complied with the Security Procedures.

9. Recording and Use of Communications.

Customer and Bank agree that all telephone conversations or data transmissions between them or their agents made in connection with this Appendix may be electronically recorded and retained by either party by use of any reasonable means.

10. Processing, Transmittal and Settlement of Entries by Bank.

10.1 Bank will process, transmit and settle for credit and debit Entries initiated by Customer as provided in the *NACHA Rules* as in effect from time to time, and pursuant to this Appendix. Exclusive of "Same Day ACH Entries," which are described in Section 23 below, Bank will transmit such Entries as an ODFI to the ACH Operator by the deadline of the ACH Operator, provided such Entries are received by Bank prior to 8:00 p.m. Eastern Time ("ET") and the ACH Operator is open for business on such Business Day. Entries received after 8:00 p.m. ET will be deemed received the following Business Day. If the Effective Entry Date falls on a non-Business Day, final settlement will occur on the next Business Day. Customer may submit a NACHA-formatted file up to the time limit in advance of the Effective Entry Date as the Services permit, or as may otherwise be permitted by Bank under the terms of this Appendix. Customer will hold Bank harmless from all charges and liabilities that may be incurred as a result of the delivery of late Entries.

10.2 If the file of Entries is received other than in specified NACHA and Bank format, Customer will be required to provide Bank with a corrected file. If a corrected file of Entries is received later than 8:00 p.m. ET on the delivery date with an intended Effective Entry Date of next-Business Day, Customer will hold Bank harmless from all charges and liabilities that may be incurred as a result of the processing of late Entries.

10.3 For purposes of this Appendix, Entries shall be deemed received by Bank, in the case of electronic file transmission, when the transmission is completed as set forth in Bank's Appendix for Data Transmission Services and/or the Services' Setup Form(s).

10.4 If any of the requirements of this Section 10 (or of Section 23 with respect to Same Day ACH Entries) are not met, Bank 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. Any stale dated Effective Entry Date, may result in "Same Day ACH Entries".

11. On-Us Entries. Except as otherwise provided herein, in the case of an Entry received for credit or debit to an account maintained by Bank (an "On-Us Entry"), Bank will credit or debit the Receiver's account in the amount of such Entry on the Effective Entry Date, provided the requirements set forth herein are otherwise met. If those requirements are not met, by reason of stale or same-day Effective Entry Dates on such Entries, Bank will credit or debit the Receiver's account in the amount of such Entry on the date the Entry was received by Bank, or if the Entry was received on a non-Business Day, Bank will credit or debit the Receiver's account in the amount of such Entry on the next Banking Day following the date the Entry was received by Bank. Bank will have the right to reject an On-Us Entry as described in Section 12, *Returned or Rejected Entries*. In the case of an On-Us Entry, Bank will have all rights of an

RDFI including, without limitation, the rights set forth in *NACHA Rules*.

12. Returned or Rejected Entries.

12.1 In the event any Entry is returned or rejected by the ACH Operator or any RDFI or Intermediary Depository Financial Institution, it shall be the responsibility of Customer to (i) remake and resubmit such Entry, (ii) with respect to an ACH Debit Entry, enroll in Bank's Auto-Redeposit service or (iii) otherwise resolve the returned Entry in accordance with the *NACHA Rules*.

12.2 Bank shall remake such Entry in any case where rejection by the ACH Operator was due to mishandling of such Entry by Bank and sufficient data is available to Bank to permit it to remake such Entry. In all other instances, Bank's responsibility will be to receive rejected or returned Entries from the ACH Operator, perform necessary processing, control and settlement functions, and to forward such Entries to Customer. Except for an Entry retransmitted by Customer in accordance with the requirements of Section 5, *Transmittal of Entries by Customer*, or the enrollment in Bank's Auto-Redeposit service for ACH Debit Entries, Bank shall have no obligation to retransmit a returned Entry to the ACH Operator if Bank complied with the terms of this Appendix with respect to the original Entry.

12.3 Bank may reject any Entry which does not comply with the requirements of Section 5, *Transmittal of Entries by Customer*, or Section 7, *Security Procedures*. Bank may also reject any Entry which contains a future Settlement Date that exceeds the limits set forth within the Services. Bank may reject an On-Us Entry for any reason for which an Entry may be returned under the *NACHA Rules*. Bank may reject any Entry or file if Customer has failed to comply with its Settlement Account balance obligations under Section 2, *Customer Obligations*, or Customer's Exposure Limit under Section 3, *Risk Exposure Limits*. Notices of rejection shall be effective when given. Bank shall have no liability to Customer by reasons 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. Bank may monitor Customer's rejected or returned Entries. Bank reserves the right, in its sole and exclusive discretion, to require Customer to establish a reserve Account in the event that an excessive number of Customer's debit Entries are rejected or returned.

12.4 In accordance with *NACHA Rules*, Bank may monitor returned Entries, and in its sole discretion, may: (1) require Customer to lower its return rates, (2) invoke premium penalty fees for unauthorized or excessive return rates, and/or (3) invoke termination or suspension of the Services and/or this Appendix in conjunction with Section 31 of this Appendix.

12.5 In Bank's sole discretion, and upon Customer request, Bank may enroll eligible customers in the ACH Auto-Redeposit service for ACH debit origination. The service automates Customers redeposit of eligible returns due to insufficient funds (R01) and uncollected funds (R09), one or two additional times, within nine (9) calendar days as selected by Customer at the time of enrollment in the service. Customer

will receive notice of each return attempt and be responsible for any associated fees. Customer's account will be setoff for the amount of the returned Debit Entry after the final attempt to Auto-Redeposit the Entry is determined by Bank to be unsuccessful.

13. Cancellation or Amendment by Customer.

Customer shall have no right to cancel or amend any Entry or file after its receipt by Bank. However, if such request complies with the Security Procedures applicable to the cancellation of data, Bank shall use reasonable efforts to act on a request by Customer for cancellation of an Entry prior to transmitting it to the ACH Operator, or in the case of an On-Ups Entry, prior to crediting or debiting a Receiver's account, but Bank shall have no liability if such cancellation is not effected. Customer shall reimburse Bank for any expenses, losses, or damages Bank may incur in effecting or attempting to effect the cancellation or amendment of an Entry.

14. Reversing Entries/Files.

If Customer discovers that any Entry or file Customer has initiated was in error, it may use the Services to correct the Entry or file by initiating a reversal or adjustment, or Customer may notify Bank of such error and Bank will utilize reasonable efforts on behalf of Customer, consistent with the *NACHA Rules*, to correct the Entry or file by initiating a reversal or adjustment of such Entry or file. In all such cases, it shall be the responsibility of Customer to notify the affected Receiver that an Entry or file has been made which is at variance with the authorization or is otherwise erroneous. Customer indemnifies Bank against any claim by any Receiver that a reversing Entry or file requested by Customer is wrongful. Customer understands and acknowledges that certain RDFIs may not or cannot comply with such reversal and that, in such an event, Bank will debit Customer's Settlement Account in the amount of the provisional credit applied to the Settlement Account for such Entry or file.

15. Notice of Returned Entries.

Bank will use reasonable efforts to notify Customer by electronic transmission of the receipt of a returned Entry from the ACH Operator no later than one (1) Business Day after the Business Day of such receipt. Except for an Entry re-transmitted by Customer in accordance with the requirements of Section 5, *Transmittal of Entries by Customer*, or the enrollment in Bank's Auto-Redeposit service for ACH Debit Entries, Bank shall have no obligation to re-transmit a returned Entry to the ACH Operator if Bank complied with the terms of this Appendix with respect to the original Entry.

16. Notifications of Change.

Bank will use reasonable efforts to notify Customer of each Notification of Change ("NOC") or Corrected Notification of Change ("Corrected NOC") received by Bank related to Entries transmitted by Customer within two (2) Business Days after receipt thereof. Customer shall ensure that changes requested by the NOC or Corrected NOC are made within six (6) Business Days of Customer's receipt of the NOC or Corrected NOC information from Bank or prior to initiating another Entry to the Receiver's account, whichever is later.

In the event that Customer has not updated the NOC, the Bank will undertake this correction on the Customer's behalf, before each subsequent Entry is placed into the Network, in order to be compliant with the *NACHA Rules*. Bank will access a fee for updating the NOC as outlined in the fee schedule.

17. Pre-Notification and Rejection of Pre-Notification.

Bank recommends that, as permitted by the *NACHA Rules* or applicable law, Customer send pre-notifications at least three (3) Business Days prior to initiating an authorized Entry to a particular account in a format and medium approved by the *NACHA Rules*. Customer may also initiate a new pre-notification (i) when any changes are made to an account number, financial institution, or individual identification number or (ii) as otherwise stated in the *NACHA Rules*. Customer understands and acknowledges that once a pre-notification has been initiated using the Services, Customer will be restricted from initiating any Entry to such customer(s) for three (3) Business Days.

18. Participant Authorization for Entries.

18.1 To the extent required by the *NACHA Rules* or applicable law, Customer will obtain all consents and written authorizations for all Entries in accordance therewith. Such authorizations and any related disclosures shall be in a form that complies with (i) all requirements of the *NACHA Rules* and (ii) all applicable federal and state laws and regulations, as the same may be amended from time to time, including, without limitation, any applicable requirements of Regulation E, the Federal Electronic Funds Transfer Act, and sanctions enforced by OFAC. Customer shall obtain and maintain current information regarding OFAC enforced sanctions. (This information may be obtained directly from the OFAC Compliance Hotline at (800) 540-OFAC or by visiting the OFAC website at www.ustreas.gov/ofac.) Each Entry will be made according to such authorization and shall comply with the *NACHA Rules*. No Entry will be initiated by Customer after such authorization has been revoked or the arrangement between Customer and such Receiver or other party has terminated.

18.2 Customer shall retain all consents and authorizations for the period required by the *NACHA Rules*. Customer will furnish to Receiver, or to Bank upon its request, an original or a copy of an authorization as required under or for any purpose required by the *NACHA Rules*. No investigation or verification procedure undertaken by Bank shall be deemed to limit or waive Customer's obligations under this Section.

19. Re-initiation of Entries. Customer may not re-initiate Entries except as prescribed by the *NACHA Rules*.

20. Payment by Customer for Entries; Payment by Bank for Entries.

20.1 Except as may otherwise be agreed by Bank in its sole and exclusive discretion, Customer shall pay Bank the amount of each credit Entry transmitted by Bank pursuant to this Appendix at such time on the date of

transmittal by Bank of such credit Entry as Bank, in its discretion, may determine.

20.2 Customer shall promptly pay Bank the amount of each debit Entry returned by an RDFI pursuant to this Appendix.

20.3 Bank will pay Customer the amount of each debit Entry transmitted by Bank pursuant to this Appendix at such time on the Settlement Date with respect to such debit Entry as Bank, in its discretion, may determine, and the amount of each On-Ups Entry at such time on the Effective Entry Date as Bank, in its discretion, may determine.

20.4 Bank will use reasonable efforts to promptly pay Customer the amount of each credit Entry returned by an RDFI that was transmitted by Bank pursuant to this Appendix.

20.5 Customer acknowledges and agrees that any failure of Customer to make payment to Bank as described in this Section may constitute an event of default under any other agreement for credit that Customer or any of Customer's Affiliates has with Bank or any Affiliate of Bank. Customer further acknowledges and agrees to execute and deliver any further documents and instruments as Bank may require to effectuate the cross-default contemplated hereby.

21. Third-Party Service Provider; Third-Party Sender Activities.

21.1 Subject to Bank's prior approval and in its sole and exclusive discretion, Customer may appoint a third party to act as Customer's agent to process Entries on Customer's behalf and for purposes of the services provided hereunder ("Third-Party Service Provider"), as set forth in the Services' Setup Form(s). All data received by Bank from Third-Party Service Provider, including Entries and instructions (and corrections or adjustments thereto), are hereby authorized by Customer. All acts and omissions of Third-Party Service Provider shall be the acts, omissions and responsibility of Customer and shall be governed by the provisions of this Appendix. Customer agrees, jointly and severally with Third-Party Service Provider, to indemnify and hold Bank harmless from any and all liabilities, losses, damages, costs and expenses of any kind (including, without limitation, the reasonable fees and disbursements of counsel in connection with any investigative, administrative or judicial proceedings, whether or not Bank shall be designated a party thereto) which may be incurred by Bank relating to or arising out of the acts or omissions of Third-Party Service Provider on behalf of Customer. Customer and Third-Party Service Provider shall execute any such other agreement(s) or documents as deemed necessary or appropriate by Bank prior to the initiation or continuation by Third-Party Service Provider of any services on Customer's behalf, including without limitation Bank's Third-Party Service Provider Agreement, as the same may be modified by Bank from time to time. Notice of any termination of Third-Party Service Provider's authority to transmit data and instructions to Bank on Customer's behalf shall be given to

Bank in writing. The effective date of such termination shall be ten (10) Business Days after Bank receives written notice of such termination. Customer agrees that Bank retains the right to reject any Third-Party Service Provider and any Entries initiated by Customer's Third-Party Service Provider in its sole discretion.

21.2 Customer may not use the services provided hereunder to process Entries on behalf of Customer's clients (defined as a "Third-Party Sender" under the *NACHA Rules*), except where Customer has formally requested to engage in such activity in advance and where Bank has provided its prior approval, which Bank may grant or withhold in its sole and exclusive discretion. In the event Bank approves of such use, Customer shall execute such other agreement(s) or documents as deemed necessary or appropriate by Bank prior to the initiation or continuation by Customer of any ACH services in the capacity of a Third-Party Sender. Customer agrees that Bank retains the right to reject any request by Customer to engage in Third-Party Sender activities as well as any Entries initiated by Customer in such capacity, in Bank's sole discretion.

22. Customer Representations and Agreements; Indemnity. In addition to Customer representations, agreements and warranties otherwise described in this Appendix, Customer further represents and warrants to Bank and agrees, with respect to each and every Entry transmitted by Customer or any Third-Party Service Provider on Customer's behalf, that:

(i) Each person shown as the Receiver of an Entry received by Bank from Customer has authorized the initiation of such Entry and the crediting or debiting of its account in the amount and on the Effective Entry Date shown on such Entry;

(ii) Such authorization is operative at the time of transmittal or crediting or debiting by Bank as provided herein;

(iii) Entries transmitted to Bank by Customer are limited as set forth in Sections 3 and 5;

(iv) Customer shall perform its obligations under this Appendix in accordance with the laws of the United States and all other applicable laws, regulations and orders, including, but not limited to, the transaction screening and sanctions laws, regulations and orders administered by OFAC; laws, regulations and orders administered by FinCEN; and any state laws, regulations or orders applicable to the providers of ACH payment services;

(v) Customer shall be bound by and comply with the provisions of the *NACHA Rules* (among other provisions of the *NACHA Rules*) that make payments of an Entry by the RDFI to the Receiver provisional until receipt by the RDFI of final settlement for such Entry;

(vi) Customer specifically acknowledges that it has received notice of the rule regarding provisional payment and of the fact that, if such settlement is not received, the RDFI shall be entitled to a refund from the Receiver of the amount of the Entry;

(vii) with respect to each International ACH Transaction (“IAT”) that Customer may be permitted by Bank to initiate, Customer shall (a) classify and format payments transmitted to or received from a financial agency outside the U.S. as an IAT in accordance with the *NACHA Rules*, (b) provide data necessary to accompany the transaction in compliance with the Bank Secrecy Act’s “Travel Rule,” (c) screen the IAT prior to transmitting any file(s) of Entries to the Bank in accordance with the requirements of OFAC and comply with OFAC sanctions, and (d) otherwise comply with and be subject to all other requirements of U.S. law, the *NACHA Rules*, OFAC and FinCEN, as well as the Foreign Country Rules;

(viii) with respect to each Internet-initiated/mobile (“WEB”) (as defined under the *NACHA Rules*) ACH Entry that Customer may be permitted by Bank to initiate, (a) Customer employs (1) commercially reasonable detection systems to minimize risk of fraud related to Internet-initiated payments, (2) commercially reasonable procedures to verify validity of routing numbers, (3) commercially reasonable methods of authentication to verify the identity of the Receiver, and (4) a commercially reasonable level of encryption technology, and (b) where required by the *NACHA Rules* and/or Bank, Customer conducts annual audits as to its security practices and procedures that include, at a minimum, verification of adequate levels of (1) physical security to protect against theft, tampering, or damage, (2) personnel and access controls to protect against unauthorized access and use and (3) network security to ensure secure capture, storage, and distribution, and will provide proof of such audits to Bank upon request;

(ix) with respect to each Telephone-Initiated (“TEL”) Entry that Customer may be permitted by Bank to initiate, Customer has (a) employed commercially reasonable procedures to verify the identity of the Receiver, and (b) utilized commercially reasonable procedures to verify that routing numbers are valid;

(x) with respect to each Accounts Receivable (“ARC”) Entry that Customer may be permitted by Bank to initiate, (a) the amount of the Entry, the routing number, the account number and the check serial number are in accordance with the source document, (b) Customer will retain a reproducible, legible image, microfilm or copy of the front of the Receiver’s source document for each ARC Entry for two (2) years from the Settlement Date of the ARC Entry, (c) Customer has employed commercially reasonable procedures to securely store (1) all source documents until destruction and (2) all banking information relating to ARC Entries, (d) Customer has established reasonable procedures under which the Receiver may notify Customer that receipt of Receiver’s checks does not constitute authorization for ARC Entries to the Receiver’s account and that Customer will allow the Receiver to opt-out of check conversion activity, and (e) the source document to which each ARC Entry relates may not be presented or returned such that any person will be required to make payment based on the source document unless the ARC Entry is returned;

(xi) with respect to each Back Office Conversion (“BOC”) Entry that Customer may be permitted by Bank to initiate, (a) Customer has employed commercially reasonable procedures to verify the identity of the Receiver, (b) Customer has established and maintains a working telephone number for Receiver inquiries regarding the transaction that is answered during normal business hours and that such number is displayed on the notice required by the *NACHA Rules* for BOC Entries, (c) the amount of the Entry, the routing number, the account number and the check serial number are in accordance with the source document, (d) Customer will retain a reproducible, legible image, microfilm or copy of the front of the Receiver’s source document for each BOC Entry for two (2) years from the Settlement Date of the BOC Entry, (e) Customer has employed commercially reasonable procedures to securely store (1) all source documents until destruction and (2) all banking information relating to BOC Entries, and (f) the source document to which each BOC Entry relates will not be presented or returned such that any person will be required to make payment based on the source document unless the BOC Entry is returned;

(xii) with respect to each Point-of-Purchase (“POP”) Entry that Customer may be permitted by Bank to initiate, the source document provided to Customer for use in obtaining the Receiver’s routing number, account number, and check serial number for the initiation of the POP Entry (a) is returned voided to the Receiver after use by Customer and (b) has not been provided to the Receiver for use in any prior POP Entry; and

(xiii) with respect to each Returned Check (“RCK”) Entry that Customer may be permitted by Bank to initiate, (a) all signatures on the item are authentic and authorized, (b) the item has not been altered, (c) the item is not subject to a defense or claim, (d) the Entry accurately reflects the item, (e) the item will not be presented unless the related Entry has been returned by the RDFI, (f) the information encoded after issue in magnetic ink on the item is correct, and (g) any restrictive endorsement placed on the item is void or ineffective.

Customer shall indemnify and hold Bank harmless from any loss, liability or expense (including reasonable attorneys’ fees and costs) resulting from or arising out of any breach of the foregoing warranties, representations or agreements. Customer shall also indemnify and hold Bank harmless from any claim of any person that Bank is responsible for any acts or omissions of Customer regarding any Entry received from Customer, or those of any other person related thereto, including, without limitation, any Federal Reserve Bank, ACH Operator or transmission or communications facility, any Receiver or RDFI.

23. Same Day ACH (“SDA”). Customer may be permitted, in Bank’s sole and exclusive discretion, to initiate SDA Entries. In the event Bank approves Customer’s initiation of SDA Entries, either on a one time or other periodic basis, Customer agrees as follows:

23.1 Customer shall be solely responsible for transmitting its SDA Entries with the appropriate intended

Effective Entry Date to qualify as an SDA Entry under the *NACHA Rules*.

23.2 Customer shall only initiate individual Entries that comply with the transaction limit per SDA Entry, as provided in the *NACHA Rules*

23.3 Customer will not initiate an SDA Entry as an IAT, as IATs are not eligible for same-day processing under the *NACHA Rules*.

23.4 Customer will transmit its SDA Entries to Bank in accordance with Bank's SDA Entry processing deadlines, as established by Bank from time to time and disclosed to Customer.

23.5 Customer acknowledges and agrees that if Customer sends an Entry with a stale or invalid Effective Entry Date, such Entry may be deemed and processed by Bank as an SDA Entry if transmitted in accordance with Bank's SDA Entry processing deadlines.

23.6 Customer acknowledges and agrees that if any of the requirements of this Section 23 are not met, including without limitation a failure by Customer to meet Bank's or the ACH Operator's deadline for SDA, Bank shall use reasonable efforts to transmit such Entries to the ACH Operator by the next available processing deadline on which the ACH Operator is open for business.

23.7 Customer further acknowledges that Bank will not consider the content of the Company Descriptive Date indicator when determining Customer's intent for processing and settlement of SDA Entries.

23.8 Customer will not initiate SDA Entries that are otherwise ineligible for SDA Entry processing and settlement in accordance with the *NACHA Rules*.

23.9 Customer otherwise agrees to and will comply with all other requirements under the *NACHA Rules* and by Bank with respect to SDA Entries, including as the same may be amended from time to time.

23.10 Customer will indemnify and hold Bank harmless from any SDA Entry processing and settlement that is performed by Bank as described herein and in accordance with the *NACHA Rules*, notwithstanding Customer's intent.

23.11 Customer will indemnify and hold Bank harmless from any intended SDA Entry not meeting the ACH Operator deadline due to Customer delays, or due to Bank processing delays that are beyond Bank's reasonable control.

24. Inconsistency of Name and Account Number. Customer acknowledges and agrees that if an Entry describes a Receiver inconsistently by name and account number, then (i) payment of such Entry transmitted to an RDFI may be made by the RDFI (or by Bank for an On-Us Entry) on the basis of the account number, even if it identifies a person different from the named Receiver and (ii) Customer's obligation to pay the amount of Entry to

Bank is not excused in such circumstances. Similarly, if an Entry describes an RDFI inconsistently by name and routing number, payment of such Entry may be made based on the routing number, and Customer shall be liable to pay that Entry.

25. Banks Unable to Accept ACH Transactions. If Customer submits an Entry to Bank relating to an RDFI which is not a participant in the ACH, then (i) Bank may reject such Entry and use reasonable efforts to notify Customer of such rejection or (ii) if Bank does not reject such Entry, upon receiving a return transaction related to the Entry from the ACH Operator, Bank may offset the Settlement Account and notify Customer of such transaction.

26. Notices, Instructions, Etc.

26.1 Except as otherwise expressly provided herein, Bank shall not be required to act upon any notice or instruction received from Customer or any other person, or to provide any notice or advice to Customer or any other person with respect to any matter.

26.2 Bank 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 provided in accordance with the provisions of the parties' Cash Management Master Agreement.

27. Data Retention. Customer shall retain data on file adequate to permit remaking of Entries for five (5) Business Days following the date of their transmittal by Bank as provided herein and shall provide such data to Bank upon request. Without limiting the generality of the foregoing provision, Customer specifically agrees to be bound by and comply with all applicable provisions of the *NACHA Rules* regarding the retention of documents or any record, including, without limitation, Customer's responsibilities to retain all items, source documents and records of authorization, in accordance with the *NACHA Rules*.

28. Data Breaches.

28.1 Customer agrees that it will adopt and implement commercially reasonable policies, procedures and systems to provide security as to the information being transmitted and to receive, store, transmit and destroy data or information in a secure manner to prevent loss, theft, or unauthorized access to data or information ("Data Breaches"), including but not limited to, Consumer-Level ACH Data.

28.2 Customer agrees that it will promptly investigate any suspected Data Breaches and monitor its systems regularly for unauthorized intrusions.

28.3 Customer will provide timely and accurate notification to Bank by calling 1-866-475-7262 with regard to any Data Breaches when known or reasonably suspected by Customer, including but not limited to, Data Breaches to Consumer-Level ACH Data, and will take all

reasonable measures, including, without limitation, retaining computer forensic experts, to determine the scope of any data or transactions affected by any Data Breaches, providing all such determinations to Bank.

29. Audit. Bank has the right to periodically audit Customer's compliance with the *NACHA Rules*, U.S. law and Bank policies, including, but not limited to, this Appendix.

30. Records. All electronic or other files, Entries, Security Procedures and related records used by Bank for transactions contemplated by this Appendix shall be and remain Bank's property. Bank may, in its sole discretion, make available such information upon Customer's request. Any expenses incurred by Bank in making such information available to Customer shall be paid by Customer.

31. Termination. The parties may terminate this Appendix in accordance with the terms and conditions of the parties' Cash Management Master Agreement. In addition, if Customer breaches the *NACHA Rules* or causes Bank to breach the *NACHA Rules*, this Appendix may be terminated or suspended by Bank upon ten (10) Business Days' notice, or such shorter period as may be provided in the parties' Cash Management Master Agreement. Any termination of this Appendix shall not affect any of Bank's rights and Customer's obligations with respect to Entries initiated by Customer prior to termination, the payment obligations of Customer with respect to services performed by Bank prior to termination, or any other obligations or provisions that by the nature of their terms survive termination of this Appendix, including without limitation Sections 2, 5, 10, 12, 13, 14, 18, 20, 21, 22, 27, 32, 33 and 34.

32. Cooperation in Loss Recovery Efforts. In the event of any damages for which Customer or Bank may be liable to the other or to a third party relative to the Services, both parties shall undertake reasonable efforts to cooperate with the other, as permitted by applicable law, in performing loss recovery efforts and in connection with any actions that Customer or Bank may be obligated to defend or elects to pursue against a third party.

33. Governing Law. In addition to the terms and conditions of the parties' Cash Management Master Agreement, the parties agree that if any payment order governed by this Appendix is part of a funds transfer subject to the federal Electronic Funds Transfer Act, then all actions and disputes as between Customer, or any Third-Party Service Provider acting on Customer's behalf, and Bank shall be governed by Article 4-A of the Uniform Commercial Code, as varied by this Appendix.

34. Effectiveness. Customer agrees to all the terms and conditions of this Appendix. The liability of Bank under this Appendix shall in all cases be subject to the provisions of the Cash Management Master Agreement, including, without limitation, any provisions thereof that exclude or limit warranties made by, damages payable by or remedies available from Bank. This Appendix replaces and supersedes all prior agreements on file with respect to the services described herein and shall remain in full force and effect until termination or such time as a different or amended Appendix is accepted in writing by Bank or the Cash Management Master Agreement is terminated.



APPENDIX III

TD WIRE TRANSFER SERVICES

This Appendix is incorporated by reference into the parties' Cash Management Master Agreement, and the parties' Bank Internet System Appendix, and applies to all TD Wire Transfer Services ("Services") made available to Customer by Bank via the Bank Internet System. All capitalized terms used herein without definition shall have the meanings given to them in the Cash Management Master Agreement or the Bank Internet System Appendix, as applicable. To the extent that this Appendix is inconsistent with the provisions of the Cash Management Master Agreement, or with the terms and conditions of the Bank Internet System Appendix, this Appendix and any amendment hereto from time to time shall control, but only to the extent necessary to resolve such conflict.

TERMS AND CONDITIONS

1. Description of the Services.

1.1 The Services described in this Appendix provide Customer with the capability to transfer funds from specific Account(s) with Bank to other accounts (the "Recipient Account(s)") as directed via the Bank Internet System. The Recipient Account(s) may be Customer accounts or third-party accounts, and may be with Bank or with domestic or foreign third-party financial institutions. Customer may use the Services to initiate one-time wire transfers, or to create templates for wire transfers made on a repetitive basis which involve the same Customer Account and Recipient Account ("Repetitive Transfer(s)"). All wire transfers must be initiated by an Authorized Representative of Customer.

1.2 Prior to Customer's use of the Services, Customer must first agree to and transmit all instructions in accordance with all of the terms, conditions and security procedures associated with the Bank Internet System, as further set forth in the Cash Management Master Agreement, including the Bank Internet System Appendix.

2. Execution of Wire Transfers.

2.1 By submitting a wire transfer, Customer authorizes Bank to withdraw the amount of any requested wire transfer which Customer may authorize and instruct via the Bank Internet System, plus any applicable fees and charges, which may be withdrawn from Customer's designated Account or from the wire transfer amount. Subject to the terms of this Appendix, Bank will accept and execute a wire transfer received from Customer that has been authenticated by Bank and that is in conformity with the Security Procedure (as further described below), cut-off times and other requirements as described in this Appendix and associated Bank Setup Form(s) and other documentation.

2.2 All wire transfers to accounts at other depository institutions are transmitted using the Fedwire funds transfer system owned and operated by the Federal Reserve Bank, or a similar wire transfer system used primarily for funds transfers between financial institutions. Notwithstanding the foregoing or anything to the contrary in this Appendix, Bank may use any means of transmission,

funds transfer system, clearing house, intermediary or correspondent bank that Bank reasonably selects to transfer funds from time to time.

2.3 Each wire transfer must include the following information in addition to any information which Bank may require for proper identification and security purposes: (i) Account number from which the funds are to be withdrawn, (ii) amount to be transferred, (iii) currency type, (iv) Customer's address, (v) name and ABA routing number or SWIFT BIC of the payee's (i.e., beneficiary's) bank, and (vi) name, address and account number of the payee (i.e., beneficiary). In the event a wire transfer describes an account number for the payee that is in a name other than the designated payee, Bank may execute the wire transfer to the account number so designated notwithstanding such inconsistency.

2.4 Templates created by Customer for Repetitive Transfers are the sole and exclusive responsibility of Customer. Except as otherwise expressly prohibited or limited by law, Customer agrees to release and hold Bank harmless from any loss or liability which Customer may incur after Bank has executed a Repetitive Transfer, including without limitation, any loss due to Customer error in creating the Repetitive Transfer template.

3. Time of Execution.

3.1 Bank will execute each authenticated wire transfer that is in conformity with all security procedures, cut-off times and other requirements set forth herein. Bank may require additional authentication of any wire transfer request. Bank reserves the right to reject a wire transfer request that cannot be properly authenticated. Cut-off times may be established and changed by Bank from time to time. Instructions for wire transfers received after such cut-off times may be treated by Bank for all purposes as having been received on the following Business Day.

3.2 Except for future-dated wire transfers, domestic wire transfers (U.S.-based receivers) initiated and approved by Bank's cut-off time on a Business Day will be processed that same day if that day is also a Business Day for Bank's correspondent facility and the recipient bank; wire transfers initiated and approved after Bank's cut-off time for domestic wire transfers will be processed the next Business Day if that day is also a Business Day for Bank's correspondent facility and the recipient bank. Future-dated

domestic wire transfers will be initiated on the effective date requested by Customer, not on the date Customer entered the transaction using the Services.

3.3 Bank may handle wire transfers received from Customer in any order convenient to Bank, regardless of the order in which they are received.

4. International Wires.

4.1 International wire transfers (non-U.S. receivers) of foreign currency initiated and approved by Bank's cut-off time for international wire transfers of foreign currency on a Business Day, and an international wire transfer of U.S. currency initiated and approved by Bank's cut-off time for international wire transfers of U.S. currency on a Business Day, will be processed within the industry standard delivery time (in most, but not all cases, two (2) Business Days). Foreign wire transfers may be subject to delays based on time-zone issues; the remote location of the recipient bank; cultural differences with respect to holidays and times of observation, etc.; and incorrect or incomplete information supplied by Customer.

4.2 Bank shall send Customer's authorized and authenticated wire transfers to foreign banks through any bank which is a member of Bank's correspondent network. Neither Bank nor any of Bank's correspondents shall be liable for any errors, delays or defaults in the transfer of any messages in connection with such a foreign wire transfer by any means of transmission. Customer acknowledges that foreign currency wire transfers must be based on a currency that Bank trades and that all rates of exchange will be the rate in effect at the time of execution of the wire transfer order, or at any other rate as may be agreed to by the parties. If the financial institution designated to receive the funds does not pay the payee (beneficiary) specified in a wire transfer order that is payable in foreign currency and the funds are returned to Bank, Bank will not be liable for a sum in excess of the value of the funds after they have been converted from foreign currency to U.S. dollars at Bank's buy rate for exchange at the time the cancellation of the wire transfer order is confirmed by Bank, less any charges and expenses incurred by Bank. If Customer elects to initiate an international wire transfer in U.S. currency, Customer acknowledges that the receiving bank may elect to pay the payee (beneficiary) in foreign currency at an exchange rate determined by the receiving bank. Customer agrees to bear all risk of loss due to fluctuation in exchange rates, and Customer shall pay Bank any costs and expenses of foreign currency conversion at Bank's then-prevailing rates, terms and conditions. Customer is advised that Bank's prevailing exchange rates may be less favorable to Customer than market exchange rates.

4.3 Bank makes no guarantee or representation as to the availability of funds at the foreign destination. Bank makes no express or implied warranty as to the time or date the wire transfer will arrive at the receiving bank, the amount of any fees to be charged by the receiving bank, or the time or date the payee (beneficiary) will receive credit for funds.

4.4 Customer understands and acknowledges that if the named payee (beneficiary) does not

match the account at the receiving bank, there is a risk the payee may not receive the wired funds. If the transfer is not received or credited in a timely manner, Bank will follow normal and customary procedures to complete the wire transfer, determine the location of the wired funds and/or return the funds to Customer. If Bank is unable to determine that the funds have been credited to the payee's account or have the funds returned, Customer assumes all financial liability or risk of loss for the amount of the wire transfer.

4.5 International wire transfers are subject to any and all applicable regulations and restrictions of U.S. and foreign governments relating to foreign exchange transactions. Bank has no obligation to accept any international wire transfer(s) directed to or through persons, entities or countries restricted by government regulation or prior Bank experience with particular countries. To the extent not otherwise prohibited by law, in connection with any international wire transfer(s) involving a transfer to or from any country outside of the U.S., and except as otherwise expressly prohibited or limited by law, Customer agrees to release and hold Bank harmless from any loss or liability which Customer may incur after Bank has executed the international wire transfer(s), including without limitation, any loss due to failure of a foreign bank or intermediary to deliver the funds to a payee (beneficiary).

5. Cancellation and Amendment of a Wire.

5.1 An Authorized Representative may request that Bank attempt to cancel or amend a wire transfer previously received from Customer. If a cancellation or amendment request is received by Bank before the wire transfer is executed and with sufficient time to afford Bank an opportunity to act upon Customer's request, Bank may, on its own initiative but without obligation, make a good faith effort to act upon such request. In the event Customer's cancellation or amendment request is received after execution of Customer's wire transfer request, Bank will attempt to have the wire transfer returned. Notwithstanding the foregoing, Bank shall have no liability for the failure to effect a cancellation or amendment, and Bank makes no representation or warranty regarding Bank's ability to amend or cancel a wire transfer. Except as otherwise expressly prohibited or limited by law, Customer agrees to indemnify Bank against any loss, liability or expense which Bank incurs as a result of the request to cancel or amend a wire transfer and the actions Bank takes pursuant to such request. Without limiting the foregoing, Customer agrees to be responsible for any losses arising from currency conversions effected by Bank pursuant to any foreign currency wire transfer order previously received from Customer that Customer subsequently requests be cancelled or amended.

5.2 Customer acknowledges and agrees that after a wire transfer order has been accepted by the payee's (beneficiary's) financial institution, return of such funds must be authorized by the beneficiary, and Bank has no responsibility to procure the return of such funds. If Customer asks Bank to recover funds which Bank has already transferred, Bank shall be under no obligation to do so. If Customer deposits with Bank an amount reasonably determined in good faith by Bank to approximate the costs and expenses (including attorney's fees) which Bank may incur in attempting to recover the funds

transferred, Bank may, in its sole discretion make an attempt to recover the funds. In lieu of such a deposit, Bank may request Customer to provide a bond or other assurance of payment reasonably satisfactory to Bank. Upon such deposit, or the supplying of such other assurance, Bank may take such action as it deems reasonable under the circumstances, including, for example, sending a request to reverse the transfer to any financial institution that received such funds. In no event, however, shall Bank be deemed to have guaranteed or otherwise assured the recovery of any portion of the amount transferred, nor to have accepted responsibility for any amount transferred.

6. Notice of Rejection or Return. Bank shall have no liability for wire transfers sent by Bank as directed by Customer which cannot be completed or which are returned due to incorrect information furnished by Customer. Customer is required to fully complete payee (beneficiary) name, and address, as the payee (beneficiary) bank may elect to return an otherwise valid wire transfer for incomplete payee (beneficiary) information. Bank may reject or impose conditions that must be satisfied before it will accept Customer's instructions for any wire transfer, in its sole discretion, including without limitation Customer's violation of this Appendix, Customer's failure to maintain a sufficient Account balance, or Bank's belief that the wire transfer may not have in fact been authorized. A wire transfer may also be rejected by an intermediary or payee (beneficiary) bank other than Bank, or by operation of law. If a wire transfer is rejected by Bank, Bank will notify Customer by telephone, by electronic means, by facsimile or by mail, depending on the method of origination. Upon rejection or return, Bank shall have no further obligation to act upon a wire transfer, nor shall Bank have any liability to Customer due to rejection by another person in the wire transfer process, or the fact that notice was not given or was not given at an earlier time, or within any specified time of receipt, acceptance, execution or payment of any wire transfer.

7. Security Procedure.

7.1 Customer agrees that the security procedures used by Customer and set forth or incorporated by reference in this Appendix and/or associated documents, including but not limited to the Bank Internet System Appendix, are a commercially reasonable method of providing security against unauthorized wire transfers and for all other instructions from Customer to Bank (hereinafter the "Security Procedure"). Any wire transfer by Customer shall bind Customer, whether or not authorized, if transmitted in Customer's name and accepted by Bank in compliance with the Security Procedure. Customer also agrees that any election Customer may make to change or refuse the Security Procedure is at Customer's risk and that any loss resulting in whole or in part from such change or refusal will be Customer's responsibility.

7.2 Bank may, from time to time, modify the Security Procedure. Except as expressly provided otherwise in this Appendix or in the parties' Cash Management Master Agreement, any such changes generally will be effective immediately upon notice to Customer as described in the parties' Cash Management Master Agreement. Customer will be deemed to accept any such changes if Customer

accesses or uses any of the Services after the date on which the change becomes effective.

7.3 Bank may, from time to time, propose additional or enhanced security procedures to Customer. Customer understands and agrees that if it declines to use any such additional or enhanced procedures, it will be liable for any losses that would have been prevented by such procedures. Notwithstanding anything else contained in this Appendix, if Bank believes immediate action is required for security of Bank or Customer funds, Bank may initiate additional security procedures immediately and provide prompt subsequent notice thereof to Customer.

7.4 Customer hereby acknowledges that the Security Procedure is neither designed nor intended to detect errors in the content or verify the contents of a wire transfer by Customer. Accordingly, any errors contained in wire transfers from Customer shall be Customer's responsibility, and Customer shall be obligated to pay or repay (as the case may be) the amount of any such wire transfer. No security procedure for the detection of any such Customer error has been agreed upon between Bank and Customer.

7.5 Customer is strictly responsible for establishing and maintaining its own procedures to safeguard against unauthorized wire transfers. Customer covenants that no employee or other individual will be allowed to initiate wire transfers in the absence of proper authority, supervision and safeguards, and agrees to take reasonable steps to maintain the confidentiality of the Security Procedure and any Access Devices and related instructions provided by Bank in connection with any Security Procedure utilized by Bank and/or Customer. If Customer believes or suspects that any such Access Devices, Security Procedure, information or instructions have been disclosed to or accessed by unauthorized persons, Customer agrees to notify Bank immediately by calling 1-866-475-7262, followed by written confirmation to TD Bank, N.A., Attn: Treasury Management Services Support, 6000 Atrium Way, Mt. Laurel, New Jersey, 08054. The occurrence of unauthorized access will not affect any transfers made in good faith by Bank prior to receipt of such notification and within a reasonable time period thereafter.

8. Accuracy; Inconsistency of Receiving Beneficiary Name and Account Number. In submitting any order or related instructions, Customer shall be responsible for providing all necessary information required by Bank in conjunction with the Services. The Services are only designed to respond to information provided by Customer. Accordingly, any inaccuracy in any information provided by Customer may result in an unintended transfer of funds. Bank bears no responsibility and shall not be liable to Customer for any information provided by Customer in an order or related instructions that are inaccurate, incomplete or otherwise incorrect. When placing an international wire transfer order, Customer may be responsible for entering certain information provided to Customer by Bank, which may include, but is not limited to, the applicable exchange rate and/or a contract number. Customer acknowledges and agrees that Bank will not be liable for any loss, liability or expense incurred as a result of a Customer error related to entry of such required information. Customer acknowledges and agrees that, in accordance with Article 4A of the

Uniform Commercial Code, Bank shall be entitled to rely upon the numbers supplied by Customer to identify banks, payees (beneficiaries) and other parties to the wire transfer, even if those numbers disagree or are inconsistent with the names of those parties as provided by Customer. Bank and any other receiving financial institution shall have no obligation to determine whether a name and number identify the same person or institution. Customer acknowledges that payment of an order or related instructions may be made by the payee's (beneficiary's) bank on the basis of an identifying or bank account number even if it identifies a person different from the named payee (beneficiary).

9. Payment; Authorization to Charge Account. Customer agrees to pay Bank the amount of each wire transfer received from Customer on the Business Day Bank executes said wire transfer or at such other time as Bank may determine. Bank will validate that sufficient funds are available in Customer's Account prior to a wire transfer being executed. Generally, if sufficient funds are not available in Customer's Account, the wire transfer will not be executed by Bank. Bank may, without prior notice or demand, obtain payment of the amount of each wire transfer by debiting the Account designated. In the event there are not sufficient funds available in the Account, Bank also reserves the right to debit any other Account that Customer maintains with Bank.

10. Wire Confirmation; Account Reconciliation. Customer may confirm the execution of a wire transfer via the Bank Internet System. Completed wire transfers will also be reflected in Customer's periodic Account statement. Customer acknowledges and agrees that Bank is not obligated to provide Customer with a separate advice or notice for each completed wire transfer. If Customer requests that Bank provide a special notice and Bank agrees to do so, Bank reserves the right to impose a Service Fee for such notice in accordance with the Cash Management Master Agreement.

11. Service Providers. Bank may use a service provider to perform, as Bank's agent, all or any portion of Bank's obligations under this Appendix. Customer may be required to direct wire transfers and other requests to said provider.

12. Bank Reliance; Authentication.

12.1 Bank shall be entitled to rely in good faith on communications it receives as being given or sent by an Authorized Representative and as being genuine and correct. Bank shall not be liable to Customer for the consequences of such reliance.

12.2 BANK MAY TAKE SUCH ADDITIONAL STEPS AND IMPLEMENT SUCH PROCEDURES AS IT MAY DEEM APPROPRIATE TO VERIFY THE AUTHENTICITY OF ANY WIRE TRANSFER. BANK MAY DELAY THE EXECUTION OF ANY WIRE TRANSFER PENDING COMPLETION OF A CALL-BACK, OR RECEIPT OF ANOTHER FORM OF VERIFICATION WHICH IS SATISFACTORY TO BANK. IF BANK IS UNABLE TO OBTAIN SATISFACTORY VERIFICATION, BANK, IN ITS SOLE DISCRETION, MAY REFUSE TO EXECUTE ANY WIRE TRANSFER. In no event shall Bank be liable for any delay in executing a wire transfer or for failure to execute a wire transfer due to the absence of satisfactory verification.

12.3 Bank may electronically record any telephone conversations between Bank personnel and Customer with respect to the Services, in accordance with applicable law.

12.4 Wire transfer transactions are subject to all the foregoing and all regulations governing electronic transactions, including but not limited to Article 4A of the Uniform Commercial Code.

13. Effectiveness. Customer agrees to all the terms and conditions of this Appendix. The liability of Bank under this Appendix shall in all cases be subject to the provisions of the Cash Management Master Agreement, including, without limitation, any provisions thereof that exclude or limit warranties made by, damages payable by or remedies available from Bank. This Appendix replaces and supersedes all prior agreements on file with respect to the Services and shall remain in full force and effect until termination or such time as a different or amended Appendix is accepted in writing by Bank or the Cash Management Master Agreement is terminated.



APPENDIX VII

TD LOCKBOX SERVICES

This Appendix is incorporated by reference into the parties' Cash Management Master Agreement and applies to all TD Lockbox Retail and TD Lockbox Wholesale Services (the "Services") made available to Customer by Bank. All capitalized terms used herein without definition shall have the meanings given to them in the Cash Management Master Agreement. Except as otherwise expressly provided in this Appendix, to the extent that this Appendix is inconsistent with the provisions of the Cash Management Master Agreement, this Appendix and any amendment hereto from time to time shall control, but only to the extent necessary to resolve such conflict.

TERMS AND CONDITIONS

1. Services. The Services described in this Appendix provide Customer with a remittance or payment processing arrangement that offers an efficient method for the collection and processing of certain payment items payable to Customer, and the accompanying documents or information associated with such payment items. Through the Services, Bank receives, opens and processes checks and credit card payment authorizations (if authorized) for Customer, and the accompanying documents for such payments, that are addressed to Customer and delivered to U.S. Post Office Boxes or locations designated by Bank.

1.1 Retail Lockbox. The Services consolidate and expedite the automated processing of high volume, low dollar remittance payments received by Customer, as applicable, from its retail clients.

1.2 Wholesale Lockbox. The Services also consolidate and expedite the automated processing of low volume, large dollar remittance payments received by Customer, as applicable, from its vendors or other third parties.

2. Customer Obligations & Authorizations.

2.1 Customer will maintain an Account at Bank as the designated depository Account for the Services ("Designated Account"). Customer will maintain balances in the Designated Account or other Customer Account(s) sufficient to offset any returns for payments that cannot be deposited.

2.2 Customer authorizes Bank to establish United States Postal Service ("USPS") Caller Boxes (as such terms are defined by the USPS) (collectively, the "PO Box(es)" or "Lockbox(es)") at pre-determined postal facilities, or to utilize existing Customer-established PO Boxes, to collect payments and accompanying documents remitted for the benefit of Customer. If a Customer-established PO Box will be used for purposes of the Services, Customer is solely responsible for any and all charges related to the rental and use of the PO Box.

2.3 Customer agrees to provide Bank with unrestricted and exclusive access to Customer-established Lockbox location(s) and contents, and Bank has the sole right to process remittance materials contained therein.

2.4 Prior to deposit into the Designated Account, the Lockbox contents will not be available to Customer, except upon request to Bank, and only with Bank's consent.

2.5 Customer is responsible for instructing all of its clients about the requirements of the Services as they relate and apply to payments and accompanying documents remitted by those clients for the benefit of Customer.

2.6 Customer authorizes Bank to endorse all payments received by Bank with a standard lockbox endorsement used by Bank and without the signature of payee, date or payor name, and to deposit payments, including those with restrictive legends and endorsements, into Customer's Designated Account.

2.7 Bank may delegate all or a portion of its duties or rights regarding the Services and as set forth in this Appendix to Bank Third Parties (as defined in the Cash Management Master Agreement). Bank may change the Bank Third Parties to which it delegates these responsibilities in its sole and exclusive discretion.

3. Mail Collection and Processing.

3.1 Mail Collection and Pre-Processing. Bank shall collect the mail from Lockboxes in accordance with Bank's schedule, as such schedule may change from time to time. Bank will transport mail by courier to its processing location(s), open the mail containing checks, share drafts, money orders, credit card payment information (if authorized), invoices or other contents (hereinafter referred to collectively as "Lockbox Item(s)"). Bank will also accept overnight delivery packages as part of the Services, when the same are properly addressed to and receipt properly confirmed by Services' personnel at Bank's processing location(s), and will process the same in accordance with this Appendix. For each Lockbox Item

received, using ordinary care, Bank will date stamp, inspect and process the Lockbox Item as specified in the Services' Setup Form(s).

3.2 **Item Processing.** Lockbox Items will be processed according to the Account Agreement, except as modified by this Appendix.

3.2.1 **Domestic Checks.** Bank may accept for deposit to Customer's Account all items made payable to or endorsed by Customer as an individual payee or joint payee, regardless of whether those items bear Customer's endorsement, subject to Bank's verification and final inspection. Customer may also provide a list of acceptable payee(s) (an "Acceptable Payee") on the Services' Setup Form(s).

3.2.2 **Foreign Checks.** Foreign check deposits are processed in accordance with the Services' Setup Form(s). Checks drawn on U.S. banks in U.S. dollars will be deposited. Checks drawn in foreign currency (including Canadian checks in CAD) will be processed according to the Services' Setup Form(s).

3.2.3 **Cash.** Cash deposits are not accepted for processing under the Services. Customer shall advise its clients not to send currency or coin to the Lockbox. Bank is not responsible for cash intentionally sent to the Lockbox, but never processed. Notwithstanding the foregoing, in the event cash is received in the Lockbox, Bank will make a good faith effort to deposit cash into Customer's Designated Account and provide a control report regarding these items to Customer.

3.2.4 **Credit Cards.**

(a) Credit card payments may only be processed through the Lockboxes upon approval by Bank and execution by Customer of all required agreements and related documentation, including without limitation a merchant credit card processing services agreement ("Card Processing Agreement") and associated merchant account with Bank and/or another financial institution. Customer is responsible for complying with the terms of Customer's Card Processing Agreement, and with all applicable card network rules with respect to credit card payments.

(b) In order to be eligible for processing by Bank, written authorizations to charge payments due Customer to the payors' credit cards ("Charge Authorizations") must be received through the Lockboxes. A Charge Authorization received in the

Lockbox must contain the name of the account debtor, the account debtor's credit card number, expiration date, the three digit security code, and the amount of the payment authorized, all of which must be written or imprinted on the authorization form in a reasonably legible manner. If any one of these items of information is missing from a Charge Authorization, or is, in the sole judgement of Bank or its service provider, not sufficiently legible for processing purposes, the Charge Authorization will not be processed, and will be forwarded to Customer as set forth below.

(c) Bank will proceed to process for approval each Charge Authorization received in the Lockbox which contains the information required above and is otherwise eligible for processing. Bank will seek approval from the issuer of the applicable credit card for the payment transaction set forth on the Charge Authorization. Bank will submit for settlement each Charge Authorization approved in this manner.

(d) Credit card payments will be batched independently from regular payment items in the Lockbox. Following processing of Charge Authorizations for approval, Bank will segregate those Charge Authorizations which are approved from those Charge Authorizations which are declined. Reports will be sent to Customer regarding these deposits based on the Services' Setup Form(s).

3.2.5 **Other Items.** Items received from the Lockbox other than Lockbox Items or cash will be forwarded to Customer as unprocessed items. Except for its gross negligence or willful misconduct, Bank shall not be responsible for any claimed loss or disappearance of cash or other payments in bearer form.

3.2.6 **Additional Terms.**

(a) Customer guarantees to Bank the payment of all deposited items identified in this Section 3.2. Bank will return to Customer any payments that cannot be deposited. Lockbox Items with apparent alterations will not be deposited. Under no circumstances shall Bank be responsible or liable for identifying or failing to identify stale-dated and post-dated checks or checks specifying "payment in full" (or similar statements) in Customer's Lockbox Items, or for processing such items. Customer acknowledges that if checks specifying "payment in full" (or similar statements) are negotiated, that could adversely affect Customer's ability to collect any balance owed on the related liability. Customer understands and agrees that Bank makes no representation or warranty that it will apply an endorsement intended to preserve Customer's rights to collect the full amount owed or that any endorsement that applies to a Lockbox Item will in fact preserve Customer's

right to collect the full amount owed. Customer assumes all risks of negotiation of such items.

(b) Bank's receipt of Customer's mail hereunder shall not make Bank a bailee of the Lockbox Items. With respect to the Lockbox Items that are deposited and become part of the balance in Customer's Designated Account, Bank and Customer will have a debtor-creditor relationship as normally exists between a depository bank and its depositors. If Customer is a governmental entity, Customer agrees that, in performing the Services, Bank is not acting as an agent for the collection of taxes.

3.3 Remittance Transaction Processing.

3.3.1 Transactions processed as part of the Services are comprised of two separate documents: the remittance coupon, stub or invoice (hereinafter "Coupon(s)") and the drawer's payment. High-speed image-enabled devices capture Customer's retail remittance documents, including checks and Coupons. Transactions are captured using image-enabled capture devices that collect both financial and non-financial information. The actual document capture requirements are set forth in the Services' Setup Form(s).

3.3.2 Bank will process transactions with (i) one payment and one Coupon, (ii) multiple payments and/or multiple Coupons, and (iii) one or more payments and no Coupon, as specified in the Services' Setup Form(s). Bank will process remittance transactions as set forth in the Services' Setup Form(s).

3.3.3 To accomplish high-speed automated processing, Bank does not examine checks (including, without limitation, any inspection for missing signatures, dates, payees, or endorsements) except as the parties may otherwise be described in the Services' Setup Form(s). Customer agrees that Bank does not assume any responsibility or liability for its failure to discover and forward to Customer items bearing restrictive legends or endorsements (e.g., "paid in full," "final payment" or words of similar meaning). Bank will use a standard endorsement that will be considered Customer's payee endorsement.

3.3.4 Transaction totals are captured and balanced against individual check totals generated and with the Coupon (if applicable) supplied by Customer's client. Full check MICR line capture is supported during the capture process. Once balanced, transactions are released for deposit processing.

3.3.5 As part of the Services, wholesale payments will be imaged, and such payments may be re-associated with the Coupon (if enclosed), to the extent set forth in the Services' Setup Form(s).

4. Deposit Processing.

4.1 Bank prepares items for deposit into Customer's Designated Account. These deposited items are memo posted throughout the Business Day and reflect the

amount of items processed. The credit and collection of these items are subject to the terms and conditions of the Account Agreement.

4.2 Bank reserves the right to not process any item received for deposit if Bank decides not to handle that item. If Bank makes this decision, Bank will forward the item to Customer for further handling.

4.3 Transactions processed after Bank's cut-off time or during a non-Business Day will be credited on the next Business Day, as set forth in the Services' Setup Form(s).

5. Insufficient Funds and Returned Items.

5.1 Bank may deduct the amount of an item deposited to the Designated Account or other Account if Bank receives notice that the item has not been paid and has been returned. Returned items are processed in accordance with the Services' Setup Form(s). Returned items that are not re-deposited, or that have been returned a second time, will be debited from the Designated Account or another Account at Bank, as set forth in the Services' Setup Form(s), even if Bank could have made a claim for reimbursement on the item from the bank on which the item was drawn or from another bank. Bank may charge an item against the Designated Account or other Account even if the charge results in an overdraft.

5.2 Bank may incur losses or expenses due to a delay in returning an unpaid item if the item's endorsement is obscured by other material on the back of the item. If an item is issued with material on the back (for example, a carbon band), Customer agrees to indemnify Bank against any related losses and expenses, including any finance charges, legal fees and court costs incurred in Bank's attempt to receive payment on the item.

6. Remittance Reporting.

6.1 **Remittance Package.** At the end of each Business Day on which Customer has Lockbox activity, Bank may send a remittance package with contents as selected in the Services' Setup Form(s).

6.2 **CD-ROM.** Bank may create a CD-ROM of images of processed checks and remittance detail, at Customer's request, on a daily, weekly, or monthly basis. If the documents are unable to be imaged, Bank reserves the right to forego scanning and forward the original documents to Customer. Bank has no liability for illegible images created from a damaged or illegible original document, and such original document will be forwarded to Customer, if requested, assuming that such original has not yet been destroyed.

6.3 Electronic Transmission.

6.3.1 Subject to the terms and conditions of and in accordance with Bank's Appendix for Data Transmission Services, remittance data will be

transmitted to Customer electronically at such time(s) as selected in the Services' Setup Form(s).

6.3.2 Retail Lockbox. As applicable, the optical character recognition ("OCR") scan line is captured from a retail remittance Coupon with check digit validation (when supplied on the Coupon), as outlined in the Services' Setup Form(s). Bank will provide scan line requirements for this purpose. Bank may accommodate additional fields by mutual agreement and designation in the Services' Setup Form(s). Bank may provide a daily file of retail payments formatted to interface with Customer's accounts payable system.

6.3.3 Wholesale Lockbox. As applicable, information is taken from the wholesale remittance Coupon together with payment information, as outlined in the Services' Setup Form(s), to create a data transmission of receivables information.

6.3.4 Reporting fields will be determined based on Customer's capture specifications and available fields or information on the Coupon, as set forth in the Setup Form(s). All Customer requests for re-transmission of a failed transmission should occur within one (1) Business Day of the originally scheduled transmission.

6.4 Web Access.

6.4.1 As may be made available by Bank from time to time, Customer may use a Web-based service to access a variety of reporting options for the Services ("Web Access"), including reporting of deposits, images of Lockbox Items, and online review of deposit details subject to pre-established data entry fields. Information is available for review by Customer as the Lockbox Items are processed.

6.4.2 A user guide and procedures shall be provided to Customer as well as hardware requirements. Customer agrees not to use Web Access in connection with any activity other than those permitted by this Appendix, unless Bank provides prior written approval. Customer shall use Web Access solely for the purposes described in this Appendix. When Bank uses Web Access, Customer accepts the *Terms of Use* for Web Access, as posted on Web Access pages from time to time, and all selected features and functions of the modules on Web Access.

6.4.3 Bank shall use commercially reasonable efforts to notify Customer promptly of any system interruption, and notify Customer in advance of any update releases or other permitted changes that may reasonably be expected to affect Customer. Bank may make available to Customer new service releases and enhancements from time to time.

6.4.4 Bank offers its general security system capabilities to protect the integrity of the account transaction and remittance information. If a password, PIN, or other security device or identifier is used

in connection with Web Access, Customer is responsible for the safekeeping of that device or identifier. Customer shall not disclose the security device or identifier to any unauthorized individual. Bank will establish for Customer a log-on ID ("user ID"). Customer will establish a unique password. Bank recommends that Customer change its password periodically. Customer agrees to notify Bank immediately if Customer becomes aware of: (i) any loss or theft of Customer's user ID and/or password; or (ii) any unauthorized use of Customer's user ID and/or password. Within established security procedures, Bank will be responsible for: (i) restricting Web Access to valid user IDs/passwords, (ii) restricting access to customer information only to valid user IDs/passwords assigned to such user, and (iii) properly acting upon instructions and communications associated with a valid user ID/password assigned to a specific user. Bank may provide optional security features to include such features as passwords that expire at pre-established time periods or restrict log-on user ID to certain times in the day. Bank may cancel any user ID/password if Bank has reason to suspect improper use. Prior to cancellation, Bank shall confer with Customer, unless in Bank's reasonable opinion it would be impracticable or imprudent to do so.

7. Retail Lockbox Remittance Document Testing.

Customer and Bank understand and agree that the Services are dependent on the successful testing and pre-approval by Bank of Customer's remittance documents. Customer agrees that it will not change, in any respect, any remittance document or its contents without thirty (30) days' minimum prior written notification to Bank, and subsequent acceptance, testing, and approval by Bank. Bank reserves the right to test Customer's remittance documents from time to time to assess poor quality Coupons that may require manual processing by Bank. All custom, non-standard assessment, testing and review, and any required custom handling, may be subject to additional Bank fees.

8. Liability. Remittance processing is a highly automated service, and Bank uses commercially reasonable efforts to process items. The liability of Bank under this Appendix shall in all cases be subject to the provisions of the Cash Management Master Agreement and the Account Agreement.

9. Termination of this Appendix. In the event that Customer terminates the Services, Bank may forward mail from a closed Lockbox to the address designated by Customer, in writing, for a period of ninety (90) calendar days. Bank charges apply and are payable in advance of Bank providing such forwarding service. If Customer does not select forwarding service, mail will be returned to sender. Customer understands that PO Box numbers may not be transferable, as the PO Box may be issued within Bank's unique zip code, and, therefore, must be retired.

10. Effectiveness. Customer agrees to all the terms and conditions of this Appendix. The liability of Bank under this Appendix shall in all cases be subject to the provisions of the Cash Management Master Agreement, including, without limitation, any provisions thereof that exclude or limit warranties made by, damages payable by or remedies

available from Bank. This Appendix replaces and supersedes all prior agreements on file with respect to the Services and shall remain in full force and effect until termination or such

time as a different or amended Appendix is accepted in writing by Bank or the Cash Management Master Agreement is terminated.



APPENDIX VIII

TD DIGITAL EXPRESS SERVICES

This Appendix is incorporated by reference into the parties' Cash Management Master Agreement and applies to all TD Digital Express Services (the "Services") made available to Customer by Bank. All capitalized terms used herein without definition shall have the meanings given to them in the Cash Management Master Agreement. Except as otherwise expressly provided in this Appendix, to the extent that this Appendix is inconsistent with the provisions of the Cash Management Master Agreement, this Appendix and any amendment hereto from time to time shall control, but only to the extent necessary to resolve such conflict.

TERMS AND CONDITIONS

1. Services. The Services provide Customer with an Internet-based system designed to expedite check depositing services by enabling Customer to use check conversion technology to submit to Bank, for deposit to Customer's Account(s), electronic check images and associated information ("Check Images") in lieu of the original checks from which such Check Images were obtained. These Services are provided in accordance with the *Check Clearing for the 21st Century Act* ("Check 21").

2. Hardware Requirements.

2.1 In order to use the Services, Customer must utilize certain Bank-approved image/scanner hardware (the "Hardware"). Customer must either (a) have or obtain the Hardware, as approved by Bank ("Customer Hardware"), or (b) utilize Hardware provided by Bank ("Bank Hardware"). Customer must also have a Computer as outlined in the Cash Management Master Agreement, as Bank may specify and approve from time to time.

2.2 If Customer elects option (a), Customer Hardware, Customer is solely responsible for the purchase, maintenance, performance and adequacy of Customer Hardware. Bank makes no representations or warranties concerning, and has no responsibility or liability for, Customer Hardware or its use with the Services. Bank shall have no liability or responsibility whatsoever for errors, including but not limited to processing or transmission errors, resulting from any Check Images transmitted by Customer using Customer Hardware.

2.3 If Customer elects option (b), Bank Hardware, Customer agrees as follows:

(i) Bank will retain ownership of Bank Hardware provided by Bank for use with the Services.

(ii) Customer will not use Bank Hardware in connection with any remote check deposit service offered by any other financial institution other than Bank.

(iii) Customer acknowledges that Bank did not manufacture Bank Hardware and has provided the same to Customer on an "AS IS" basis, and warrants only that, upon delivery, Bank Hardware will conform to Bank's then current applicable standards for use of the Services. Bank Hardware is provided to Customer with a standard

manufacturer's warranty. Customer shall thereafter be responsible for purchasing any and all additional manufacturer warranty period(s) beyond the standard warranty, as may be made available by the manufacturer, for complying with all manufacturer recommendations for preventive maintenance, or for repairing or replacing Bank Hardware.

(iv) Customer shall bear the entire risk of loss, theft, damage or destruction of Bank Hardware from the date of receipt until return shipment to a Bank branch or shipped postage-paid to Bank. Such loss, damage or destruction of Bank Hardware shall not relieve Customer of the obligation to make payments or to comply with any other obligation under this Appendix.

(v) Upon termination of this Appendix by either party for any reason, Customer shall return Bank Hardware in the same condition as when originally provided to Customer, except for ordinary wear and tear resulting from proper use. Bank Hardware shall be packed for proper return shipment to such place as Bank shall specify. In the event Bank Hardware has not been returned within fifteen (15) Business Days of termination of this Appendix, Customer shall make payment to Bank in an amount equivalent to the depreciated value for Bank Hardware. Where agreed to by Bank in its sole discretion, Customer may purchase Bank Hardware from Bank, subject to the terms and conditions of Bank's bill of sale or similar agreement.

3. Check Images; Image Replacement Documents.

3.1 Customer may use the Services to deposit original paper checks using the Hardware to scan, capture and submit Check Images to Bank through the Services' Internet site ("Services Site"). Eligible items for deposit include original checks that Customer has received for payment or deposit, and obligations of financial institutions (travelers' checks, cashier checks, official checks, and money orders).

3.1.1 The following check types are *not eligible* for use with and may not be processed using the Services:

(i) Checks drawn on banking institutions outside the U.S. or in currencies other than U.S. Dollars;

(ii) Irregular checks (e.g., where the numerical and written amounts are different);

- (iii) Previously-returned checks;
- (iv) Checks payable to or in cash;
- (v) Checks exceeding any Customer transaction or file limits as Bank may establish from time to time; and
- (vi) Checks that are postdated or more than six (6) months old.

3.1.2 The following check types are *restricted* for use with and may only be processed using the Services with prior approval by Bank (as further described below):

- (i) Checks payable to a third party (rather than to Customer) (hereinafter “Third Party Checks”); and
- (ii) Remotely-created checks (or remotely created payment orders deposited into or cleared through the check clearing system) (hereinafter, collectively referred to simply as “remotely-created checks” unless otherwise expressly specified).

Notwithstanding the foregoing, under no circumstances may Customer use the Services to deposit any check types that Customer is banned or prohibited from using or accepting under applicable law, including, by way of example only, the use or acceptance by sellers and telemarketers of remotely created payment orders (which include remotely-created checks) as defined and described in the Federal Trade Commission’s Telemarketing Sales Rule.

3.2 Third Party Checks. Customer shall request approval from Bank prior to any use of the Services to process Third Party Checks, which permission Bank may grant or refuse in its sole and exclusive discretion. Such use of the Services and the scope of permitted Third Party Checks may be limited or restricted by Bank in its sole and exclusive discretion, including without limitation to those Third Party Checks that have been properly endorsed over to Customer as further described below.

3.2.1 If approved to use the Services to process Third Party Checks, Customer shall make the following additional representations and warranties upon each delivery to Bank of an Electronic File (as defined below) containing Third Party Checks:

- (i) All endorsement(s) on the original Third Party Checks are legible, genuine and accurate;

Customer has instituted procedures to ensure that each original Third Party Check was authorized by the drawer in the amount stated on the original Third Party Check and to the payee(s) stated on the original Third Party Check;

Each Third Party Check contains all endorsements applied by the prior payee(s) stated on the original Third Party Check and has been properly endorsed by such payee(s) for payment over to Customer;

Customer is authorized to enforce each Third Party Check that is transmitted to Bank using the Services, and Customer is authorized to obtain payment of and each Third Party Check is properly payable to and enforceable by Customer;

Consistent with the terms of this Appendix as well as the Account Agreement, if a Third Party Check is returned, Customer owes Bank the amount of the Third Party Check, regardless of when the Third Party Check is returned. Bank may withdraw funds from Customer’s Account to pay the amount owed to Bank, and if there are insufficient funds in Customer’s Account, Customer will owe the remaining balance; and

Except where otherwise provided, all other provisions of this Appendix shall apply to Third Party Checks and to Customer’s use of the Services in conjunction with Third Party Checks.

3.3 Remotely-Created Checks. A remotely-created check, unlike a typical check or draft, is not created by the paying or drawer bank and does not contain the signature of the account-holder (or a signature purporting to be the signature of the account-holder). In place of a signature, the check generally has a statement that the account-holder authorized the check or has the account-holder’s name typed or printed on the signature line. Customer shall request approval from Bank prior to any use of the Services to process remotely-created checks, which permission Bank may grant or refuse in its sole and exclusive discretion. Such use of the Services and the scope of permitted remotely-created checks may be limited or restricted by Bank in its sole and exclusive discretion, and/or by applicable law.

3.3.1 If approved to use the Services to process remotely-created checks, Customer shall be deemed to make the following additional representations and warranties upon each delivery to Bank of an Electronic File containing remotely-created checks:

- (i) Customer has received express and verifiable authorization to create the check in the amount and to the payee that appears on the check;

- (ii) Customer will maintain proof of the authorization for at least two (2) years from the date of the authorization, and supply Bank with such proof, if Bank requests it, within five (5) Business Days of the request; and

- (iii) Consistent with the terms of this Appendix as well as the Account Agreement, if a remotely-created check is returned, Customer owes Bank the amount of the check, regardless of when the check is returned. Bank may withdraw funds from Customer’s Account to pay the amount owed to Bank, and if there are insufficient funds in Customer’s Account, Customer will owe the remaining balance.

- (iv) All other provisions of this Appendix shall apply to remotely-created checks and to Customer’s use of the Services in conjunction with remotely-created checks.

3.3.2 Customer agrees to operate in accordance with applicable laws and regulations regarding remotely-created checks, including but not limited to, Regulation CC and applicable warranties, the Uniform Commercial Code and applicable warranties, the Bank

Secrecy Act, USA Patriot Act, and the Federal Trade Commission Telemarketing Sales Rule, as the same may be amended from time to time. Without limiting the foregoing, Customer represents, warrants and covenants that it will not use the Services to deposit any check types that Customer is banned or prohibited from using or accepting under applicable law.

3.4 If at any time Bank believes that Customer's use of the Services to deposit Third Party Checks and/or remotely-created checks may create a risk of financial loss or otherwise result in unacceptable exposure to Bank, including but not limited to unacceptable rates of returned items, or may be subject to or otherwise involve irregular, unauthorized, fraudulent or illegal activity, Bank may, at its sole discretion, immediately and without prior notice to Customer, suspend or terminate Customer's use of the Services, and/or Customer's use in conjunction with Third Party Checks and/or remotely-created checks, in addition to but not in lieu of all other rights and remedies available to Bank under this Appendix and the Agreement.

3.5 Customer shall enter check information into the Services Site, imaging the front and the back of each paper check and capturing the information contained in the MICR line of the paper check. Customer shall review each Check Image for clarity to ensure that the item is legible and can be reproduced as an Image Replacement Document ("IRD(s)" or "Substitute Check(s)"). Using the Services, an electronic file will be created ("Electronic File") that contains electronic information relating to and converted from the paper checks that have otherwise been truncated or removed from the forward collection and payment process (each an "Electronic Item"). To ensure accuracy, Customer shall balance the dollar total of each deposit to the sum of the Electronic Items prior to transmitting the Electronic File to Bank.

3.6 Customer authorizes and agrees that Bank may, in conjunction with and via the Services, add the image of an endorsement, an electronic endorsement or a "virtual endorsement" for Customer to the Check Image of any check or item deposited under the terms of this Appendix, and that such endorsement shall be legally enforceable against Customer even though the endorsement did not appear and was not placed on the original paper check or item. In the event Bank does supply a virtual or similar endorsement, Bank may instruct Customer not to otherwise endorse the check or item so as to minimize any conflict with the legibility of the virtual endorsement.

3.7 Customer shall determine that the Electronic File has been received based on the confirmation page of the Services Site. Bank will indicate acceptance of the transactions and any transactions rejected by the Services on the Services Site. Customer shall process any rejected transactions as paper checks through the normal paper check deposit process.

3.8 Customer shall enter the dollar amount of a paper check(s), along with any other optional information that Customer would like retained by the

Services Site. The Services Site provides for reports and exporting of the information that has been entered.

3.9 Bank shall electronically deliver to Customer, through the Services Site, a confirmation of receipt for each deposit submitted, and the deposit shall be considered received by Bank when such confirmation is delivered to Customer. Deposits received via the Service by 9:00 p.m. Eastern Time on any Business Day or at any time on any Calendar Day that is not a Business Day will be posted to Customer's Account on the same Business Day, with next Business Day availability of deposits based on Bank's Account Agreement. Bank reserves the right to reject any single Check Image or group of Check Images for any reason, before or after delivery of confirmation of receipt.

3.10 Customer acknowledges and agrees that in the event any deposited item converted to a Check Image is returned for any reason (for example, non-sufficient funds), Bank may return the item to Customer by delivery of either a Substitute Check or the Check Image, including all return information. Return items will be handled in the same manner as check deposits in accordance with the Account Agreement.

4. Customer Responsibilities and Obligations.

4.1 Customer represents, warrants and covenants that after truncation of an original check, Customer shall safeguard the Electronic Items and original checks identified in any Electronic File previously sent to Bank in order to ensure that such original checks and Electronic Items: (i) shall not be submitted for deposit with Bank or any other financial institution, except in accordance with the terms and conditions of this Appendix related to un-processable Electronic Items and (ii) shall not be transferred for value to any other person or other entity. As an additional security control, Customer shall ensure that the front of each original check is properly marked with wording or other marking in order to reflect that the deposit has been sent for processing.

4.2 Upon receipt of any transmitted Electronic File, Bank shall be the lawful owner of such Electronic File and each Electronic Item with respect to original checks imaged in that Electronic File. Customer shall retain all original checks truncated pursuant to this Appendix for a period of thirty (30) Calendar Days in a manner that is mutually agreed upon between the parties hereto. However, for accounting, auditing and other legal purposes, Customer may keep electronic records regarding its receipt and deposit of such checks, provided such internal electronic records cannot be used to generate duplicate Electronic Files for purposes of depositing and presenting such checks for payment.

4.3 Customer shall deliver promptly to Bank, upon its request, the original check if a request is made within the retention period provided above, or Substitute Check or Sufficient Copy thereof, for each Electronic Item created by Customer. The term "Sufficient Copy" means a copy of an original check that accurately represents all of the information on the front and back of the original check as of

the time the original check was truncated or is otherwise sufficient to determine whether or not a claim is valid.

4.4 Customer shall not create at any time an Electronic File under this Appendix or otherwise use the Services to capture or maintain tax identification numbers or non-public personal information of any third-party from whom Customer has received an original check for payment or deposit or which Customer has selected for truncation.

4.5 Customer agrees to abide by all federal and state laws, and rules and regulations applicable to banking transactions.

4.6 If Bank receives a returned item for a check deposited by Customer after Customer has terminated this Appendix, then Customer agrees that Bank may debit Customer's Account, or if such Account has been closed by Customer, Bank will send a request for payment to Customer, and Customer agrees to pay Bank within a commercially reasonable period of time.

4.7 Customer agrees to have controls in place to ensure that the Services, including the Hardware and checks processed through the Hardware, are properly safeguarded and stored in accordance with the timeframe set forth in Section 4.2 above and in a secure location, under effective control, in order to safeguard against unauthorized access and use. Customer shall ensure that all such checks are thereafter destroyed by a cross-shredder, and/or pulped or otherwise destroyed in such a manner that does not permit recovery, reconstruction or future use of the checks. Customer agrees that it will not simply throw out such paper checks with other classes of records or with miscellaneous trash. Customer agrees to be responsible for all damages resulting from lack of proper controls over processed checks.

4.8 Customer shall notify Bank of any interruptions in, delay or unavailability of, or errors caused by the Services immediately upon discovery thereof. Notwithstanding the foregoing, in the case of any error caused by the Services and subject to Section 11 of the parties' Cash Management Master Agreement, Customer shall provide such notice within thirty (30) Calendar Days of the date of the earliest notice to Customer which reflects the error. Failure of Customer to provide such notice to Bank shall relieve Bank of any liability or responsibility for such error, omission or discrepancy.

5. Customer Warranties, Covenants. Customer makes the following representations, warranties and covenants as of the effective date of this Appendix and upon each delivery of an Electronic File to Bank:

5.1 An Electronic File may include an electronic representation of a Substitute Check. Customer shall redeposit a returned original check or a returned Electronic Item by delivering the same to any Bank branch location. A returned original check or returned Electronic Item may not be re-submitted by Customer using the Services. Customer may only use the Services to re-submit an IRD or Substitute Check that has been returned to Customer for non-sufficient funds.

5.2 With respect to each Electronic Item in any Electronic File delivered to Bank, the Electronic Item

accurately represents all of the information on the front and back of the original check as of the time that the original check was created by the payor; contains all required and valid endorsements; replicates the MICR line of the original check; and meets all FRB standards of and technical requirements for sending Electronic Items to any as set forth in the applicable FRB operating circular, or as established by the American National Standards Institute ("ANSI") or any other regulatory agency, clearing house or association. Specifically, each Electronic Item of each original check shall be of such quality that the following information can clearly be read and understood by sight review of such Electronic Item:

- (i) the amount of the check;
- (ii) the payee of the check;
- (iii) the signature of the payor of the check;
- (iv) the date of the check;
- (v) the check number;
- (vi) the information identifying the payor and the paying bank that is preprinted on the check, including the MICR line; and
- (vii) all other information placed on the original check prior to the time an image of the original check is captured, such as any required identification written on the front of the check and any endorsements applied to the back of the check.

5.3 Customer shall also ensure that the following information is captured from the MICR line of each original check:

- (i) the American Bankers Association routing transit number ("RTN");
- (ii) the number of the account on which the check is drawn;
- (iii) when encoded, the amount of the check; and
- (iv) when encoded, the auxiliary on-us field (serial number) and the process control field of the check.

5.4 The Electronic Item bears all endorsements, if any, applied by previous parties that handled the check in any form (including the original check, as Substitute Check, or another paper or electronic representation of such original check or Substitute Check) for transfer, forward collection or return.

5.5 Customer is entitled to enforce the original check, or Customer is authorized to obtain payment of the original check on behalf of a person who is either entitled to enforce the original check or is authorized to obtain payment on behalf of a person entitled to enforce the original check.

5.6 Customer will submit financial and/or other additional information to Bank upon request in order for Bank to establish or amend Customer's deposit and file limits as further described in Section 6 and as established by

Bank and communicated to Customer, or to otherwise monitor or audit Customer's use of the Services and compliance with this Appendix. Customer will also notify Bank of any change in transaction volumes or financial condition that may have an effect on this Appendix or Customer's use of the Services.

5.7 Customer shall also request permission from Bank in advance of any change in locations at which the Services are used or change in the physical location or address of any Hardware from its original Bank-approved location or address, which permission Bank may grant or refuse in its sole and exclusive discretion. In addition to but not in lieu of the foregoing, Customer shall request advance permission from Bank prior to using the Services and/or any Hardware outside the continental United States and/or outside of those states (including the District of Columbia) in which Bank operates from time to time. Bank may grant or decline such request in its sole and exclusive discretion and in consideration of applicable law.

5.8 Both Customer and the clients with whom it does business are reputable and are not using Bank as a conduit for money laundering or other illicit purposes.

5.9 None of Customer's transactions to be processed by Bank are prohibited by any applicable law, regulation, order, rule or judgment.

5.10 Customer Electronic Files will not contain viruses that originate from Customer's Computer, in accordance with the requirements of Section 7 of the Cash Management Master Agreement.

5.11 None of Customer's employees are a national of a designated blocked country or "Specially Designated National", "Blocked Entity", "Specially Designated Terrorist", "Specially Designated Narcotics Trafficker", or "Foreign Terrorist Organizations" as defined by the United States Office of Foreign Assets Control.

5.12 Customer is responsible for implementing operational controls and risk-monitoring processes, as well as conducting periodic self-assessments of the security of the Services and its processes and practices with regard to use of the Services.

6. Deposit and File Limits. Customer's use of the Services is limited as more particularly described in the Services' Setup Form(s), and as the parties may otherwise agree from time to time. Such limits may include but are not limited to, e.g., maximum total daily dollar amounts; maximum per item dollar amounts; maximum percentage of monthly transactions returned; and maximum number of items to be deposited per day.

7. Administrator(s) and Authorized Users.

7.1 Customer may designate Administrator(s) relative to the Services, as set forth in the Services' Setup Form(s). Customer is solely responsible for designating its Administrator(s). Customer agrees to provide Bank, upon Bank's request, with any certificate or documentation that is acceptable to Bank specifying the name of the person who is authorized to be designated as Administrator(s) from time to time.

7.2 The Administrator(s) may designate other Administrators and/or Authorized Users. Customer accepts as its sole responsibility an Administrator's designation of other Administrators and Authorized Users. Customer understands that the Administrator(s) will control, and Customer authorizes the Administrator(s) to control, access by other Administrator(s) and Authorized Users of the Services through the issuance of passwords. The Administrator(s) may add, change or terminate Customer's Authorized Users from time to time and in his/her sole discretion. Bank does not control access by any of Customer's Authorized Users to any of the Services.

7.3 Customer will require each Administrator and each Authorized User to comply with all provisions of this Appendix and all other applicable agreements. Customer acknowledges and agrees that it is fully responsible for the failure of any Administrator or any Authorized User to so comply.

7.4 Whenever any Authorized User leaves Customer's employ or Customer otherwise revokes the authority of any Authorized User to access or use the Services, Customer must notify the Administrator immediately, and the Administrator is solely responsible for de-activating such Authorized User's password. Whenever an Administrator leaves Customer's employ or Customer otherwise revoke an Administrator's authority to access or use the Services, Customer remains fully responsible for all use of the passwords and the Services.

8. Security Procedures.

8.1 Upon successful enrollment, Customer can access the Services via the Services Site, or any website that Bank may designate from time to time, using the security procedures as described from time to time. Bank will provide Customer with an organizational or User ID that is the electronic identification, in letters and numerals, assigned to Customer by Bank that will be used for log-in by Customer's Administrator(s) and Authorized User(s). Bank will also provide the Administrator(s) initially designated by Customer with an initial individual password to gain access to the Services. The Administrator(s) and Authorized User(s) must change his or her individual password from time to time for security purposes, as prompted by the Services Site, or more frequently.

8.2 Customer acknowledges that Administrator(s) will, and Customer authorizes Administrator(s) to, select other Administrators and Authorized Users by issuing to any person an individual password. Customer further acknowledges that Administrator(s) may, and Customer authorizes Administrator(s) to, change or de-activate the individual password and/or any individual password from time to time and in his or her sole discretion.

8.3 Customer acknowledges that, in addition to the above individual passwords, access to the Services includes, as part of the Access Devices, a multi-factor authentication security procedure at log-in for Customer, including Administrator(s) and Authorized Users.

This additional security procedure involves an additional access code and Computer registration that is in addition to User ID and individual password security (hereinafter “Enhanced Log-in Security”).

8.4 Bank does recommend as a commercially reasonable security procedure that Customer implement dual control of the Services, whereby one Authorized User creates, edits, cancels, deletes and restores an Electronic File, and a second different Authorized User reviews the Electronic File prior to it being released.

8.5 Customer accepts as its sole responsibility the selection, use, protection and maintenance of confidentiality of, and access to, the Access Devices. Customer agrees to take reasonable precautions to safeguard the Access Devices and keep them confidential. Customer agrees not to reveal the Access Devices to any unauthorized person. Customer further agrees to notify Bank immediately if Customer believes that the confidentiality of the Access Devices has been compromised in any manner.

8.6 The Access Devices identify and authenticate Customer (including Administrator(s) and Authorized Users) to Bank when Customer accesses or uses the Services. Customer authorizes Bank to rely on the Access Devices to identify Customer when Customer accesses or uses any of the Services, and as signature authorization for any transaction, transfer or other use of the Services. Customer acknowledges and agrees that Bank is authorized to act on any and all communications or instructions received using the Access Devices, regardless of whether the communications or instructions are authorized. Bank owns the Access Devices, and Customer may not transfer them to any other person or entity. If this Appendix is terminated, Customer’s access to the Services will be immediately terminated.

8.7 Customer acknowledges and agrees that the Access Devices and other security procedures applicable to Customer’s use of the Services are a commercially reasonable method for the purpose of verifying whether any transaction, transfer or other use of the Services was initiated by Customer. Customer agrees to be responsible for any transmission Bank receives through the Services that is processed by Bank in accordance with the security procedures, even if such transmission is not authorized by Customer, including any fraudulent transmission by Customer’s employees or agents. Customer agrees that any election Customer may make to change or waive any optional security procedures recommended by Bank is at Customer’s risk and that any loss resulting in whole or in part from such change or waiver will be Customer’s responsibility. Customer further acknowledges and agrees that the Access Devices are not intended, and that it is commercially reasonable that the Access Devices are not intended, to detect any errors relating to or arising out of a transaction, transfer or any other use of the Services.

8.8 If Customer has reason to believe that any Access Devices have been lost, stolen or used (or may be used) or that a transaction, transfer or other use of the

Services has been or may be made with any Access Devices without Customer’s permission, Customer must contact its Administrator. Customer also agrees to provide Bank with immediate notice of any actual or suspected breach in the security of or other unauthorized access to the Services through use of Customer’s Computer. Such notice shall include a description of the incident in general terms; a description of the type of information or data related thereto that was the subject of unauthorized access or use; a description of what Customer has done to protect the information or data from further unauthorized access; and a telephone number or other contact information so that Bank can call for further information or inquiry. In no event will Bank be liable for any unauthorized transaction(s) that occurs with any Access Devices.

9. Limitation of Liability. In addition to but not in lieu of the limitations of liability and related provisions contained in the parties’ Cash Management Master Agreement, Bank shall have no liability for any error or delay in performing the Services and shall have no liability for not affecting a Check Image, if:

- (i) Bank receives actual notice or has reason to believe that Customer has filed or commenced a petition or proceeding for relief under any bankruptcy or similar law;
- (ii) The ownership of funds involving a Check Image or Customer’s authorized representative’s authority to transmit a Check Image is in question;
- (iii) Bank suspects a breach of the security procedures;
- (iv) Bank suspects that Customer’s Account has been used for illegal or fraudulent purposes; or
- (v) Bank reasonably believes that a Check Image is prohibited by federal law or regulation, or otherwise so provided in the Appendix.

Further, Bank will not be liable to Customer for any unauthorized actions or fraud initiated or caused by Customer or its employees or agents. Bank will also be excused from failing to transmit or delay in transmitting a Check Image if such transmittal would result in it exceeding any limitation imposed on it by any governmental or regulatory body.

10. Audit Rights and Site Visits; Internal Controls. Bank, its accountants, auditors or agents shall have the right to conduct site visits of Customer, as well as review, inspect and audit, at Bank’s expense and with reasonable notice, and at any time as Bank may in good faith deem necessary or reasonable during or after the term of this Appendix, Customer’s compliance with the terms of this Appendix, including but not limited to Customer’s use of the Services, its Computer and security infrastructure, and the books and records of Customer related to: (i) Customer’s activities hereunder and/or (ii) conformance with Customer’s obligations hereunder. In addition, Bank reserves the right, in its sole and exclusive discretion, to require Customer to

implement additional internal controls at Customer location(s) where use of the Services occurs and to request information from Customer relative to Customer's security infrastructure. Any review, inspection or audit to be performed by or for Bank pursuant to this Section 10 shall be conducted only during normal business hours, using reasonable care not to cause damage and not to interrupt the normal business operations of Customer.

11. Survival. The provisions of Section 9, as well as Customer's obligation to produce the original of, or a Sufficient Copy of, any item accepted within any deposit upon Bank's request in accordance with Section 4 hereof, and Customer's liability for breach of any representation and/or warranty made in Sections 3, 4 and 5 hereof shall survive termination of this Appendix and/or the Cash Management Master Agreement.

12. Effectiveness. Customer agrees to all the terms and conditions of this Appendix. The liability of Bank under this Appendix shall in all cases be subject to the provisions of the Cash Management Master Agreement, including, without limitation, any provisions thereof that exclude or limit warranties made by, damages payable by or remedies available from Bank. This Appendix replaces and supersedes all prior agreements on file with respect to the Services and shall remain in full force and effect until termination or such time as a different or amended Appendix is accepted in writing by Bank or the Cash Management Master Agreement is terminated.



APPENDIX X

TD ACCOUNT RECONCILEMENT SERVICES - PARTIAL

This Appendix is incorporated by reference into the parties' Cash Management Master Agreement and applies to all TD Account Reconciliation Services – Partial (the "Services") made available to Customer by Bank. All capitalized terms used herein without definition shall have the meanings given to them in the Cash Management Master Agreement. Except as otherwise expressly provided in this Appendix, to the extent that this Appendix is inconsistent with the provisions of the Cash Management Master Agreement, this Appendix and any amendment hereto from time to time shall control, but only to the extent necessary to resolve such conflict.

TERMS AND CONDITIONS

1. Services. The Services described in this Appendix will assist Customer in reconciling and managing the check activity in Customer's designated demand deposit account(s) ("Authorized Accounts"). Use of the Services does not affect any of Customer's obligations, which are described in the Account Agreement, to discover and report unauthorized or missing signatures and endorsements, or alterations on checks drawn on Customer's Accounts.

2. Submission of Data.

2.1 The Services allow Customer to periodically receive a file and/or report of paid check data to include paid check date, paid check amount and paid check serial number, in accordance the Services' Setup Form(s) ("Paid Check Data"). Customer shall have its checks prepared in accordance with Bank specifications and will supply Bank with 25 voided checks to be used for testing. The checks will be tested to ensure the paper stock is of a minimum weight and is encoded with Bank's ABA (routing and transit) number, account number and check number to ensure the readability of the MICR line on Bank's equipment.

2.2 Customer agrees to receive Paid Check Data in the specified format and medium, on the scheduled day(s) and at the place(s) specified by Bank and agreed to by Customer as set forth in the Services' Setup Form(s).

2.3 Prior to receiving a Paid Check Data file, Customer will be provided a test file by Bank to ensure the readability of the Paid Check Data on Customer's equipment. Customer agrees to report any test file failures.

2.4 In accordance with Customer's Account schedule, Bank will provide a file of Paid Check Data in accordance with the Services' Setup Form(s) and a paper listing of paid checks, stop payments, missing checks, and paid date. Bank shall report Substitute Checks (as defined in the Cash Management Master Agreement) on the same basis as ordinary checks / items.

3. Statement of Transactions. Within three (3) Business Days following the scheduled date for reconciliation, as set forth in the Services' Setup Form(s), Bank will provide a report including a listing of paid checks, checks that have been identified as stop payments and checks missing in sequence. Customer shall review the listing and report any errors as set forth in the Cash Management Master Agreement between Bank and Customer. Customer's use of the Services or Bank's receipt of information associated with the Services does not increase Bank's duties or obligations with respect to Customer's Accounts.

4. Effectiveness. Customer agrees to all the terms and conditions of this Appendix. The liability of Bank under this Appendix shall in all cases be subject to the provisions of the Cash Management Master Agreement, including, without limitation, any provisions thereof that exclude or limit warranties made by, damages payable by or remedies available from Bank. This Appendix replaces and supersedes all prior agreements on file with respect to the Services and shall remain in full force and effect until termination or such time as a different or amended Partial Reconciliation Services Appendix is accepted in writing by Bank or the Cash Management Master Agreement is terminated.



APPENDIX XIII

TD ZERO BALANCE ACCOUNT SERVICES

This Appendix is incorporated by reference into the parties' Cash Management Master Agreement and applies to all TD Zero Balance Account Services (the "Services") made available to Customer by Bank. All capitalized terms used herein without definition shall have the meanings given to them in the Cash Management Master Agreement. Except as otherwise expressly provided in this Appendix, to the extent that this Appendix is inconsistent with the provisions of the Cash Management Master Agreement, this Appendix and any amendment hereto from time to time shall control, but only to the extent necessary to resolve such conflict.

TERMS AND CONDITIONS

1. Services. The Services described in this Appendix permit Customer to maintain a zero or other pre-selected target balance in certain secondary or sub-accounts that are associated with a primary commercial checking account, all as further described below.

1.1 Customer will designate a primary checking Account (the "ZBA Parent Account"), and one or more secondary Accounts (the "ZBA Sub-Accounts") to be associated with the Services, as set forth in the Services' Setup Form(s).

1.2 Through the Services, Customer authorizes Bank to transfer funds between the ZBA Parent Account and ZBA Sub-Accounts in order to bring the respective balances of the ZBA Sub-Account(s) to the pre-selected target balance(s), as set forth in the Services' Setup Form(s).

1.3 Customer may select a target balance for each Sub-Account in the amount of \$0 or a pre-defined collected or ledger balance amount.

1.4 After posting all debits and credits to the ZBA Sub-Accounts each Business Day, each ZBA Sub-Account's balance in excess of the target balance, including both collected and uncollected balances, will be transferred automatically to the ZBA Parent Account, unless Customer elects to transfer collected balances only.

1.5 In the event that, after posting of all debits and credits to the ZBA Sub-Accounts each Business Day, the balance in any ZBA Sub-Account is less than the target balance, sufficient funds from the ZBA Parent Account will, to the extent available, be transferred to the ZBA Sub-Account to reach the target balance.

1.6 Bank is under no obligation to transfer funds to any one or more ZBA Sub-Accounts to the extent

that such transfer(s) would cause an overdraft of collected balances in the ZBA Parent Account. Bank may, in its sole discretion, determine the priority in which funds from the ZBA Parent Account are applied to ZBA Sub-Account(s).

1.7 Customer agrees that Bank is not acting as a fiduciary with respect to funds in either the ZBA Parent Account or in any ZBA Sub-Account.

1.8 If any of the ZBA Sub-Accounts are owned by an Affiliate of Customer, then: (1) Customer represents and warrants it has all necessary power and authority to transfer funds into and out of such ZBA Sub-Account(s), and (2) Customer will indemnify Bank from any claim by any owner(s) of such ZBA Sub-Account(s) or any third party with respect to a transfer into or out of such ZBA Sub-Account(s).

2. Termination; Effectiveness.

2.1 The parties may terminate this Appendix and/or the Services in accordance with the terms and conditions of the Cash Management Master Agreement. This Appendix and associated Services shall automatically and immediately terminate if the ZBA Parent Account and/or the ZBA Sub-Account(s) are closed.

2.2 Customer agrees to all the terms and conditions of this Appendix. The liability of Bank under this Appendix shall in all cases be subject to the provisions of the Cash Management Master Agreement, including, without limitation, any provisions thereof that exclude or limit warranties made by, damages payable by or remedies available from Bank. This Appendix replaces and supersedes all prior agreements on file with respect to the Services and shall remain in full force and effect until termination or such time as a different or amended Appendix is accepted in writing by Bank or the Cash Management Master Agreement is terminated.



APPENDIX XVII

TD DATA EXCHANGE SERVICES

This Appendix is incorporated by reference into the parties' Cash Management Master Agreement and applies to TD Data Exchange Services (the "Services") made available to Customer by Bank. All capitalized terms used herein without definition shall have the meanings given to them in the Cash Management Master Agreement. Except as otherwise expressly provided in this Appendix, to the extent that this Appendix is inconsistent with the provisions of the Cash Management Master Agreement, this Appendix and any amendment hereto from time to time shall control, but only to the extent necessary to resolve such conflict.

TERMS AND CONDITIONS

1. Services. The Services provide Customer with financial information and/or data delivery services that allow Customer to consolidate multi-bank account balance and related transaction information to one financial institution's information delivery platform. With the Services, Bank may send Customer's Account information to another financial institution (the "Outbound Data Exchange" feature), or Bank may receive Customer's account information from other financial institution(s) (the "Inbound Data Exchange" feature), and report the consolidated information to Customer via the Bank Internet System and/or other similar online systems, some of which may also include a single sign-on feature.

2. Use of Third Parties. The Services involve the movement of financial information and/or data between financial institutions using third-party clearing house arrangements. Financial institutions contract with participating third parties to send and receive their customers' account balance and transaction information and/or data. For purposes of this Appendix, the financial institution receiving financial information and/or data on behalf of and at the instruction of its client is considered the "Lead Bank". The financial institution(s) sending financial information and/or data to the Lead Bank on behalf of and at the instruction of its client is considered the "Reporting Bank".

3. Outbound Data Exchange.

3.1 Bank acts as a "Reporting Bank" when Bank transmits Customer's designated Account(s) balance and/or related transaction information (the "Customer-Designated Outbound Data") to Bank's contracted third-party clearing house. This third-party clearing house will arrange for delivery of the Customer-Designated Outbound Data to the Lead Bank. The Lead Bank will be responsible for delivery of the Customer-Designated Outbound Data to Customer.

3.2 Customer authorizes Bank to transmit the Customer-Designated Outbound Data associated with

the previous Business Day, as set forth in the Services' Setup Form(s) and approved by Bank.

3.3 Customer will work with the Lead Bank to facilitate the receipt of the Customer-Designated Outbound Data from Bank's third-party clearing house. Customer acknowledges and agrees that the Lead Bank must be able to receive the Customer-Designated Outbound Data from Bank's third-party clearing house through the standard file layouts in use by Bank and/or Bank's third-party clearing house from time to time.

3.4 Bank will transmit the Customer-Designated Outbound Data associated with the previous Business Day to facilitate Customer's daily review of account balance and related transaction information through the Lead Bank's information delivery system.

3.5 Bank is not responsible for the correctness, accuracy, completeness, redundancy, integrity or timeliness of the Customer-Designated Outbound Data delivered to Customer through the Lead Bank's information delivery system. Bank is not responsible for the acts or omissions of Customer's Lead Bank or its participating third-party clearing house(s), as the same may change from time to time.

3.6 Customer acknowledges and agrees that use of the Services' Outbound Data Exchange feature requires that non-public Customer Account and financial information (including, without limitation, balance and transaction details) be transmitted by Bank to a specified third party, for further transmission to Customer's designated Lead Bank and possibly through third-party clearing house(s) of the Lead Bank. By selecting the Services' Outbound Data Exchange feature, Customer expressly authorizes Bank to disclose such non-public Customer Account and financial information as necessary in its performance and delivery of the Services.

4. Inbound Data Exchange.

4.1 Bank acts as the “Lead Bank” when Bank receives Customer’s previous Business Day’s account(s) balance and/or associated transaction information relating to Customer’s accounts at other financial institutions (“Foreign Account(s)”), from such other financial institutions (as Reporting Banks) designated by Customer through designated third-party clearing house(s). All Foreign Account balance and/or associated transaction information received by Bank from such Reporting Banks’ designated third-party clearing house(s) (the “Customer-Designated Inbound Data”) shall be delivered by Bank to Customer through the Bank Internet System.

4.2 The Services’ Inbound Data Exchange feature is an information delivery service only, and Bank reserves the right to limit the Customer-Designated Inbound Data provided to Customer to specific fields of information.

4.3 Bank cannot guarantee the delivery, content or accuracy of Reporting Banks’ Customer-Designated Inbound Data.

4.4 Bank’s sole responsibility with respect to Customer-Designated Inbound Data is to display data actually received by Bank in a format or file layout acceptable to Bank. Bank shall have no responsibility or liability with respect to unavailability of, errors in, or other aspect of Customer-Designated Inbound Data. In the event that Foreign Accounts are denominated in currencies other than U.S. dollars, Customer agrees that reporting under this Appendix may not accurately reflect the applicable currency of the Foreign Account, and Customer bears sole responsibility for properly interpreting Customer-Designated Inbound Data in foreign currencies.

4.5 Bank requires prior written notice from Customer of any modification to the Customer-Designated Inbound Data.

4.6 Customer acknowledges and agrees that use of the Services’ Inbound Data Exchange feature requires that certain non-public Customer account and financial information (including, without limitation, balance and transaction details) be transmitted to Bank from specified Reporting Banks and the use of third-party clearing house(s) of Reporting Banks and Bank. By selecting the Services, Customer expressly authorizes Bank to use such non-public Customer account and financial information as necessary in its performance and delivery of the Services via the Bank Internet System.

4.7 By selecting the Services, Customer represents and warrants to Bank that it has executed and delivered to the applicable Reporting Banks all necessary authorizations for such Reporting Banks to transmit Customer’s non-public account and financial information to Bank. Bank is not responsible for the acts or omissions of Customer’s Reporting Bank(s) or its participating third-party clearing house(s), as the same may change from time to time.

5. Effectiveness. Customer agrees to all the terms and conditions of this Appendix. The liability of Bank under this Appendix shall in all cases be subject to the provisions of the Cash Management Master Agreement, including, without limitation, any provisions thereof that exclude or limit warranties made by, damages payable by or remedies available from Bank. This Appendix replaces and supersedes all prior agreements on file with respect to the Services and shall remain in full force and effect until termination or such time as a different or amended Appendix is accepted in writing by Bank or the Cash Management Master Agreement is terminated.

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APPENDIX XXII

TD ACH POSITIVE PAY SERVICES

This Appendix is incorporated by reference into the parties' Cash Management Master Agreement and applies to all TD Automated Clearing House ("ACH") Positive Pay Services (the "Services") made available to Customer by Bank. All capitalized terms used herein without definition shall have the meanings given to them in the Cash Management Master Agreement or the *NACHA Rules* (as defined below). Except as otherwise expressly provided in this Appendix, to the extent that this Appendix is inconsistent with the provisions of the Cash Management Master Agreement, this Appendix and any amendment hereto from time to time shall control, but only to the extent necessary to resolve such conflict.

TERMS AND CONDITIONS

1. Definitions.

"*Authorized Account*" means Customer's Account(s) designated by Customer and maintained at Bank to which the Services will apply.

"*ACH Entry*" means an order or request for the transfer of money to an Authorized Account (a "Debit Entry") as also defined in the *NACHA Rules*.

"*ACH Authorizations*" means Customer's written instructions and authorization criteria provided to Bank in conjunction with the set-up and implementation of the Services, including the Services' Setup Form(s) and/or via a separate ACH block and filter agreement with Bank (hereinafter the "Filter Agreement"), and/or otherwise in accordance with the Services as described in this Appendix, which either prohibits all ACH Entries or permits only the posting of specified ACH Entries to an Authorized Account.

"*Exception Entry*" means an ACH Entry (excluding ARC, BOC, POP, RCK, or XCK SEC Codes) that does not meet Customer's ACH Authorizations previously provided to Bank (and may also be referred to within the Services as a "Rejected" Entry), and that is therefore scheduled to be returned to the Originator of the ACH Entry.

"*NACHA Rules*" means the National Automated Clearing House Association's ("NACHA") *Operating Rules and Operating Guidelines*, which govern the ACH system.

"*Pay Decision(s)*" means Customer's confirmation instruction to Bank to pay/post an Exception Entry.

"*Return Decision(s)*" means Customer's confirmation instruction to Bank to not pay/post an Exception Entry but to instead return the ACH Entry to the Originator.

"*Return Default Disposition*" means the Services' automatic default disposition of all ACH Entries that do not meet Customer's ACH Authorizations, whereby all such ACH Entries are scheduled to be returned to the Originator of the ACH Entry.

2. Services.

2.1 The Services described in this Appendix will provide Customer with a means to: (1) review ACH Entries received on a particular Customer Account that are scheduled to be returned to the Originator as an Exception Entry in accordance with Customer's ACH Authorizations and the Return Default Disposition; and (2) confirm the return of the Exception Entry through a Return Decision, or to override the Return Default Disposition and instruct Bank to pay/post the Exception Entry to Customer's Account through a Pay Decision.

2.2 Customer acknowledges that the Services have been identified by Bank as a service that can reduce the risk of fraudulent ACH Entries being posted against Customer's Account(s) when such Services are adopted and properly utilized by Customer. By conforming to the terms and conditions of this Appendix, Customer acknowledges and agrees that it may significantly reduce the chance that fraudulent ACH Entries will post to Customer's Account(s) by electronically matching incoming ACH transactions to ACH Authorizations.

3. Customer Authorizations.

3.1 Customer will designate Authorized Account(s) to be used with the Services via the Services' Setup Form(s).

3.2 As applicable, Customer shall begin use of the Services with either: (a) any ACH Authorizations initially submitted by Customer to Bank and then established by Bank on Customer's behalf in conjunction with the set-up and implementation of the Services, or (b) any existing ACH Authorizations on Customer's Authorized Account(s) that have been established via a Filter Agreement. Customer may add to or modify those initial or existing ACH Authorizations from time to time as set forth herein. Customer shall be responsible for the accuracy and completeness of all information provided to Bank both through the use of the Services and via the Services' Setup Form(s).

3.3 Customer may submit additional ACH Authorizations, make changes to initial or existing ACH Authorizations, or delete initial or existing ACH

Authorizations related to the Authorized Account(s) online via the Services' module of the Bank Internet System. Such changes shall become effective on the next Business Day following the day on which the changes were made by Customer. Each Business Day, Bank will provide an updated list of successfully processed ACH Authorizations to Customer via the Services. In the event Customer submits a change or addition to the ACH Authorizations that is incomplete, contains an error or that cannot otherwise be processed by Bank, Bank will use commercially reasonable efforts to notify Customer on the next Business Day that the associated ACH Authorization(s) has been rejected. Until such time as Customer reviews and corrects it, the rejected ACH Authorization(s) will not appear on the updated list of successfully processed ACH Authorizations that Customer receives.

3.4 In the event Customer fails to fully and accurately populate or complete all requested fields associated with the ACH Authorizations, the following will also apply:

(a) If Customer does not insert a specified maximum dollar amount, then no maximum dollar amount shall apply with respect to the applicable ACH Entry(ies) or transaction(s) subject to the ACH Authorization(s).

(b) If Customer does not insert a specified expiration date, then no expiration date shall apply to the applicable ACH Entry(ies) or transaction(s) subject to the ACH Authorization(s).

4. Processing of ACH Entries and Reporting of Exception Entries. Bank will electronically compare each ACH Entry presented to Bank for settlement against Customer's Authorized Account(s) on a Business Day (including those presented by other depository institutions, ACH Operators or by Bank) with Customer's ACH Authorizations. In accordance with that review, on each Business Day, Bank will:

(a) allow incoming ACH Entries that match Customer's ACH Authorizations to post to Customer's Authorized Account(s); and

(b) treat as Exception Entries all incoming ACH Entries that do not match Customer's ACH Authorizations and will provide to Customer, through the Bank Internet System, a listing of all Exception Entries that are otherwise scheduled for Return Default Disposition. Customer must monitor, review and issue a Pay Decision or Return Decision on each Exception Entry reported through the Bank Internet System by the pre-established deadline set forth within the Services. Customer may also set up alerts to be sent to Customer by a pre-established time each Business Day advising Customer whether or not there are any Exception Entries to be reviewed that Business Day.

5. Payment and Dishonor of Exception Entries.

5.1 Customer may choose to confirm the Return Default Disposition of individual Exception Entries presented via the Services by providing a Return Decision to Bank by the pre-established deadline set forth within the

Services, in which case such Exception Entries will be automatically returned to the Originator.

5.2 Customer may choose to override the Return Default Disposition of individual Exception Entries presented via the Services by providing a Pay Decision to Bank by the pre-established deadline set forth within the Services, in which case such Exception Entries will be paid/posted to Customer's Authorized Account(s) at the end of the current Business Day.

5.3 Customer may choose not to or may otherwise fail to review and provide a Pay Decision or a Return Decision for any Exception Entries by the pre-established deadline, in which case the Return Default Disposition will apply and all such Exception Entries will be automatically returned to the Originator.

6. Customer and Bank Communications.

6.1 Customer shall use the Services' module of the Bank Internet System to report all Pay Decisions or Return Decisions. Bank shall not be obligated to comply with any Pay Decision or Return Decision received in a format or medium, after a pre-established deadline, or at a place not permitted under this Appendix or the Services' Setup Form(s), and may instead treat any such communication from Customer as a Return Decision or otherwise apply the Return Default Disposition to such communication.

6.2 Bank is not responsible for detecting any Customer error contained in any ACH Entries presented, decisioned, returned or processed, or in any Pay Decision or Return Decision by Customer.

6.3 In the event that Bank is unable to provide Customer with a listing of Exception Entries through the Bank Internet System for Customer's Pay Decision or Return Decision as described in Section 4, the Return Default Disposition shall apply in accordance with Customer's previously established ACH Authorizations.

6.4 Customer's ACH Authorizations hereunder will be accepted by Bank subject to the condition that ACH transactions have not already been posted or are not otherwise in the process of posting, and that Bank will have a reasonable opportunity to act on Customer's ACH Authorizations before any such processing.

6.5 Bank shall have a reasonable time after receipt of Customer's request to implement the Services and shall not assume responsibility for stopping ACH transactions that have already been posted to Customer's Account(s).

6.6 Bank shall be bound only to exercise ordinary care in attempting to post or return ACH Entries as described in this Appendix.

7. Remedies.

7.1 **Bank Liability.** To the extent permitted by applicable law, the liability of Bank under this Appendix shall in all cases be subject to the provisions of the parties' Cash Management Master Agreement, including, without

limitation, any provisions thereof that exclude or limit warranties made by, damages payable by or remedies available from Bank.

7.2 Wrongful Payment/Posting. It shall constitute wrongful payment/posting by Bank if Bank pays/posts an Exception Entry for which Customer has provided a Return Decision by the pre-established deadline set forth within the Services and otherwise in accordance with the other terms of this Appendix. In the event that there is wrongful payment/posting, Bank shall be liable to Customer for the lesser of the amount of the wrongfully paid/posted Exception Entry or Customer's actual damages resulting from Bank's posting of the Exception Entry, subject to the terms of the parties' Cash Management Master Agreement.

7.3 Rightful Payment and Return.

7.3.1 If Bank honors an Exception Entry in accordance with a Pay Decision by Customer as described in Section 5.2, such payment/posting shall be rightful, and Customer waives any right it may have to assert otherwise.

7.3.2 If Bank returns an Exception Entry in accordance with a Return Decision by Customer as described in Section 5.1, or otherwise pursuant to a Return Default Disposition as described in this Appendix, the return shall be rightful, and Customer waives any right it may have to assert otherwise.

7.3.3 Customer agrees that Bank exercises ordinary care whenever it rightfully pays/posts or returns an Exception Entry consistent with the provisions of this Appendix.

8. Other Terms of the Services.

8.1 Customer acknowledges that the Services do not preclude Bank's standard ACH processing procedures or the application of the *NACHA Rules*, which may cause an ACH Entry to be dishonored even if Customer's instructions do not otherwise require Bank to return such ACH Entry.

8.2 Customer acknowledges that the Services do not apply to transactions between Customer and Bank, including any Bank affiliates and subsidiaries, such as

loan or credit card payments ("Bank-Related Entries"). Bank is permitted to pay Bank-Related Entries whether or not Customer has included these in Customer's ACH Authorizations as reflected in this Appendix and until such time as Customer's authorization with respect to the underlying Bank-Related Entries is revoked or otherwise terminated.

8.3 Customer acknowledges that the Services are intended to be used to identify and return ACH Entries which Customer suspects in good faith are fraudulent, unauthorized or otherwise unwarranted. The Services are NOT intended to be a substitute for authorization instructions or to delay Customer's decision on ACH Entries, including but not limited to stop payment orders on ACH Entries which are not suspected in good faith to be unauthorized. If Bank suspects or deems, in Bank's sole discretion, that Customer is using the Services contrary to those intentions, Bank may require Customer to provide evidence that ACH Entries that Bank returns pursuant to Customer's instructions were in fact unauthorized. In addition, Bank may hold Customer liable for losses that Bank sustains on ACH Entries which Bank is requested to return under the Services and which Customer does not reasonably establish as unauthorized ACH Entries, including as under the *NACHA Rules*.

9. Termination; Effectiveness.

9.1 The parties may terminate this Appendix and/or the Services in accordance with the terms and conditions of the Cash Management Master Agreement. This Appendix and the associated Services shall automatically terminate in the event the underlying Authorized Account(s) are closed. In the event of termination of this Appendix and the associated Services, Customer's ACH Authorizations in effect as of the date of termination will remain in effect with respect to Customer's Authorized Accounts, and all ACH Entries will thereafter be processed in accordance with such ACH Authorizations.

9.2 Customer agrees to all the terms and conditions of this Appendix. The liability of Bank under this Appendix shall in all cases be subject to the provisions of the Cash Management Master Agreement, including, without limitation, any provisions thereof that exclude or limit warranties made by, damages payable by or remedies available from Bank. This Appendix replaces and supersedes all prior agreements on file with respect to the Services, except for any existing ACH Authorizations currently on record with regard to the Authorized Account(s) as of the date of this Appendix.

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