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EXHIBIT F155

CASH MANAGEMENT MASTER AGREEMENT,  
DATED FEBRUARY 18, 2011, BY AND AMONG  
DELCORA AND TD BANK

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## CASH MANAGEMENT MASTER AGREEMENT

**Customer:** DELAWARE COUNTY REGIONAL WATER QUALITY

**Date of Agreement:**

*FEB* 18 2011

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 obtain from Bank, and Bank desires to provide to Customer, those services that have been checked below:

1. TD TreasuryDirect 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 BAI2 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. *Reserved* (Appendix XXII)..... ☐
23. *Reserved* (Appendix XXIII)..... ☐
24. TD RapidDeposit Services (Appendix XXIV) ..... ☐
25. TD WebExpress Services (Appendix XXV)..... ☐

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 purchase certain Cash Management Services (as defined above) offered by Bank. Bank and Customer agree that the Cash Management Services will be governed by the terms 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. This Agreement shall be effective when signed by both parties.

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. 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 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 TreasuryDirect Services and WebExpress Services.

“*Bank Internet System Agreement*” means the agreement issued by Bank and governing 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 21<sup>st</sup> Century Act* ("Check 21"), P.L. 108-100, 12 U.S.C. § 5001(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 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 Services will be denied 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 Cash Management Customer Care at 1-866-475-7262, or by contacting Customer's Cash Management Sales Representative. Instructions received after a cut-off time or on a day other than a Business Day may 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 required for security of Bank or Customer funds, Bank may immediately initiate changes to any procedures 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 has/have been authorized by all necessary Customer action to sign such agreements and 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.

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. Customer shall take all reasonable measures and exercise reasonable precautions to ensure that Customer officers, employees and Authorized Representatives do not use the Services for personal, family or household purposes, or any other purpose not contemplated by this Agreement.

3.6 Customer and Bank shall comply with (i) all applicable 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") sanctions; and (vi) all applicable laws, regulations and

orders administered by 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.

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 by Customer with Bank. 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. Bank may charge a service charge for Account research requested by Customer in accordance with the published schedule of charges for such research.

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 Identification Program.** 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. 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. 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 such license agreements and other documents to which Customer agrees to be bound. Unless otherwise agreed in writing between Bank and Customer, Customer shall be responsible for the payment of all costs of software, 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 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, all software and necessary telephone lines, 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. Customer is responsible for installing and maintaining appropriate virus protection software on Customer's Computer. Bank is not responsible for any errors or failures caused by any malfunction of the Computer or any Computer virus or related problems that may be associated with access to or use of the Services 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.

## **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 Information; 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 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 compliance with any 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 substantially 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 the individual purporting to have signed such notice or other writing. 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) provided to Bank by Customer. 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 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 agent or vendor. Any errors in an instruction from Customer, Customer's Authorized Representative, agent or vendor 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 commercially reasonable 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, including, without limitation, retaining competent forensic experts, to determine the scope of and data or transactions affected by any Data Breaches, and immediately providing all such information to Bank.

9.6 **BANK'S SECURITY PROCEDURES** ARE STRICTLY CONFIDENTIAL AND SHOULD BE DISCLOSED ONLY TO THOSE INDIVIDUALS WHO ARE REQUIRED TO KNOW THEM. 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 TO ANYONE. CUSTOMER HAS THE SOLE RESPONSIBILITY TO ESTABLISH AND MAINTAIN PROCEDURES TO ASSURE THE CONFIDENTIALITY OF ANY PROTECTED ACCESS TO THE SECURITY PROCEDURE.

#### **10. Fraud Detection / Deterrence; Positive Pay.**

10.1 **General.** From time to time, Bank may make certain products and services that are designed to detect and/or deter check or other fraud available to Customer. While no product or service will be completely effective, Bank believes that the products and services it may offer will reduce the likelihood that certain types of fraudulent items will be paid against Customer's Account. Customer agrees that if it fails to implement any of these products or services, or fails to follow these and other 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

10.2 **Positive Pay.** Positive Pay has, in particular, been identified as a Service that will reduce the likelihood that certain types of fraudulent checks will be paid against Customer's Account. Customer acknowledges that Positive Pay is a Service that has been identified by Bank as reducing the risk of fraudulent items being paid against Customer's Account when such Service is adopted and fully utilized by Customer. **Failure of Customer to adopt and utilize this Service is a failure to exercise ordinary care, and, accordingly, Customer will be precluded from asserting any claims against Bank for paying any unauthorized, altered, counterfeit or other fraudulent item, and Bank will not be required to re-credit Customer's Account or otherwise have liability for paying such items.**

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 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. If any of Customer's Accounts become overdrawn, underfunded 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.

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 ten (10) Calendar Days' prior written notice to the other, provided that Customer may terminate this Agreement or any Appendix immediately upon its receipt of notice from Bank of a change in or amendment of the provisions of this Agreement, the Services or any Appendix that is not acceptable to Customer, in accordance with Section 21 of this Agreement. 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 Cash Management Customer Care 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 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, (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 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, (v) if there has been a seizure, attachment, or garnishment of Customer's Accounts, assets or properties, (vi) if Bank believes immediate action is required 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.

#### **15. Limitation of Liability; Disclaimer of Warranties.**

15.1 Except to the extent required by 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, or indirect 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. Except to the extent otherwise provided by law, 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. 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 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 relating to or arising 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 Notwithstanding the foregoing, Bank shall have no right to be indemnified hereunder for losses resulting from its own gross negligence or willful misconduct as finally determined by a court of competent jurisdiction.

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

17. **Lawyer Trust Accounts.** This Section 17 applies to law firms that have established lawyer trust accounts, including but not limited to IOLTA, IOTA and IOLA Accounts (collectively, "Lawyer Trust Accounts"), in the State of New Jersey and as may be applicable under

other States' laws. In the event that Customer is a law firm in the State of New Jersey or such other State(s) as may be applicable, and Customer's clients' funds are held in Lawyer Trust Account(s), Customer agrees and shall ensure that only lawyers that are Authorized Representatives of Customer may initiate debits from such Lawyer Trust Account(s). Such debit transfers may include, but are not limited to, wire, ACH and book transfers through the Bank Internet System or through such other Services as may be made available by Bank from time to time.

**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 immediately upon 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 required for security of Bank or Customer funds, Bank may immediately initiate changes to any security procedures and provide prompt subsequent notice thereof 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.

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

**DELAWARE COUNTY REGIONAL  
WATER QUALITY**  
(Customer)

100 E FIFTH ST  
CHESTER PA 19013

(Address)

By: John J. Pileggi  
(Signature of Authorized Representative)

Print Name: John J. Pileggi

Title: Controller.

**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 may be recorded and retained by either party by use of any reasonable means.

**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. 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.

**TD BANK, N.A.**

By: Sharon Cieslik  
(Signature)

Print Name: Sharon Cieslik

Title: AVP



## **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. All capitalized terms used herein without definition shall have the meanings given to them in the Cash Management Master 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 34 is hereby added immediately after Section 33:

**34. Additional Representations and Warranties.** For purposes of this Section, "Governmental Unit" means (A) any town, city, school district or school administrative unit of any nature, water district, sewer district, sanitary district, housing authority, hospital district, municipal electric district, county or other political subdivision, government agency, bureau, department or other instrumentality, or 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 financial officer authorized by law to make disbursements of governmental funds and enter into banking agreements; (ii) that this Agreement has been

duly authorized by a vote of the governing body of Customer that was duly called and noticed, at which the necessary majority voted to authorize this Agreement, as evidenced by the certification of the Secretary of the governing body and provided with this Agreement; (iii) that only persons authorized to disburse municipal 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 officer authorized by law to make disbursements of governmental funds and enter into banking agreements on behalf of Customer; (ii) that this Agreement has been duly authorized by a senior 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 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 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 TREASURYDIRECT SERVICES

This Appendix is incorporated by reference into the parties' Cash Management Master Agreement and governs Customer's use of the Bank Internet System (or "TreasuryDirect"). 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 a checking, regular statement savings, money market deposit, certificate of deposit, investment or commercial loan 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 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.

*"Appendix"* means this TreasuryDirect Services Appendix, including all procedures, Setup Form(s), exhibits, schedules, documents and agreements referenced herein, each as may be amended from time to time.

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

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

*"User 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.

##### 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, 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 and loan Account(s) for three hundred sixty-five (365) Calendar Days. Customer may also view images of deposit tickets, deposit items, paid checks, and return deposited items through this feature. The period over which this information may be viewed commences only as of the implementation of the Services, and transactional history and check images may not be viewed for pre-implementation time periods.

**2.3.2 Same-Day Balance Reporting.** Same-Day Balance Reporting allows Customer to review same-day wire transfer activity, and selected ACH activity, as applicable.

**2.3.3 Book Transfers.** Book Transfers allows Customer to make intra-bank fund transfers between Customer's checking and savings

Accounts. Customer may initiate book transfers up to thirty-three (33) days in advance. All such transfers are subject to the Account Agreement. Transfer amounts are limited to the available balance in the Account(s) on the effective date of the transfer. The number of transfers from interest bearing checking and savings Accounts are subject to the terms of the Account Agreement and federal regulation. Transfers performed by Bank's cut-off time as set forth in the Services' Setup Form(s) on a Business Day will be posted to the Account as of that Business Day. Customer is solely responsible for the review of the previous day's transaction report to ensure that the transaction was processed. Only Book Transfers initiated through the Services will be displayed on the Services' Book Transfer reports tab.

#### 2.3.3.1 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. Future-dated transfers will be initiated on the Business Day requested by Customer, not on the date Customer entered the transaction using the Services. A funds transfer request (whether it is 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. A future-dated transfer may be cancelled through the Services at any time prior to the Business Day on which the transfer is scheduled to occur.

**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 "Stop Payment was Accepted." Customer must provide Bank with the **EXACT CHECK NUMBER OR RANGE OF CHECK NUMBERS**. When known, Customer should provide the **EXACT AMOUNT OF THE CHECK**, the **NAME OF THE PAYEE(S)** and the **ISSUE DATE OF THE CHECK(S)**. 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 entered on the current day may not be effective until one (1) Business Day after receipt, and after Bank has had a reasonable time to act on the request. Requests made on a non-Business Day or on Saturday, Sunday or federal holidays are entered on the next Business Day but may not be effective until the second (2<sup>nd</sup>) Business Day after receipt. Stop payments 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. Except as otherwise provided by Compliance Laws, Customer shall not have the right to stop payment on or

recall any 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 Payment Reports tab. Stop payment orders that are not initiated through the Bank Internet System may not be recalled through the Bank Internet System.

2.4 In addition to the Services as described in this Appendix and/or in the Services' Setup Form(s), additional features or modules related to the Services 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 Wire Transfer Services Appendix. This Service allows Customer to transfer funds electronically, typically from Customer's Account(s) to other account(s) with Bank or to account(s) at other banks. Except for future-dated transfers, domestic or foreign wire transfers entered through the Services will be processed on the Business Day they are received, provided that they are received in accordance with Bank's cut-off time(s) for foreign wires and for domestic wires, as set forth in the Wire Transfer Services Appendix.

**2.4.2 ACH Originations.** ACH originations are subject to the terms and conditions of the Automated Clearing House (ACH) Origination Appendix or the Third-Party Sender Services Appendix, as applicable. This Service allows Customer to initiate and approve (with pre-authorization) ACH transactions that Customer desires Bank to enter into the ACH network on Customer's behalf. Except for future-dated transactions, ACH transactions entered through the Services will be processed (but not settled) on the Business Day they are received, provided that they are received in accordance with Bank's cut-off time, as set forth in the Automated Clearing House (ACH) Origination Appendix or the Third-Party Sender Services Appendix, as applicable.

**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 the Services, however, during any special or other scheduled maintenance periods or interruption or delay due to causes beyond Bank's control. These hours of access are subject to change without notice.

#### 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. 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. Bank recommends that Customer manage its use of the Services and its Administrators by requiring dual control to set up new Authorized Users.

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 Services and charges incurred by any Administrator and any Authorized User, even if such Administrator or Authorized User exceeds his/her authorization.

5.4 Whenever any Authorized User leaves Customer's employ or Customer otherwise revokes the authority of any Authorized User to access or use the Services, 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, using the Services' security procedures as described from time to time. Bank will 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 Bank Internet System or more frequently.

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 User ID and password. Customer further acknowledges that the Administrator(s) may, and Customer authorizes the Administrator(s) to, change or de-activate the unique User ID and/or password from time to time and in his or her sole discretion.

6.3 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 for Customer, including Customer's Administrator and Authorized Users. This additional security procedure incorporates use of a physical security device or token ("Token") for Customer authentication. A Token will be issued to the Administrator(s) for administrative and transactional functionality, as well as to any Authorized User(s) authorized to initiate and/or approve ACH transactions and wire transfers. 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 leaves Customer's employ, his or her User ID must be deleted and, if a Token had been issued to such Authorized User, Bank must be promptly notified so that Bank may deactivate such Authorized User'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 incorporate "dual control" or separation of duties. With this additional security feature, one Authorized User will be permitted to create, edit, cancel, delete and restore ACH batches or wire transfer orders under his/her unique User ID, password and Token; a second *different* Authorized User with his/her own unique User 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 Bank immediately 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, 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 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.

**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 Customer maintains with Bank, if necessary), in accordance with the Cash Management Master Agreement and the Account Agreement.

**8. 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. 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.

**9. Security.** 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 also agrees to comply with

any operating, security and recognition 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 acknowledges that there can be no guarantee of secure transmissions over the Internet and that the Services' security procedures are reasonable. 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, 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 than once every five (5) Calendar Days.

## **10. Terminating this Appendix; Liability.**

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

10.2 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.

**11. 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.

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

**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 II

### TD ACH ORIGATION 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](http://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 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.

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.

2.6 Customer shall be liable for all fines 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 reject or suspend processing of any Entry instructions if such Entry exceeds Customer's Exposure Limit(s). Bank shall use commercially reasonable efforts to notify Customer of such rejection or suspension.

### 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 Agreement. Customer agrees to the terms of the Bank Internet System Agreement 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.

### 4.3 Corporate Payment Notification.

Should Customer receive Addenda information or remittance details through the ACH network, Bank will, upon Customer's request, provide translated EDI data via a direct transmission file, as described in or as otherwise permitted by Bank's Appendix for Data Transmission Services, online through the Bank Internet System, or via other mutually-agreed method, each Business Day upon receipt of the 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 Board of Governors of the Federal Reserve System (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 Depository Financial Institution within fifteen (15) Calendar Days after the Receiver's Depository Financial Institution sends or makes available to the Receiver information pertaining to that debit Entry. 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 Receiving Depository Financial Institution ("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.

5.5 Customer acknowledges and agrees that, with respect to IAT Entries, 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. Customer further 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. Customer expressly acknowledges and agrees that for Outbound IAT Entries, the time frames for return of an Entry are determined by the payment system rules of the foreign country and may exceed the sixty (60) day return window defined by the U.S. ACH system and the *NACHA Rules*. To the extent not otherwise prohibited by law, in connection with IAT Entries, Customer assumes the risk of all fluctuations in foreign exchange rates or availability.

## **6. Security Procedures.**

6.1 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 Agreement, 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.

6.2 Customer is strictly responsible for establishing and maintaining procedures to safeguard against unauthorized transmissions. 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: Cash Management Customer Care, 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.

6.3 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.

## **7. Compliance with Security Procedures.**

7.1 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. To the extent that signature comparison is to be used as part of any applicable Security Procedures, Bank shall be deemed to have complied with that part of such Security Procedures if it compares the signature accompanying a file of Entries (or request) with the signature of an Authorized Representative of Customer and, on the basis of such comparison, believes the signature to be that of such Authorized Representative.

7.2 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.

**8. 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.

## **9. Processing, Transmittal and Settlement of Entries by Bank.**

9.1 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. 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. An Entry must have an Effective Entry Date of at least two (2) Business Days but no more than thirty-two (32) Calendar Days after the Business Day such Entry is received by Bank. If the Settlement 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 thirty-two (32) Calendar Days in advance of the Effective Entry Date. Customer will hold Bank harmless from all charges and liabilities that may be incurred as a result of the delivery of late Entries.

9.2 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, Customer will hold Bank harmless from all charges and liabilities that may be incurred as a result of the processing of late Entries.

9.3 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).

9.4 If any of the requirements of this Section 9 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.

**10. 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 Settlement Date, provided the requirements set forth herein are otherwise met. If those requirements are not met, Bank will use reasonable efforts to 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 11, *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*.

## **11. Returned or Rejected Entries.**

11.1 In the event any Entry is returned or rejected by the ACH Operator or any RDFI or Intermediary Depository Financial Institution for any reason whatsoever, it shall be the responsibility of Customer to remake and resubmit such Entry or otherwise resolve the returned Entry in accordance with the *NACHA Rules*.

11.2 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*, 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.

11.3 Bank may reject any Entry which does not comply with the requirements of Section 5, *Transmittal of Entries by Customer*, or Section 6, *Security Procedures*, or which contains a Settlement Date that is more than thirty-two (32) Calendar Days after the Business Day such Entry is received by Bank. 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 if Customer has failed to comply with its Settlement Account balance obligations under Section 2, *Customer Obligations*. If Customer has authorized an ACH file containing individual payment orders and the applicable Account has insufficient funds, Bank reserves the right to reject the entire file. 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. 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-Us 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.

**13. Reversing Entries/Files.** If Customer discovers that any Entry or file it has initiated was in error, it 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.

**14. Notice of Returned Entries.** Bank will use reasonable efforts to notify Customer by phone or 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*, 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.

**15. 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.

**16. 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 six (6) 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*. If Customer receives notice that any such pre-notification has been rejected by an RDFI, Customer will not initiate any related Entry until the cause for rejection is resolved as provided in the *NACHA Rules*. If Customer receives notice that an RDFI will not receive Entries without having first received a copy of the authorization signed by its customer, Customer will not initiate any Entry to such customer(s) until it has provided the RDFI with such authorization within the time limits provided in the *NACHA Rules*.

**17. Participant Authorization for Entries.**

**17.1** 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](http://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.

**17.2** 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.

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

**19. Payment by Customer for Entries; Payment by Bank for Entries.**

**19.1** 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.

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

**19.3** 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-Us Entry at such time on the Effective Entry Date as Bank, in its discretion, may determine.

**19.4** 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.

**19.5** 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.

**20. Third-Party Service Provider.** 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. 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 laws and payment system rules of a non-U.S. receiving destination;

(viii) with respect to each Internet-initiated ("WEB") 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) commercially reasonable security technology that at a minimum is equivalent to 128-bit 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;

(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.

**22. 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.

**23. Banks Unable to Accept ACH Transactions.**

If Customer submits an Entry to Bank relating to an RDFI which is not a participant in an ACH network or submits an Entry which has a same-day settlement, 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.

**24. Notices, Instructions, Etc.**

24.1 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.

24.2 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.

**25. 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*.



**26. Data Breaches.**

26.1 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.

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

26.3 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.

**27. 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.

**28. 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.

**29. 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 survive termination of this Appendix, including without limitation Sections 2, 5, 9, 11, 12, 13, 17, 19, 20, 21, 25, 30, 31 and 32.

**30. 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.

**31. 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.

**32. 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 Agreement, 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 Agreement, 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 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. Description of the Services.

1.1 The Services described in this Appendix provide Customer with the capability to transfer funds from specific Account(s) 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 of the Bank Internet System Agreement, as may be amended by Bank from time to time.

##### 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, from Customer's designated Account. 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.

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) name and ABA routing number of the payee's bank, and (iv) account name, address and account number of the payee. 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. 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, on the Business Day received, or on the Business Day requested by Customer if the wire transfer is future-dated. 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 being 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. If the wire transfer is of currency other than that of the country to which it is being transferred, it shall be payable in the currency of the country of the recipient financial institution, unless the payee arranges otherwise. If the wire transfer is received by Bank prior to any cut-off time established from time to time, the currency exchange shall be made at the rate quoted by Bank at the time of the wire transfer.

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 beneficiary will receive credit for funds.

4.4 Customer understands and acknowledges that if the named beneficiary does not match the account at the receiving bank, there is a risk the beneficiary 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 beneficiary'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., 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 beneficiary.

**5. Cancellation and Amendment of a Wire.** 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. 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.

**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 beneficiary name, and address, as beneficiary bank may elect to return an otherwise valid wire transfer for incomplete 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 beneficiary bank other than Bank, or by operation of law. If a wire transfer is rejected, Bank will endeavor to notify Customer promptly. 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 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 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: Cash Management Customer Care, 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. Inconsistency of Receiving Beneficiary Name and Account Number.** 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, 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.

**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 such sufficient funds are available prior to a wire transfer being executed. Bank may, however, in its sole discretion, execute the wire transfer even if such execution should result in the creation of an overdraft in Customer's Account. Customer shall be liable to Bank for such overdraft. If sufficient funds are not available in Customer's Account, the wire transfer will not be executed. 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 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. Bank will mail, fax or email to Customer advices of each completed wire transfer. Completed wire transfers will also be reflected in Customer's periodic Account statement.

**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.

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 V

### TD POSITIVE PAY SERVICES

This Appendix is incorporated by reference into the parties' Cash Management Master Agreement and applies to all TD 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. 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. In the event of inconsistency between a provision of this Appendix and the Uniform Commercial Code ("U.C.C."), the parties intend to modify the effect of the applicable U.C.C. provisions to the maximum extent permitted by law.

#### TERMS AND CONDITIONS

##### 1. Definitions.

**1.1 Statutory Definitions.** Unless otherwise defined in this Appendix, words or phrases shall have the meanings set forth in the U.C.C. in effect from time to time under the laws of the State specified in the governing law provision of the parties' Cash Management Master Agreement.

##### 1.2 Definitions.

*"Authorized Account"* means the Account(s) of Customer, maintained at Bank, to which the positive pay services described herein and rendered by Bank will apply.

*"Available Funds"* means funds on deposit in an Authorized Account and available for withdrawal pursuant to Federal Reserve Board Regulation CC and Bank's applicable funds availability schedule and policies.

*"Check Issue File"* means a record describing checks drawn by Customer on an Authorized Account and provided by Customer to Bank in accordance with Section 2.2.

*"Exception Check"* means a Presented Check that does not match data included in a Check Issue File.

*"Exception Check Report"* means a record describing Exception Checks which is provided by Bank to Customer in accordance with Section 2.3.

*"Pay Decision(s)"* means the instructions of Customer to Bank instructing Bank to pay an Exception Check.

*"Presented Check"* means a check, substitute check, or electronically-presented check drawn on an Authorized Account and presented to Bank for payment through the check collection system or over-the-counter at one of Bank's branch teller stations.

*"Return Decision(s)"* means the instructions of Customer to Bank instructing Bank not to pay an Exception Check.

*"U.C.C."* means the Uniform Commercial Code as in effect under the laws of the State specified in the parties' Cash Management Master Agreement, as it may be amended from time to time.

##### 2. Services.

**2.1 Description.** The positive pay service described in this Appendix will provide Customer with a means to either affirmatively approve the payment of a particular check upon presentment or to object to its payment. Customer acknowledges that positive pay is a service that has been identified by Bank as reducing the risk of fraudulent items being paid against Customer's Account(s) when such Service is adopted and properly utilized by Customer. By conforming to the terms and conditions of this Appendix, Customer agrees and acknowledges that it may significantly reduce the chance that fraudulent items will post to Customer's Account(s).

##### 2.2 Check Issue File.

**2.2.1** Customer shall submit a Check Issue File to Bank. The Check Issue File shall accurately state the check number and the exact amount of each check drawn on each Authorized Account since the last Check Issue File was submitted (and the payee name, if Customer elects to receive payee verification services). Each Check Issue File shall also identify any checks that have been cancelled by Customer prior to issuance.

**2.2.2** Customer shall send the Check Issue File to Bank in the format and medium, by the deadline(s), at scheduled day(s), at the place(s) specified by Bank and agreed to by Customer, as set forth in Services' Setup Form(s). The deadline for transmissions of the Check Issue File to Bank shall be set forth in the Services' Setup Form(s).

**2.3 Payment of Presented Checks and Reporting of Exception Checks.** Bank shall compare each Presented Check by check number, check amount and payee name (if Customer elects to receive payee verification services) against each Check Issue File received by Bank. Bank may satisfy its obligation hereunder by comparing check number, amount and payee

name (if applicable) set forth in Substitute Checks, checks presented over-the-counter at one of Bank's teller stations and/or electronic presentment of checks. On each Banking Day, Bank:

(a) may pay and charge to the Authorized Account each Presented Check that matches, by check number, amount and payee name (if applicable), a check shown in any Check Issue File; and

(b) shall provide to Customer an Exception Check Report that indicates whether Bank has received any Exception Checks and, if so, provide the image of the Exception Check(s) by the deadline set forth in the Services' Setup Form(s) via the Bank Internet System. Customer must provide check payment approval or return instructions to Bank on each Exception Check reported by the deadline set forth in the Services' Setup Form(s) via the Bank Internet System ("Pay or Return Decisions").

**2.4 Payment and Dishonor of Exception Checks.** Except as provided in Section 2.4.4 below, Bank will pay or return Exception Checks in accordance with Customer's Pay or Return Decisions.

**2.4.1 Pay Decisions.** Bank shall finally pay and charge to the Authorized Account, to the extent there are sufficient Available Funds in the Authorized Account, any Exception Check that Customer directs Bank to pay.

**2.4.2 Return Requests.** Bank shall return to the depository bank any Exception Check drawn on an Authorized Account that Customer directs Bank to return.

**2.4.3 Default Options.** If Customer fails to provide Pay or Return Decisions to Bank in accordance with these requirements, Exception Checks will be handled in accordance with the default option as set forth in the Services' Setup Form(s) for each Authorized Account, in accordance with the following:

(a) **Return Default.** Where Customer has selected the return default option, Bank shall return to the depository bank any Exception Check drawn on that Authorized Account.

(b) **Pay Default.** Where Customer has selected the pay default option, Bank may finally pay and charge to the Authorized Account any Exception Check drawn on that Authorized Account.

**2.4.4 Checks Presented for Payment at Bank Teller Stations.** Notwithstanding anything in this Appendix to the contrary, Bank may, in its sole and absolute discretion, return to the person presenting a check drawn on an Authorized Account for payment over-the-counter at one of Bank's teller stations any such check that does not appear on a Check Issue File. Customer acknowledges and agrees that Bank shall have no obligation to inform Customer that any such check has been presented for payment at a Bank teller station. Bank shall have no liability to Customer for wrongful dishonor with respect to any such check.

## **2.5 Customer and Bank Communications.**

**2.5.1** Customer or Bank, at its discretion, may each submit to the other party a revision of any communication provided for under this Appendix. The revised communication must (i) be sent in its entirety and not in the form of a partial amendment to the communication originally sent, (ii) identify the original communication, and (iii) be sent in the format and medium, by the deadline(s), and at the place(s) established by the receiving party. A properly submitted revised communication serves to revoke the original communication.

**2.5.2** Bank shall use only Check Issue Files that comply with Section 2.2 and have not been revoked in accordance with Section 2.5.1 in the preparation of Exception Check Reports under this Appendix.

**2.5.3** Customer shall use only Exception Check Reports that comply with Section 2.3 and have not been revoked in accordance with Section 2.5.1 in the preparation of Pay Decisions and Return Decisions. Bank shall not be obligated to comply with any Pay Decision or Return Decision received in a format or medium, after a deadline, or at a place not permitted under this Appendix and Services' Setup Form(s), but may instead treat such a Pay Decision or Return Decision in accordance with the default option selected by Customer in the Services' Setup Form(s).

**2.5.4** Bank is not responsible for detecting any Customer error contained in any Check Issue File, Pay Decision or Return Decision sent by Customer to Bank.

**2.6 Submission of Data Prior to Implementation of Services.** Customer shall submit to Bank a current, reconciled list of all outstanding checks issued on each Authorized Account one (1) week prior to the implementation of the Services hereunder. Depending on the frequency with which Customer issues checks, Bank reserves the right to require Customer to submit one or more additional such lists so that all outstanding, unpaid checks issued on any Authorized Account have been reported to Bank prior to the implementation of the Services.

## **3. Remedies.**

**3.1 U.C.C. Liability.** To the extent applicable, the liability provisions of U.C.C. Articles 3 and 4 shall govern this Appendix, except as modified below. To the extent permitted by U.C.C. Articles 3 and 4, 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 to or remedies available from Bank.

**3.2 Wrongful Honor.** It shall constitute wrongful honor by Bank if Bank pays an Exception Check listed in a timely Exception Check Report unless: (i) Customer issued a Pay Decision, or (ii) Customer selected the pay default option and did not issue a Return Decision

by the deadline set forth in the Services' Setup Form(s). In the event that there is wrongful honor, the following shall apply:

3.2.1 Bank shall be liable to Customer for the lesser of the amount of the wrongfully paid Exception Check or Customer's actual damages resulting from Bank's payment of the Exception Check.

3.2.2 Bank expressly waives any right it may have to assert that Customer is liable for the amount of the wrongfully honored Exception Check on the grounds that the Exception Check was properly payable under U.C.C. Section 4-401.

3.2.3 Bank retains the right to assert Customer's failure to exercise reasonable care under U.C.C. Sections 3-406 and 4-406.

3.2.4 Bank retains the right to assert the defense that Customer has sustained no actual damages because Bank's honor of the Exception Check discharged for value an indebtedness of Customer.

**3.3 Wrongful Dishonor.** Except as provided below, it shall constitute wrongful dishonor by Bank if Bank dishonors an Exception Check: (i) that Bank has been ordered to pay pursuant to a Pay Decision, or (ii) for which Customer has not issued a Return Decision under the pay default option by the deadline set forth in the Services' Setup Form(s).

3.3.1 Bank's liability for wrongful dishonor of an Exception Check shall be limited to the damages for wrongful dishonor recoverable under U.C.C. Articles 3 and 4.

3.3.2 Notwithstanding Section 3.3.1, Bank shall have no liability to Customer for wrongful dishonor when Bank, acting in good faith, returns an Exception Check:

- (a) that it reasonably believed was not properly payable; or
- (b) if there are insufficient Available Funds on deposit in the Authorized Account; or
- (c) if required to do so by the service of legal process on Bank or the instructions of regulatory or government authorities or courts.

**3.4 Rightful Payment and Dishonor.** Except as provided in Section 3.5, the following shall apply:

3.4.1 If Bank honors an Exception Check in accordance with the pay default option selected by Customer or in accordance with a Pay Decision issued by Customer, such honor shall be rightful, and Customer waives any right it may have to assert that the Exception

Check was not properly payable under U.C.C. section 4-401.

3.4.2 If Bank dishonors an Exception Check in accordance with the return default option selected by Customer or in accordance with a Return Decision issued by Customer, the dishonor shall be rightful, and Customer waives any right it may have to assert that the dishonor was wrongful under the U.C.C. section 4-402.

3.4.3 Customer agrees that Bank exercises ordinary care whenever it rightfully pays or returns an Exception Check consistent with the provisions of this Appendix.

**3.5 Faulty Information.** Subject to the terms and conditions of the Cash Management Master Agreement, Bank shall be liable for losses, other than incidental or consequential damages, proximately caused by its honor of a check that was not properly payable, or its dishonor of a check that was properly payable, if the honor or dishonor occurred because Bank, in accordance with the provisions of Section 2 of this Appendix:

(a) should have shown the check on an Exception Check Report but failed to do so; or

(b) showed the check on an Exception Check Report but referenced the wrong check number, unless Bank provided Customer with timely information that disclosed the error.

**3.6 Assignment.** To the extent that Customer suffers a loss under this Appendix, Bank assigns to Customer any claim that Bank would have against a depository or collecting bank to recover the loss, including any claim of breach of warranty under U.C.C. Sections 4-207, 4-208, and 4-209.

**4. Governing Law.** Except where expressly required by contrary provisions of the U.C.C., any claim, controversy or dispute arising under or related to this Appendix shall be governed by and interpreted in accordance with the governing law provision of the parties' Cash Management Master Agreement.

**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 to 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 parties' Cash Management Master Agreement is terminated. In the event of termination, all sums owed to Bank hereunder shall be immediately due and payable.





## 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 "Service(s)") 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 processing arrangement that offers an efficient process for collection of certain information and of payment items payable to Customer.

**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. Service Obligations.**

**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 submitted for payment.

**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 remitted for the benefit of Customer.

**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 applicable.

**2.6** Customer authorizes Bank to endorse all payments received by Bank 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. Bank may change the 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 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 or cash 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. 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. 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.** 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. Credit card payments will be batched independently from regular payment items in the Lockbox. 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.** Customer guarantees to Bank the payment of all deposited items identified in this Section 3.2. Lockbox Items with apparent alterations will not be deposited. Bank accepts no liability for any payment processed with a restricted endorsement such as "paid in full."

### **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 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. 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 provide access to Web Access features on a best efforts basis. On a best efforts basis, Bank shall 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 to 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 XII

### TD CHECK IMAGING SERVICES

This Appendix is incorporated by reference into the parties' Cash Management Master Agreement and applies to all TD Check Imaging 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 are designed to provide Customer with images of Customer's paid checks and a file in Portable Document Format ("PDF") of the Account statement associated with those checks on an optical compact disc ("CD"). On a predetermined schedule, or upon Customer's Account statement cycle, a CD which contains front-and-back images of all Customer checks paid during that period will be mailed to Customer. The CD contains an associated index that is used for the retrieval of the paid check images. Application software, sublicensed to Customer by Bank and installed on Customer's Computer ("Computer Software"), is used to scan the CD and produce images that match the index search criteria entered by Customer. Bank will include images of any substitute checks and/or reconstituted electronic images on the CD. Bank may also provide Customer with images of Customer's deposited checks (front and back) and deposit tickets as part of the Services, subject to Bank's prior approval.

2. **Software; Hardware.** In addition to but not in lieu of the terms and conditions contained in the parties' Cash Management Master Agreement regarding software and Customer's Computer, the following shall also apply:

2.1 The Computer Software will be included with each CD mailed to Customer. Customer may be provided with additional Computer Software, or with software to be placed on Customer's network ("Network Software"). Service is contingent upon the successful installation of the Computer Software and any Network Software (collectively, the "Services' Software") by Customer.

2.2 A user manual will be provided to Customer which outlines the hardware and Services' Software requirements, as well as specific Customer instructions for use of the Services. Customer shall be solely responsible, at Customer's expense, for obtaining any and all requisite hardware and software, in addition to the Services' Software, for proper utilization of the CD and for repairing, servicing, and maintaining any and all such hardware.

2.3 Customer understands and acknowledges that the Services' Software is not the property of Customer. Customer acknowledges that

Customer has, and shall have, no right, title, or interest in or to the Services' Software, except the perpetual license and right to use the Services' Software for the purposes described herein. Customer further acknowledges that Customer has, and shall have, no right to copy, transfer, alter, modify, reverse compile, reproduce in any manner or convey in any manner, any part or all of the Services' Software.

2.4 Bank shall have the right to modify, correct, enhance or issue replacement Services' Software from time to time at its sole discretion. Customer shall immediately update the Services' Software with any requisite changes upon notice thereof from Bank.

#### 3. CD Issuance.

3.1 Bank will use reasonable efforts to produce and mail a CD to Customer within five (5) Business Days after the end of the Account statement cycle (the "Cycle Cut-Off Period"). Bank will use reasonable efforts to produce a replacement CD within five (5) Business Days of receipt of notice from Customer should the CD be lost or deficient.

3.2. **Maximum Time Period for Replacement.** Customer acknowledges and understands that Bank may not be able to produce or replace a CD after one hundred twenty (120) days have elapsed from the end of the respective Cycle Cut-Off Period.

4. **No Warranty.** In addition to but not in lieu of the terms and conditions contained in the parties' Cash Management Master Agreement regarding disclaimer of warranties, BANK FURTHER DISCLAIMS ANY IMPLIED WARRANTY OF DURABILITY OF THE IMAGES OF CHECKS IMAGED IN CONNECTION WITH THE SERVICES.

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 to 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 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.

1.1 Customer will designate a primary checking Account (the "ZBA Parent Account"), and one or more secondary Accounts (the "ZBA Sub-Accounts").

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 Each ZBA Sub-Account's daily 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 daily collected balances only.

1.5 In the event the daily 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. **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 to 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 XIV

### TD CURRENCY SERVICES

This Appendix is incorporated by reference into the parties' Cash Management Master Agreement and applies to all TD Currency Services (the "Services") made available to Customer by Bank or Bank's third-party service provider. 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 (1) money room cash and check deposit processing, as described in further detail below, including: counting, validating, posting and adjustments to Customer's Account, and (2) cash disbursement orders, as described in further detail below, including: packaging of coin and currency orders and debiting of Customer's Account.

#### 2. Money Room Cash and Check Deposits.

2.1 With respect to money room cash and check deposit services, Customer shall engage and execute an agreement between Customer and an armored carrier company ("Armored Carrier") that is on Bank's approved list of Armored Carriers. Customer will provide Bank with a copy of Customer's agreement with the Armored Carrier upon Bank's request. Customer will arrange for the Armored Carrier to retrieve and transport all U.S. or Canadian (the latter being subject to Bank's pre-approval and acceptance in limited geographic areas only) coin and currency ("Cash Deposits") and checks ("Check Deposits") (collectively, the "Deposits") from certain of Customer's locations. Customer will disclose to Bank its chosen Armored Carrier, and Bank will designate a Bank money room processing location (each a "Cash Processing Center") to which Armored Carrier shall deliver Customer's Cash Deposits. Customer will inform Bank of any requested changes to these arrangements. Customer will prepare all Deposits in accordance with Bank's Deposit Preparation Guidelines to ensure accurate and timely credit.

2.2 The Armored Carrier will transport the Deposits to Customer's Bank-designated Cash Processing Center. The Cash Processing Center will count all Cash Deposits and record the total amount of funds to be credited on Bank's books and records as a Cash Deposit to Customer's Account(s). To the extent the Deposits include Check Deposits, Bank shall arrange for transport of those Check Deposits to a Bank-designated Bank check processing location (each a "Check Processing Center").

2.3 In accordance with the Bank's Deposit

Preparation Guidelines, Cash Deposits shall be prepared separately from Check Deposits and bundled separately by Customer for pick-up by Customer's Armored Carrier and delivery to Bank's Cash Processing Center.

2.4 Bank will provide Customer with same-day provisional credit for Cash Deposits received by the Bank-designated Cash Processing Center in accordance with the Cash Processing Center's cut-off time of 6:00 pm. ET. Bank is not responsible if Customer's Armored Carrier does not deliver to the Bank-designated Cash Processing Center in time to meet the same-day provisional credit cut-off time. Credit may not be issued same-day if the Deposits are not prepared in accordance with Bank's Deposit Preparation Guidelines.

#### 3. Currency Requisitions.

3.1 Customer may initiate a request for Cash (a "Cash Order") via Bank's Cash Processing Center's automated touchtone system, or by special arrangement with Bank only, via Bank's local branch office(s). Cash Orders via Bank's automated touchtone system shall be initiated by Customer using its Bank-issued User ID and personal identification number ("PIN"). The ordering deadline for Cash Orders on a Business Day for delivery the following Business Day varies by Cash Processing Center. Cash Orders must be made by the designated Cash Processing Center's ordering deadline on a Business Day for the Armored Carrier's pick-up on the following Business Day. All Cash Orders must be in Federal Reserve Standard Lots as set forth in the Cash Order form provided by Bank to Customer.

3.2 For Cash Orders placed by Customer in accordance with this Section, Bank will fulfill Customer's Cash Order and debit Customer's Account on the Business Day prior to the Business Day for pick-up by Customer's Armored Carrier. Cash Orders on a Customer Account with insufficient funds may not be processed, in Bank's sole and exclusive discretion. Cash remains the sole and exclusive property of Bank until Customer's Armored Carrier signs the Bank-designated Cash Processing Center's manifest confirming Customer's Armored Carrier's pick-up of the Cash Order. Customer shall bear



the entire risk of loss, theft, damage or destruction of the Cash Order upon Customer's Armored Carrier signing the Cash Processing Center's manifest confirming the Armored Carrier's pick-up of the Cash Order.

**4. Armored Carrier as Customer's Authorized Agent.** Customer represents and warrants that its Armored Carrier is acting as its duly authorized agent at all times when interacting with Bank as described in this Appendix. Customer authorizes Bank to rely upon that authorization when interacting with Customer's Armored Carrier. Customer agrees that Bank's reliance on the foregoing when interacting with Customer's Armored Carrier shall be deemed reasonable, and further agrees to defend, indemnify, and hold Bank harmless from any and all claims, demands, damages, and liabilities (including reasonable attorneys' fees and expenses) directly or indirectly arising out of or incurred by reason of the Armored Carrier interacting with Bank as an agent for Customer.

**5. Disputes Regarding Validity of Instructions; Deliveries.**

5.1 Customer agrees that any and all disputes, claims, controversies, or causes of action that it may have now or in the future that are or may be directly or indirectly related to either (a) the legitimacy, accuracy, or timeliness of arrival of any Deposits to the Bank-designated Cash Processing Center, or (b) the pick-up of Cash Orders by Customer's Armored Carrier from the Bank-designated Cash Processing Center, shall be solely and exclusively between the Armored Carrier and Customer. Customer agrees that Bank shall be held harmless and excluded from any and all such matters.

5.2 Customer further agrees that Bank may make any and all adjustments to amounts deposited to or withdrawn from Customer's Account(s) if, subsequent to receipt and/or processing of a Deposit or a Cash Order, Bank discovers or becomes aware of an error in or omission from such Deposit or Cash Order. The parties understand and agree, however, that this right of correction and adjustment shall be at Bank's sole and exclusive discretion and shall not create any obligation or duty of Bank to examine, inspect, scrutinize or question any Deposit or Cash Order it receives from Customer or its Armored Carrier.

**6. Adjustments to Cash Order(s).** In the event Customer believes there is a discrepancy with a delivery of a Cash Order, Customer must send a written notice of discrepancy to Bank no later than ten (10) Business Days after Customer's receipt of the Cash Order. The written notice shall be on Customer's letterhead, signed by an Authorized Signer on the Account, and shall describe the discrepancy and request research and resolution of the discrepancy. Customer should include originals of any currency straps involved, and copies of any and all Bank materials provided with the Cash Order delivery. If Customer fails to notify Bank within such time period, and Bank is required to adjust Customer's Account, Bank will not pay interest to Customer on the amount of the

adjustment.

**7. Adjustments to Check Deposits and Cash Deposits.** Bank shall also have the right to make any and all adjustments to the amount to be credited to Customer's Account(s) as a Check Deposit or Cash Deposit if, subsequent to Bank's receipt and/or processing, Bank discovers or becomes aware of an error or omission in the Deposit.

**8. Availability of Deposits.** Customer understands and agrees that the availability for withdrawal, including for the fulfillment of any Cash Order(s), of any deposit of Cash Deposits or Check Deposits, shall be governed by the funds availability provisions of this Appendix and the Account Agreement, as the same may be amended from time to time.

**9. 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 to 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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