

Treasury Management Services

MASTER AGREEMENT

AUGUST 2002

Comerica Bank

COMERICA
TREASURY MANAGEMENT SERVICES
MASTER AGREEMENT
August 2002

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Section I:
PROVISIONS APPLICABLE TO ALL
TREASURY MANAGEMENT SERVICES

This Treasury Management Services Master Agreement ("Master Agreement") along with each Service Agreement signed by the identified customer ("Customer") and Bank for services selected ("Service"), the user guides, and the implementation documents constitute the entire agreement (collectively "Agreement").

This Agreement governs the Customer and the Comerica Incorporated subsidiary bank(s) ("Bank") as to each Service for which they have executed a Service Agreement. This Agreement amends and supersedes any prior Agreement for the Services described herein.

Unless specifically stated to the contrary in this Master Agreement, or in an amendment to this Agreement, if any terms in a Service Agreement or Section II of this Master Agreement conflict with the terms of Section I of this Master Agreement, the terms of the Service Agreement and/or Section II shall prevail but only to the extent of the conflict.

Accordingly, Bank and Customer agree as follows:

1. AGREEMENT.

- a. This Agreement contains the terms which govern the Services, and constitutes the entire Agreement between the parties. This Agreement supersedes any prior agreements or representations relating to the Services, including Services for which the parties have entered into a Service Agreement and as such, may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements.
- b. In addition, this Agreement incorporates the terms of Bank's deposit account contract and related deposit account Signature Cards and authorizations ("Deposit Agreement"), the provisions of any applicable software license agreement(s) and their documentation, whether or not executed by Customer, state and federal regulations, any applicable clearinghouse operating rules including, but not limited to, the National Automated Clearing House Association ("NACHA") Operating Rules and Guidelines, and Article 4A, a version of Article 4A or Division 11 of the Uniform Commercial Code, as enacted in the state where a funds transfer order is received and/or a payment order is paid (collectively, "the Rules"). If that state has not enacted Article 4A, a version of Article 4A or Division 11, then funds transfer instructions will be governed by the official text of Article 4A, as amended from time to time.

2. BUSINESS DAYS. Any day on which a majority of Bank's offices are open to the public for conducting substantially all business functions shall be a "Business Day." Saturdays, Sundays and federal holidays are not Business Days even if a majority of Bank's offices are open. Transactions, deposits, instructions and entries received by Bank after established cutoff deadlines may be treated as received on the next Business Day. Bank may change any cutoff deadline at any time by giving notice, as required by law, of the change to Customer.

3. SUBMISSION OF INFORMATION AND DOCUMENTS.

- a. Customer agrees to execute, in a form and content satisfactory to Bank, any and all documents required by Bank to obtain and to continue to receive a Service(s). Such documents may include deposit account Signature Cards, Declarations, Authorizations, Service Agreements, implementation documents and updated financial statements as requested by Bank from time to time.
- b. Prior to initiating a new Service, Customer agrees to provide all information and execute all documents which Bank may request including specifications, test tapes, check samples, transmissions and documents. In the event that Bank determines that any document, sampling or test does not meet its requirements, Bank may advise Customer that Customer will not be eligible to obtain Service(s) until a new sampling or test that is satisfactory to Bank is provided.
- c. Prior to utilizing any Service, Customer shall furnish Bank with documentation naming Customer's employees, agents and third party vendors hired by Customer to perform any of the duties required by Customer under this Agreement and which names those who are authorized to act on behalf of Customer with respect to the Service.

4. SECURITY PROCEDURES.

- a. Where required for any Service, Bank will make available to Customer one or more Security Procedures to be utilized in conjunction with the Service ("Security Procedure"). The Security Procedure(s) will be described in the user guide, implementation documents or contained within the Service, e.g., an online screen. By utilizing the Service and employing the Security Procedure, Customer agrees that the Security Procedure is commercially reasonable for the type, size and volume of transactions the Customer will conduct using the Service.
- b. Customer is responsible for establishing and maintaining procedures that assure the confidentiality of the Security Procedures. If Customer or its agents have reason to believe that any Security Procedure has or may have become compromised in any manner, or known by unauthorized persons (whether or not employed by Customer), Customer must immediately notify Bank by telephone and confirm the oral notification in writing within 24 hours. Bank will act on the Customer's notice as soon as practical and will replace the Security Procedures in accordance with its security requirements. Customer will be solely liable for all funds transfer instructions and other communications that were initiated utilizing the Customer's Security Procedure before Bank received and had a reasonable opportunity to act on the notice.
- c. Bank reserves the right to change, implement or require new and/or additional Security Procedures or features thereof by giving oral or written notice to Customer. Customer agrees that its use of the Service after Bank provides notice of any such described change, will be deemed Customer's acceptance of the new Security Procedure.
- d. Bank reserves the right with or without notice at any time to revoke, or to require Customer to replace or delete, any password, Customer identification number, login, digital certificate, or other security device or code used in connection with a Service, and the parties' rights and obligations under this Agreement will not be altered by such action.
- e. Customer acknowledges that the purpose of Security Procedures is to verify the authenticity of the transaction, **not to detect errors in the transmission or content of the transaction.** Unless otherwise explicitly stated in a user guide or other writing signed by Bank, Bank is not agreeing to any security or other procedure for the detection of errors.

5. PROPRIETARY PROPERTY AND SOFTWARE LICENSING. Customer acknowledges that all user guides, computer software and systems used to provide the Service(s) and all information relating thereto including documentation, constitutes proprietary property of Bank having great commercial value to Bank. Copying of such software, user guides, and documentation is strictly prohibited without Bank's written consent. Customer shall not acquire any proprietary interest or rights in the software and/or systems as a result of using the Service(s) and shall not allow any other entity or person to use such computer software and systems without Bank's prior written consent.

Bank may require Customer to license specific software in order to receive a particular Service. Customer acknowledges that for Services requiring licensing of specific software as indicated in Bank's implementation documents or user guide for such Services, Customer has received the terms of such software licensing agreements and agrees to those terms. If Bank does not require Customer to enter into a separate software licensing agreement or does not provide Customer with licensing terms other than those contained in this Master Agreement, then Customer agrees, unless otherwise specifically stated in Section II of this Agreement for the applicable Service, that upon termination of the Service for which the proprietary information or software was provided or upon termination of this Master Agreement, Customer will destroy any documentation or software which Bank or its agent provided to Customer and a senior officer of Customer, at Bank's request, will execute a written affidavit to Bank certifying the destruction of such documentation and/or software.

6. CONFIDENTIALITY. Customer and Bank each agree that all information concerning the other which comes into its possession in connection with any Service including, but not limited to, software licensed to Customer, user guides, and Security Procedures including security codes, keys, personal identification numbers or template numbers ("Codes"), will be maintained as confidential and will not be used or divulged to any other person or entity except when: (i) Bank determines it necessary or appropriate to enable Bank to provide the Service(s) which Customer requests and/or (ii) as either party determines required by federal or state law or regulation, and/or (iii) Bank determines it appropriate to give such information to its parent company, affiliates, subsidiaries and service providers to enable Bank to provide or offer information, services and benefits to Customer that Bank believes are or may be of interest to Customer.

7. HONORING TRANSACTIONS AND INSTRUCTIONS. Bank will honor Customer's transactions and instructions (including adjustments and cancellations) only when Customer has complied with this Agreement. Bank will be under no obligation to complete any transaction or instruction that:

- a. exceeds Customer's collected and available funds on deposit with Bank, even if Bank has done so in the past,
- b. is not in accordance with any condition requested by Customer and agreed to by Bank,
- c. Bank has reason to believe may not be authorized by Customer (or, where appropriate, by its customer(s)),
- d. involves funds subject to a hold, dispute or legal process preventing their withdrawal,
- e. violates, in the opinion of Bank, any provision of any present or future risk control program of the Federal Reserve or any other applicable federal or state law,
- f. does not comply with any other requirement stated in this Agreement or any Bank policy, procedure or practice, and/or,
- g. for the protection of Bank or Customer, Bank has reasonable cause not to honor.

8. ORAL INSTRUCTIONS. At Bank's option, Bank may honor Customer's oral instructions regarding Service(s). Customer agrees that Bank may in good faith rely on any such oral instructions which purport to come from Customer or Customer's agent without independent verification by Bank unless Security Procedures require otherwise.

9. ERRONEOUS INSTRUCTIONS. If Bank complies with a funds transfer instruction or other transaction which is transmitted or authorized by Customer or Customer's agent, and the instruction is erroneous in any way, Customer shall be obligated to pay the amount of the transaction whether or not Bank complied with any applicable Security Procedure.

10. COURIER AGREEMENTS. Customer may utilize a courier to conduct transactions. In so doing, Customer agrees at all times and in all respects, regardless of the source of payment for the courier services, that:

- a. the courier is the agent of Customer and not Bank,
- b. Bank makes no representations or warranties regarding any courier, and assumes no responsibility with respect to any services performed or promised by any courier, and,
- c. Customer assumes all risk of loss (including loss or theft by third parties or employees of Customer or the courier) prior to Bank's acceptance of such transactions from the courier and subsequent to the courier's acceptance of transactions from Bank.

Customer agrees that Customer and the courier will be responsible for all loss recovery procedures and processes, although Bank may undertake reasonable efforts to facilitate loss recovery.

11. INSUFFICIENT ACCOUNT BALANCES FOR SERVICE.

- a. When the Service requires Customer's deposit account to contain sufficient, good, collected, and available funds to cover Customer's obligations, Customer agrees to maintain sufficient, good, collected, and available funds in those accounts from which funds are to be withdrawn or transferred. If there are insufficient funds in the designated account to cover the required withdrawal(s), transfer(s), or related fees, except as specifically modified in an applicable Service Agreement, implementation document, and/or amendment to this Agreement:
 - i. Bank may withhold the Service,
 - ii. Bank may, in its sole discretion, elect to dishonor any item or transaction that creates a negative balance and has no duty to notify Customer prior to dishonoring any overdraft, even if Bank has paid overdrafts on behalf of Customer in the past,
 - iii. Bank may, in its sole discretion, provide the Service, and Customer agrees to pay Bank promptly or on demand the amount of overdraft and any fees or other costs including those set forth in the Deposit Agreement, and/or,
 - iv. Bank may require Customer to pre-fund transactions prior to settlement date or effective date.
- b. Bank may on occasion provide a Service against insufficient good, collected and available funds in deposit account(s), but Bank is not obligated to do so, and any action by Bank of this nature will not constitute an obligation by Bank to provide the Service in the future.

12. FEES.

- a. Customer agrees to pay Bank for the Service(s) in accordance with fees and method of payment as stated in the implementation documents and as such fees may be changed from time to time by Bank. Such charges do not include, and Customer will be responsible for payment of any sales, use, excise, value added, utility, or other similar taxes relating to the Service(s), and any fees or charges provided for in the applicable Deposit Agreement.
- b. The amount(s) due Bank for the Service(s) may be charged to Customer through account analysis or may be charged as a direct fee debited to a Customer-specified account. If Customer's monthly analysis credit is insufficient to pay the amount(s) due, Bank may debit any account maintained by Customer at Bank, whether or not such debit(s) creates an overdraft. If there are no accounts at Bank with sufficient funds to cover the amount due Bank, Customer agrees to pay such amounts directly to Bank upon demand.
- c. Customer also agrees to reimburse Bank for any actual expenses Bank may incur to effect or revoke any Service(s). In the event any fees or taxes are owed to Bank and are not paid, Bank shall have no obligation to execute any Service for Customer.

13. COOPERATION IN LOSS RECOVERY EFFORTS. Except as otherwise stated in this Agreement or applicable Service Agreement, in the event of any damages for which Bank or Customer may be liable to the other or to a third party with respect to the Service(s), Bank and Customer will undertake reasonable efforts to cooperate with each other (as permitted by applicable law) in performing loss recovery efforts and in connection with any action(s) that the relevant party may be obligated to defend or elect to pursue against a third party.

14. CUSTOMER RECORDS. This Agreement will not relieve Customer of any obligation imposed by law, contract, or otherwise regarding the maintenance of records or from employing adequate audit, accounting and review practices. Customer shall retain and provide to Bank upon request all information necessary to remake or reconstruct any deposit, transmission file, or entry for at least ten (10) Business Days following receipt by Bank of the deposit, transmission file, entry, or other order affecting any of Customer's account(s).

15. USE OF THIRD PARTIES.

- a. Bank's ability to provide certain Services depends on its ability to provide access to third party networks. In the event Bank determines, in its sole discretion, that it is unable to provide third party network access, Bank may discontinue the related Service or may provide the Service through an alternate third party network, and shall have no liability for the unavailability of such access.
- b. Customer shall notify Bank of the name of any third party whom it hires, employs or to whom it delegates its duties or responsibilities under this Agreement before that third party initiates any transaction or performs an obligation authorized or required under this Agreement. Customer agrees that it shall be solely responsible for all acts of such third party and agrees to indemnify and hold Bank harmless from any damages, loss or costs which Bank may incur as a result of any act or omission of such third party whether or not Customer notified Bank of the third party as required under this Section. Notwithstanding the foregoing, Customer understands and agrees that Bank may refuse to accept any instruction from such third party for any reason, but in no event shall Customer or the third party vendor have a cause of action, legal or equitable, against Bank for such refusal.
- c. Customer shall provide information including financial information which Bank may, in its sole discretion, require from time to time regarding Customer or any third party vendor which Customer hires, employs, or retains in any manner, to initiate transactions or assume any of Customer's duties under this Agreement. Customer understands and agrees that because of the risks involved in certain of the Services that Customer may utilize, Bank may refuse, in its sole discretion, to provide such Services to Customer if Customer or the third party retained by Customer does not meet Bank's qualification criteria. Neither Customer nor any other person or entity has the right to rely upon the determination made by Bank nor have a cause of action against Bank for or as a result of Bank's determination.
- d. Customer agrees that it shall not allow any third party to use the Service under Customer's Service Agreement(s) or to process such third party's transactions through Customer or its accounts without the Bank's prior written consent.

16. AMENDMENT. Bank may amend this Agreement from time to time by giving written notice to Customer or by sending a copy of the amended documents to Customer's address contained in Bank's records. Bank may, when it determines it is practical to do so, give Customer 30 days prior notice of the effective date of the amendment, unless a different notice or effective date is required by law. Using the Service(s) following the effective date of the amendment(s) shall be deemed evidence of Customer's acceptance of and agreement to the amendment(s). If Customer does not agree to the changes as set forth in an amendment, Customer may choose to terminate the Service prior to the effective date of the amendment by discontinuing further use of the Service and following the procedures set forth in Section 17 (Termination) below. This Agreement may not be amended or modified unless agreed to in writing by Bank.

17. TERMINATION.

- a. Bank may, in its sole discretion, terminate this Agreement in its entirety or with respect to one or more specified Service(s) effective immediately if:
 - i. Customer fails to maintain adequate collected and available balances to cover all transactions, costs and expenses relating to one or more Service(s),
 - ii. Bank at any time determines that Customer or Customer's third party vendor does not meet Bank's risk or other Customer qualification requirements, or
 - iii. Customer is in default of any terms of this Agreement or any other agreement with Bank. Bank's sole obligation shall be to provide notice of its termination of this Agreement to Customer as soon as commercially reasonable.
- b. Bank may terminate this Agreement, with or without cause, in its entirety or with respect to one or more specified Service(s) at any time, with or without cause, upon providing thirty (30) days' prior written notice to Customer, unless otherwise stated in this Agreement.
- c. Customer may terminate this Agreement in its entirety or with respect to one or more specified Service(s) at any time upon providing written notice to Bank. Such notice shall be deemed effective no earlier than one (1) Business Day after it is received by Bank.
- d. In the event of termination of this Agreement or any Service, the rights and responsibilities of the parties shall continue through any applicable settlement period including Customer's responsibility to pay Bank for Service(s) with respect to transactions processed prior to the effective date of termination.

18. LIMITATIONS OF LIABILITY.

- a. Customer agrees that Bank's liability, if any, relating to any Service shall be limited (to the maximum extent permitted by law) exclusively to actual, provable damages arising directly from Bank's gross negligence or wilful misconduct. Bank will be responsible only for performing the Service(s) that it expressly agrees to provide pursuant to this Agreement. Under no circumstances shall Bank be responsible for any act or omission of Customer or any other person or entity including, but not limited to, any third party hired or employed by Customer, third party networks, the Federal Reserve Bank, any transmission or communications facility used to transmit funds, any governmental entity, financial institution or other party to a transaction, unless Bank otherwise agrees in writing to assume such responsibility. Customer understands and agrees that the fees charged for the performance of the Service(s) have been established in contemplation of these limitations on liability.
- b. Customer agrees that, except where otherwise required by law, Bank shall not be liable for any consequential, special, punitive or indirect loss or damage which Customer, its agent, or third party vendor may incur or suffer in connection with this Agreement including, but not limited to, loss or damage from any negligent act by Bank or from any subsequent wrongful dishonor resulting from Bank's acts or omissions regardless of whether Bank had knowledge or should have had knowledge that such loss might be incurred, and Bank assumes no liability for Customer's attorney fees.
- c. Without limiting the generality of the foregoing provision, Bank will be excused from acting, failure to act, or delay in acting if such act, failure, or delay is caused by legal constraint, interruption of transmission or communication facilities, equipment failure, strike, lockout or other labor disturbance, war, emergency conditions, earthquake, fire, flood, acts of God, or circumstances beyond Bank's reasonable control. In addition, Bank shall be excused from failing to transmit or delay in transmitting funds if such transmittal would result in Bank's having exceeded any limitation upon its intra-day net funds position established pursuant to present or future Federal Reserve guidelines or in Bank's otherwise violating any provision of any present or future risk control program of the Federal Reserve or any rule or regulation of any U.S. governmental regulatory authority or clearing house.

- d. Customer acknowledges that the reconstruction of events causing Customer to sustain damages becomes difficult and may be inaccurate more than one year following the occurrence of such events. Therefore, Customer agrees that any claim, action, suit or proceeding against Bank for damages resulting in any respect from its acts or omissions in the performance of the Service(s) must be brought within one year from the date of Bank's alleged act or omission. However, if the Services have been provided by Bank's Texas Division, or are otherwise deemed by a court of law to be subject to Texas law, the applicable limitations period will be two years and one day.
- e. Customer agrees to immediately notify Bank of any claim by Customer, or any claim that is made to Customer by a third party, where an act or omission by Bank in connection with any Service has caused Customer or such third party to sustain any damages.
- f. Customer agrees that any account(s) it may have at Bank may be subject to additional liability limitations which are described in the Deposit Agreement.
- g. Customer acknowledges that it is not possible for Services to be free of operator, program or equipment error, and that errors in processing and compiling account data may occasionally occur, requiring adjustments. As such, Customer agrees to review and verify all results and to maintain adequate controls for insuring both the accuracy of data transmissions and the detections of errors. Unless otherwise required by law, Bank's sole responsibility for reporting errors caused by it will be to reprocess information and reports for the applicable period in question and to submit corrected reports at its own expense to Customer.

19. INDEMNIFICATION. Customer agrees to indemnify, defend and hold Bank and its directors, officers, employees, and agents, individually and collectively, harmless from and against any damage, loss, or liability of any kind, including without limitation reasonable attorneys' fees and court costs, which result directly or indirectly, in whole or in part, from Bank's providing of the Service(s) to Customer which are in compliance with this Agreement unless otherwise expressly provided in this Agreement or the Deposit Agreement.

20. GOVERNING LAW; VENUE; JURY TRIAL WAIVER. This Agreement, unless otherwise stated, shall be governed by the laws of the state of the Bank. Any litigation arising out of this Agreement shall be brought in a court of competent jurisdiction located in the state of the Bank providing the Service(s). CUSTOMER AND BANK ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH PARTY, AFTER CONSULTING OR HAVING HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY RELATED TO, THIS AGREEMENT.

21. DISCLAIMER OF INFORMATION AND WARRANTIES. Unless otherwise stated in this Agreement, Bank makes no representations or warranties, expressed or implied, in law or in fact including, but not limited to, the implied warranties of fitness for a particular purpose and of merchantability, either to Customer or to any other party, person or entity with respect to the Service(s) or any software applications or products provided by Bank.

22. NOTICES AND INSTRUCTIONS.

- a. Bank shall be entitled to rely on any written notice or other written, electronic or telephone communication believed by it in good faith to be genuine and to have been initiated by an authorized representative of Customer to Bank. Any such communication will be deemed to have been authorized by Customer. Bank's understanding and records of telephonic instructions shall be conclusive evidence of the actual notice or instructions given.
- b. Unless otherwise stated in this Agreement, all notices shall be in writing. Notices to Bank shall be delivered or mailed to the Bank address designated in the user guide and shall be effective no earlier than the end of the Business Day following the Business Day after it is received. Notices to Customer shall be delivered or mailed to Customer's address in Bank's records, and shall be deemed received on the earlier of receipt or three (3) days after mailing.

23. REPRESENTATIONS BY CUSTOMER. Customer represents, warrants and agrees that:

- a. The execution, delivery and performance by Customer under this Agreement are within Customer's powers, have been duly authorized by all necessary action and do not contravene Customer's bylaws or charter or any law or contractual restrictions.
- b. No authorization, approval or other action by, and no notice to or filing with any governmental authority or regulatory body is required for the execution, delivery and performance by Customer of this Agreement.
- c. This Agreement constitutes the legal, valid and binding obligation of Customer. This Agreement is enforceable against Customer in accordance with the terms of this Agreement.

- d. No information furnished by Customer to Bank in connection with this Agreement is inaccurate in any material respect, contains any material misstatement of fact, or omits any fact necessary to make such statements not misleading, as of the date it is dated, or if not dated, the date it is given to Bank.
- e. All data and funds transfer requests whether by wire, ACH or otherwise, comply with U.S. laws and do not include transmitting funds to, from, or on behalf of any person, business or country subject to U.S. sanction or which would in any manner violate the laws, regulations and Presidential Orders of the U.S..
- f. No representations or statement oral or written, which is not expressly set forth in this Agreement or incorporated by reference were relied upon to induce Customer to enter into this Agreement.

24. TECHNICAL SPECIFICATIONS. Bank may recommend or require specific hardware and/or software to be used in connection with one or more Services. Such recommendations or requirements may change from time to time. Unless Bank otherwise agrees in writing, Bank makes no representations or warranties in regard to nor will it provide technical support for such hardware or software.

25. SERVICE AVAILABILITY. All Services may not be available to all Customers in all locations. Customer agrees to obtain and maintain software and equipment which are required or, if not required, which is compatible with Bank's software, equipment and systems.

26. ACCEPTANCE. A contract for any Service will not be deemed accepted by Bank until a Service Agreement has been executed by both Customer and Bank, and Bank has begun providing the applicable Service.

27. SPECIFIC PERFORMANCE. Customer agrees that money damages may not be sufficient remedy for any breach of this Agreement and that Bank shall be entitled to specific performance in addition to any other remedies, at law or in equity, as a remedy for any breach.

28. SEVERABILITY. To the extent possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision shall be held to be invalid, illegal or unenforceable, such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without rendering invalid, illegal or unenforceable the remainder of any such provision or the remaining provisions of this Agreement.

29. WAIVER. A waiver by Bank or Customer of any term or provision in this Agreement shall not be construed as a waiver of such term or provision at any other time or in any other document.

30. ASSIGNMENT. Customer may not assign or transfer its rights or obligations under this Agreement to others without Bank's prior written consent.

31. NO THIRD PARTY BENEFICIARIES. No other person or entity shall be deemed to be a third party beneficiary of this Agreement.

32. RECORDING. Customer consents to Bank's tape recording and monitoring of any telephone conversations including, but not limited to, requests or instructions. Bank, however, has no duty to record or monitor such telephone conversations, and the election to record and/or monitor is totally within Bank's discretion.

33. HEADINGS. The section headings in this Master Agreement are intended to be for reference purposes only, and shall in no way modify or restrict any of the terms or provisions hereof.

**COMERICA
TREASURY MANAGEMENT SERVICES
MASTER AGREEMENT
August 2002**

**Section II:
PROVISIONS APPLICABLE TO SPECIFIC
TREASURY MANAGEMENT SERVICES**

Unless stated to the contrary in this Agreement or in an Amendment to this Agreement or any Service Agreement, to the extent that any terms in Section II conflict with the terms of Section I, the terms in Section II shall prevail.

ACCOUNT/DEPOSIT RECONCILEMENT SERVICES

1. Bank shall provide certain reports and statements of account activity to Customer relating to deposits or paid items on designated Bank account(s) over designated time periods in the manner and at the times agreed to by the parties as set forth in the implementation documents and user guide. Customer will review all reports and/or data files received from Bank upon receipt, and will advise Bank of any missing data within a reasonable time not to exceed thirty (30) calendar days from the date Customer first discovers the problem or receives information (in electronic, written or oral form) from Bank reflecting the problem, whichever occurs first.
2. Customer agrees that only authorized representatives of Customer will have the ability to transmit issue item information to Bank. Customer represents and warrants that all issue item information provided to Bank by Customer will be accurate and complete. Customer accepts full responsibility for the accuracy of the issue item information.
3. Bank's acceptance of issue item information after the designated deadline shall in no way be deemed a waiver by Bank of the deadline or the Agreement by Bank.
4. Bank assumes no duty to identify and/or return duplicate checks, checks with duplicate serial numbers, mis-encoded items, or checks lacking an encoded serial number *unless* Customer has also signed up with Bank to receive Bank's Positive Pay Service described below.
5. If Customer has selected Positive Pay Service, the following will also apply:
 - a. Customer will supply Bank with data transmission of all information regarding checks issued as required by the user guide. Such data transmission shall be made before such checks are issued unless the parties agree in writing to a different method. Customer agrees to have checks prepared in accordance with Bank's implementation documents and Deposit Agreement. Customer agrees to change check format if requested by Bank.
 - b. Excluding stop payment and voided issue records requested by Customer, Bank has full authority to honor all checks that match by serial number and amount to the corresponding issue records on file. Bank will make reasonable efforts to report to Customer any item serial numbers that do not match the corresponding issue records on file by the designated time each business day and in accordance with Customer's instructions.
6. If Customer has selected Check Safekeeping Service, the following will also apply:
 - a. Bank will safekeep the original of each paid check for an agreed upon period, after which checks may be disposed of by Bank or its agent in a manner agreed to by the parties.
 - b. Customer may request copies of paid checks in accordance with Bank's procedures.
 - c. Customer agrees that checks retained by Bank shall be deemed received by Customer and that Bank shall have no liability to Customer for any loss, expense, or claim relating to, arising from, or caused by, directly or indirectly, in whole or in part, Customer not receiving the original paid check.
 - d. Unless required by law, Bank shall not have responsibility to provide copies of check(s) to Customer after seven (7) years from posting or such lesser time as required by law.

ACCOUNT MONITORING SERVICES

1. Customer authorizes Bank to transfer funds daily between Customer's designated deposit account ("Concentration Account") and a designated loan account and/or investment account. Any collected funds in the Concentration Account that exceed a pre-established target amount ("Target Balance") will be transferred to either the investment account or to pay down the loan as directed by Customer in accordance with the implementation documents. All transfers of funds under this Agreement are automatic and not discretionary on the part of Bank.
 2. The Target Balance for the Concentration Account is established by Customer and agreed to by Bank. All transfers to the investment or loan accounts must meet any established minimum transaction requirement for those accounts or investment.
 3. If there are insufficient available funds in the Concentration Account to cover all withdrawals or debits made from the Concentration Account by or on Customer's behalf:
 - a. Customer specifically authorizes Bank to transfer funds from the investment account, or if applicable, advance funds under the loan account to the Concentration Account after giving regard to the disclosed minimum balance requirement for the investment account or the credit line in the loan account. The amount transferred shall be sufficient to cover all overdrafts in the Concentration Account and, if applicable, to return the Concentration Account to the Target Balance.
 - b. Bank may elect, in its sole discretion, to contact Customer for instructions.
 - c. Bank may elect, in its sole discretion, to dishonor items which create the overdraft.
 4. **Loan Paydown Option.**
 - a. Customer agrees to abide by all terms and conditions of the underlying loan agreement. Any fees imposed as a result of conditions of the underlying loan agreement are separate and distinct from those imposed for this Service.
 - b. The minimum transfer to the loan account and the deadline for such transfers will be designated in the implementation documents.
 5. **Investment Account Option.** Bank offers investment services by which funds in the amounts specified by Customer shall be transferred for investment as directed by Customer. Such Services will be subject to and implemented by additional agreement. Bank makes no representations or warranties as to the suitability or safety of any of the investments made or Customer's choice of any investments. Customer agrees that as long as funds are invested as designated by Customer, neither Bank, its subsidiaries, affiliates, employees, officers or directors will be liable to Customer for any reason whatsoever related to the purchase of any investments for Customer. INVESTMENT FUNDS ARE NOT A DEPOSIT OR OBLIGATION OF BANK, ARE NOT INSURED BY THE FDIC, AND ARE SUBJECT TO INVESTMENT RISK INCLUDING LOSS OF PRINCIPAL.
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ACH SERVICES

1. **Entry Processing.** Customer may originate Automated Clearing House (ACH) Entries in accordance with Bank's Security Procedures and this Agreement. Bank, acting as Originating Depository Financial Institution (ODFI) may process Entries to Receiving Depository Financial Institutions (RDFI) directly or through any mechanism selected by Bank. All Entries and the ACH Service shall be subject to the NACHA and Bank's local clearing house Rules and Guidelines as they may be amended from time to time. Capitalized terms in this Section shall have the same meaning as those set forth in the NACHA Rules.
2. **Customer Representations and Warranties.** Customer represents and warrants to Bank that all Entries are complete, accurate, and authorized, and that it has obtained written authorizations from Receivers for credit and/or debit Entries to those Receivers' accounts at participating financial institutions. Receiver Authorizations shall comply with NACHA Rules and specifically authorize Customer to release to Bank all information concerning Receivers that may be required by Bank to enable it to recover erroneous funds transfers. Customer shall cease initiating Entries for a Receiver's account(s) immediately upon Customer's receiving actual or constructive notice of the termination or revocation of the Receiver's authorization, and Bank shall not be liable for Customer's unauthorized transmission of such Entries. Customer will retain all documentation as required by NACHA Rules.

3. Entry Limits. The total dollar amount of Entries transmitted by Customer to Bank under each ACH Service will not exceed the lesser of collected and available balances in the Customer's designated account(s) or the daily dollar limit established by Bank. Bank may specify such a daily dollar limit and customer agrees that it will not exceed that limit without the prior written consent of Bank. However, Customer agrees that any daily dollar limit established by Bank is not to be deemed a Security Procedure. Customer agrees that if an Entry(ies) exceeds such dollar limit and Bank processes such Entries, Customer shall be liable to Bank for such Entries, and Customer authorizes Bank to charge Customer's designated accounts with Bank. If such accounts do not contain sufficient, collected, and available funds, Customer shall pay such amount on demand to Bank or, at Bank's option, Bank may debit any other account of Customer at Bank or at Bank's affiliates or subsidiaries. Customer further agrees to pay Bank interest on the overdraft amount at such rate as Bank may elect to charge or as may be required or limited by law, all reasonable attorney and paralegal fees, and all costs and expenses incurred by Bank to collect the overdraft, interest, and fees.

4. On-Us Entries. An Entry accepted for debit or credit to an account maintained with Bank ("On-Us Entry") shall be debited or credited, as applicable, to the Receiver's account in the amount of and on the effective date contained in the Entry.

5. Rejected or Returned Entries.

- a. **Rejected Entries.** Bank reserves the right to reject any Customer Entry with or without cause. Bank will notify Customer of any such rejection. The Customer may remake and transmit such an Entry to the Bank. Customer understands that Bank will not remake any Entry.
- b. **Returned Entries.** Unless Customer has elected the re-deposit option for this Service, any Entry that is returned for any reason by an ACH Operator will be submitted back to the Customer. Bank will notify Customer by the end of the first Business Day following the Business Day of its receipt of a returned item. Bank will not have any obligation to retransmit a returned Entry provided Bank complied with the terms of this Agreement with respect to the original Entry. However if Customer remakes and/or retransmits a returned Entry, the Bank will process it as a new Entry. Bank will debit or credit, as applicable, the Customer's designated account for each returned Entry. If a debit Entry is returned for any reason, Customer agrees to and will immediately reimburse Bank with available, sufficient, good and collected funds to cover the amount of such Entry. In the event a credit Entry is returned for any reason, the Bank will redeposit or reverse the amount of such Entry to the applicable account to the extent the amount of such Entry was debited from the account, or take such action as Customer and Bank may agree upon. Bank has no obligation to credit Customer's account with interest in the amount of any returned Entry it has debited from the account.

If Customer has elected the re-deposit option, Bank will resubmit the Entry no more than the number of times agreed upon by Bank and Customer. If after the last agreed upon time the Entry is returned for any reason, the Bank will treat the returned Entry in same manner described above. Customer agrees to pay for this option in accordance with the fee schedule provided by the Bank. In addition, Customer agrees to and does indemnify and hold Bank harmless for any fees, damages or costs claimed by Receiver as a result of Bank redepositing the returned Entry based upon Customer's selection of the redeposit option.

6. Cancellation or Amendment of Entries by Customer. Customer has no right to cancel or amend any Entry after Bank or Bank's agent has received the Entry. If Customer requests a reversal of an Entry in compliance with the Security Procedures for the original Entry, Bank will process the reversal request pursuant to the NACHA Rules. Customer understands that Bank makes no representations or warranties regarding the outcome of such reversal requests. Further, Bank will not be liable to Customer or any other person or entity regardless of whether or not the Receiving Bank effects the reversal request. If Customer requests a cancellation of an Entry, Bank will use reasonable efforts to cancel the Entry but will not be liable if it fails to do so. A request to amend an Entry will be treated as a cancellation of the original Entry and it is the Customer's responsibility to remake and submit the Entry.

7. Notice of Change. Customer will not send an Entry containing erroneous Receiver or Receiving Bank information for which Customer has received a Notification of Change indicating the erroneous information. Customer understands that NACHA Rules require the Customer to act on a Notification of Change (NOC) within six days of receiving of an NOC or before initiating another Entry to the same Receiver's account, whichever occurs later. Customer understands that by submitting Entries to Bank with erroneous information that such Entry would not have otherwise contained had Customer complied with the applicable NOC, Customer may be subject to fines and termination as set forth in this Agreement.

8. Bank Reservation of Rights. Bank reserves the right to:

- a. process Entries or files in any sequence, arrangement, or method which it, in its sole discretion, deems reasonable,
- b. be deemed to have accepted Entries only when it distributes the Entries to the ACH Operator,
- c. suspend, reject or accept any or all Entries which do not meet all of the requirements described in this Agreement,
- d. suspend, reject or accept any or all Entries if Customer does not have the account balances required or has previously failed to reimburse Bank for any amounts owing to it,
- e. reject or accept any or all Entries if Customer is in default of any term or provision of the Agreement,
- f. reject or accept any or all Entries if Bank, in its sole and absolute discretion, determines that Customer or its third party processor does not meet Bank's risk requirements as such requirements may change from time to time.
- g. To pass on any fine levied or charged by NACHA against Bank because of the acts or omissions of Customer. Further, Bank may terminate this Agreement as set forth in Paragraph 14 below of this Section, if Bank, in its sole discretion, determines that Customer is not acting in a timely manner on the Notification of Change or if Bank determines termination is necessary to protect and keep itself in good standing with NACHA, the NACHA members and as an Originating Depository Financial Institution.

9. Inconsistency of Name and Account Number. Payment of an Entry which describes the Receiver inconsistently by name and account number may be made on the basis of the account number only, even if it identifies a person or entity different from the named Receiver, and Customer is obligated to pay the amount of the Entry to Bank.

10. Settlement Date. A credit Entry to the Customer's designated Bank account is provisional until Bank receives final settlement for the payment through a Federal Reserve Bank. If Bank does not receive final settlement, Bank will reverse the provisional credit. Funds for a debit Entry will be debited (deducted) from the Customer's designated Account on the Effective Entry Date unless Bank requires earlier payment. Generally for credit Entries, the Effective Entry Date is either one or two banking days following the banking day of processing. For debit Entries, the Effective Entry Date is generally one banking day following the processing date. Any Files containing Entries with an Effective Entry Date different than described herein or the User Guide, will be rejected by the ACH Operator. The Settlement Date for Entries is inserted by the Receiving ACH Operator. The Settlement Date for the Bank is also Customer's Settlement Date and will be the same as the Effective Entry Date unless (a) the Bank requires earlier payment, in which case such earlier date will be the Settlement Date for the Customer, or (b) the date specified is the same as or earlier than the banking day of processing as established by the Originating ACH Operator (the processing date), in which case the scheduled Settlement Date will be the next banking day following the processing date. Returns, Notifications of Change and TRC/TRX Entries will be settled at the earliest opportunity which is generally no later than the first Business Day following the processing date.

11. Provisional and Final Payment. Customer, its third party processor, and its agents acknowledge receipt of notice that Entries may be transmitted through the ACH, that payment of an Entry by the RDFI to the Receiver is provisional until receipt by the RDFI of final settlement for such Entry, and that if such settlement is not received the RDFI will be entitled to a refund from the Receiver of the amount credited and Customer will not be deemed to have paid the Receiver the amount of the Entry.

12. Third Party Vendors. If Customer transmits Entries through a third party vendor ("Customer's Vendor"), Customer's Vendor is the agent of Customer. Bank is not responsible for the acts or omissions of the Customer's Vendor. Customer agrees to hold Bank harmless from any losses caused by acts or omissions of the Customer's Vendor. Customer agrees that the Security Procedure established between the Customer's Vendor and Bank is commercially reasonable.

13. Security Procedures. Customer agrees to adhere to Security Procedures established by Bank which are based upon the features selected by Customer in the Service Agreement and related implementation documents, and are described in the user guide. Customer acknowledges and agrees that Bank's Security Procedures are commercially reasonable for the Services selected. Bank may reject any Service request that is not made in accordance with the Security Procedures.

14. PC ACH.

- a. Microcomputer Based ACH Services.** Bank grants to Customer a non-exclusive and non-assignable license to use the PC ACH software for the purpose of originating ACH Entries. All entries and stop payments are governed by and subject to the NACHA Rules. Customer will, at its own cost and expense, obtain and install all hardware, software and equipment (e.g., telephone lines, servers, modems) necessary to use the Service. Customer will maintain this equipment in good working order at all times during the utilization of this Service. Customer shall on a regular basis and not less than weekly, perform back-up measures for each week's current database files. In the event of any failure of hardware or software, Customer will deliver to Bank all data necessary for Bank to perform its obligations in connection with this Service.
- b. Ownership and Use.**
- i. Customer acknowledges that the PC ACH software is an original, confidential, valuable and proprietary product which is a licensed program to Bank with the right to sub-license to Customer. Customer only has the right to use the software consistent with the terms herein. Customer has no right of ownership to the software and may not transfer, copy, alter, modify, reverse engineer, reproduce or convey in any manner, in whole or in part, the software.
 - ii. Customer agrees to confine knowledge and access to such protected materials only to its designated employee users who require such knowledge and access in the ordinary course and scope of their employment with Customer.
 - iii. The license for the PC ACH software shall terminate upon termination of the Master Agreement or upon termination of the PC ACH Service whichever occurs first. Bank warrants that the PC ACH software will perform substantially in accordance with the system user guide. In the event of a breach of warranty, Customer's sole remedy will be to cause Bank to correct or replace the software, and if Bank determines, in its sole and absolute discretion, that replacement or correction of the software is not in Bank's best interest, Bank may terminate the Service and will reimburse Customer for any fees paid in advance for the Service and the PC ACH software.
 - iv. **BANK DISCLAIMS ALL WARRANTIES, EXPRESSED AND IMPLIED, RELATIVE TO THE PC ACH SOFTWARE INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
- c.** Customer agrees to be bound by the ACH Service terms contained in this Agreement.

15. Termination. Notwithstanding the provision set forth in Section 1 Paragraph 17 a and b., Bank may terminate the ACH Service with or without cause by giving written notice to Customer. If termination is for cause, termination will be deemed effective when notice is given unless a later date is stated in the notice, but if termination is without cause, it will be effective on the first Business Day after notice is sent or delivered, whichever occurs first unless a later date is stated in the notice.

16. This paragraph is reserved for future use.

17. This paragraph is reserved for future use.

CASH CONCENTRATION SERVICES

- 1. Bank will initiate debit or credit entries via ACH to accounts designated by Customer at one or more financial institution(s) to combine funds from accounts held at Bank and/or such other institution(s) in a single account ("Cash Concentration Account"). Customer agrees to do what is necessary to authorize other financial institutions to honor such transactions.
 - 2. This Service is offered as an option under the ACH Service provided by Bank. Customer must execute an ACH Service Agreement to obtain access to the Cash Concentration Service.
 - 3. This Service will be performed in accordance with the processing schedule agreed upon by both parties.
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CASH VAULT SERVICES

1. **Processing Requirements.** Customer will specify account(s) at Bank, and Bank will designate the applicable cash vault(s) and/or processing center(s) to be used in connection with cash deposit and cash order Services.
2. **Deposit Processing Service.** Bank's representatives may accept shipments containing deposited items which have been prepared and delivered in accordance with Bank's procedures from anyone purporting to be an agent of Customer. Only armored couriers may make deposits directly to a cash vault. Bank will receipt for shipments delivered by Customer's agent which arrive prior to the daily deadline established by Bank. Bank's receipt for shipments will not be deemed proof of its receipt of any contents listed in an inventory which may accompany the shipments. Bank's acceptance of any nonconforming shipments will not be deemed a waiver of any of its rights. Customer assumes full responsibility for the timeliness, accuracy, completeness, form, format and content of any information it furnishes to Bank with respect to deposited items.
 - a. **Processing of Deposited Items.** Items presented for deposit consisting of coin, currency and food stamps will be provisionally credited on the Business Day of receipt by Bank provided Customer's agent arrives before Bank's established deadline. Items presented will be processed at Bank's designated processing center or cash vault. All deposits made by Customer or Customer's agent will be subject to verification by Bank or Bank's agent within the time frames established by Bank.
 - b. **Adjustment of Errors.** If shipments are missing or do not contain all items indicated on deposit listing tapes and deposit slips, Bank will make an adjusting entry to Customer's designated account. When an adjusting entry is made for cash shortages/overages on deposited items, Bank will provide Customer an advice of the adjustment.
3. **Cash Ordering Service.** Settlements for cash orders prepared by Bank will be charged to Customer's designated account on the Business Day of delivery to Customer's agent. Cash orders to be delivered from a cash vault shall be delivered only to Customer's armored courier. Bank may specify a daily cash order limit, and Customer agrees that it will not exceed that limit without the prior written consent of Bank. Customer will hold coin and currency shipments in the custody of two or more employees until the contents are verified. Contents must be verified by strap on the day of receipt and by piece count within two (2) Business Days of receipt. Discrepancies must be reported to Bank in accordance with Bank's procedures.

COMERICA GATEWAY®/COMERICA INTELLECT® AND COMERICA NETVISIONSM

1. **Automated Information Reporting and Transaction Initiation Service.** Comerica Intellect, Comerica NetVision and Comerica Gateway Service each provides Customer access to an information reporting and transaction initiation system (each of which is referred to as the "System"), and authorizes System operators in accordance with Customer's instructions. Bank is authorized to store, process, transmit and make available through Bank agencies and systems and through third party data processing providers ("Provider") information regarding accounts and transactions designated by Customer. Bank will provide Customer information regarding its account(s) at Bank and/or other financial data through the System on a periodic basis. Balance and related information for Customer's non-Comerica account(s) may be made available by other financial institutions, Customer, Customer's third party vendors or Providers. Bank assumes no responsibility for the accuracy or timeliness of account information and/or other data supplied by Customer, Customer's third party vendors, other financial institutions or Providers.
2. **Security Procedures.** The use of any of the Services described in this Section requires that the Customer be solely responsible for maintaining the integrity and protection of all passwords and user identification (User ID(s)) used in connection with the selected Service.
 - a. **Comerica Intellect & Comerica NetVision.** Bank will provide Customer with a System user code, passwords, and/or passwords for designated users to access the selected Service. The security features and requirements are fully described in the user guide(s) for the applicable Service. Each Customer-authorized user/operator will be responsible for the security of their own password and User ID and Customer will generally be responsible for insuring that the integrity of the security features is maintained. Customer agrees to operate the System and use the Service in accordance with Security Procedures established by Bank from time to time and those described in the user guide(s) for the Service. By using the Service in accordance with the Security Procedures offered by Bank to Customer, Customer acknowledges and agrees that the Security Procedures are commercially reasonable for the System and Service and the type of transaction performed. Bank will reject any Service request that is not made in accordance with the Security Procedures.

- b. **Comerica Gateway.** Bank will provide Customer with a System user code and System access for designated users. In addition, transactions which initiate the transfer of funds are required to be digitally signed by an authorized user. Bank will provide a key diskette, which contains the public and private keys that are used to authorize these transactions and perform encryption/decryption. Each Customer-authorized operator will be responsible for the security of their own passwords and keys. Customer agrees to operate the System and use the Service in accordance with Security Procedures offered by Bank as set forth in the user guide. By using the Service in accordance with the Security Procedures offered by Bank to Customer, Customer acknowledges and agrees that the Security Procedures are commercially reasonable for the System and Service and the type of transactions performed. Bank will reject any Service request that is not made in accordance with the Security Procedures.
- c. **Contingency Plan Security Procedures.** Bank may provide Customer with an alternative contingency plan and Security Procedure for initializing wire transfers in the event that the System is not operational. When the contingency is invoked, the contingency Security Procedure selected by Customer as set forth in the implementation documents will be effective for purposes of requesting wire transfers. The contingency plan and contingency Security Procedure is only to be invoked and used when the System and/or a module of the System are not generally operational or usable by a majority of Bank's customers that are authorized to use the System and/or module.

3. Customer Representations, Warranties and Responsibilities.

- a. Customer agrees to use the System solely to conduct its business and agrees to limit access to the System to those employees who require access to perform their jobs. Customer is responsible for providing instructions to Bank, other financial institutions and any third party provider who will input account information into the System or process orders or instructions.
- b. Customer will, at its own cost and expense, obtain and install all hardware, software and equipment (e.g., telephone lines, servers, modems, Internet access) necessary to use the Service. Customer will maintain this equipment in good working order at all times during the utilization of this Service and will upgrade the software as necessary to utilize the Service. Equipment and software must be compatible with Bank's equipment and operating systems for use and/or best use of the Service.
- c. Customer represents that Bank has made no guarantees, warranties or representations about the security or reliability of using the Internet as a means of obtaining access to the NetVision Service.

4. Software for Comerica Gateway. Bank will provide software to Customer for the exclusive use with the Comerica Gateway Service ("Software"). Customer's use of such Software is subject to the following terms and conditions:

- a. **Customer's Rights to Use the Software.** Customer is granted a non-exclusive, non-assignable license for the Software in machine-readable form in connection with the use of Comerica Gateway Service. Customer agrees to confine knowledge and access to the Software and documentation only to its designated employee users who require such knowledge and access in the ordinary course and scope of their employment with Customer.
- b. **Restrictions on Use.** Customer may use the Software for the activities contemplated under this Agreement, and not for the benefit of any third party or in a service bureau environment. Customer has no right of ownership to the Software and may not transfer, copy, alter, modify, reverse engineer, reproduce, distribute, export or convey in any manner in whole or in part the Software or documentation or remove any proprietary legends in the Software. Customer is solely responsible for the selection of hardware, operating system, peripheral equipment and other elements of an appropriate computing environment for the Software, subject to minimum system requirements. Any rights in or to use the Software that are not granted to Customer under this Agreement are reserved to Bank, its Provider and/or third party suppliers.
- c. **Intellectual Property Rights.** Bank represents that it has rights sufficient to grant Customer the rights stated in this Paragraph 4. Customer agrees to implement measures reasonably designed to prevent unauthorized use and reproduction of the Software. Ownership of the software, including all patents, copyrights and other intellectual property rights, will at all times remain with the Bank or its Providers or third party suppliers.
- d. **Technical Support and Updates.** Bank may, but shall not be obligated to provide technical support and/or upgrades to the Software except as stated in this Agreement or in another writing signed by Bank and Customer.
- e. **Password and Security.** The password and security features are provided for Customer's benefit. Customer is solely responsible for the protection of its password(s) and security of the account information, which includes the protection of the information regarding passwords (Customer and individual Users), the security set-up and the security features of the Service.

- f. **Software Limited Warranty.** Bank warrants that the media on which the Software is delivered will be free of defects in material workmanship under normal use for a period of 90 days from the date of delivery. If Customer notifies the Bank during this period that the media contains such defects, Bank will replace the media. Bank further warrants that the Software will perform substantially in accordance with the description in the user guide. In the event of a breach of warranty, Customer's sole remedy will be to cause Bank to correct or replace the Software, and if Bank determines, in its sole and absolute discretion, that replacement or correction of the Software is not in Bank's best interest, Bank may terminate the Service and reimburse Customer for any fees paid in advance for the Service and the Software. Bank **DOES NOT WARRANT THAT THE SOFTWARE WILL MEET CUSTOMER'S REQUIREMENTS, WILL OPERATE IN ALL ENVIRONMENTS, OR WILL BE ERROR-FREE. The Software is provided, "AS IS" AND WITHOUT ANY WARRANTY EXCEPT AS STATED IN THIS SECTION. OTHER THAN THE LIMITED WARRANTY MADE IN THIS SECTION, BANK DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES INCLUDING ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
- g. **Limitation of Liability for Damages.** Bank will not be liable to Customer for incidental, consequential, special or exemplary damages, or for lost profits or business interruption losses, in connection with the Software or this Service. In no event will Bank be liable to Customer, under any theory of recovery, including contract, negligence, strict liability, warranty or products liability, for damages in excess of the amount paid, if any, for the Software or Service.
- h. **Effects of Customer Changes to Hardware and Operating System.** Bank will not be liable to Customer for any effects of any changes or upgrades made by Customer to its hardware or operating system after installation of the Software.
- i. **Term and Termination.** The Software license granted in this Agreement is effective from the date of execution by Customer and Bank of a Comerica Gateway Service Agreement and continues until Service is no longer provided to Customer under this Agreement. Upon termination of this Agreement or the Service, Customer must immediately discontinue use of the Service and the Software and destroy or return all copies of the Software and its related documentation to Bank. Customer will provide an affidavit of destruction if it does not return the copies of the Software to Bank.

5. Limitation of Liability.

- a. Customer agrees that Bank will not be liable for any loss or damage arising, directly or indirectly, in whole or in part from any:
 - i. inaccurate or incomplete data in the input of an order or instruction by Customer,
 - ii. failure by Customer to obtain a confirmation of an order or instruction ,
 - iii. cancellation or attempted cancellation by Customer of an order or instruction,
 - iv. incomplete information received from Customer or other financial institution,
 - v. temporary interruptions in Bank's information systems, or
 - vi. inability to access the Service through the use of the Internet.
- b. Customer understands and agrees that certain information and transactions are not processed by Bank until after the close of the Business Day and therefore such information and transactions may not be reflected by the Service until the next Business Day.
- c. Customer acknowledges that it is not possible for Services to be free of operator, program or equipment error, and that errors in processing and compiling account data may occasionally occur, requiring adjustments. As such, Customer agrees to review and verify all results and to maintain adequate controls for insuring both the accuracy of data transmission and the detection of errors. Unless otherwise required by law, Bank's sole responsibility for any reporting errors caused by it will be to reprocess the information for the period in question and to submit corrected reports at its own expense.

6. Automated Stop Payment Service Module.

- a. If the Stop Payment Module service is available for the Service selected and Customer elects to use it, Customer may order Bank to stop payment of checks and give certain other instructions to Bank regarding payment of checks or to request information from Bank as to Customer's deposit accounts using the Automated Stop Payment Module (the "ASP Module" or the "Service"). Bank will not be liable for Stop Payment orders involving duplicate check numbers issued by Customer.
- b. It is Customer's responsibility to ensure that only those persons authorized by Customer to use the ASP Service will have access to it and that they use it only in a manner authorized. Banks will incur no liability for any damages caused by any unauthorized use.

- c. A stop payment order placed through this ASP Module is considered to be a "writing." for purposes of the Uniform Commercial Code and the stop payment order will remain effective for six (6) months unless Customer and Bank agree to some other time period, or Customer requests that the stop payment order be canceled before it expires.
- d. Bank will exercise good faith and ordinary care in implementing Customer's instructions under this Service. Customer agrees to indemnify and hold Bank harmless for all costs, expenses, or damages incurred or suffered by Customer if Bank refuses payment of any check on which Customer has placed a stop payment order or if Bank pays any check on which:
 - i. Customer has released its stop payment order,
 - ii. The stop payment order has expired,
 - iii. The stop payment order has been improperly or inaccurately entered in the System by Customer, or
 - iv. The stop payment order has not been entered in a timely manner.
 Customer understands that placing a stop payment order on a check may not relieve Customer's obligation on the check or the underlying obligation.
- e. If either the ASP Module or the System is inoperative, Customer will transmit stop payment order(s) by telephone and such instructions will be subject to the terms of this Agreement as if they were entered through the ASP Module.
- f. Notwithstanding Customer's receipt of a confirmation, Customer agrees that Bank must be afforded a reasonable time, which will not be less than one (1) full Business Day, in which to act on any stop payment order.

7. Wire Transfer Service Module.

Customer may request a wire transfers through the System by using the Wire Transfer Module (the "Wire Transfer Module" or "Service"). The Bank will transact the requested funds transfer by Fedwire, SWIFT or other similar funds transfer funds systems subject to the following terms and conditions. Foreign funds transfers are not available for every System.

A. Definitions: Unless otherwise defined below, the words, phrases and definitions used in this Section for the Wire Transfer Service have the meaning ascribed to them in Article 4A, a version of Article 4A or Division 11 of the Uniform Commercial Code defined below as UCC 4A. To the extent any of the definitions of terms described below conflict with the definitions ascribed to them in Section I of this Agreement, the definitions below shall prevail as to this Service.

- 1.1 "Addendum"- any writing, including but not limited to, Bank's implementation worksheets for the Service which may include election of Security Procedure, or such other additional writing intended by Bank and Customer to supplement the provisions of this Agreement for the Service.
- 1.2. "Authorized Account"- the account(s) designated in the Payment Order (defined below) or an Addendum which the Bank may debit, draw on or otherwise receive payment for executing a Payment Order. If no Authorized Account is designated or there are insufficient available funds in an Authorized Account, the Bank may debit or draw on any account(s) Customer has with the Bank and such account(s) will be an Authorized Account for purposes of this Service.
- 1.3. "Funds Transfer"- the series of transactions, beginning with the initial Payment Order (defined below) through the execution of the Payment Order, including, if applicable, the cancellation, right to reverse, adjust, or delay posting of the Payment Order.
- 1.4 "Funds Transfer Business Day"- means any day before the transaction cut-off time stated in the Service user guide, excluding Saturdays, Sundays and federal holidays on which the Bank and the Federal Reserve Banks are open for purposes of conducting funds transfers.
- 1.5 "Payment Order"-Customer's instruction received by Bank that: (i) is transmitted through the use of the System or, verified in accordance with the Security Procedures selected by Customer for use when the System is not operational for a majority of customers of the Bank, including Customer, (ii) orders Bank to pay or causes another institution to pay a fixed or determinable amount of money to a beneficiary whether or not the beneficiary is a third party, and (iii) Bank is to be reimbursed for executing the Payment Order.
- 1.6 "Security Procedure"- the procedure(s) described in this Agreement and detailed in the user guide as well as the contingency procedure selected by Customer.
- 1.7 "UCC 4A"- is Article 4A or a version of it such as Chapter 4A or Division 11 of the Uniform Commercial Code, as enacted in the state where the Payment Order is received by Bank and where it is paid.

B. Applicable Rules. Any portion of a domestic Funds Transfer may be accomplished through the Federal Reserve wire transfer network ("Fedwire") or other methods available to Bank. Any portion of an international Funds Transfer may be accomplished through any cable or wireless transfer system Bank selects including, but not limited to, Telex or SWIFT. Each Funds Transfer carried out through a Funds Transfer system, will be governed by the rules of the applicable system, even if Bank is not a member of the system.

C. Execution of Payment Orders. The Bank or its designee may execute any Payment Order, cancellation or stop payment of a Payment Order received in Customer's name provided it is authorized by Customer and/or complies with the Security Procedure. If Bank is also the beneficiary's bank, the term "execute" includes Bank's acceptance of Customer's Payment Order for purposes of this Agreement and of the application of UCC 4A to the transaction.

D. Rejection of Payment Orders. Bank reserves the right to reject any Payment Order with or without cause and will attempt to provide notice of such rejection, on the execution date if it is a Funds Transfer Business Day and the Bank received the Payment Order before cutoff time established by Bank from time to time. Otherwise, Bank will attempt to give notice the next Funds Transfer Business Day. Customer agrees that a notice of rejection will be effective when transmitted electronically, by phone or mailed.

E. Cancellation or Amendment of Payment Orders. If Bank receives a cancellation or stop payment instruction for a Payment Order not yet executed, the Bank may, but is not obligated to, cancel the execution of the Payment Order. An attempt to amend a Payment Order will operate as a cancellation instruction of the original Payment Order and the giving of a new Payment Order. Executed Payment Orders cannot be canceled, amended or stopped.

F. Security Procedures to Verify Authenticity of Payment Orders. Customer agrees that the Security Procedure (i) is to be used to verify the authenticity and validity of Funds Transfer communications received by Bank in Customer's name and (ii) does not detect and is not intended to detect errors contained in the communications. Unless otherwise required by law, any Payment Order, cancellation or stop payment that complies with the Security Procedure will be deemed enforceable as authorized by Customer. Customer agrees that it is the Customer's responsibility to insure the confidentiality and security of the Security Procedure and to timely notify Bank of any changes to Designated Authorizers, Authorized Initiators and Authorized Confirmers, as these terms are defined in the user guide and/or Bank's Wire Transfer Implementation Worksheet.

G. Funds Transfer Business Day For Accepting Payment Orders. Bank may accept Payment Orders on a Funds Transfer Business Day in the form and at the locations Bank designates from time to time. Funds Transfer communications received on a non-Funds Transfer Business Day or after the close of a Funds Transfer Business Day may be treated as if received at the opening of the next Funds Transfer Business Day. Customer agrees that the Bank may: (i) process Funds Transfers from Customer and others in any order Bank chooses, (ii) presume that no other financial institution to which or through which the Funds Transfer is sent has an earlier cut-off time than the Bank has for accepting Funds Transfers and (iii) use any means or routes Bank, in its sole discretion, considers suitable to effect the Funds Transfer. Bank may modify its Funds Transfer Business Day and cutoff hour at any time and without prior notice.

H. Misdescription or Discrepancies in Payment Orders. Bank and any other financial institution involved in a Funds Transfer may rely solely upon the account number or other identifying number provided in the Customer's Payment Order describing the beneficiary or the financial institution to which payment is to be issued, even if the name and number do not match.

I. Discovery of Unauthorized Payment Orders & Liability. Unless Customer requests otherwise, for a fee, Bank will send a confirmation of each executed Payment Order. Customer agrees to exercise ordinary care on the basis of the information available to it to discover any Funds Transfer which Customer did not make or authorize. Customer agrees to notify Bank of the relevant facts on which a claim is based within a reasonable time, which Customer agrees will not exceed 30 days from the earlier of (i) the date Bank sent or otherwise gave confirmation that the Payment Order was executed or (ii) the date a statement was sent showing that the Payment Order was debited or drawn on the Authorized Account. Customer agrees to waive any other time period which might otherwise apply for providing such notice to Bank. If Customer fails to notify Bank within the time period stated in this paragraph of an enforceable (complies with the Security Procedure), but allegedly unauthorized Payment Order, Customer agrees that Bank will not be liable for any subsequent similar enforceable Funds Transfer.

J. Overdrafts/increased lines related to Customer's Authorized Account. Bank may debit the Authorized Account for any Payment Order and applicable fees, even if the debit creates or increases an overdraft position or line of credit in the Authorized Account. Unless Bank otherwise agrees in writing, Bank has no duty to (i) effect a Payment Order including fees which exceed the available withdrawable balance or line of credit in the Authorized Account at the time the Payment Order is received or (ii) lend money, extend credit or otherwise advance funds to Customer to pay for any Payment Order and/or fees. If Bank allows an overdraft, increase overdraft or line of credit to occur, Customer understands that such amount will be immediately due and payable with notice or demand by Bank. Customer agrees to cause sufficient collected and available funds to cover the total amount of the overdrafts and/or increased line of credit to be deposited for credit to the Authorized Account by the close of that Funds Transfer Business Day. Customer will pay Bank for the use of funds and overdraft charges as disclosed in the agreement covering its Designated Account. If no fee for use of funds is described in the agreement governing the designated account, Customer agrees to pay interest on the excess line of credit at a rate of 2% above the rate stated for draws against the line of credit. Customer understands that if Bank allows overdrafts, Bank may discontinue the practice of allowing overdrafts at any time, without cause or prior notice.

K. Compensation to Customer. If Bank owes compensation to Customer in the form of penalty or interest, it will be payable at the Federal Funds rate published by the Federal Reserve Bank of New York for each of the days for which interest is payable computed on the basis of a year of 360 days.

L. Limitation of Liability. Unless otherwise required by law or stated in this Wire Transfer Section, Bank will not be liable for detecting duplicate Payment Orders and in all cases, Bank's liability to Customer, any intended beneficiary or any third party in performing or failing to perform the Service described in this Section, if any will be limited as stated in Section I, Paragraph 18 of this Agreement. Bank will not be liable for any acts or omissions of the beneficiary bank, including but not limited to, its failure to obtain a receipt and/or to identify the payee/ beneficiary to whom it gave payment of the transfer or failure of the funds to reach the intended payee or beneficiary or Bank's failure or refusal to refund to Customer the amount of the fees or Payment Order paid to Bank unless Bank has determined that Payment Order has been effectively stopped and Bank has obtained a refund of the Payment Order and/or indemnifications Bank deems adequate.

Customer understands and agrees that Bank will not be responsible for detecting any error contained in any Payment Order or Funds Transfer communication or for duplicate Payment Orders, either given by Customer or which complies with the Security Procedure. If a Payment Order is executed but is proven not to have complied with the Security Procedure or was not otherwise authorized by Customer, and if Bank receives notification within the time period required under sub paragraph "i" above, the liability of the Bank and Customer will be governed by the applicable provisions of UCC 4A as modified by this Agreement.

Unless otherwise required by law, if Bank is liable to Customer for compensable damages that are recoverable under this Agreement for domestic Funds Transfers, Customer agrees that such liability will not exceed Customer's actual, foreseeable and provable damages. Bank's liability for international Funds Transfers will be limited to the amount of the U.S. Dollar equivalent of the amount of the foreign Payment Order at the prevailing rate of exchange established at Comerica Bank (Detroit, Michigan) at the time the Bank accepted the Payment Order. If Bank is instructed to initiate a Payment Order denominated in a foreign currency, and such Funds Transfer cannot be completed, Bank's obligation will be limited to crediting the Authorized Account for any funds returned to Bank by Bank's correspondents and/or the beneficiary bank and pending such return, any obligation Bank has to credit the Authorized Account will be suspended.

M. Customer Indemnity. Customer agrees to indemnify and hold Bank harmless from and against any, cost, liability or expense (including reasonable attorney and paralegal fees) arising out of any claim by a third party alleging that a Payment Order contravenes or compromises the rights, title or interest of any third party, contravenes any law, rule, regulation, ordinance, court order or other mandate or prohibition with the force or effect of law ("Claim"), unless the Claim arises out of Bank's failure to exercise ordinary care, failure to act in good faith or failure to act in accordance with Customer's instructions.

N. Governing Law. In addition to the law where the Bank is located, all Payment Orders are to comply with all U.S. federal laws, regulations and Presidential Orders, as well as the laws of the state where Bank's principal place of business is located. Customer will not request any Payment Order to or for the benefit of any business, person or country subject to U.S. sanction or prohibited by the Office of Foreign Asset Control.

O. Authorization. Customer hereby authorizes Bank to transfer funds in accordance with this Agreement. All domestic Payment Orders must be paid for in U.S. Dollars. Unless otherwise agreed in writing by Bank, all international/foreign Payment Orders must be paid for in U.S. Dollars and will be payable at the option of the beneficiary bank in the currency of the country of the beneficiary bank or other currency. If we accept a Payment Order for payment outside the U.S. in a currency other than U.S. Dollars, Customer authorizes Bank to debit, draw on, or if applicable, credit, Customer's Authorized Account for the U.S. Dollar equivalent of the amount transferred at the then prevailing rate of exchange offered by Comerica Bank in Detroit, Michigan.

P. Termination. This Wire Transfer Service may be terminated by either party without prior notice. A notice will be given to the other party as soon as practical, but not to exceed five Funds Transfer Business Days after the effective termination date.

Q. Notices. Unless otherwise stated in this section or required by applicable law, all notices required or permitted to be given in relation to this Service may be given to Customer by any commercially reasonable means including, but not limited to telephone, regular mail, facsimile or other electronic means at the phone number or addresses Bank has for Customer. All notices required or permitted to be given to Bank may be given by registered mail, return receipt requested, by personal delivery or facsimile at Bank's address or fax number stated in the user guide for the Service. All notices to Bank and Customer will be effective when actually received or two Funds Transfer Business days after transmitting or mailing, whichever occurs first.

COMMERCIAL CARDS

1. The following definitions apply to the Commercial Card Service. In the event any of the following defined terms and/or definitions conflict with any defined term or definition provided elsewhere in this Agreement, these defined terms and their definitions shall prevail.

Definitions.

- a. "Account" means Customer's business checking account, identified by Customer, to be used to pay Card Debt.
 - b. "Card" or "Cards" means a MasterCard Bankcard and/or account number issued pursuant to this Agreement to Customer and assigned to individual employees or vehicles at Customer's written request. Bank and Customer will mutually agree to the type of Card program as set forth in the Service Agreement for the particular program selected and the number of Cards to be issued.
 - c. "Services" means the commercial card program (e.g. Corporate Card, Fleet Card, Purchasing Card, MultiCard) implemented by this Agreement as described in the Service Agreement signed by Customer and Bank.
 - d. "Enrollment Form" means an electronic or paper document prepared by Bank and/or customer for use in documenting Transaction Limits, and any changes thereto, and related information.
 - e. "Services" means the commercial card services implemented by this Agreement, which may include corporate, business, purchasing, and/or fleet card services.
 - f. "Transactions" means any transaction conducted with a Card, including purchases of goods or services or cash advances.
2. **Payment.** Customer agrees to be responsible for payment of all amounts due for Card Debts.
 3. **Card Issuance.** Bank will deliver Cards to Customer, each of which will be uniquely encoded for use by an individual employee, or in connection with a specific vehicle. Customer will be responsible for distributing the Cards unless Bank and Customer agree otherwise. Upon Customer's written request, in a form satisfactory to Bank, Bank may issue additional cards to Customer.
 4. **Reports and Statements.** Bank will make available reports and statements as described in Paragraph 6 below and will also make available, in paper form aggregate statements showing all Card Debt incurred during the monthly billing period for all Cards, and individual statements will reflect Transactions effected with each Card. The fees for the various reports and statements are described in the Bank's Schedule of Fees for the Service. Bank may make other reports, statements or summaries available for an additional fee.
 5. **Transaction and Card Debt Limits.**
 - a. **Transaction Limits.** Each Card shall be assigned limits on the amount of each Transaction, and/or on the types of Transactions, for which it may be used, as set forth in the Enrollment Form. Customer will not authorize or permit cardholders to conduct Transactions inconsistent with the Transaction Limits. Any change in Transaction Limits must be documented in an Enrollment Form submitted by a program administrator appointed by Customer pursuant to paragraph nine below.
 - b. **Card Debt Limit.** Customer will be assigned an aggregate Card Debt Limit, recited in the implementation documents and subject to change only in writing executed by Comerica. Bank may in its sole discretion, but shall have no obligation to, honor Transactions in excess of the applicable Transaction Limit, or which cause Card Debt to exceed the applicable Card Debt Limit. Customer agrees to pay all Card Debt, regardless of whether any Transaction exceeded the applicable Transaction Limit, or caused the Card Debt to exceed the Card Debt Limit.
 - c. **Processing Interruptions.** In the event that the processing system used by Bank in processing Transactions is interrupted for any reason, MasterCard will authorize Transactions under \$500 in value, regardless of any otherwise applicable Transaction Limits. Customer agrees to hold harmless and indemnify Bank for any losses resulting from Transactions authorized by MasterCard in such circumstances, regardless of fault, and agrees to pay the Card Debt resulting from all such Transactions, and any associated fees and charges, in full.

6. Reporting Systems. Customer may elect to use one or more of the electronic reporting systems Bank makes available for the Card program selected by Customer. The electronic reporting systems currently available are Tracer Software, iTracer or iStatement as the means for receiving reports and/or aggregate statements of the Service.

- a. **Customer's Rights to Use the Reporting Systems, Requirements and Restrictions on Use.** Comerica grants to Customer a nonexclusive, nontransferable, non-sublicensable, revocable license to use the Tracer Software, iTracer, or iStatement as applicable, solely for the purposes described in this Agreement. Customer may use the Tracer Software, iTracer or iStatement only itself and only for activities related to the use of the Card Service and may not use the Tracer Software, iTracer or iStatement to benefit any third party or to generate information for sale. If Customer elects to use the Tracer Software, Customer may make a backup or archived copy of the Tracer Software. Customer may not transfer, modify, reverse engineer, distribute or export the Tracer Software or remove any proprietary legends on the Tracer Software. Customer is solely responsible for the selection of hardware, operating system, InterNet browser, peripheral equipment, and other environmental elements for the Tracer Software, iTracer and iStatement, subject to any minimum system requirements. Any rights in or to use the Tracer Software not granted to Customer under this Agreement are reserved to Bank, its provider or its third party suppliers.
- b. **Intellectual Property Rights.** Bank has the right to grant Customer the limited non-exclusive right to use the Tracer Software, iTracer and iStatement described in this Commercial Card Section. Customer must implement reasonable security measures to prevent unauthorized use and reproduction of the Tracer Software. Comerica and its third party suppliers own or are authorized to use all patents, copyrights and other intellectual property rights in the Tracer Software, iTracer and iStatement.
- c. **Technical Support and Updates.** Customer may request technical support services from Bank related to the use of the Tracer Software, iTracer or iStatement, which Bank will provide as available at Bank's then-current technical support fees, if any. Bank may also provide updates to the Tracer Software as they become available. There may be a charge for such updates. Bank will provide, at its expense, one-half day of training on the Tracer Software, iTracer or iStatement at no additional cost to Customer. If Customer requires additional backup or successor training and such backup or training is made available by Bank to Customer, then Customer shall pay to Bank the higher of an hourly rate of \$100 or Bank's then-applicable rate.
- d. **Password and Security.** Customer must select a password to use any of the reporting systems. Customer is solely responsible for the protection of its password and the use of any information obtained from the reporting system by use of its password.
- e. **Reporting Systems Limited Warranty.** Bank warrants that the media on which the Tracer Software is delivered will be free from defects in materials and workmanship under normal use for a period of 90 days from the date of delivery. If notified during this period that the media contains such defects, Bank will replace such media. The Tracer Software, iTracer and iStatement are provided "as is" and without any warranty. **BANK DOES NOT WARRANT THAT THE TRACER SOFTWARE, Tracer OR Statement WILL MEET CUSTOMER'S REQUIREMENTS, WILL OPERATE IN ALL ENVIRONMENTS OR BE OPERATIONAL 24 HOURS A DAY, SEVEN DAYS A WEEK, OR WILL BE ERROR-FREE, OTHER THAN THE LIMITED WARRANTY MADE IN THIS SUBPARAGRAPH, COMERICA DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
- f. **Limitation of Liability for Damages.** Bank will not be liable to Customer or any other person/entity for indirect, incidental, consequential, special or exemplary damages, or for lost profits or business interruption losses, in connection with the Tracer Software, tracer, statement or the Service provided under this Agreement. Neither will Bank be liable, under any theory of recovery, including contract, negligence, strict liability, warranty or products liability, for damages in excess of the amount paid, if any, for use of the Tracer Software, tracer or statement or the Service provided under this Agreement. The provisions of this paragraph take complete precedence over Sections 18 of Section I of the Master Agreement.
- g. **Effect of Customer changes to Hardware and Operating Systems.** Comerica will not be liable to Customer for any system conflicts or other effects of any changes or upgrades to its hardware or operating system after installation of the Tracer Software.

h. Term and Termination of License and Service. The license granted to Customer for use of any of the electronic reporting systems described above or that may be offered in the future is effective from the date the Customer elects to employ the electronic reporting system and agrees to pay the fees for the selected reporting system(s) as set forth in the Schedule of Fees and will continue until Customer notifies the Bank that it no longer uses the selected reporting system or until this Agreement is otherwise terminated by Bank or Customer, whichever is earlier. Customer must immediately discontinue use of the reporting system(s) and, if applicable, destroy or return as requested by Bank all copies of the Tracer Software to Comerica upon the earlier of the termination of this Agreement or upon Customer's notice to Bank that it no longer uses the Tracer Software. If Bank requests Tracer Software destruction, Customer must promptly provide a written affidavit, signed by a senior officer of Customer, certifying the destruction of the Software.

7. Modification; Termination.

- a. This Agreement, as it pertains to Commercial Card Service may be terminated by Bank, without prior notice in the event that Bank deems itself insecure, believing that the prospect for repayment of Card Debt is impaired for any reason within its sole discretion, Bank may, without prior notice, change the schedule for settlement of Card Debt to provide for settlement on a more frequent basis or reduce the Transaction and/or Card Debt Limits. In the event that Comerica takes any of the above actions, it will so notify Customer on the day such action is taken.
- b. At any time and without prior notice, Bank may revoke or cancel any or all Cards and terminate this Agreement. Customer may terminate this Agreement at any time by returning the Cards to Bank.

8. Settlement.

- a. **Fees.** Customer agrees to pay the fees described in the implementation documents. Bank may increase the fees time to time upon 30 days' prior written notice to Customer.
- b. **Payment of Card Debt.** Customer agrees to pay outstanding Card Debt in full at the times set forth in the implementation documents through the settlement procedures described below unless Bank otherwise agreed in writing by Bank and Customer.
- c. **Debiting of Account.** Bank will debit the Account periodically, as set forth in the implementation documents, for Card Debt posted the previous period, and Account fees will be debited at the times set forth in the implementation documents. Customer authorizes Bank to originate an ACH debit in the full amount of fees and Card Debt then due, at the times set forth in the implementation documents.
- d. **Shortfalls.** In the event that, for any reason, the Account does not have sufficient available balances on any settlement date to pay all Card Debt and fees in full when due, or Bank is prohibited or otherwise unable to settle Card Debt by debiting the Account, Customer authorizes Bank to recover the Card Debt and fees through one of the means agreed upon between Bank and Customer and designated in the implementation document. In the event that Bank is, for any reason, unable to obtain payment for the entire amount due at any time, in the manner described in the paragraph, Customer shall pay the unpaid amount ("Shortfall") upon demand.

9. Program Manager(s). Customer will appoint one or more of its employees as program manager(s), and identify such employee(s) in the implementation documents. Only written or electronic requests submitted by a person identified as program manager to Bank for changes to the Services, including a request for a change in the Transaction Limit, or designation of persons newly authorized, or no longer authorized, to use a Card will be honored. Any changes in the program manager(s) must be made in a written amendment to the original implementation document containing such names and executed in a manner satisfactory to the Bank.

10. Exclusive Arrangement. Customer agrees that as long as this Agreement for Commercial Card Service is in effect, it will not enter any similar arrangements with any other financial institution for provision of the same or similar services.

11. Indemnification; Liability for Unauthorized Transactions. In addition to the provisions of paragraph 19 of Section I of this Master Agreement, Customer holds harmless and indemnifies Bank against any and all claims, losses and damages (including attorney fees and costs) incurred by Customer, Customer's officers or employees, or any third party arising in connection with the Services, specifically including any unauthorized use of the Cards and/or errors caused by Customer in completing the Enrollment Forms. Bank assumes no liability for Transactions not authorized by Customer or Customer's employees or for any merchant's refusal to accept a Card in connection with any purchase. Notwithstanding the above, MasterCard's Master Coverage Liability Protection Program ("Program") provides for Customer relief from liability for employee misuse of charge privileges under certain conditions. A summary of the Program is available upon request.

CONTROLLED DISBURSEMENT SERVICE

1. Opening and Maintaining Accounts. Customer will complete and execute deposit account documents requested to open:

- a. A demand account ("Disbursement Account") at Comerica Bank & Trust, National Association. (the "Disbursing Bank") and
- b. A demand account (the "Funding Account") at Bank.

2. Customer Authorization. Customer authorizes and directs Bank to act on its behalf and as its agent, as Bank in its sole discretion deems necessary or advisable, in performing any of the Controlled Disbursement and related Services. Without limiting the foregoing, Customer expressly authorizes Bank to obtain access, from time to time, to all records of the Disbursement Account. Customer hereby authorizes Bank to disclose to Disbursing Bank such information concerning Customer's affairs as Bank may deem appropriate.

3. Check Numbers. Customer will not at any time issue more than one check with any given check number. If check number duplication occurs, Customer will pay Disbursing Bank its reasonable fees for any resultant extra or special processing.

4. Presentment. Upon presentment of any check drawn on the Disbursement Account for certification, Bank may, at its sole discretion, offer to issue to the party presenting such check a cashier's check in an amount not to exceed the dollar value of said presented check.

5. Report of Incoming Debits. Disbursing Bank will, on each Business Day, inform Bank of the total aggregate amount (the "Total Clearings") of all checks and other debits, net of adjustments, and other charges ("Items") to be posted to the Disbursement Account. Provided that such information is made available to Bank, Bank will make this information available to Customer each day not later than the time established in the user guide. For purposes of Controlled Disbursement Services, "Business Day" will mean any day on which both Bank and Disbursing Bank are open to conduct substantially all of their regular banking businesses at their principal offices, excluding Saturdays, Sundays, and federal holidays.

6. Funding. Customer agrees not to close the Funding Account without the express written consent of Bank. Customer agrees to maintain sufficient good, collected and available balances in the Funding Account to fund each authorized debit effected by Bank for the purpose of transferring funds to Disbursing Bank for credit to the Disbursement Account. Bank is authorized to debit the Funding Account in an amount equal to an estimate of the following day's Total Clearings and to transfer funds in that amount to Disbursing Bank for credit to the Disbursement Account. If the balance in Customer's Funding Account is insufficient to cover the Total Clearings, Customer authorizes Bank to transfer funds from any Customer account at Bank to reimburse Bank for the Total Clearings. Overdrafts which may be allowed by Bank, in its sole and absolute discretion, shall be an obligation of the Customer, however, Bank is not obligated to allow such overdrafts and may discontinue allowing overdrafts without prior notice to Customer even if such action would cause items from the Disbursing Account to be returned unpaid.

7. Daily Dollar Limit. A daily dollar limit for the Total Clearings ("Dollar Limit") may be established by Bank, in its sole discretion, from time to time with respect to the Disbursement Account. The Disbursing Bank will have no obligation to pay items in excess of the Dollar Limit. Bank may, at any time, either orally or in writing, notify Customer of any change made by Bank in the Dollar Limit, and Customer agrees that any such notice shall, for all purposes, be deemed reasonable notice. Establishment of the Dollar Limit should not be interpreted or construed by Customer as a commitment or agreement by Bank to provide any credit or loans to Customer, nor an agreement or commitment to debit the Funding Account if doing so would create a negative collected balance.

8. Unavailable Funds. At its sole discretion, Bank may advance funds to cover all or part of the daily Total Clearings upon demand. Customer agrees to pay to Bank any amount so advanced plus interest and fees as stated in the Deposit Agreement, this Agreement, or as otherwise agreed in writing by Customer and Bank.

9. Special Circumstances. Customer acknowledges that Bank may at times be unable to provide a report of the total amount of Customer's Total Clearings early enough for Customer to make a complete and accurate funding of the Funding Account. Customer, nevertheless, agrees to fund the Funding Account based on an estimate by Bank of the Total Clearings and to be liable for any deficit.

10. Return of Unpaid Items. Bank reserves the right, in its sole discretion, to instruct Disbursing Bank to return unpaid any or all items presented for payment against the Disbursement Account in the event that:

- a. there are insufficient collected and available balances on deposit in the Funding Account by the established deadline to fund the actual or estimated Total Clearings,
- b. debits cannot be posted because the Disbursement Account or Funding Account is frozen, blocked, closed or because of any other condition, or
- c. any communications failure or other condition prevents Bank from monitoring Customer's Dollar Limit and/or the items presented for payment at Disbursing Bank.

11. Stop Payment Orders. Customer may issue stop payment orders on Items drawn on the Disbursement Account in accordance with the terms of Bank's and Disbursing Bank's procedures. Bank's obligations with respect to such an order shall be limited to conveying such order to the Disbursing Bank promptly, through such intermediaries including affiliates, as Bank deems appropriate. The Disbursing Bank shall be afforded a reasonable time which will not be less than one (1) full Business Day in which to act on any stop payment order. Bank or Disbursing Bank shall not be liable for payment of any item over a stop payment order during such time.

12. Disbursing Bank's Duties, Limitation of Liability and Customer Indemnification. Customer agrees that the Disbursing Bank will only be liable for the Service to the extent described in this Section and as set forth in the Disbursing Bank's account contract and agreements. Bank shall not be liable for any acts or omissions of Disbursing Bank. Customer agrees that Disbursing Bank's liability for this Service shall be limited to the same extent as that of Bank. Customer further agrees to indemnify and hold Disbursing Bank harmless for the Service and its performance of the duties described in this Agreement to the same extent as Bank.

13. Termination. Notwithstanding the provision set forth in Section 1 Paragraph 17 a and b., Bank and Disbursing Bank may terminate the Controlled Disbursement Service with or without cause by giving written notice to Customer. If termination is for cause, termination will be deemed effective when notice is given unless a later date is stated in the notice, but if termination is without cause, it will be effective on the first Business Day after notice is sent or delivered, whichever occurs first unless a later date is stated in the notice.

CUSTOMER INITIATED PAYMENT SERVICE (CIP) CONCENTRATION OR ORIGINATION

1. Processing Payments (Concentration). Bank will receive and process on behalf of Customer (who is acting as a "Biller") payments initiated by Customer's accounts receivable debtors (individually and collectively called "Debtor") through the Debtor's originating bank's payment processor ("Payment Processor"). Processing will be performed in a manner described in the user guide.

2. Processing Payments (Origination). Bank will act as the Customer's Payment Processor and will receive and distribute payment files which Customer provides to Bank. Processing of payment files will be performed in a manner described in the user guide for this Service.

3. File Processing. All files must be presented to Bank at a time, location and in a format acceptable to the Bank.

4. Customer Representations and Warranties. Customer represents and warrants to Bank that any payment files which it provides to the Bank represent payments authorized by Customer's clients.

5. On Us Payments. Any payments for credit to an account maintained with Bank ("On-Us-Payment") will be credited to the account by Bank in the amount and on the effective date contained in the payment file.

6. Rejected or Returned Payment Files or Payments.

- a. **Rejected Payment Files.** Bank reserves the right to reject any payment file with or without cause. Bank will notify Customer of such rejection as soon within one Business Day of its determination to reject the payment file. It will be the sole responsibility of Customer to remake and deliver the payment file or any portion thereof to Bank for processing.
- b. **Returned Payments.** In the event any payment is returned to Bank for any reason, Bank will credit the payment received to the Account from the Customer's account from which it was debited as designated on the implementation document. Bank will notify Customer in any manner that Bank determines reasonable of the returned payment.

7. Cancellation or Amendment of Payment Files. Customer will have no right to cancel or amend any payment file after its receipt by Bank or Bank's agent.

8. Bank Reservation of Rights. Bank reserves the right to:

- a. process Payment Files in any sequence, arrangement or method which it, in its sole discretion, deems reasonable,
- b. be deemed to have accepted a Payment File only when it distributes the Payment File to the appropriate payment processor or payment distribution center.
- c. suspend, reject or accept any File which does not meet all of the requirements described in this Agreement,
- d. suspend, reject or accept any File if Customer does not have the account balances required or has previously failed to reimburse Bank for any amounts owing to it,
- e. reject or accept any File if Customer is in default of any term or provision of this Agreement,
- f. reject or accept any File if Bank, in its sole and absolute discretion, determines that Customer or its third party processor does not meet Bank's risk requirements as such requirements may change from time to time.

9. Inconsistency of Name and Account Number. If a Payment File describes the account and name on account inconsistently, the account number alone may be used for applying payment, even if it identifies a person or entity different from the name on the account or invoice, and Customer is obligated for that payment.

10. Settlement Date.

- a. Payment Concentration. Bank shall credit the "Biller" when payment is received and validated.
- b. Payment Origination. Bank will not process and accept any Payment File unless good and collected funds for the total amount of the file are in the Account within the time period required as set forth in the implementation document.

11. Bank's Third Party Contractual Obligations. To provide the CIP Service, Bank has entered into one or more agreements with third parties who are Payment Processors, and is subject to the terms of such agreements when providing this Service. Customer agrees that Bank will not be obligated to accept payments on behalf of Customer from payment processors with whom Bank has not entered into such agreement.

ELECTRONIC DATA INTERCHANGE SERVICES (EDI)

1. Processing Data Transmissions. Customer may originate or receive data transmissions that consist of financial information provided such transmissions comply with Bank's processing requirements and Security Procedures for this Service. Failure to comply with the requirements and Security Procedures will relieve Bank of any obligation to process any transmission submitted or received as part of this Service.

2. Limitation of Liability. In addition to the Limitations of Liability set forth in Section I of this Agreement, Bank will not have a duty to interpret the content of any data transmitted to it for or on Customer's behalf except to the limited extent, if any, described in the implementation documents or user guide for this Service. The legal relationships between Customer and its trading partners will be governed by the terms of the EDI contracts between Customer and its trading partners and will not be binding on Bank. Bank will not have a duty to know or enforce the terms of any agreement between Customer and its trading partners.

3. Security Procedures. Customer agrees to adhere to the Security Procedure(s) described in the user guide and, if applicable, selected by Customer as set forth in the implementation documents for this Service. Transactions may require digital signature(s) and/or digital certificate(s). Bank may email or provide a key diskette that contains the public and private keys which must be used to authorize transactions and/or communications through this Service. Customer understands and agrees that Bank may reject any transaction or communication through this Service that is not made using the applicable Security Procedure.

IMAGE SERVICES

1. **Return Items.** Customer understands and agrees that by requesting this service, the Bank will not return checks with the statement of account unless Customer specifically elects to have the checks returned. If Customer elects to have the Bank return its checks, the Bank will mail them within 30 days following the closing date of the applicable statement cycle. Customer agrees that the information contained in the account statement provided by Bank and Customer's ability to request and receive microfilm copies and/or image copies of the checks by contacting the Bank after receiving the affected statement (subject to applicable fees), is sufficient for Customer to timely determine and report any alterations and/or forgeries of checks.
2. **Incompatible Items.** Bank may reject any and all checks for this service which Bank in its sole discretion, determines are incompatible for imaging and/or processing for this Service.
3. **Billing.** Customer agrees that Bank's count is final for billing and all other purposes of this Agreement.
4. **Mailings.** If Customer elects to receive a CD ROM, the Bank will generally mail the CD to the Customer within 14 days following the applicable statement cycle. Customer will within 14 days from the day Bank mails the CD ROM, examine it and notify Bank of any errors or unreadable images. If Customer elects to receive its account statement(s) on CD, Customer agrees that for each such statement provided, that the requirements for reviewing paper statements as set forth in the applicable Deposit Agreement will apply to statements provided on CD ROM.
5. **Dial In Option.** Customer understands and agrees that the Service generally will be available during business hours described in the user guide. The Bank does not guarantee that access will be available at all times during those hours. Furthermore, the Dial In Service may not be available when the Bank performs maintenance on the equipment or if upgrade Software is necessary to use the Service and Customer does not install it.
6. **Liability.** Notwithstanding anything contained in this Master Agreement to the contrary, Bank's liability to Customer for this Service shall be limited, at Bank's option, to refund the fee paid for unreadable images, to reproduce the applicable CD or to reproduce only the images of the unreadable checks. Customer agrees that the Bank will have no liability to Customer if it fails to report any errors or unreadable images within 14 days of Bank mailing the CD to Customer.
7. **Termination.** Notwithstanding any provision to the contrary contained in Section I of this Agreement, in the event Customer or Bank terminates this Service, Customer may continue to use the Software, however, Bank shall have no obligation and will not provide support, maintenance, upgrades, or enhancements of any kind to Customer.

LOCKBOX SERVICES

1. **Lockbox Service Requirements.** Bank provides Lockbox Services to assist Customers in expediting receipt of remittances. Customer will have its customers forward payments to a special post office box designated by Bank in the implementation documents ("Lockbox").
2. **Customer's Agent.** Customer authorizes Bank to act as its agent to rent the Lockbox at the appropriate postal facility, to have custody of the keys or combinations and unrestricted and exclusive access to such box, and to collect the mail to be processed by Bank.
3. **Processing of Items Received in Lockbox.** Bank will process the items received in the Lockbox in accordance with the procedures described in the Lockbox implementation documents and user guides.
4. **Limitations of Liability.**
 - a. Customer agrees to and will indemnify and hold Bank harmless from and against any and all expenses, costs, claims, causes of action, and liabilities resulting from claims by third parties which directly or indirectly arise from the handling of, processing, and credit given for remittance items processed and/or deposited under this Agreement.
 - b. Customer understands and agrees that for the purpose of accepting and processing the items that are received in the Lockbox, Bank is acting as the agent for Customer. Bank will not be liable for acting pursuant to a court order, garnishment, tax levy or similar process in regard to any item processed in accordance with this Agreement.
 - c. Substantial compliance by Bank with the procedures in this Agreement shall be deemed to constitute the exercise of ordinary and reasonable care.

- d. Except as otherwise agreed in writing, Comerica will not be liable to Customer or to any third party for any currency, coin or non-cash items received for processing under this Agreement.

5. Termination. Upon the effective date of termination of this Service, any instruments, items or other property remaining in the Lockbox shall be processed in accordance with this Agreement except as prohibited under any applicable law or regulation. In the event Bank is unable to process the items in the Lockbox according to this Agreement because of termination of this Agreement or this Service, Bank will return all items or other property to Customer at Customer's expense or, at Bank's option, close the Lockbox and the items will be returned according to Post Office Policy and Procedure, and in either event, Bank's obligation under this Agreement will terminate.

PAYABLE THROUGH DRAFTS SERVICE

1. Customer's Deposit Account. Bank will act as agent for customer to facilitate clearing drafts ("Draft(s)") through the banking system drawn against Customer. Customer agrees to maintain a deposit account at Bank with sufficient collected and available funds to cover Drafts drawn under this Service. All Drafts shall be provisionally charged to Customer's deposit account on the Business Day Bank receives proper presentment, except Drafts which are dishonored by Customer as provided below.

2. Encashment of Drafts. Customer authorizes Bank to pay any Draft purportedly signed by Customer that is presented by the payee for cashing at a Bank branch and to charge the same to the account of Customer. Bank will not call Customer for approval to pay a draft presented for cashing at a Bank branch and Bank will not be liable to Customer for cashing such Drafts provided that Bank believes in good faith that the Draft does not contain a forged signature of the maker or payee or unauthorized modifications/alterations, and provided further, that the Bank obtained identification from the payee of the type that it may request from those persons who are not customers of the Bank. Bank will make the cashed Drafts available to Customer. For all other Drafts presented to Bank for payment, the form and manner of presentment to and approval by Customer will be aged upon by Bank and Customer and set forth in the implementation documents. Customer agrees that a photocopy or image of a Draft that the Bank is unable to produce is acceptable and equivalent to the original of such Draft for all purposes.

3. Effect of Regulation CC. Customer acknowledges that Drafts payable through Bank are considered to be drawn against Customer for purposes of the expeditious return and notice-of-nonpayment requirements of sub part C of Regulation CC of the Federal Reserve Board. If Bank agrees to return a Draft after Bank's deadline, Customer agrees to indemnify and hold Bank harmless for Bank's failure to return the Draft in an expeditious manner as prescribed in Regulation CC.

4. Examination of Drafts. Bank will examine Drafts only to see that the approved form of Draft is utilized and will take ordinary care to see that the amount of each Draft as drawn is accurately posted to Customer's deposit account. Bank will not make any attempt to verify signatures, endorsements or restrictive clauses on Drafts. Bank will not examine the dates on which Drafts have been drawn for undated, stale or postdated Drafts. Bank shall have no obligation to determine validity of the Drafts as presented. Customer shall have the sole obligation and responsibility to determine the validity and acceptability of the Drafts presented.

5. Rejection of Payment. Except for Drafts presented for encashment at a Bank branch as described in Paragraph 2 above, Customer has the opportunity to provide Bank with notice to not pay one or more of the Drafts Bank has received by presentment. If the Customer does not want a Draft "finally" paid, it must timely notify Bank that payment is declined. Customer's notice to decline payment must be received by Bank within the time period specified in the user guide for the Service. If Bank does not receive timely notice from Customer indicating that Bank is to NOT pay a specified Draft in the manner and by the time set forth in the user guide or implementation documents, Customer agrees that the Draft will be treated as "finally paid" and Customer will have no recourse of any kind against Bank as a result of the final payment.

PAYROLL PROCESSING SERVICES

- 1. Providing the Service.** Payroll Processing Services may be provided directly by Bank or through Bank's third party vendor ("Bank's Vendor").
- 2. Requirements.** Payroll Processing Services will be provided as described in the implementation documents or user guide.
- 3. Selection of Payment Method.** Customer shall select whether payroll is to be made by Official Bank Check or by ACH direct deposit of pay. If ACH is the selected method, Customer agrees to the terms contained in Section II of this Master Agreement covering ACH Service.
- 4. Software.** Customer agrees to enter into any appropriate and necessary software licensing agreements with Bank or Bank's Vendor to receive the Service.
- 5. Deposit Account.** Customer shall establish and maintain with Bank a deposit account from which the payroll will be paid. Customer shall maintain in that account sufficient collected and available funds to cover its net payroll obligations. Customer authorizes Bank to transfer funds from the designated deposit account to cover the obligations for this Service and directs, if applicable, Bank's Vendor to request such transfer on behalf of Customer.
- 6. Funding of Deposit Account.** Customer agrees to pay Bank on or before each of Customer's payroll processing dates an amount sufficient to reimburse Bank for any and all obligations Bank will incur in connection with Customer's payroll processing including, but not limited to, obligations arising from issuance of Bank's Official Bank Checks or transferring of funds.
- 7. Limitation of Liability.** Bank and Bank's Vendor's sole obligation to Customer or any third party for any claims arising out of errors or omissions caused by Bank and/or Bank's Vendor in providing the Services will be to attempt, in good faith, to furnish correct pay, reports, or other data, and to correct its/their computer data files. In the event Customer fails to notify Bank or Bank's Vendor of any error or omission prior to Customer's next regular payroll processing and/or fails to timely provide Bank or Bank's Vendor with the necessary information to perform its/their obligations under this Section, Bank and Bank's Vendor will be relieved of their obligations as set forth in this Section.
- 8. Customer Records.** Customer shall not be relieved of any duty which may be imposed by state or federal law on Customer to maintain records regarding its employees and their employment or for the purpose of recreating payrolls or reports.
- 9. Relationship of Parties.** Nothing contained in this Agreement shall be construed to imply that a joint venture or partnership is created by this Agreement between Customer, Bank, and/or any other party including any provider or Bank's Vendor.
- 10. Destruction of Data or Records.** Customer agrees that Bank and/or Bank's Vendor may destroy or dispose of any data or related material regarding Customer and this Service, unless Customer furnishes Bank with written instruction for disposition of such material not earlier than sixty (60) days prior to and no later than ten (10) days after the date of completion of a payroll run or termination of this Agreement. Customer agrees to pay for all expenses related to the storage or delivery of such materials.
- 11. Delivery of Information.** All data, reports or other materials required to be transported to or from Customer's premises in connection with the Service shall be Customer's responsibility unless otherwise agreed to in writing by Bank.
- 12. Customer Programs.** All data processing programs, specifications, applications, routines, subroutines or techniques (collectively called "Programs") and any formulas relating to data processing or other handling or treatment of data (collectively called "Ideas") submitted by Customer to Bank or Bank's Vendor, for the purpose of Bank providing this Service, shall not be accepted or held by Bank in confidence. Bank will be free to utilize such Programs and Ideas in any way it deems appropriate and without liability to Customer or Customer's agents, employees, successors or assigns.
- 13. Proprietary Information.** In addition to the proprietary information described in Section I of this Agreement, all specifications, control panels, tapes, and programs utilized or developed by Bank in connection with this Service, except those furnished by Customer or Bank's Vendor, are and remain the sole properties of Bank, unless Bank otherwise specifically agrees in writing.

14. Limitations of Liability.

- a. **In General.** In providing this Service to Customer, Bank agrees to exercise ordinary care and good faith. Bank will be responsible only for performing the Services expressly contracted for as described in the implementation documents and user guides. Customer agrees that Bank and Bank's Vendor will be liable only for their gross negligence and wilful misconduct in processing data received from Customer and performing the Service. Under no circumstance will Bank or Bank's Vendor be liable or responsible for any act or omission of Customer or any other person or entity including, but not limited to, any third party hired or employed by Customer, the Federal Reserve Bank, any transmission or communications facility used. Further, Bank will have no liability or responsibility regarding any software or license of software Customer may need in order to use this Service unless otherwise expressly stated in this Agreement.
- b. **Payroll Tax Filing Service.** If Customer elects Payroll Tax Filing Service, notwithstanding anything to the contrary contained in Section I of this Treasury Management Services Master Agreement, the sole and exclusive remedy at law or in equity for Bank's liability of any kind arising out of or in any way related to the Tax Filing Services provided under this Agreement will be limited to money damages in an amount not to exceed the total amount paid by Customer to Bank for the Tax Filing Service during the three (3) months preceding the event giving rise to the liability. Bank and Bank's Vendor will not be liable for any special, incidental, or consequential damages. Customer acknowledges that the Tax Filing Services would not be available to it or would be available at substantially increased rates without the liability and remedy limitations set forth in this Agreement.

RETURNED ITEM SERVICE

1. **Providing the Service.** Bank will provide to Customer an image of each returned item that had been previously deposit to your selected Account(s). In addition, Bank will provide, at Customer's election, fax notification or telephone notification of returned items, electronic transmissions containing specific information about the returned items, duplicate advices with images of returned items by mail or fax, and/or Bank will redeposit one time every item that meets the re-deposit criteria.

2. **Available Options.** Customer shall select one of the following options and in addition may elect additional features that Bank may offer from time to time. Customer agrees to provide Bank with all information the Bank determines as necessary to enable it to provide this Service and the selected options to the Customer. The customers selected options shall be noted in the implementation documents for the Service.

Each Business Day the Bank will image all returned items that were previously deposited to Customer's designated Account and perform one or more of the following options as selected by Customer and included in the implementation documents for this Service:

- a. **Redeposit returned items based on predetermined criteria** - Bank will cause each return that meets the Customer's selected predetermined criteria to be represented to the drawee bank one time. Returned items that will not be represented are those that do not meet the Federal Reserve criteria for representment, e.g., items returned with a designation such as account closed or deceased payee. If the represented item is paid, credit to the Account will be posted in accordance with the terms of the Deposit Agreement governing the designated Account. If a returned item is returned a second time, the bank will charge such item to the account to which it was originally deposited unless Customer selects an Account; or
- b. **Fax notification of returned items (first return and/or second return)** - Each Business Day on which Bank receives a returned item for the designated Account, Bank will fax a copy of the front and back of each returned item to Customer at the fax number designated by Customer. Bank's only duty is to fax the notification to the number provided by Customer. If Bank fails to receive a confirmation indicating delivery of the fax, Bank may, but shall not be under any obligation to, attempt to fax the notification an additional time; or
- c. **Telephone notification of returned items** - Each Business Day on which Bank receives a returned item for the designated Account, Bank will telephone Customer at the number designated by Customer and provide information about each returned item. Bank's only duty is to make the telephone call and provide the return item information, and, if the call is answered by a recording, to leave a message to call the Bank and the telephone number to call. If there is no answer, Bank has no further duty.

3. Redeposited Items. Customer agrees that if it elects to redeposit an item, which includes the representment of that item to the drawee bank, such action could affect the Customer's ability to collect the item from the maker due to the passage of time or otherwise. Customer understands and accepts this risk and hereby releases Bank from any liability, loss or damages whatsoever, resulting from any default procedures or proceeding caused by the redepositing/representing of such returned items.

4. Termination. Notwithstanding the provision set forth in Section 1 Paragraph 17a and b., Bank may terminate the Returned Item Service or any option(s) described for this Service with or without cause at any time upon giving written notice to the other party, and termination shall be deemed effective one (1) Business Day after it is sent unless a later date is stated in the notice.

SAVINGS BOND SERVICE

1. Issuance of Bonds. Bank will issue and mail bonds to Customer's employee(s) in accordance with the requirements and procedures in the implementation documents and user guide.

2. Limitation of Liability. In addition to the Limitations of Liability set forth in Section 1 of this Agreement, Customer agrees that Bank will have no liability for errors in issuing savings bonds to the extent such errors result directly or indirectly from Customer's or its employee's actions or omissions. However, if Customer provides notice to Bank of any material errors or mistakes regarding bonds issued pursuant to this Service and such notice is received by Bank within 60 days of the bond's receipt by the owner, and such error(s) can be corrected, Bank may attempt to correct such errors in accordance with U.S. Department of the Treasury procedures.

ADDITIONAL SERVICES

Bank may make other Treasury Management Services available. Such Services will be subject to separate agreement(s), amendment(s) to this Agreement, and/or additional terms contained in the applicable Service Agreement.



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