

# **Treasury Management Services Master Agreement**

**Effective November 25, 2024**

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## Comerica Treasury Management Services Master Agreement

This Comerica Treasury Management Services Master Agreement ("**Master Agreement**") together with the Implementation Agreement, Service Terms and any Documentation (each as defined below) for all Services enrolled in and/or used, each as amended from time to time (collectively, hereinafter, the "**Agreement**") governs the treasury management relationship by and among Comerica Bank, a Texas banking association ("**Bank**") and the legal entity identified on and executing the Implementation Agreement ("**Customer**"). By executing the Implementation Agreement, Customer and each Affiliate (defined below) of Customer executing the Implementation Agreement (if any) agree that Customer shall be fully liable for any and all obligations of any Affiliate, and any Affiliate shall have all the rights and obligations of, and shall all purposes be a party under this Agreement as a "Customer" and subject to the terms herein. Bank and Customer may each be referred to as a "**Party**," and collectively referred to as the "**Parties**." By executing the Implementation Agreement or by using Service(s) governed by this Agreement, Customer agrees to be bound by the terms of this Agreement, including any Service Terms. The Agreement supersedes any prior agreement between Bank and Customer with respect to any such Services. In the event of a conflict among the Agreement terms, the order of precedence shall be as follows: (i) Implementation Agreement, (ii) Documentation, (iii) Service Terms, and (iv) the terms in Part I of this Agreement. Unless otherwise defined herein, capitalized terms shall have the meanings provided in the Section headed "Definitions" in Part I below.

Customer also agrees that the Accounts to which the Services apply are governed by the Business and Personal Deposit Account Contract, or such other contract entered into by and between Customer and Bank, as may be amended from time to time ("**Deposit Contract**"), and the Deposit Contract applies to Customer's use of the Accounts in connection with the Services and is incorporated herein by reference. Except as otherwise provided herein, where any terms and conditions contained in the Deposit Contract conflict with the terms of this Agreement, the terms of this Agreement shall control.

### **PART I: GENERAL TERMS AND CONDITIONS**

The following general terms and conditions apply to all Services provided by Bank to Customer under this Agreement:

#### **SECTION 1. DEFINITIONS**

**Access Method:** Any method(s) offered by Bank to access a Service, including Bank's online treasury management portal (e.g., Comerica Business Connect), any Mobile Apps and other websites, portals, or Direct Connection that Bank makes available to its customers. An Access Method is a Service.

**ACH:** Automated Clearing House.

**Account:** Any deposit account opened and maintained by Customer at Bank, including any Designated Account, and any deposit accounts of Customer's Affiliates that are enrolled in the Services hereunder.

**Administrator:** one or more persons appointed by Customer with authority to administer access to and use of the Services on Customer's behalf, including designating Users and establishing their entitlements with respect to the Services.

**Affiliate:** Any entity, that directly or indirectly controls, is controlled by or is under common control with the Customer, with the authority to access Accounts of such entity and use the Services under the terms of this Agreement.

**API:** An application programming interface.

**Authorized Representative:** those individuals authorized to act on behalf of Customer with respect to the Services, Accounts and this Agreement as designated in Bank's records, including any person identified as Customer's agent and any other person acting with actual or apparent authority to transact business on Customer's behalf.

**Available Funds:** The total amount of funds in an Account immediately available for withdrawal or payment in connection with the use of any of the Services, determined in accordance with the Bank's availability schedule in effect from time to time.

**Business Day:** Any day other than a Saturday or Sunday or other day on which Bank is authorized or required to be closed.

**Charge(s):** Any costs, Fees, expenses, payments for any transaction or instruction (including any Payment Order) initiated by Customer using the Services, or other amounts paid by Customer to a third party and/or collected by Bank from Customer on behalf of a third party.

**Codes:** Any security codes, security devices, keys, passwords, usernames, personal identification numbers, tokens and template numbers, including, but not limited to User, login or company IDs or passwords or Pretty Good Privacy (PGP) encryption and other mechanisms that Customer uses to access Services.

**Confidential Information:** Information that either Party may consider to be confidential and/or a trade secret, including, but not limited to, preexisting copyrightable works of original authorship (including but not limited to computer programs, technical specifications, manuals, and business plans), ideas, inventions (whether patentable or not), processes, compilations of information, patented property, trademarks, service marks and other intellectual property, technical know-how, software code, manners of conducting business and operations, systems, results of testing, financial information, customer lists and other information about customers, product information, concepts, and compilations of data and other information given from one Party to the other. The confidentiality provisions of this Agreement do not apply to information that is entirely in the public domain; was known to the Party prior to access to the information through no breach of any obligation of confidentiality; was received lawfully from a third party through no breach of any obligation of confidentiality owed to the other Party; is created by that Party's employees independently of the other Party's Confidential Information; or is required to be disclosed to a Party's regulatory agencies or auditors or pursuant to court order or applicable Laws.

**Cutoff Time:** The time on any Business Day when Bank will no longer accept instructions or process transactions for that Business Day.

**Designated Account:** The deposit account(s) at Bank that Customer designates, and Bank accepts, for use in conjunction with a Service and/or for the payment of Fees and Charges (including any Payment Order or other transactions initiated with respect to the Services).

**Direct Connection:** A secure electronic connection established between Customer (including its Third-Party Providers) and Bank (including its Vendors) for the delivery and receipt of instructions (including Payment Orders) and information, including but not limited to SFTP and API. A Direct Connection is an Access Method.

**Documentation:** All materials that explain or facilitate the use of a Service or application, including, without limitation, set-up forms, User Guide(s), operational manuals, Security Procedures, instruction and training materials, and information provided by Bank relating to the Services.

**Fees:** Any costs, fees, expenses or other amounts paid to or charged by Bank for use of a Service.

**Fee Schedule:** The document(s) provided to Customer that sets forth Fees for a Service.

**Fines:** Any and all fines, penalties, costs, expenses, fees and/or other liabilities assessed, levied or charged against Bank, its Affiliates, or Vendors by a third party.

**HIPAA:** The Health Insurance Portability and Accountability Act of 1996, as amended from time to time, as well as the regulations and other authority promulgated thereunder.

**Implementation Agreement:** The Treasury Management Services Implementation Agreement used to designate and accept (or waive) the Service Terms for the Services that the Customer and any Affiliate agrees and elects to receive from Bank under the terms of this Agreement.

**Laws:** All applicable federal and state laws, codes, directives, regulations, orders and ordinances, Rules as enacted and/or amended, including, but not limited to, regulations administered by OFAC.

**Losses:** Any and all claims, actions, demands, Fines, Fees, losses, liabilities, damages, costs and expenses, including, without limitation, costs and/or expenses of investigation, litigation or other dispute resolution proceedings, settlement of claims, judgment and interest and reasonable attorneys' fees, paralegals' fees and court costs.

**Nacha:** The National Automated Clearing House Association, the organization that establishes standards, rules, and procedures for ACH transactions.

**Nacha Rules:** Nacha Operating Rules & Guidelines, as amended.

**OFAC:** Office of Foreign Assets Control of the U.S. Treasury Department.

**Payment Order** has the meaning as set forth in Article 4A of the UCC, and shall include, but not be limited to, instructions given for the use of any Service for the origination, processing and payment of electronic funds transfers, including any wire transfers, ACH entries, and any internal funds transfers between Accounts.

**Proprietary Property:** This Agreement, Software, Services, User Guides, related documentation and proprietary file formats, including, without limitation, all Software, Services, documentation and proprietary file formats provided or licensed by Bank or Bank Vendors.

**RTP®:** Real-Time Payment Network managed by The Clearing House Payment Company LLC.

**Rules:** Any rule, regulation, order, directive or decision of any governing payment network or trade association, as enacted and/or amended from time to time, including, as applicable, Nacha, RTP, Electronic Check Clearing House Organization, card associations, clearinghouses, networks and/or other associations involved in transactions made using the Services under this Agreement.

**Security Procedure:** The Codes, callback procedures, or other security devices and procedures used by Customer to access and use Accounts and Services securely and verify the authenticity of instructions and other communications from Customer.

**Service (or Services):** One or more treasury management services (including an Access Method), provided under and in accordance with the terms of this Agreement.

**Service Terms:** Terms and conditions contained in this Agreement, Implementation Agreement, and the Documentation applicable to a specific Service.

**SFTP:** Secure File Transfer Protocol.

**Software:** Software, system or other platform provided by Bank in conjunction with a Service, including all related user documentation.

**SWIFT:** Society for Worldwide Interbank Financial Telecommunication.

**Third-Party Information:** Information about or from a person or entity other than Customer or Bank.

**Third-Party Provider:** A third party hired, retained or employed by Customer to use or access a Service that Customer receives from Bank, whether to process transactions on Customer's behalf or otherwise.

**UCC** means the Uniform Commercial Code as enacted in the State of Texas, as amended.

**User:** A person designated by an Administrator or Authorized Representative to be given access to use the Services.

**User Guide:** The document(s) (including electronic documents) provided by Bank to Customer that contains detailed information and instructions regarding the use and functionality of a Service.

**Vendor:** Bank's or its Affiliate's third-party agent, subcontractor, service provider or licensor that provides software, hardware, equipment, products, data, documentation and/or services related to, or in support of, the Software and/or Services.

## SECTION 2. STRUCTURE AND AMENDMENTS.

1. **Implementation Agreement.** Bank shall provide Services to Customer as designated in the Implementation Agreement or other Documentation which Customer may execute, submit or enter into with Bank from time to time; provided, that Bank subsequently implements and activates such Service for use by Customer. Bank will be responsible only for performing the Service(s) that Bank establishes and activates and provides access for Customer following implementation by Bank. Customer's use of any Service constitutes its agreement to and acceptance of the Agreement, the Service Terms and Documentation for that Service whether or not Customer has executed the Implementation Agreement.

2. **User Guides.** For each Service, Customer will be given a User Guide(s) that provides instructions pertaining to the Service. Bank will make User Guides available electronically. Customer agrees to read the User Guide(s) prior to using the applicable Service. By entering into this Agreement or using the Services, Customer acknowledges receipt of, and agrees to the terms of, the User Guide(s) for those Services.

### 3. Amendments and Changes.

(a) **Amendments and Changes by Bank.** Bank may amend any portion of this Agreement from time to time. Amendments will be made in any manner deemed acceptable by Bank, including, without limitation, by general posting on the Bank's website or any Access Method; provided, that Bank will provide Customer with prior notice as required by Laws. Customer acknowledges that if Bank amends the Agreement by posting on the Bank's website, Bank shall be under no obligation to communicate directly to Customer that any such amendments have been made; it being understood that Customer's access to the website shall be viewed as sufficient notice thereof. Use of a Service following the effective date of an amendment is Customer's acceptance of this Agreement as amended. Bank may notify Customer of any changes to the Security Procedures or software and hardware requirements for the Access Methods that Bank, in its sole discretion, deems necessary, which changes will take effect immediately upon Bank notifying Customer. Notwithstanding the foregoing Bank may change the Fees and Charges charged under this Agreement, including those set forth in a Fee Schedule for a Service, upon giving Customer thirty (30) days prior written notice.

(b) **Amendments and Changes by Customer.** If Customer's Authorized Representative requests a change to a Service (a "Change Request"), Customer agrees that Bank may, in its discretion, implement such Change Request without requiring a new Implementation Agreement or amendment; provided that no Change Request will be operative or effective until Bank has had an opportunity to review and respond to the Change Request and confirms to Customer that the Change Request has been approved (including any necessary credit approvals). Nothing contained, expressed, or implied in the Agreement obligates Bank to honor a Change Request initiated by Customer. Customer may not otherwise amend the terms of this Agreement without a written agreement entered into with Bank.

## SECTION 3. SERVICES GENERALLY.

1. **Submission of Data, Information and Documents.** In order to provide Customer with a Service, Bank may require data, information and/or documentation from Customer that is relevant to the Service. Customer will provide Bank with timely, correct and complete data, information and/or documentation as requested by Bank and/or as set forth in this Agreement, User Guide(s), or Documentation for a Service. Until Bank receives the data, information and/or documentation Bank requires, in a form and with content satisfactory to Bank, Bank is not obligated to provide the Service, and/or there may be delays in providing the Service and/or changes to the Service. Information requested by Bank may be required for Bank to comply with applicable provisions of Laws, including without limitation the USA PATRIOT Act and its implementing regulations. Information and documentation requested by Bank may include, without limitation, information Customer's financial condition, business operations and the nature and capability of equipment owned and maintained by Customer for the purposes of accessing the Services. Customer is solely responsible for the format, timeliness, accuracy, completeness and/or appropriateness of all data, information and documentation provided to Bank by or on behalf of Customer including when using any Service. Bank shall have no obligation to reformat any

data or information. In addition, Bank shall have no liability or responsibility for the timeliness, accuracy, completeness or appropriateness of any data, information and/or documentation received from Customer, Customer's systems, Customer Third-Party Providers, or other financial institutions. Bank's obligations with respect to each Service provided hereunder is expressly conditioned on Bank's receiving all data and information it requires, in substance form and quality and within the time frame required by Bank. In the event that required data or information is not provided, then (a) Bank will not be bound by any performance or delivery schedules set forth herein, (b) Bank may charge additional Fees as appropriate, (c) Bank may return improper or incomplete information or data, and (d) any Services, reports, or information that are delivered by Bank will be considered to be complete.

**2. Exploration, Development, Implementation and Maintenance Costs.** Customer and Bank will each be responsible for their own costs incurred: (a) in exploring the use of any Service; (b) in the development of any infrastructure to use any Service; (c) to buy, lease, install, upgrade, update and/or enhance any hardware, software, and equipment (e.g., telephone lines, servers, modems, internet access) necessary to use any Service; (d) for the payment of any compensation to any person or entity in regard to the development or implementation of any Service; or (e) in contemplation of entering into the Implementation Agreement and/or use of the Services.

**3. Designated Accounts.** To use Services, Customer must maintain an Account at Bank. Customer shall provide to Bank the Designated Account(s) to be used in conjunction with each Service. Any changes, additions or deletions to the Designated Account requested by Customer must be sent to Bank in writing. Customer represents and warrants that its Administrator is duly authorized by Customer to select the Designated Accounts and to grant User authorities with respect to such Designated Accounts to use the Services.

**4. Administrator**

(a) **Designation of Administrator.** Customer shall designate an individual to serve as Customer's Global Administrator for all Services, and the Global Administrator may designate one or more other individuals as Administrator(s) for the Services. The Administrator(s) will be Customer's primary contact(s) with Bank and Bank's primary contact(s) with Customer for the applicable Services, and shall also be considered a User. Customer understands that an Administrator has broad authority, including the authority to grant administrative privileges identical to that of the Administrator to any User. If these privileges are granted by the Administrator to a User, that User will also be considered an Administrator. Customer assumes sole responsibility for the actions of any Administrator, the authority an Administrator gives other Users to act on Customer's behalf, and the actions of the Users designated by the Administrator to access and use the Services.

(b) **Administrator Authority.** Customer hereby represents and warrants to Bank that each Administrator shall have the authority to, and hereby authorizes the Administrator(s) to, undertake the following: (i) designate the Accounts to be used in connection with the applicable Service; (ii) designate each User who should be given access to the applicable Services, including through any Access Method; (iii) grant rights to Users, including the right to access the Accounts and conduct transactions including Payment Orders using the Services, regardless of whether the Administrator or User is otherwise listed as a signer on an Account; (iv) assign Security Procedures and set transaction and other limits for Users with respect to the Services; (v) change or remove Users, including their respective access rights to the Accounts and Services; and (vi) receive and respond on Customer's behalf to notices and other communications from Bank regarding the Service(s), including, but not limited to notices related to changes in Fees or Charges, amendments to the Agreement, suspension or termination of Services, and problem resolution on wire transfers, ACH entries and any other transactions related to the Services.

(c) **Change in Administrator.** Bank is entitled to rely upon the authority and instructions of each Administrator until Customer notifies Bank in writing to change or remove an Administrator and submits any related Documentation required by Bank. Such notice will not be effective until Bank has actually received it and had a reasonable opportunity to implement the change, and Customer agrees to hold Bank harmless from

and against any Losses incurred (i) before the notice is effective, or (ii) in the event Customer fails to timely notify Bank of a change in Administrator.

(d) **Dual Administration.** To help reduce the risk of unauthorized use of the Services and activity on the Accounts, Bank recommends that Customer designate at least two (2) Administrators when available for any Service, so that when one Administrator initiates administrative changes such as creating a User or modifying the entitlements of a User with respect to that Service, a second Administrator must review and approve those administrative changes before they take effect ("Dual Administration"). Where Dual Administration is available as an option for any Service but Customer chooses not to use Dual Administration, Customer will be deemed to have waived Dual Administration and Customer accepts the risk and liability associated with Bank making administrative changes and taking instructions purportedly from a single Administrator or received through the use of the Security Procedures assigned to the single Administrator.

**5. Cutoff Times.** Transfers, withdrawals, credits, debits, Payment Orders, instructions and communications received by Bank after the applicable Cutoff Time or on a non-Business Day will be treated as received on the next Business Day. Bank may change its Cutoff Time for any Service at any time, provided that Bank will attempt to give prior notice of such change, when possible; provided, further, that Bank shall have no liability for any failure or delay in providing such notice.

**6. Use of Vendors and Third-Party Providers.**

(a) **Bank Use of Vendors.** Customer acknowledges and agrees that Bank may arrange for some or all of the Services to be performed or provided by a Vendor. Bank may change or use an alternate Vendor in its sole discretion. Bank's use of a Vendor shall not relieve the Bank of its obligations under the Agreement, and, the Bank and any Vendor shall only be responsible for the acts or failures to act by such Vendor to the same itself. Customer agrees not to bring a claim or any form of legal action against any Vendor and agrees to hold any such Vendor harmless in connection with the Agreement and acknowledges that any such claims will be brought only against Bank.

(b) **Customer Use of Third-Party Providers.** Customer shall not, without Bank's prior written consent, allow any Third-Party Provider that Customer hires, retains or employs to use or access any Service that Customer receives from Bank, whether to process transactions (including originating Payment Orders) on Customer's behalf or otherwise. If Bank allows Customer to use a Third-Party Provider, Customer will advise the Third-Party Provider of all the requirements for the applicable Service and this Agreement, including the confidentiality provisions, and ensure that Customer's agreement with the Third-Party Provider contains confidentiality provisions at least as restrictive as those that Customer has agreed to with Bank under this Agreement. Also, if Bank requires, Customer will obtain a written confidentiality agreement from the Third-Party Provider. Customer authorizes and consents to Bank's disclosure of information related to Customer and its Accounts and Services (including Confidential Information) to the Third-Party Provider.

Customer's use of a Third-Party Provider does not relieve Customer of any of its obligations under this Agreement. Any Third-Party Provider used by Customer in connection with the Services shall be deemed to be Customer's agent, and Customer is liable and responsible for the acts and omissions of each Third-Party Provider as if performed by Customer directly, including the use of any Services by such Third-Party Provider. In addition to any other indemnification obligations of Customer under this Agreement, Customer agrees to indemnify, defend and hold Bank harmless from any Losses related to: (i) any Third-Party Provider's failure to comply with applicable Laws, Security Procedures or other requirements relating to the Services; (ii) all fees, costs and expenses owed to each Third-Party Provider for its services, and any Fees, Fines or Charges imposed as a result of Third-Party Provider's acts or omissions; (iii) Third-Party Provider's failure to perform, or delay or error in performing, its services; (iv) any Payment Orders or other instructions received from a Third-Party Provider using Security Procedures assigned to Customer, which shall be deemed to be sent by Customer; and (v) any breach by a Third-Party Provider of any provision of the Agreement, in each case regardless of whether the Customer advised Bank of the existence of the Third-Party Provider or obtained Bank's prior written consent to the Third-Party Provider's use or access of a Service Customer receives from Bank. Customer agrees to immediately notify Bank in writing

if Customer has terminated its relationship with a Third-Party Provider or otherwise revoked the Third-Party Provider's authority to access and use the Services on Customer's behalf.

7. **Use of Couriers.** Bank does not provide courier service for Customer's use or pay Customer's courier's charges in connection with providing Services covered by this Agreement. Delivery by U.S. Mail for purposes of this Section does not constitute delivery by a courier. If Customer utilizes a courier to deliver instructions, data or other information or check deposits, to Bank, Customer agrees at all times and in all respects, and regardless of who pays for the services of the courier, that: (a) the courier is Customer's agent and a Third-Party Provider, and not Bank's Vendor; (b) Bank is not responsible or liable for the acts or omissions of the courier; and (c) Customer assumes all risk of loss in regard to the items to be delivered until Bank is in actual receipt of the items and has given the courier a receipt for such items.

8. **Recording.** Customer agrees (including on behalf of any Authorized Representative, Administrator or User) that Bank may record or monitor any conversation or other electronic communication, whether held over the phone, computer or Access Method, regarding any Service or Account. If state law requires Customer's employee or agent to give consent to the conversation, Customer will advise the employee or agent to do so. However, Bank has no duty to record or monitor conversations and the election to record and/or monitor is within Bank's sole discretion. Bank's understanding of telephonic communications and records thereof shall be conclusive evidence of the actual notice, Payment Orders or other instructions given. Bank's records as to the Agreement, the Services, and any transactions or other communications related hereto will control in the event of any conflict with Customer's records.

9. **Customer Records.** No agreement between Customer and Bank shall relieve either Party from any obligation it may have under Laws, contract with a third party or otherwise to make or keep records and/or employ its own adequate audit, accounting and review practices.

10. **Compliance with Laws.** Customer shall at all times comply with all Laws applicable to Customer, Customer's business, each Service that Customer uses or receives under this Agreement and Customer's performance of its obligations and exercise of its rights under this Agreement. Without limiting the generality of the foregoing, Customer is responsible for knowing, and for determining Customer's obligations under all such Laws.

11. **Inconsistency of Name and Account Number.** For any Service, transaction, or instruction (including any Payment Order) that requires the use of an account name and account number, if the account name and account number do not match, Bank and any other financial institution involved in the Service or transaction may, in their sole discretion, reject the transaction or rely solely upon the account number or other identifying number provided by Customer and process the transaction.

12. **Use of Services by Affiliates.** Customer may, from time to time, request that its Affiliates be permitted to use Services subscribed to by Customer. For purposes of this Section, the Customer indicated on the Implementation Agreement shall be referred to as the "**Primary Customer.**"

(a) **Documentation and Authority.** By signing an Implementation Agreement or by accessing and/or using a Service, each Affiliate authorizes the Primary Customer (including through its Authorized Representatives, Administrators and Users) to act as agent for such Affiliate in connection with any and all matters related to the Services and Accounts under this Agreement, including, without limitation, administering the Services, issuing Payment Orders and other instructions, implementing and waiving the use of Security Procedures, and agreeing to modification and amendments to the Agreement. Primary Customer and all Affiliates specifically acknowledge that the Administrator is empowered to select Designated Accounts used with a Service and to delegate authorities in connection with such Designated Accounts to Users. Each Affiliate agrees that all notices received by Primary Customer, including an Administrator, will be effective against the Affiliate and any and all actions by Primary Customer shall be binding on its Affiliates. Primary Customer agrees to notify its Affiliates of any notices received, agreements made and actions taken on behalf of any Affiliate. Bank may conclusively rely on Primary Customer's authority to act for itself and to

bind the Affiliates with respect to any actions required to be taken by Customer in connection with this Agreement and any applicable Service Terms.

(b) **Indemnification.** In addition to any other indemnification obligations set forth in this Agreement or any applicable Service Terms, Primary Customer agrees to indemnify, defend and hold Bank harmless from and against any and all Losses that Bank may suffer or incur arising out of or related to providing Services to Affiliates or any other matters related to the Agreement, except for Losses attributable to Bank's gross negligence or willful misconduct. In addition, Primary Customer agrees that it is liable to Bank for each Affiliate's performance under, and compliance with, the terms of the Agreement (including, without limitation, the payment of Fees and any overdrafts of any kind or other amounts owed to Bank for the initiation of any ACH, wire or other electronic funds transfer) and all applicable Service Terms, and with regard to such performance and compliance by any Affiliate, Bank may enforce the Agreement and applicable Service Terms directly against Primary Customer without first being required to seek enforcement against any Affiliate.

(c) **Warranties.** Primary Customer represents and warrants to Bank that each Affiliate that it permits to use a Service is a wholly owned direct or indirect subsidiary of Primary Customer, or is otherwise controlled by Primary Customer, and that Primary Customer has all necessary power and authority to act for and on behalf of each Affiliate in connection with this Agreement, the Services and Designated Accounts. Each Affiliate represents and warrants to Bank that it is a wholly owned direct or indirect subsidiary of Primary Customer, is otherwise controlled by Primary Customer or Primary Customer has authorization to administer Affiliate's Accounts through the use of the Services as contemplated in this Agreement, and that all necessary action was taken by the Affiliate's governing body to provide Primary Customer all necessary power and authority to act on behalf of Affiliate in connection with the Services and Designated Accounts of such Affiliate as contemplated by this Agreement and all applicable Service Terms. Each Affiliate represents and warrants to Bank that (i) the execution and delivery of the Implementation Agreement, which accepts the terms of the Agreement, and all applicable Service Terms has been authorized by all necessary corporate and governmental action and does not violate any provision of Laws applicable to such Affiliate, or any provision of such Affiliate's organizational documentation or any other agreement binding upon such Affiliate, and (ii) the person(s) executing and delivering the Implementation Agreement for and on behalf of such Affiliate is/are duly authorized to do so. Each Affiliate and Primary Customer agree that Bank's reliance and actions taken based on the foregoing representations and warranties do not constitute negligence or willful misconduct. Further, each Affiliate hereby agrees that Bank will not be liable and such Affiliate shall not sue or otherwise make claims against Bank for or on account of any claim for damages arising out of or relating to Bank allowing the arrangements contemplated by the Implementation Agreement, the Agreement or any Service Terms, including any fraudulent activity or instructions resulting from or relating thereto.

(d) **Security Procedures.** Primary Customer and any Affiliate acknowledge and agree that the Security Procedures provided by Bank to the Primary Customer shall be used to access the Services. As such, each Affiliate acknowledges and agrees that: (i) Bank may rely on and act on any and all communications and instructions it receives through an Access Method using the Security Procedures assigned to the Primary Customer and Bank's reliance shall not constitute negligence or willful misconduct or bad faith, (ii) each Affiliate shall be bound by such use of the Services and any instructions (including funds transfers) and liable for any transactions debiting the Account of the Affiliate, and (iii) Bank shall have no liability or responsibility for notifying any Affiliate with which Primary Customer shares its Security Procedures. Each Affiliate and Primary Customer understands and agrees that use of the Services and any transactions affecting each Affiliate's Accounts may be reflected on the records of Bank as initiated by the Primary Customer.

(e) **Guarantee; Set-off.** Primary Customer unconditionally and irrevocably guarantees to Bank the full and prompt payment and performance by each Affiliate of all obligations they or any of them may incur under this Agreement, including obligations for Fees and charges, indemnification obligations, in any case that any payment to Bank by an Affiliate is set aside, rescinded, or otherwise required to be returned in any bankruptcy or similar proceeding. Primary Customer agrees to pay any

and all such amounts upon demand by Bank. In addition to any set-off rights of Bank in this Agreement and the Deposit Contract; Primary Customer and each Affiliate agrees that any and all amounts on deposit in any Accounts (including all Designated Accounts) of Primary Customer or Affiliate with Bank (or any of Bank's Affiliates) may be set-off and applied against any liability in any currency that any other Affiliate or Primary Customer owes Bank under the Agreement.

#### **SECTION 4. SERVICE FEES AND CHARGES.**

1. **Fees and Charges.** Customer agrees to pay all Fees and Charges applicable to its use of the Services and as otherwise described in this Agreement, including the Documentation and any Fee Schedule, and to pay Bank the amount of any transaction executed based upon Customer's instructions (including any Payment Order) using the Services under the terms of this Agreement. Unless otherwise agreed between Bank and Customer, all amounts Customer owes under this Agreement and Fee Schedules will be charged against a Designated Account. If a Designated Account is closed or if no specific account has been designated by Customer, all amounts Customer owes under the Agreement may be charged against any Account maintained by Customer with Bank.

2. **Earnings Credit.** If separately agreed between Bank and Customer, some Fees may be reduced by an earnings credit amount, which is determined through the analysis process and is based on the positive collected balances in the Designated Account(s). The total Fees and Charges for a Service(s) during the month are reduced by the earnings credit amount. Fees that are not reduced by an earnings credit amount will be charged against the Designated Account or paid as set forth above.

3. **Taxes.** The Fees and Charges set forth in the Fee Schedule, or elsewhere in this Agreement, do not include sales, use, excise, value added, utility or other taxes that Customer may be responsible to pay.

#### **SECTION 5. TRANSACTION PAYMENT, LIMITS, MONITORING; FRAUD PROTECTION SERVICES.**

##### **1. Account Balances for Funding Payment Transactions and/or Fees and Charges.**

(a) **Sufficiency of Funds in Designated Account.** Customer is responsible to ensure that the Designated Account used in conjunction with a Service has sufficient Available Funds to cover Customer's requested instructions (including Payment Orders) and transactions in connection with any Service and to pay the Fees and Charges applicable to the Service. Customer acknowledges and agrees that Bank is under no obligation to pay any amount on Customer's behalf or process any transaction that would cause a Designated Account to go into an overdraft position or increase an existing overdraft position or line of credit. In addition, Bank does not make any commitment to extend intra-day or other forms of credit to Customer, or otherwise lend or advance funds to Customer.

(b) **Insufficient Funds in Designated Account.** If the Designated Account does not have such sufficient Available Funds, Customer is and remains fully liable and responsible to Bank for the payment of the applicable amounts and Bank may, and Customer hereby expressly authorizes Bank to: (i) dishonor any one (1) or more transactions that would create an overdraft position in the Designated Account; (ii) debit any of Customer's other Accounts to cover the amounts owed, (iii) allow an overdraft position in the Designated Account. If Bank allows and overdraft in the Designated Account or any other Account, Customer agrees to reimburse the Bank immediately for: (A) the full amount of any such overdraft; (B) interest on the overdraft amount at such rate as Bank may elect to charge on the day the overdraft was created and for each following day until the overdraft is repaid; and (C) all Losses Bank incurs in collecting the overdraft from Customer. Customer acknowledges and understands that allowing an overdraft position in any Account does not obligate Bank to do so for other or future transactions, even if Bank has done any one (1) or more of the foregoing on Customer's behalf in the past.

(c) **Review and Verification of Transactions.** It is Customer's obligation to review Designated Account balance and transaction information and reports and/or to telephone Bank's Treasury Management Relationship Services Department at the telephone number provided in

the User Guide for the Service to verify the status of Customer's transaction request.

2. **Transaction Limits.** Bank reserves the right to implement transaction limitations and Customer agrees not to exceed any such limitations established by Bank from time to time, including limitations on Accounts, Users, Services or the types of Payment Orders or other instructions Customer may send to Bank for processing or execution. Any transaction limitations established by Customer or Bank are solely for the protection of Bank and not part of the Security Procedures. Bank will notify Customer of any material limitation or decrease in previously communicated limits, to the extent not restricted by applicable Laws.

3. **Transaction Monitoring.** Bank may, in its sole discretion, implement internal monitoring systems to evaluate Customer transactions and the risk of possible fraudulent activity or errors such as duplicate instructions. Such transaction monitoring is part of Bank's internal processing and is not a component of the Security Procedures, and Customer agrees that the Security Procedures will be considered commercially reasonable regardless of whether they incorporate information from transaction monitoring. Customer agrees that Bank may process Payment Orders and other instructions verified by the Security Procedures and Bank will be considered to have acted in good faith and in compliance with the Security Procedures, regardless of the results of transaction monitoring, including the detection of possible fraudulent activity or errors; provided that Bank does not have actual knowledge that the transaction is unauthorized or erroneous and a reasonable opportunity to act on that knowledge. However, Bank reserves the right to delay or reject Payment Orders and other instructions verified by the Security Procedures in the event Bank identifies a risk of possible fraudulent activity or error and Bank shall not be responsible for its delay or refusal to act upon any Payment Order or other instructions based upon the results of transaction monitoring.

4. **Fraud Protection Services.** Bank offers a variety of Services and other features designed to assist Customer in reducing or stopping the incidence of fraud and unauthorized activity in Customer's accounts. Customer acknowledges that it has reviewed the suite of fraud protection Services offered by Bank. To the extent Customer chooses not to implement and actively use one of these Services or features pursuant to the applicable Service Terms with respect to each of Customer's Accounts for which such Services are available, and the proper use of that Service or feature could reasonably have prevented Losses due to the incidence of fraud or unauthorized activity, Customer shall hold Bank harmless for the amount of such Losses that could reasonably have been prevented and Customer shall be precluded from asserting any claims against Bank for such incidence or fraud or unauthorized activity. In the event that Customer has elected a fraud protection Service, but fails to implement, test, train on the use of such Service, and actively use the Service within a reasonable time, Customer shall be deemed to have declined the use of such Service and elected to cancel it, and Bank will provide confirmation of cancellation.

#### **SECTION 6. SECURITY PROCEDURES.**

1. **Commercially Reasonable Security Procedures.** Customer will use the Access Methods, other Services, and Software in accordance with the terms of the Agreement, including any Security Procedures offered by Bank in connection with the Services and as may be set forth in the applicable Documentation. Customer has reviewed the Security Procedures offered and recommended by Bank and agrees that such Security Procedures are commercially reasonable and suitable for Customer with respect to authentication of Customer's Payment Orders and other instructions and transactions based upon Customer's intended use of the Services as communicated to Bank, including the size, type, and frequency of Customer's Payment Orders. The Security Procedures are designed to verify the authenticity of, not to detect errors in, Customer's Payment Orders and other instructions and transactions, and Bank has no obligation to detect errors in Customer's Payment Orders and other instructions or transactions. Any Payment Orders or other instructions or transactions communicated to Bank in Customer's name in compliance with the Security Procedures, and all access to and use of any Access Method and other Services using the Security Procedures assigned to Customer, are considered authorized by Customer and enforceable under the terms of the Agreement if accepted by Bank in good faith. Unless stated otherwise in the Documentation, Bank will have no

obligations under the Security Procedures and Customer agrees that failure by Bank to use or comply with any Security Procedure shall not excuse Customer from its obligation to pay Bank the amount of any Payment Order made or authorized by the Customer or for which Customer is otherwise liable. Bank may implement different or additional Security Procedures for use by Customer from time to time upon notice to Customer, and Customer's continued use of the Services and implementation of those additional Security Procedures shall be Customer's agreement to such Security Procedures.

2. **Rejection or Waiver of Security Procedures.** If Customer chooses to communicate any Payment Order to Bank in a manner that varies from the Security Procedures, then Customer agrees to be bound by and pay for such Payment Order accepted by Bank in good faith, whether or not authorized, and Customer will be deemed to have refused the Security Procedures that Bank offers and recommends as commercially reasonable. However, Bank has no obligation to accept any Payment Order that is not communicated in compliance with the Security Procedures, and Bank shall not be responsible for refusal to act upon any Payment Order received which does not comply with the Security Procedures. Customer agrees that each time Customer initiates a communication, transaction and/or transmission using the Security Procedure offered to or selected by Customer, Customer acknowledges and agrees that the Security Procedure is adequate for the type of communication, transaction and/or transmission Customer intends to conduct, is commercially reasonable, and that Customer is not aware of any compromise to the Security Procedure.

3. **Reliance on Communication from Authorized Representatives.** Bank is entitled to rely and act upon any notice, Payment Order or other instruction or transaction received by Bank purportedly from an Authorized Representative. Customer may add or delete any Authorized Representative by providing written notice to Bank in the form required by Bank and any supporting information or documentation that Bank reasonably requests. Bank may continue to rely on the authority of, and act upon instructions or other transactions received from, any Authorized Representative until Bank receives proper notice and documentation of a change in authority and has had a reasonable opportunity to act on it. Bank will not be responsible for Losses or unauthorized Payment Orders or other instructions or transactions if Customer fails to timely and properly notify Bank of changes in the Authorized Representatives and/or their contact information. Customer is bound by any Payment Order or other instruction or transaction, and by use of the Access Methods by any Authorized Representative. Except as otherwise expressly provided in the Agreement, Bank shall not be obligated to act upon any notice, Payment Order or other instruction or transaction received from Customer or any other person.

4. **Authority.** The Security Procedures are in addition to, and do not limit or affect the authority of any person (whether by course of dealing or otherwise) to transmit instructions in Customer's name. Bank may rely upon such authority and is authorized to act upon instructions received from persons acting pursuant to such authority. Customer is bound by any authorized Payment Order or other instruction or transaction, and by use of an Access Method or Service, by authorized personnel. Bank is entitled to deem any person having knowledge of any Security Procedures assigned to Customer and required to initiate Payment Orders using the Service to be a User, including any Administrator.

5. **Safeguarding the Security Procedures; Bank Deactivation of Users.** Customer agrees that the Security Procedures are deemed Confidential Information and subject to the confidentiality terms hereof. Customer acknowledges that Customer's failure to safeguard the Security Procedures may enable an unauthorized person to use the Services and access Customer's Accounts, information and data. Customer agrees to implement appropriate security measures to safeguard the Security Procedures and shall notify Bank immediately in the event of any known or suspected unauthorized access to the Security Procedures as set forth below. In addition to Customer's obligations to safeguard the Security Procedures and establish procedures to ensure their confidentiality, Customer agrees to change the Codes periodically and whenever: (a) anyone who has had access to the Codes is no longer employed or authorized by Customer to use the Services; or (b) there is known or suspected unauthorized access to the Security Procedures or Services. Customer acknowledges and agrees that Bank may deactivate the Security Procedures assigned to a User that Bank designates as inactive

(typically no log-in by the User for twelve (12) months or more) or that is otherwise designated by Bank as engaging in suspicious transactions. The foregoing rights of Bank are not part of the Security Procedures and are reserved solely for the protection of Bank and for its administration of Security Procedures issued generally.

6. **Access Through Third-Party Provider.** In certain instances, Bank may allow Customer to access the Access Methods, and other Services accessible to Customer through the Access Methods, following authentication by a Third-Party Provider, without using the Security Procedures applicable to such Access Methods (referred to as "Single Sign-On" or "SSO"). Bank may impose additional requirements before allowing the use of SSO, including requiring Customer and/or the Third-Party Provider to enter into a separate agreement or provide additional information or documentation as requested by Bank in its sole discretion. Customer's use of any SSO will be subject to the Third-Party Provider's terms of use. In the event Customer accesses the Access Methods using SSO, Customer agrees that it has waived use of the Security Procedures to access the Access Methods, and that Bank is entitled to rely upon, and treat as authorized and binding on Customer, each instruction sent to Bank through the Access Methods following SSO. Customer agrees to indemnify and hold Bank harmless from and against any Losses arising from or related to Customer's use of SSO, including with respect to any actions taken by Bank in reliance upon instructions received (including any Payment Order) following SSO or any transactions initiated based upon such instructions.

7. **Notice Regarding Internet Risk.** Customer understands that Bank does not guarantee or make any representations regarding the safety or security of the internet. If Customer is unable to access any Service from its current location(s) or using its current internet service provider(s), it is Customer's sole responsibility and obligation to maintain backup locations and service providers to access the Services, and Bank shall have no liability for Customer's inability to access the Services due to such failures. The Security Procedures that are required for the use of an internet-based Service are intended by the Parties as the sole means by which Bank shall determine that the communications, transactions and/or transmissions received by Bank through the use of the internet-based Service are authorized by Customer. The Security Procedures for internet-based Services are described in detail in the applicable User Guides. If Customer, its employees or agents provide, whether intentionally or otherwise, all of the authenticating information required by the Security Procedure (e.g., User IDs, passwords, other Codes), Bank shall be entitled to rely on the authenticating information received, and Customer shall be liable for each communication, transaction and/or transmission processed by Bank that conforms to the authentication requirements in the Security Procedure, until Bank has been notified by Customer not to accept and process further transactions because of a breach or potential breach of the Security Procedures.

## **SECTION 7. SOFTWARE AND TECHNICAL SPECIFICATIONS.**

### **1. Software.**

(a) If Bank provides Customer with Software that comes with a separate license agreement, the terms of the Software license agreement shall apply with respect to the Software.

(b) If Bank provides Customer with Software that does not come with a separate license agreement, the following provisions apply to the Software. Customer agrees to use the Software only in connection with the Services for legitimate business purposes and only in accordance with Laws. Bank reserves the right to suspend Customer's access to and use of any Software with or without notice in the event of a violation of the terms applicable to such Software or where such action is necessary to prevent interference or disruption of services to other Customers, to protect the integrity of Bank services, as required by Laws, or for any other reason that Bank deems reasonably prudent. Customer shall not (i) sell, assign, transfer, license, or publish the Software or make copies of the Software; (ii) disclose, display or otherwise make available the Software or copies of the Software to third parties without Bank's written approval; or (iii) reuse, reverse engineer, decompile, disassemble, modify, translate, create derivative works, reproduce, duplicate, or distribute the Software or content of the Services, or make any attempt to discover any source code of any Software from which the Services are comprised. If Customer provides Bank with any feedback about the Software, including ideas or suggestions for improvements to the Software, then Bank may use the



feedback without obligation to Customer, and Customer hereby irrevocably assigns to Bank all right, title, and interest in such feedback.

(c) Bank will indemnify Customer from any and all Losses incurred arising out of or related to any third-party claims made against Customer or Customer's Affiliates alleging that Customer's authorized use of the Software infringes on a third-party's copyright, patent or trade secret enforceable in the U.S.; provided that Customer has not breached any of the provisions of this Agreement and has not caused or contributed to the claimed infringement.

## **2. Technical Specifications.**

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

(b) Customer understands that in order to use some Services, upgrades to required browsers, operating systems, equipment, hardware and/or software may be required or recommended by Bank. Customer shall maintain its systems and equipment in good working order, at all times. Failure to upgrade and/or use Bank-recommended browsers, operating systems, equipment, hardware and/or software may prevent the use and/or effective use of the Service. Bank will not be liable to Customer for any Losses related to the use or quality of the Service if Customer fails to comply with this Section.

(c) Hardware, software and equipment used by Customer must be compatible with Bank's equipment, Software, including any mobile application, and operating systems for use and/or effective use of the Services. 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 commencement of any Service to a Customer.

**SECTION 8. AUDIT.** Upon Bank's request, Customer agrees to: (a) provide Bank with the records Customer maintains with respect to Customer's use of the Services as required by Laws and the Agreement (including, but not limited to immediately providing Bank with authorizations and other documentation as required under the Nacha Rules or other Rules); (b) provide Bank with internal and external audit reports relating to Customer's use of the Services and Customer's information technology infrastructure and operational processes and procedures; (c) provide Bank with such financial information and statements and other documentation Bank reasonably determines to be necessary or appropriate to enable Bank to evaluate its exposure or risk; and (d) permit Bank (including its regulators and auditors) reasonable access to the locations where Customer (or its Third-Party Provider) uses any of the Services during normal business hours to audit Customer's (including Customer's Third-Party Providers') compliance with the terms of the Agreement and Laws. Customer will cooperate with any such audit and provide, at Customer's expense, any information or documents as may be reasonably requested by Bank in the course of such audit.

## **SECTION 9. CONFIDENTIALITY OF INFORMATION AND PROPRIETARY PROPERTY.**

1. **Customer's Information.** Bank agrees that Customer's Confidential Information that comes into Bank's possession in conjunction with a Service or in contemplation of providing a Service, will be maintained as confidential and will not be disclosed by Bank to a third party except when: (a) necessary to provide Customer with the Services or evaluate Customer's eligibility for any Service or other product or service offered by Bank, including, but not limited to, disclosure to Bank's Vendors and Bank's Affiliates; (b) as required or authorized by Laws and/or (c) disclosed with Customer's permission or pursuant to Customer's instructions to Bank, including, without limitation, pursuant to a request that conforms to the authentication requirements in the Security Procedures.

2. **Third-Party Information.** While providing Customer with a Service, if Bank gives Customer Third-Party Information or access to Third-Party Information in error, Customer agrees to notify Bank of Customer's receipt of the Third-Party Information or access to such Third-

Party Information. Customer agrees to keep the Third-Party Information confidential, not use it for any purpose or disclose it to anyone, and return it to Bank at Bank's expense or destroy it at Bank's request.

3. **Bank's Proprietary Property and Confidential Information.** Bank's Proprietary Property and Confidential Information has great commercial value to Bank and Bank's Vendors. Customer agrees to keep such Proprietary Property and Confidential Information confidential except to the extent that disclosure is required by Laws or if Bank agrees in writing to Customer's disclosure. If Customer is required by Laws to disclose Bank's Proprietary Property or Confidential Information, Customer must notify Bank as soon as possible before making the disclosure unless Customer is prohibited by Laws from doing so.

## **SECTION 10. WARRANTIES, REPRESENTATIONS AND ERRORS.**

### **1. Representations Regarding Contract Authority, Information Provided and Compliance with Laws.**

(a) **Mutual Representations.** Each Party represents and warrants to the other Party that:

(i) The execution, delivery and performance of this Agreement is within its powers, have been duly authorized by all necessary action and do not contravene an applicable bylaw, charter or contractual restriction;

(ii) 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 of the Agreement, and

(iii) the Agreement shall constitute a legal, valid and binding obligation and is enforceable in accordance with the terms contained herein.

(b) **Customer Representations.** Customer represents and warrants to Bank that:

(i) Customer is duly organized, validly existing, and in good standing in the jurisdiction in which Customer is organized and Customer's execution, delivery and performance of this Agreement and use of the Services have been authorized by all necessary entity and governmental regulations;

(ii) each Account Customer maintains with Bank and all use of the Services is maintained or used solely for a legitimate business or commercial purpose and not a personal, family or household purpose;

(iii) all data and Payment Orders initiated by Customer, whether by wire, ACH, RTP or otherwise, comply with all applicable 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 applicable Laws;

(iv) Customer has not been induced to enter any Service and/or Implementation Agreement based upon any representations or statements (oral or written), which are not expressly set forth in this Agreement;

(v) no data, information and/or documentation furnished by or on behalf of Customer in connection with a Service is inaccurate or incomplete in any material respect, nor does it contain any material misstatement of fact as of the date it is dated, or if not dated, the date it is given to Bank;

(vi) the individual signing the Implementation Agreement on Customer's behalf is duly authorized by Customer;

(vii) Customer is not (A) an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") which is subject to Part 4 of Subtitle B of Title 1 of such Act; (B) any "plan" as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended; or (C) any entity the assets of which are deemed to be assets of any such "employee benefit plan" or "plan" by reason of the Department of Labor's plan asset regulation, 29 C.F.R. Section 2510.3-101. In addition, Customer represents that the transactions contemplated by this Agreement are not and will not be subject to the prohibited transaction rules of ERISA; and

(viii) the use of the Services does not and will not subject Bank, or Bank's Vendors, to the privacy and security requirements of HIPAA as

a business associate or otherwise, unless Customer has notified Bank of such requirements and the parties have entered into a business associate agreement in a form reasonably acceptable to Bank. To the extent HIPAA may apply, Bank and Customer agree to take all necessary steps to comply with HIPAA. Where Customer is a Covered Entity (as defined by HIPAA) and/or Bank is a Covered Entity or Business Associate (as defined by HIPAA), Customer and Bank shall enter into a Business Associate Agreement prior to or concurrent with the date upon which Bank provides a product or service subject to HIPAA.

2. **Disclaimer of Warranties.** EXCEPT AS OTHERWISE SPECIFICALLY STATED IN THIS AGREEMENT, ALL ACCESS METHODS, SOFTWARE, SERVICES AND USER GUIDES ARE PROVIDED "AS IS" AND BANK MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS 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. BANK MAKES NO REPRESENTATIONS OR WARRANTIES, NOR SHALL BANK NOR BANK VENDORS HAVE ANY LIABILITY, WITH RESPECT TO THIRD-PARTY PRODUCTS.

3. **Reporting of Errors; Remedies for Errors.** Customer acknowledges that it is not possible for the Services to be free of operator, program or equipment error and that errors in processing and compiling account data may occasionally occur, requiring adjustments.

(a) Customer is responsible for monitoring its use of the Services and all transactions and activity in its Accounts. Customer must promptly and regularly review its Account statements, reports, confirmations, transaction activity, advices, and any other information made available through any of Bank's viewing and reporting services or Access Methods. Customer agrees to notify Bank immediately if Customer discovers any error, omission, or discrepancy between Customer's records and the information made available by Bank, any altered or unauthorized checks, or any failed, erroneous or unauthorized transactions involving any Account (collectively, "Errors").

(b) Customer understands that the nature of certain transactions and Laws relating to certain Services require that Customer provide Timely Notice (defined below) of an Error in order to preserve or exercise rights against third parties that may have been the beneficiary of such Error. If Customer fails to provide Timely Notice to Bank of any Error, then Customer shall be precluded from asserting such Error against Bank. "Timely Notice" is defined as notice provided to Bank: (i) on the same Business Day with respect to any Payment Order, (ii) the next Business Day for other electronic funds transfers, (iii) within thirty (30) days for any other instruction, transaction or Service (including Errors involving checks), or (iv) within ninety (90) days in the case of Fees, following the date on which such information is sent by Bank or otherwise made available to Customer. Customer agrees that Bank will not be liable for any Losses, including loss of interest, which result from Customer's failure to give Bank Timely Notice of an Error or which might have been prevented by Customer giving Bank Timely Notice of an Error. Notwithstanding the foregoing, Bank reserves the right in its sole discretion to adjust transaction records for good cause after the expiration of the Timely Notice time periods. The Timely Notice requirement does not apply with respect to any attempt by Customer or by Bank on Customer's behalf to seek recovery or other recourse for an Error against other banks, clearing organizations, or other persons, none of which are parties to or beneficiaries of this Agreement.

(c) Bank will not be responsible for determining the accuracy, timeliness or completeness of any information that Customer, its agents, Third-Party Providers or others provide to Bank. Bank has no duty to interpret the content of any data transmitted to Bank, except to the limited extent expressly set forth in the Agreement. Bank assumes no responsibility for Customer's reliance on any Designated Account or Service information reported on an intraday or prior day basis that is subsequently updated, verified or corrected. Bank's sole responsibility for any reporting errors caused by Bank will be to reprocess the information for the period in question and to provide corrected reports at Bank's own expense. Customer agrees to maintain adequate backup files for a reasonable period of time and provide to Bank upon request all information necessary to remake or reconstruct any deposit, transmission, file, ACH entry, or other order affecting an account.

(d) If the Service required Bank to provide Customer with a report and Customer notified Bank within thirty (30) days of receiving the report that it is not accurate, Bank may: (i) reimburse Customer the Fees Customer paid for the report; or (ii) when Bank, in its sole discretion, determines it feasible to do so, correct the report and submit it to Customer. For clarification, a periodic statement for a Designated Account is not a "report" for purposes of this Section.

(e) If Customer and the majority of customers using an internet-based Service are unable to access the Service during its regular operational hours for twenty-four (24) consecutive hours, Bank will give Customer credit, or reimburse Customer, for the Fees Customer paid in advance for the Service on a pro-rata basis if: (i) this inability was in no part due to any act, omission or failure caused by Customer, Customer's agent or other Third-Party Provider; and (ii) this inability was not due to scheduled maintenance by Bank.

(f) The remedies set forth above in this Section above constitute Customer's sole remedies, and Bank's sole obligations, in connection with Errors or problems with any Service.

## **SECTION 11. TERMINATION OF SERVICE; OTHER REMEDIES.**

1. **Termination by Customer with or without Cause.** Customer may, at its option and with or without cause, terminate a Service upon discontinuing use of the Service and providing Bank with thirty (30) days' prior notice of termination. Customer may give Bank notice in writing or by telephone followed by a written notice as set forth in the information provided to Customer for that purpose in the User Guide for the Service.

### **2. Termination by Bank.**

(a) **Termination without Cause.** Bank may, at its option and without cause, terminate or suspend this Agreement and/or any Service(s) upon giving no less than thirty (30) days' prior notice to Customer.

(b) **Termination for Cause by Bank.** Bank may, at its option, terminate or suspend this Agreement and/or any Service(s) for cause immediately upon written or oral notice for any of the following reasons:

(i) Customer is in default of any term of this Agreement, including, but not limited to, failure to maintain sufficient Available Funds to cover the transactions initiated through the use of a Service, including costs and expenses related to the Service, and Customer has no credit arrangement with Bank to cover the transactions;

(ii) Customer has failed to timely pay in full the Fees and Charges for any Service; or Customer is in default of the Deposit Contract, a loan or credit arrangement or other agreement with Bank and Customer has not cured the default within the applicable cure period, if any;

(iii) Bank determines that Customer or its Third-Party Provider does not meet Bank's qualification requirements for the applicable Service(s);

(iv) Customer ceases conducting business in the normal course, admits to insolvency, makes an assignment for the benefit of creditors, or becomes the subject of any judicial or administrative proceedings in bankruptcy, receivership or reorganization;

(v) Bank determines in its reasonable judgment that Customer has experienced a material adverse change in its financial condition or its ability to perform its obligations under this Agreement and/or other agreement between Bank or any of Bank's Affiliates and Customer;

(vi) Customer engages in an activity that Bank views in its reasonable judgment exposes Bank to a potential of negative impact on, or damage to, Bank's commercial reputation;

(vii) Customer is not the surviving successor in interest in a merger or acquisition or Customer acquires an entity that Bank determines is a competitor;

(viii) Bank, in its sole discretion determines that a Service must be suspended or terminated due to a compromise, unauthorized access or other security breach;

(ix) Customer is in violation of Laws;

(x) Bank has been ordered by a regulator or court of law to discontinue providing the particular Service to Customer;

(xi) Bank's contract with a Vendor that is necessary for the performance of a Service is terminated; and/or

(xii) Customer has twelve (12) months or more of continuous inactivity and/or lack of access to Services.

(c) **Termination Without Notice by Bank.** Bank may terminate or suspend the applicable Services without notice in the event that (i) Customer's Designated Account(s) associated with the Service is/are closed; and/or (ii) Customer does not maintain at least one (1) Account at Bank.

3. **Rights and Obligations Following Termination.** Upon the termination of any Service:

(a) the rights and responsibilities of the Parties shall continue through any applicable settlement period, including Customer's responsibility to pay for the Service with respect to transactions processed prior to the effective date of termination and any other obligation that is owed regardless of the termination;

(b) Customer shall remove any Software provided by Bank from the systems on which it was installed and return to Bank any Software, related documentation and any other Bank property provided by Bank, or, if applicable, physically destroy the Software and related documentation and all copies, and provide Bank with a written certification from one of Customer's senior officers certifying the destruction and/or removal of such Software and related documents, upon request; and

(c) all Fees and Charges for Services rendered are immediately due and payable. Termination by Customer within six (6) months of implementation of any Service may result in an early termination Fee assessed by Bank to Customer. Termination by Customer of any Service without thirty (30) days' notice to Bank may also result in a Fee assessed by Bank to Customer. Early termination Fees are set forth in the Fee Schedule.

4. **Other Remedies.** If any of the events set forth in this Section above shall have occurred, then, in addition to Bank's right to terminate this Agreement and/or any Service(s) as set forth in this Section above, Bank may take any or all of the following actions, by notice to the Customer, at the same or different times:

(a) Suspend the provision of any Service to Customer until the cause for suspension has been cured, as determined by Bank in its sole discretion.

(b) Modify the terms of any Service;

(c) Require pre-funding of any transactions;

(d) Reduce any ACH credit limit or other limit applicable to a Service; and

(e) Exercise all rights and remedies available to it under this Agreement and applicable Laws.

Bank's exercise of any one or more of such remedies and/or continuance of any Service under this Agreement after the occurrence of any of the events set forth in this Section above shall not constitute a waiver by Bank of its right to terminate this Agreement and/or any Service as set forth in this Section above.

## SECTION 12. LIABILITY.

1. **Limitations of Liability.** Customer acknowledges that Bank has established the Fees for each Service in contemplation of the limitations on liability described in this Agreement.

(a) Neither Bank nor Customer will be liable to the other for any consequential, special, punitive, incidental, exemplary, indirect loss or damage incurred or suffered in connection with any Service or Software provided under the terms of this Agreement, including, but not limited to, lost revenues, lost profits, loss of business or loss or damage, regardless of knowledge that such loss or damage might be incurred.

(b) Except as stated otherwise in this Agreement, or as Laws may otherwise require, Bank's liability (including that of any Vendors), if any, to

Customer relating to any Service or Software provided under the terms of this Agreement shall be limited, to the maximum extent permitted by Laws, exclusively to actual damages Customer suffered arising directly from Bank's gross negligence or willful misconduct; provided, that Bank's liability to Customer for failure to exercise ordinary care resulting in a delay in executing, improper execution of, or failure to execute a transaction constituting a Payment Order, shall be limited to an amount equal to interest losses attributable thereto. If Bank has liability to Customer, such liability to Customer shall not exceed: (i) the amount of the Fees for the Service in connection with which Bank's liability arose for the twelve (12) month period prior to the events giving rise to the liability; or (ii) in the event that Customer does not pay Fees for the Service in connection with which Bank's liability arose, then \$100.

(c) In no event shall Bank be liable for (i) the acts or omissions of a Third Party Provider or other agent used by Customer, or any Losses incurred by any person or entity in connection therewith, (ii) any Losses incurred by Customer in connection with any Access Method or Customer's use thereof, excepting damages attributable to Bank's gross negligence or willful misconduct, (iii) any interception of any information relating to the Customer or its transactions as a result of (A) Customer communicating information to the Bank, excepting damages attributable to Bank's gross negligence or willful misconduct or (B) use of the internet or other Access Method, (iv) any other matter, including without limitation, any act or omission by any other financial institution, electronic funds transfer system or processing network, or any other third party, or for the inaccuracy or omission in a notice or communication received by Bank from Customer or any other third party, or (v) any failure or delay in transmitting funds if the transmittal would result in Bank: (a) exceeding any limitation upon Bank's intra-day net funds position that is or may be established by Bank's regulators as a regulation or guideline; or (b) violating any provision of any present or future risk control program of the Federal Reserve or any Laws. Bank's liability hereunder for interest losses will be calculated by using the daily federal funds rate in effect at the Federal Reserve Bank of Dallas the period involved.

(d) Without limiting the generality of the foregoing provisions, neither Bank nor Customer shall be liable for breach of this Agreement (other than for nonpayment of obligations under this Agreement) or acting, failing to act or delay in acting if such breach, act, failure or delay was due to acts, omissions, events and/or circumstances outside of that Party's reasonable control, including, but not limited to, any legal constraint (excluding constraint resulting from criminal conviction), interruption of transmission or communication facilities not controlled by the Party failing to perform, equipment failure not caused by the gross negligence or willful misconduct of the Party failing to perform, strike, lockout or other labor disturbance, war, emergency conditions, earthquake, fire, flood, acts of God, government action, regulatory action or circumstances beyond such Party's reasonable control.

2. **Time for Bringing Claims.** Any claim, action, suit or proceeding for damages arising out of or in connection with any Service or this Agreement must be brought within the one (1) year from the time the act or omission giving rise to the claim was known or should have been known.

3. **Notification of Claims.** 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.

4. **Indemnification.** Customer shall indemnify, defend and hold Bank harmless from any and all Losses incurred by Bank, directly or indirectly, arising out of or related to: (a) Bank's providing of the Service(s) to Customer, in compliance with this Agreement; (b) Customer's failure to comply with applicable Laws; (c) Customer's breach of any provision of this Agreement, including, but not limited to, any of the representations or warranties made by Customer in this Agreement; (d) any third-party claim that a Customer instruction or other Customer communication contravenes or compromises the rights, title or interest of any third party and/or contravenes any Laws, court order or other mandate or prohibition with the force or effect of Laws, except to the extent 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 instruction or other communication; and/or (e) the tardiness, inaccuracy, incompleteness, content and/or inappropriateness of any data, information, documentation and/or instruction received from or on behalf of Customer, including but

not limited to any loss or corruption of data in transit from Customer or its Third-Party Provider to Bank.

Customer agrees to reimburse Bank for: (i) any Fines and any associated costs (including reasonable attorneys' fees and other legal expenses) imposed on or assessed against Bank by Nacha, any Federal Reserve Bank, any ACH Operator, any state or federal regulatory agency or other Bank or foreign governmental body, or any clearinghouse or other third party having oversight or rulemaking authority over networks relating to any of the Services, when the Fine or other expense is caused by or related to Customer or Customer's use of the Services, and (ii) reasonable attorneys' fees, court costs and other legal expenses incurred by Bank in the event Bank deems it necessary to file an action to enforce the terms of the Agreement or initiate or participate in any litigation or other proceeding relating to Customer's use of the Accounts or Services, including an action in interpleader, or any bankruptcy or insolvency proceeding or other litigation (or threatened litigation) involving Customer. Such amounts shall be immediately due and payable by Customer to Bank, notwithstanding whether Bank or Customer may have a claim against a third party.

5. **Cooperation in Loss Recovery Efforts.** In the event of any Losses for which either party may be liable to the other with respect to a Service, each party will undertake reasonable efforts to limit the amount of Losses to itself and to the other party, including but not limited to, undertaking reasonable efforts to cooperate with each other (as permitted by Laws) in performing Loss recovery efforts and aiding in the pursuit or defense of a claim against a third party.

6. **Survival.** The terms of this Section shall survive termination of this Agreement.

### **SECTION 13. NOTICES AND GENERAL COMMUNICATIONS.**

Except as specifically addressed elsewhere in this Agreement, notices and general communications shall be given as follows:

1. **Notices.** Notices to Bank must be in writing and Customer must send them to Bank in the manner and to the street address or electronic address set forth in the User Guide(s) for the Service or other address expressly set forth in this Agreement; provided, that a copy of any notices with respect to the administration of this Agreement (e.g., termination, breach, amendments or waiver of rights) shall also be sent as follows: Comerica Bank, Treasury Management Relationship Center, MC 7612, P.O. Box 75000, Detroit, Michigan 48275. All notices Bank is required to send to Customer may be sent electronically via email or posting to the Bank's website or any Access Method used for providing the Services, nationally recognized overnight courier, hand delivered, or by U.S. mail, mailed from anywhere in the United States, to the last address in Bank's records. Customer must provide and maintain a valid electronic address for receipt of notices required under this Agreement. Customer shall ensure that Bank has in its records the Customer's most recent street address, electronic (email) address and phone number and that Customer promptly notifies Bank in writing (which includes by updating its profile on Comerica Business Connect, when applicable) of any changes to this information. If Customer does not have access to Comerica Business Connect, Customer will request updates be made to Comerica's customer database by contacting their assigned Relationship Manager or Banking Center Manager.

2. **General Communications.** All general communications that are not amendments to, or notices of termination of, any Service under this Agreement may be given by telephone, mail, email and electronic banner messages to Users using any Access Method. Each Payment Order or other Instruction that is sent to Bank electronically in accordance with the Agreement including the applicable Service Terms shall be considered to be an original writing and to have been signed by an Authorized Representative.

3. **Effective Time.** Any written notice or other written communication to be given to Bank under the Agreement will be deemed to be given upon receipt by Bank; provided, that it will not be effective until Bank actually receives it and has had a reasonable opportunity to act upon it. Any written notice or other written communication to be given to Customer under the terms of the Agreement will be effective and deemed to be given when mailed, delivered or electronically transmitted in accordance with the Agreement.

4. **Accuracy of Instructions.** Customer is responsible for the timeliness, accuracy, completeness, content and/or appropriateness of every instruction (including any Payment Order) and any other communication transmitted or otherwise communicated to Bank by or on behalf of Customer.

5. **Reliance.** Bank is entitled to rely on notices, instructions (including Payment Orders) and communications received in writing, by electronic means (including from any Representative Agent, Administrator, an using the Security Procedures) or telephone from a person the recipient reasonably and in good faith believes is an Authorized Representative of the other party to give the type of notice, instruction or communication received. This right applies to oral notices, instructions and communications whether or not there is independent verification of the actual identity or authority of the person giving the oral notice, instruction or communication. Bank may request that an oral notice, instruction or communication be confirmed in writing, but failure to receive the confirmation will not invalidate the oral notice, instruction or communication. Bank's understanding and records of oral notices, instructions and communications from Customer shall be conclusive evidence of the actual notice, instruction or communication given, unless evidence to the contrary is presented.

6. **Notice of Electronic Funds Transfer.** The statements provided by Bank to Customer will notify Customer of funds transfer payments received by Bank for credit to one or more Accounts. Customer agrees that Bank will not be required to provide Customer any other notice of such receipt of payments. All credits to any Account for funds transfers are provisional until Bank receives final settlement for the funds according to the rules of the funds transfer system by which such funds have been transmitted. Customer acknowledges and agrees that if Bank does not receive such final settlement, Bank is entitled to a refund and may debit the Account in the amount of such funds transfer credited to an Account.

### **SECTION 14. GOVERNING LAW, JURISDICTION AND VENUE; REFERENCE PROCEEDING.**

1. **Governing Law; Jurisdiction and Venue; Waiver of Jury Trial.** This Agreement and each Service is governed and construed by the laws of the State of Texas, without regard to conflict of law principles. Any litigation arising out of this Agreement shall be brought in the state or federal courts located in Dallas, Texas. EXCEPT AS SET FORTH IN THIS SECTION BELOW, CUSTOMER AND BANK ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH OF CUSTOMER AND BANK, AFTER CONSULTING OR HAVING HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL OF THEIR CHOICE, EXPRESSLY, IRREVOCABLY KNOWINGLY AND VOLUNTARILY, AND FOR THEIR MUTUAL BENEFIT, WAIVE ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF CONTROVERSY, DISPUTE, CLAIM OR LITIGATION REGARDING THE PERFORMANCE OR ENFORCEMENT OF, OR IN ANY WAY ARISING OUT OF OR RELATED TO, THIS AGREEMENT, THE DESIGNATED ACCOUNT OR THE SERVICES.

2. **Reference Proceeding.** This Section applies only to Designated Accounts opened or deemed opened in the State of California. If the Designated Account is opened or deemed opened in the State of California, any controversy, dispute or claim regarding the Designated Account, the applicable Service and/or this Agreement shall be resolved by a reference proceeding in accordance with the provisions of Sections 638, et. seq. of the California Code of Civil Procedure, or their successor sections, which shall constitute the exclusive remedy for the resolution of any such controversy, dispute or claim, including whether the dispute is subject to the reference proceeding. The referee in the reference proceeding: (a) shall hear and determine all issues, including but not limited to discovery disputes; (b) is empowered to enter equitable and legal relief, rule on any motion otherwise permissible under the California Code of Civil Procedure; and (c) may issue a decision disposing of all claims which shall be entered by the court as a final, binding and conclusive judgment, subject to appeal. A judicial reference proceeding is a trial decided by a court-appointed referee and not by a jury. Customer understands that without this agreement to submit controversies, disputes and claims for resolution by a reference proceeding, Customer may have a right to a jury trial on such matters, but Customer nevertheless agrees voluntarily to waive that right. Customer agrees that it has brought this

provision to the attention of its legal counsel or has had the opportunity to do so.

## **SECTION 15. MISCELLANEOUS TERMS.**

1. **Entire Agreement.** This Agreement (including any Documentation, User Guides, and Fee Schedules incorporated herein) represents the entire agreement between the Parties with respect to its subject matter and supersedes all prior oral or written representations, agreements, or other communications, relating to the subject matter of this Agreement.

2. **Security Interest and Set-Off Right.** In addition to all rights provided by Laws, Customer agrees that any and all amounts on deposit in any Accounts (including all Designated Accounts) of Customer with Bank (or any of Bank's Affiliates) may be set-off and applied against any liability in any currency Customer owes Bank under the Agreement or any other agreement between Customer and Bank. Customer further grants Bank a first priority security interest in all Accounts (including all Designated Accounts) of Customer with Bank now or in the future to secure payment of any and all obligations under the Agreement or any other agreement between Customer and Bank; provided, that this security interest shall be subordinate to any security interest separately agreed to in writing by Bank. This security interest is supplemental to and not in lieu of the security interest granted by Customer to Bank under any other agreement, including the Deposit Contract.

3. **Severability.** To the extent possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under Laws, 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.

4. **Waiver.** A waiver by either 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.

5. **Assignment.** Customer may not assign or transfer Customer's rights or obligations under this Agreement without Bank's prior written consent. Bank will give Customer thirty (30) days prior notice if by contract Bank assigns Bank's rights and obligations under this Agreement to a third party who is not Bank's Affiliate. Such notice is not required if the assignment is a result of operation of law due to merger or acquisition if Bank is not the surviving entity/successor.

6. **Relationship: No Third-Party Beneficiaries.** The relationship of the parties under the Agreement is that of independent contractors on a non-exclusive basis. Nothing in the Agreement creates a partnership, joint venture, or similar relationship between the parties, and neither Bank nor Customer shall be deemed an agent of the other or have any right, power or authority, whether express or implied, to create any such duty or obligation on behalf of the other party. Bank is not in a fiduciary or similar relationship with, nor does it have fiduciary duties or obligations to, Customer under the terms of this Agreement. No other person or entity shall be deemed to be a third-party beneficiary of this Agreement.

7. **Headings: Survival.** The section headings in this Agreement are intended to be for reference purposes only, and shall in no way modify or restrict any of the terms or provisions of this Agreement. The terms of Sections 3.6, 3.12, 4, 8, 9, 12, and 15 of this Part I shall survive termination of this Agreement.

8. **Liability for Attorney Fees and Court Costs.** Except as otherwise expressly provided in this Agreement, neither party shall be liable to the other for any attorney fees or court costs related to a claim brought in regard to a Service, Software or under this Agreement.

9. **Electronic Signature.** Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of any documents submitted or entered into under the terms of this Agreement and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures. This Agreement and any other document necessary for the consummation of the transaction contemplated by this Agreement may be accepted, executed or agreed to through the use of an electronic

signature in accordance with the Electronic Signatures in Global and National Commerce Act ("ESIGN Act"), Title 15, United States Code, Sections 7001 et seq., and any applicable state law. Any document accepted, executed or agreed to in conformity with such laws will be binding on each party as if it were physically executed.

## **PART II: PROVISIONS APPLICABLE TO SPECIFIC SERVICES.**

By signing an Implementation Agreement with any of the following Services selected, other method as agreed in writing by Bank, or by using any of the following Services, Customer agrees to the terms and conditions for each such Service as set forth below.

### **SECTION 1. ACCESS METHODS**

Some Services require an Access Method to use the Service. Instructions for accessing the Access Method and the Service are more fully described in the User Guides for the Access Method and the Service. By using a Service that requires an Access Method, Customer agrees to the Service Terms for such Access Method, and such Service Terms for the Access Method are automatically incorporated into and made a part of the Service Terms for the selected Service.

1. **Use of Access Methods and Services.** Use of an Access Method shall be subject to the following terms and conditions:

(a) **Services Available Through Access Methods.** Using an Access Method, Customer will only be able to access the Services for which Customer has executed an Implementation Agreement as required by Bank or which Bank has otherwise made available by Bank to Customer from time to time. By using an Access Method to use a Service, Customer agrees to the Service Terms for the applicable Service, whether or not Customer has elected the Service on an Implementation Agreement.

(b) **Authorization to Store, Process, Transmit and Make Available.** Bank is authorized to store, process, transmit and make available through Bank's systems, third-party financial institutions and through Vendors, any information regarding Accounts and transactions originated, issued and designated by Customer in connection with a Service.

(c) **Service Availability and Maintenance.** Each Access Method and Services accessible through each Access Method will generally be available during the hours described in the User Guides, online screen instructions, and the applicable Service. Notwithstanding any provisions in this Agreement to the contrary, Bank reserves the right to change the hours without prior notice. While Bank will use commercially reasonable efforts to make each Access Method available during such times, one or more of the Access Methods may be temporarily unavailable for a variety of reasons (e.g., maintenance, periods of high volume, system outages, unauthorized activity or other events beyond Bank's control, and Customer agrees that Bank will not be liable of an Access Method is not available for use at any time. Bank does not represent, warrant or otherwise guarantee that access will be available at all times during the published hours. Access may be interrupted due to scheduled or unscheduled maintenance, or unforeseen circumstances. If Bank deems practical, Bank will provide advance notice on Comerica Business Connect or other Access Method of scheduled maintenance.

(d) **Bank Records: Next Business Day.** From time to time Bank may amend, change, add, delete, update or alter the information contained in the Access Methods, including information regarding the products and services described in the Access Methods, without notice. Information that Customer obtains through an Access Method is not the official record of an Account or of any instruction (including any Payment Order) or transaction unless otherwise specified. Bank assumes no liability for any errors or omissions in the information contained in the Access Methods and expressly disclaims any responsibility to update the information contained in the Access Methods. 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 reported until the next Business Day.

(e) **Use Limitations.** Customer represents and warrants to Bank that Customer: (i) will use an Access Method solely to conduct Customer's business; (ii) will limit access to the Security Procedures and such Access Method to Users established by Customer; and (iii) all information and instructions provided to Bank through an Access Method by Customer's Users will be accurate and complete and Customer accepts full

responsibility for the accuracy of such information. Any transactions, instructions (including Payment Orders), use of the Services, or communications received by Bank via an Access Method, using the Security Procedures adopted by Customer, will be deemed by Bank as received from Customer and Customer shall be obligated for the performance of any such instruction and obligated for payment under the applicable Service Terms. Customer is responsible for providing instructions to Bank, other financial institutions and any Third-Party Provider who will input account information using an Access Method or process orders or instructions.

(f) Verification of Transaction Status. Customer shall have sole responsibility for verifying that any instruction, Payment Order, payment approval, template, deposit and/or other transaction Customer requests using an Access Method has been received, executed and/or otherwise processed by Bank, unless Customer subscribes to a separate notification Service for such information. Customer can verify the status of any instruction or transaction using an Access Method. If a transaction status does not reflect that Bank has received, executed and/or otherwise processed a transaction or instruction, as applicable, it is Customer's responsibility to contact Bank regarding such instruction or transaction. Bank shall not be liable for failing to execute a Payment Order or for otherwise failing to process any other type of instruction or transaction when the status of such instruction or transaction did not reflect that it had been accepted, received, executed and otherwise processed by Bank, as applicable.

(g) Security Procedures. Customer acknowledges that it has adopted Security Procedures for the Access Method(s) used by Customer and agrees that they are considered commercially reasonable Security Procedures as set forth in this Agreement for the instructions, transactions, communications and Services accessed by Customer using such Access Method. Customer agrees to be responsible for each request, transaction, or other communication initiated or originated using the Security Procedures adopted by Customer, including those assigned by any Administrator.

(h) Access Method through Direct Connection. Customer may be permitted to establish a Direct Connection with Bank as an Access Method. At the time a Direct Connection is implemented, a secure connection between Customer and Bank will be established and tested using the Direct Connection between Bank and Customer to send and receive instructions and information. Bank has no obligation to permit Customer's use of a Direct Connection or accept any instructions or provide any information using a Direct Connection until it has been approved by Bank in its sole discretion. For all instructions sent to Bank using a Direct Connection, Customer is expected to have appropriate security and controls in place at all locations and in all systems that Customer will use to access the Direct Connection. It is the sole responsibility of Customer, not Bank, to authenticate each individual submitting instructions using a Direct Connection and ensure that only Authorized Representatives or Users for the applicable Service are given access to originate instructions to Bank using the Direct Connection. By accessing any Service using a Direct Connection, Customer agrees that using a Direct Connection to access the Services and send instructions (including Payment Orders) is a commercially reasonable Security Procedure adequate to protect Customer's interests. Customer represents and warrants that each instruction (including Payment Orders) submitted using a Direct Connection will be deemed to be authorized by Customer, whether or not sent by an Authorized Representative or User, and Customer will be bound by those instructions and any actions taken by Bank in reliance upon such instructions. Customer agrees to indemnify and hold Bank harmless from and against any Losses arising from or related to Customer's use of a Direct Connection, including with respect to any actions taken by Bank in reliance upon instructions received through a Direct Connection and any transactions initiated based upon such instructions.

(i) Third-Party Links. The Access Methods may contain links to the websites of third parties ("Linked Sites") or provide the opportunity to use or access third-party software or services that are not part of the Services ("Third-Party Software") offered by a third-party service provider other than a Vendor (a "Third-Party Servicer"). Bank does not endorse or assume any responsibility for any Linked Sites or Third-Party Software and makes no representations or warranties whatsoever with respect thereto. Customer is solely responsible for its use of any Linked Sites or Third-

Party Software and agrees that it must look to the Third-Party Servicer, and not Bank, for any content, services and any problems or claims related to its use of the Linked Sites or Third-Party Software, including any security or data breach.

(j) Limitation of Liability. Notwithstanding anything in this Agreement to the contrary, in addition to the limitations of liability set forth in Part I of this Agreement, the following limitations apply. Customer agrees that Bank and its Vendors will not be liable for any Losses arising, directly or indirectly, in whole or in part, from any:

(i) inaccurate or incomplete data in the input of an order, instruction (including any Payment Order) or other communication by Customer, or Customer's failure to format any such order, instruction or communication as required by Bank;

(ii) failure by Customer to obtain a confirmation or rejection of an order or instruction;

(iii) cancellation or amendment (or attempted cancellation or amendment) by Customer of an order or instruction;

(iv) errors or omissions resulting from Bank's conversion of an order or instruction received from Customer or any Third-Party Provider;

(v) inaccurate or incomplete information received from Customer, another financial institution, or a Third-Party Provider;

(vi) temporary interruptions in Bank's or any other entity's information systems;

(vii) inability to access Comerica Business Connect, other Access Method or a Service accessible through an Access Method, through the use of the internet or other communications delivery systems;

(viii) unauthorized use of any Access Method, or a Service accessible through an Access Method, by Customer or its officers, employees, agents, Third Party Providers, or other third parties; or

(ix) procedure, incident, failure, breach or compromise involving Customer's environment, systems, equipment, hardware or software used in connection with an Access Method or Service accessible through an Access Method.

2. Specific Terms for Comerica Treasury Mobile. Comerica Treasury Mobile ("Treasury Mobile") is a mobile application that provides customers with access to their internet-based treasury management services via mobile devices. Treasury Mobile is an Access Method. Not all Services are available through Treasury Mobile.

(a) Access.

(i) Instructions; Mobile Users. Instructions for accessing Treasury Mobile are more fully described in the applicable User Guides for Treasury Mobile, including the Comerica Business Connect User Guide and the Comerica Business Connect Customer Administration Tool User Guide. Customer, including Customer's Administrator, must designate those Users to be given access to Treasury Mobile (each such individual is a "**Mobile User**") and each Designated Account and Service to be accessed by Mobile Users through Treasury Mobile. All Mobile Users must be Users of Comerica Business Connect. If Bank, in its discretion, approves Customer's use of Treasury Mobile, Mobile Users will be able to access Treasury Mobile using their Security Procedures for Comerica Business Connect. Mobile Users must agree to additional terms and conditions to be granted access to Treasury Mobile. Customer has sole responsibility for each Mobile User's use of Treasury Mobile. Any Payment Orders, instructions or other communications received by Bank via Treasury Mobile, using the Security Procedures applicable to Treasury Mobile, will be deemed by Bank as received from Customer and authorized. Customer may disable a Mobile User from access to Treasury Mobile in the manner described in the applicable User Guide, Implementation Documents and/or online screens. A Mobile User's access to Designated Accounts, Services and functions may not exceed the extent of such Mobile User's access to Designated Accounts, Services and functions through Comerica Business Connect.

(ii) General Access Limitations. Not all Services, products, features or functions that are accessible to Customer or to a User through Comerica Business Connect will be available to Customer or to a Mobile User through Treasury Mobile. In addition, the type and quantity of

information accessible through a Service via Treasury Mobile may differ from the type and quantity of information accessible through a Service via Comerica Business Connect.

(b) **Mobile Devices.**

(i) **Compatibility.** Treasury Mobile is not available on all mobile devices. It is Customer's responsibility to communicate to Mobile Users the types of mobile devices that are compatible with Treasury Mobile. Bank shall have no responsibility or liability for any issues relating to the operation, performance and/or Charges associated with Mobile Users' mobile devices.

(ii) **Loss or Theft.** If a mobile device used to access Treasury Mobile has been lost, stolen or compromised in any manner, Customer shall immediately notify Bank's Treasury Management Relationship Services at the phone number set forth in the Customer Administration Tool User Guide, or as otherwise directed by Bank, and immediately disable the applicable Mobile User's access to Treasury Mobile as further described in the applicable User Guide(s).

(c) **Communications Service Provider Charges.** Customer's and/or a Mobile User's communications service provider for Customer's and/or a Mobile User's mobile device may impose extra Charges in order to make such mobile device data-capable and to exchange data between Customer's mobile device and Treasury Mobile. Bank is not responsible for any Charges imposed by any communications service provider.

(d) **Notices.** Customer agrees to receive notifications related to Treasury Mobile by electronic or paper means at Bank's discretion. Bank may rely on the email address and/or postal address Customer provides to Bank for sending notifications. Customer is deemed to have received the notification on the day Bank sends the notification to the email address or postal address provided, as applicable. It is Customer's responsibility to: (a) update, change or delete any email address(es), postal address(es) or other contact information Customer has provided to Bank in the online administration tool available to Customer's Administrator through Comerica Business Connect ("**Customer Administration Tool**"); (b) ensure that any of Customer's internal email delivery restrictions support receipt of Bank's notifications; and (c) to review notifications in a timely manner. Only Customer's Administrator(s) may update Mobile User information in the Customer Administration Tool.

## **SECTION 2. ANALYTICS AND INFORMATION MANAGEMENT SERVICES**

1. **Adjustment Reporting Service.** Comerica's Adjustment Reporting Service ("**Adjustment Reporting Service**") through Comerica Business Connect is an electronic service that allows Image Cash Letter Deposit Service customers to access daily adjustment information for each adjustment to a check charged against the customers' designated accounts.

(a) **Image Deposit Service.** The Adjustment Reporting Service is also subject to the terms of Image Services and Cash Letter Deposit Services as set forth in this Agreement. By using the Adjustment Reporting Service, Customer also agrees to the Service Terms for Image Services and Cash Letter Deposit Services, which are incorporated into the Service Terms for the Adjustment Reporting Service by this reference.

2. **Comerica Integrated Cash Position Manager Service.** Comerica Integrated Cash Position Manager Service ("**ICPM Service**") provides customers access to information related to their Comerica bank accounts and other Comerica Treasury Management Services such as balance reporting, account transfer, ACH initiation and wire transfer initiation.

(a) **ICPM Service Generally.**

(i) **Data from Comerica Treasury Information Reporting Service.** Data from Designated Account balances and transaction information from other Services Customer obtains from Bank is populated from Comerica Treasury Information Reporting Service. By using the ICPM Service, Customer agrees to the Service Terms for the Comerica Treasury Information Reporting Service and each other Service used in connection with the ICPM Service. All such Service Terms are incorporated into and made a part of the Service Terms for the ICPM Service by this reference.

(ii) **Data from Other Sources.** Customer may also add its own data and information to the ICPM Service worksheets.

(b) **Information About Non-Deposit Accounts At Bank.** Information about accounts other than Customers' deposit accounts at Bank, (e.g. loan accounts at Bank and bank accounts at other financial institutions) may be accessible through the ICPM Service, and subject to other applicable Service Terms.

(c) **Standard Worksheets.** Bank provides standard worksheet templates for use with the ICPM Service. In addition, Customer may design worksheets to meet its specific business needs and/or import existing spreadsheet formats, adding definitions to ensure standardized reporting.

(d) **Custom Worksheets.** As an ICPM Service option and subject to additional Fees, Customer may engage Bank to (i) provide consulting services to assist the Customer to create custom worksheet templates ("**Custom Worksheets**") for use with the ICPM Service ("**ICPM Consulting Service**") or (ii) create Custom Worksheets for Customer ("**Programming Services**"). If Customer requests Custom Worksheet Services, Customer agrees to the following terms and conditions for the applicable services:

(i) **Consulting Services.** ICPM Consulting Services are provided on an hourly basis at the hourly rate set forth in the Fee Schedule. Customer and Bank shall agree in writing (email acceptable) on the number of ICPM Consulting Services hours to be provided to Customer.

(ii) **Programming Services.**

(A) **Specifications.** Customer and Bank shall agree in writing (email acceptable) regarding the following: the number of Custom Worksheets to be created by Bank, the specifications for each Custom Worksheet, and the form of Custom Worksheets (collectively, the "**Specifications**"). Bank will advise the Customer of the estimated development time, delivery timeframe and development costs for the Custom Worksheets. Bank will contact Customer for written approval (email acceptable) if the actual development time, delivery timeframe and development cost are expected to exceed the estimates provided. The Parties intend that the Custom Worksheets are provided as a Service, as defined under this Agreement, and not as products or goods.

(B) **Preparation by Bank.** Bank shall prepare the Custom Worksheets in accordance with the Specifications and provide the Custom Worksheets to Customer for review through the ICPM Service. Bank shall notify the Customer by email when Custom Worksheets are ready for review.

(C) **Review by Customer.** Customer will have fourteen (14) days from the date Bank provides notification that a Customer Worksheet is ready to either accept or reject each Custom Worksheet by responding accordingly to Bank's email notification of the Custom Worksheets' availability for review. Acceptance of the Custom Worksheet shall automatically occur on the fifteenth (15th) day after it is available for review if the Customer does not reject or accept the Custom Worksheet before then.

(D) **Revision and Re-review.** If the Customer rejects the Custom Worksheet before the fifteenth (15th) day, Bank shall contact Customer to review the Specifications and the Customer's reason for rejection. Bank shall, within twenty-one (21) days, either agree that it can cure the defects, or advise Customer that it cannot. If Bank agrees that it can cure the defects, it shall have twenty-one (21) days to cure, re-post Custom Worksheets for acceptance or rejection and notify the Customer of its availability for review. The review period will then begin again as described in Subsection (C) of this Programming Services Section. above. If no defects exist, but Customer has determined that it requires modifications to the Specifications, Bank may accept a written (emails acceptable) change order request to the scope of work and advise Customer of any additional charges for the change order and the approximate date it will be available for review, or Bank may reject the request and Customer shall pay the amount owed for



the Custom Worksheets previously provided by Bank that met the original scope of work Specifications.

(E) **Termination.** If Customer terminates a request for Custom Worksheets prior to the delivery date of the Custom Worksheets, Customer agrees to pay Bank for work performed.

(e) **Reporting Tools.** ICPM Service provides several reporting tools that can be used to assist with managing cash positions. Reporting tools are described in the ICPM Service User Guide.

(f) **Self-Service Tools Including Security Tools.** ICPM Service provides on-line self-service tools that eliminate the need to utilize traditional bank channels to facilitate immediate User set-up. In addition, a tool contained within the ICPM Service, allows Customer's Comerica Business Connect Administrator to establish entitlements for each User.

3. **Dealer Access System Service.** Comerica's Dealer Access System Service ("**DAS Service**") is an electronic service that provides dealer customers with daily information regarding their floor plan status and allows them to initiate various types of transactions. The DAS Service enables dealers to obtain balance and transaction information for their accounts twenty-four (24) hours a day, seven (7) days a week. Information is available through the internet. The DAS Service also allows the dealer customers to initiate loan requests, pay off loans on specific vehicles, pay off items (interest, curtailments, fees) billed on the month end statements, make transfers between equity accounts, review the status of requests, and print various reports.

4. **Funds Transfer Wire Advice Service.** Comerica's Funds Transfer Wire Advice Service ("**Wire Advice Service**") permits customers to receive electronic notifications of completed incoming and outgoing funds transfers on their designated Comerica accounts.

(a) **Access.** The Wire Advice Service is accessible through Comerica Treasury File Reporting Services. To use the Wire Advice Service, Customer must receive Comerica's Reporting Services. By using the Wire Advice Service through Comerica Treasury File Reporting Services, Customer agrees to the Service Terms for Comerica's Reporting Services, which are incorporated into the Service Terms for the Wire Advice Service by this reference.

(b) **Funds Transfer Wire Advice.** Bank will provide electronic notifications of completed funds transfers made using the Wire Advice Service via a Bank-defined file format as agreed upon by Customer and Bank.

(c) **Limitation of Liability.** The Wire Advice Service is provided as a convenience to Customer only. Customer may not in any event rely on the receipt, expected receipt or lack of receipt of any electronic notification under this Wire Advice Service. Notwithstanding anything in this Master to the contrary, in addition to the limitations of liability set forth in the General Terms and Conditions, Bank shall not be liable for: (i) any events arising out of Customer's reliance on the electronic notifications received through this Wire Advice Service; (ii) any failure to provide or delay in providing an electronic notification through the Wire Advice Service; or (iii) the accuracy of an electronic notification provided through the Wire Advice Service.

5. **Image Services.** Comerica's Image Services ("**Image Services**") provide images of checks/deposit tickets, deposited items on designated bank account(s), coupons, invoices and corresponding remittance documents which are delivered to or made available to customers by CD ROM or file transmission. Customers elect the desired combination of these Image Services during service implementation. Specific features of each of these image and delivery options are described in the User Guide for the selected Image Service.

(a) **Incompatible Items.** Bank may reject any and all items for the Image Services which Bank, in its sole discretion, determines are incompatible for imaging and/or processing for the Image Services.

(b) **Billing.** Customer agrees that Bank's count of items imaged and/or processed is final for billing and all other purposes.

(c) **Image Options.** Customer shall make its initial election of items to be imaged during implementation of Image Services. Image options are described in the User Guide(s) for Image Services.

(d) **Delivery Options.** Customer may select to receive the Image Services by CD ROM, Comerica Business Connect or file transmission.

(i) **Images on CD ROM.** If Customer elects to receive images on CD ROM, Customer must use Bank's Image Services Software which Bank will provide to Customer. Bank will generally mail the CD ROM to Customer within fourteen (14) days following the applicable account statement cycle or receipt of all input transmission files through the Account Reconciliation Plan Service. Customer will, within fourteen (14) days from the day Bank mails the CD ROM, examine it and notify Bank of any errors or unreadable images. This duty is in addition to the duty of Customer to review its statement for the account in a timely manner as set forth in the Deposit Contract.

(ii) **Images via Comerica Business Connect.** If Customer elects to receive images via Comerica Business Connect, Customer agrees to the Service Terms for Comerica Business Connect which are incorporated by reference into the Service Terms for Image Services.

(iii) **Images via File Transmission.** Some Image Services require use of Software. If Customer elects to receive images through the file transmission, Customer may be required to use the Image Services Software which Bank provides for viewing the images.

(e) **Limitation of Liability.** Notwithstanding anything in this Agreement to the contrary, in addition to the limitations of liability set forth in the General Terms and Conditions of this Agreement, Bank's liability to Customer for the Image Services shall be limited, at Bank's option, to: (i) refund the Fees paid for unreadable images; (ii) reproduce the applicable CD ROM; or (iii) reproduce only unreadable images. Customer agrees that Bank will have no liability to Customer if it fails to report any errors or unreadable images within fourteen (14) days of Bank mailing the CD ROM to Customer.

(f) **Termination.** Notwithstanding any provision to the contrary contained elsewhere in this Agreement, in the event Customer or Bank terminates the Image Services, Customer may continue to use the Image Services Software; provided, Bank shall have no obligation and will not provide support, maintenance, upgrades, or enhancements of any kind to Customer.

6. **Incoming Data Exchange Service for Non-Comerica Accounts.** Comerica's Incoming Data Exchange Service for Non-Comerica Accounts ("**Incoming Data Exchange Service**") provides customers with account information related to their non-Comerica accounts.

(a) **Access.** The Incoming Data Exchange Service is accessible through Comerica Treasury Information Reporting and Comerica Treasury File Reporting Services. To use the Incoming Data Exchange Service, Customer must receive Comerica's Reporting Services. By using the Incoming Data Exchange Service through Comerica Treasury Information Reporting and/or Comerica Treasury File Reporting Services, Customer agrees to the Service Terms for Comerica's Reporting Services, which are incorporated into the Service Terms for the Incoming Data Exchange Service by this reference.

(b) **Incoming Data Exchange Service Generally.**

(i) **Accounts.** Customer shall designate in writing one or more Customer bank accounts at other financial institutions ("**Non-Comerica Designated Account**") for use in conjunction with the Incoming Data Exchange Service, and provide the account number for each such Non-Comerica Designated Account. Bank will set up the Incoming Data Exchange Service to allow for use with each Non-Comerica Designated Account that Bank determines is eligible for use with the Incoming Data Exchange Service. The eligibility of a Non-Comerica Designated Account for use with the Incoming Data Exchange Service shall be determined by Bank in its sole discretion. Any changes to the Non-Comerica Designated Account requested by Customer must be sent to Bank in writing.

(ii) **Provision of Information.** Bank will provide Customer with information regarding Customer's Non-Comerica Designated Account on a periodic basis via balance reporting. Bank has no obligation to reformat any such information.

(c) **Balance Reporting.** The Incoming Data Exchange Service will enable Customer to view prior day and current day reports.



(i) **Prior Day.** Bank will provide information about Customer's Non-Comerica Designated Account from the financial institution's previous business day.

(ii) **Current Day.** Customer may elect to receive information about Customer's Non-Comerica Designated Account as updated by the financial institution throughout its business day.

7. **Loan Management Service.** The Comerica Loan Management Service ("Loan Management Service") allows borrowers to request drawdowns in order to obtain advances against certain of Customer's designated commercial credit facilities ("Designated Loans") with Comerica, select certain permitted interest rates, and make payments on their Designated Loans via the internet, as well as to obtain history information about the Designated Loans.

(a) **Authorized Representative.** Customer authorizes its Administrator to request, in writing, additions and deletions of Designated Accounts and Designated Loans that can be used with this Loan Management Service; provided, however, the decision as to whether a particular commercial credit facility of Customer with Bank may be a Designated Loan, and therefore available for the Loan Management Service, shall be at Bank's sole discretion. Customer represents, warrants and agrees that any person given authority through the use of the Customer's Administrator's log-in credentials to access the Loan Management Service on behalf of Customer shall be authorized to do so.

(b) **Loan Documents.** Customer acknowledges and agrees that the Designated Loans to which the Loan Management Service relates shall be expressly subject to the terms and conditions of each of the underlying loan documents evidencing, governing, securing or otherwise relating to such Designated Loans (collectively, the "Loan Documents"); and Customer agrees to abide by all terms and conditions of the Loan Documents. Any fees imposed as a result of conditions of the underlying Loan Documents are separate and distinct from those Fees and Charges imposed for this Loan Management Service.

(c) **Loan Advances, Payments and Rate Options.** In addition to the terms and conditions of the applicable Loan Documents, use of the Loan Management Service to request payments, drawdowns/advances, select interest rate options (if applicable) under or in respect of a Designated Loan shall be in accordance with the User Guide for the Loan Management Service. Without limiting the generality of the foregoing, Customer expressly acknowledges and agrees that, subject to the terms and conditions of the applicable Loan Documents, Bank may refuse or decline to make or fund any payment, drawdown or advance under a Designated Loan, notwithstanding any course of conduct or course of dealing.

(d) **Loan Payments.** Customer is responsible for scheduling payments in a timely manner to ensure full and timely payment is made on its loans, including, without limit, any Designated Loans, in accordance with the Loan Documents. Payments will be applied to Customer's Designated Loans in accordance with the applicable Loan Documents. All payments upon, or in respect of, any Designated Loans are to be against Available Funds. Customer shall remain fully liable and responsible for any amounts remaining unpaid and outstanding under or pursuant to the Loan Documents if the Available Funds are insufficient for the repayment in full of such amounts.

(e) **Transaction Timing.** Transactions or requests received outside of the hours stated in the User Guide for the Loan Management Service or on Saturdays, Sundays or Bank holidays, will be deemed received by Bank on the next Business Day.

(f) **Limitation of Liability.** Notwithstanding anything in the Service Terms for the Loan Management Service to the contrary, in addition to the limitations of liability set forth in the General Terms and Conditions of this Agreement, Bank shall never have liability to Customer for Bank's failure to act on a transaction or request received through the Loan Management Service if Customer does not have sufficient loan availability for a requested drawdown/advance, does not have sufficient Available Funds in the Designated Account for a loan payment, or if any conditions of any of the Loan Documents shall not have been satisfied. Further, Bank shall never have liability for requests that it does not receive or that are incomplete.

(g) **Indemnification.** Notwithstanding anything in the Service Terms for the Loan Management Services to the contrary, Customer acknowledges and agrees that use of the Loan Management Service shall be for Customer's convenience and all risks involved and Losses incurred in the use of such procedure shall be borne by Customer, and Customer expressly agrees to indemnify and hold Bank harmless from and against any and all Losses incurred by Bank therefor, except to the extent of Bank's gross negligence or willful misconduct; provided, however, in no event shall Bank's liability for failing to timely apply payments received through the Loan Management Service exceed the amount of Fees and interest paid/accrued that would not have otherwise accrued had payment been timely applied.

(h) **Conflicting Language.** To the extent that any provision in the Service Terms for the Loan Management Service conflict with or are inconsistent with any provision set forth in any Loan Document(s), the conflicting provisions in the Loan Document(s) shall govern and control.

8. **Outgoing Data Exchange Service for Comerica Accounts.** Comerica's Outgoing Data Exchange Service for Comerica Accounts ("Outgoing Data Exchange Service") provides customer's account information to third parties, including the customer's other financial institutions, as designated by customer.

(a) **Outgoing Data Exchange Service Generally.**

(i) **Provision of Information.** Bank will provide third parties designated by Customer with information regarding Customer's Designated Account on a periodic basis. Bank has no obligation to reformat any such information.

(ii) **Bank Not Responsible for Third-Party Actions.** Bank assumes no responsibility for the accuracy of information that is re-formatted or translated by the receiving party of any or other third party.

9. **Comerica Reporting Services (Comerica Treasury Information Reporting, Electronic Data Interchange Service, Comerica Treasury File Reporting Services and ICS Deposit Placement Service).** Comerica's Reporting Services ("Reporting Services") provide customers access to data, images, information and reports related to their Comerica banking services through the Comerica Treasury Information Reporting, Electronic Data Interchange Service, Comerica Treasury File Reporting Services and/or and ICS Deposit Placement Service.

(a) **Reporting Services Generally.**

(i) **Provision of Information.** Bank will provide Customer information and financial data associated with Customer's Designated Account and/or Services Customer receives from Bank on a periodic basis via balance reporting or bank and special reports.

(ii) **Information about Non-Deposit Accounts at Bank.** Information about accounts other than Customers' deposit accounts at Bank, e.g., loan accounts at Bank, trust accounts at Bank, or securities accounts at Comerica Securities, Inc., if any, may be accessible through the applicable Reporting Service, subject to the terms of any other applicable agreements.

(iii) **Images.** Customer may elect to receive image reporting for certain Reporting Services. Image reporting is subject to Customer's agreement to the Service Terms for Image Services.

(b) **Balance Reporting.** The following are available for balance reporting: prior day balance reporting and current day balance reporting. The information available is more fully described in the User Guide(s) for the Reporting Services.

(i) **Prior Day.** Prior day balance reporting and, through some Access Methods, images of select prior day items are available for Customer's Designated Accounts, including Customer's checking, savings, trust and securities accounts and commercial loans, subject to the terms of any other applicable agreements.

(ii) **Current Day.** Customer may elect to receive current day balance reporting for transactional information including ACH transactions, lockbox, wires, controlled disbursements and account to account transfers. Some current day balance reports are subject to Customer's agreement to the Service Terms for the underlying Service.

(c) Bank Reports and Special Reports. Bank may provide certain reports and statements of account activity to Customer relating to transactions on Designated Account over designated time periods in the manner and at the times agreed to by the Parties. Customer will review all reports, data files and/or statements received from Bank upon receipt, and will advise Bank of any missing data within a reasonable time not to exceed ten (10) Business Days from the date Customer first discovered the problem or received information (in electronic, written or oral form) from Bank reflecting the problem, whichever occurs first.

(d) Statements Service. Comerica's Treasury Statements Service ("**Statements Service**") allows commercial customers to receive most of their bank account statements electronically through the Reporting Services. The Statements Service is accessible through Comerica Business Connect and Comerica Treasury Information Reporting. By using the Statements Service, Customer agrees to the Service Terms for Comerica Business Connect, which are incorporated into and made a part of the Service Terms for the Reporting Services by this reference.

(i) Designated Account(s) Subject to Deposit Contract. Notwithstanding any terms in the Deposit Contract to the contrary, Customer acknowledges and agrees that Bank shall be deemed to have made available an Account (as defined in the Deposit Contract) statement to Customer when the statement is made available for viewing electronically via Comerica's Reporting Services. Customer's statement will be available the first Business Day of the month, except for Business Sweep Accounts which are available the third-Business Day of the month, unless Bank and Customer have agreed otherwise.

(e) Treasury Returned Items Service. The Treasury Returned Items Service provides access to images of returned items previously deposited that have been returned unpaid by the drawee financial institution. The images are available through Comerica Treasury Information Reporting. By using the Treasury Returned Items Service, Customer agrees to the Service Terms for Comerica Business Connect, which are incorporated into and made a part of the Service Terms for the Reporting Services by this reference.

(f) ICS Deposit Placement Service. The ICS Deposit Placement Service provides the Customer with a means to maximize FDIC insurance coverage. If Customer elects to receive the ICS Deposit Placement Service, Bank will endeavor to place deposits for Customer at participating financial institutions through ICS<sup>®</sup>, the IntraFi Cash Service<sup>SM</sup> of IntraFi Network LLC pursuant to separate agreements between Customer and Bank. Information and reports related to the ICS Deposit Placement Service offered by Bank will be available to Customer through Comerica Business Connect and Reporting Services.

(i) To use the ICS Deposit Placement Service, Customer must enter into the ICS Deposit Placement Agreement, Custodial Agreement for ICS Deposit Placement and the ICS Deposit Placement Sweep Acceptance. When Customer enrolls with Bank to receive the ICS Deposit Placement Service, the terms of the ICS Deposit Placement Agreement, Custodial Agreement for ICS Deposit Placement and the ICS Deposit Placement Sweep Acceptance are incorporated into this Agreement and the Service Terms for the ICS Deposit Placement Service by this reference.

(ii) In the event of a conflict between the various agreements that govern the ICS Deposit Placement Service, the order of precedence shall be as follows (in order of higher to lower precedence): (A) ICS Deposit Placement Agreement, (B) Custodial Agreement, (C) ICS Deposit Placement Sweep Acceptance, (D) Implementation Agreement, and (E) this Agreement.

10. Treasury Alerts Service. Treasury Alerts ("**Alerts**") provide notifications of account activity and events related to Treasury Management product transactions. If Customer agrees to receive and Comerica agrees to provide electronic notifications, the following terms and conditions apply to Alerts:

(a) Related Agreements. Customer may use one or more Services in conjunction with Alerts. Customer and Bank must execute an Implementation Agreement and/or other Documentation required by Bank for each Service Customer uses in conjunction with Alerts, and the Service Terms for such Services are incorporated by reference into the Service Terms for Alerts. Unless expressly set forth in a separate agreement, in

the event of a conflict between the terms of this Agreement and the terms of any separate agreement allowing access to the use of Alerts, the terms of this Agreement shall prevail with respect to Alerts.

(b) Termination. Alerts will terminate with the termination of the service to which it applies. Customer may terminate Alerts at any time upon giving Bank notice in accordance with this Agreement, however, Customer agrees that Customer may continue to receive Alerts for five (5) Business Days after termination while Bank disables the service.

(c) Accurate Customer Notification Information. Customer shall provide a correct text message number and/or email address, as applicable and available, to receive the Alerts selected. Customer is solely responsible to provide Bank with timely information should any such text message numbers or email addresses change. Customer is responsible for any technical changes required to support receipt of Alerts. Bank may, if it receives delivery failure notification for an Alert, attempt to contact Customer for updated information; however, Bank shall not be obligated to do so.

(d) Limitation of Liability. Bank's sole obligation for Alerts is to send electronic notifications to the text message numbers/email addresses provided by Customer. Notwithstanding anything in the Service Terms for Alerts to the contrary, in addition to the limitations of liability set forth in **the** General Terms and Conditions of this Agreement, Bank shall have no liability to Customer if Alerts were transmitted but not received. Bank's liability for failure to timely transmit an Alert shall be limited to the amount of Fees paid by Customer for that electronic notification. However, in no event shall Bank be liable to Customer if failure to timely provide Alerts was through no fault of Bank.

(e) Telephone Text Messages. If Customer selects Telephone Text Message notification, Customer warrants that the telephone(s) are either owned by the Customer or the Customer shall be responsible to obtain, in a form acceptable to Bank, the consent of the owner of the telephone, and shall provide this consent to Bank. Customer further agrees that if the owner revokes his/her consent, the Customer shall advise Bank immediately. Customer agrees to assume all liability for any claims made by the owner of the telephone in regard to the receipt of text messages contemplated under this Agreement and shall indemnify and hold Bank, and its Affiliates harmless from any claims and all Losses arising out of or related to any and all claims by the owner in regard to said text messages.

(f) Selection and Type of Notifications. If Customer has elected to obtain Alerts, Bank may provide such Alerts to Customer in any manner Bank determines is most expeditious (e.g., by telephone, fax, email or regular mail) based on the information provided by Customer.

### SECTION 3. FRAUD PROTECTION SERVICES

1. Comerica ACH Positive Pay<sup>™</sup> Service. Comerica ACH Positive Pay Service ("**ACH Positive Pay**") allows customers to review and decision ACH Entries that are presented for credit and/or debit to customers' designated bank account(s). Customers' authorized users will have the ability to accept or reject ACH Entries before they post to Customer's account; download ACH Entry activity; and/or manage, accept or reject decision parameters. Any Entry not decisioned by Bank's stated Cutoff Time will automatically default to the customer's predetermined default decision ("accept all" or "reject all") and processing will continue accordingly. Entries accepted will post to the customer's designated account. Entries rejected will be returned to the Originator of the Entry as an unauthorized Entry.

(a) Nacha Rules. All capitalized terms used but not defined in the Service Terms for ACH Positive Pay shall have the meanings ascribed to them in the Nacha Rules.

(b) Customer Elections. Before using ACH Positive Pay, Customer shall: (i) designate to Bank each User of ACH Positive Pay and their respective access rights; (ii) select one or more Cutoff Times; and (iii) establish a default decision ("accept all" or "reject all") ("**Default Decision**") for all ACH Entries. In addition, Customer may elect a dual control option for decisioning ACH Entries, which requires a second User to approve decisions made by other Users before they are submitted to Bank.

(c) Decisioning. Customer shall review ACH Entries presented for credit and/or debit to Customer's Designated Account(s) and provided to Customer for decisioning through ACH Positive Pay. Customer shall confirm or update decisions with respect to such ACH Entries in accordance with the User Guide for ACH Positive Pay. Customer's Default Decision will be applied to ACH Entries that are not: (i) updated prior to the designated Cutoff Time; or (ii) if the Customer elects the dual control option, approved prior to the designated Cutoff Time.

(d) Rejected Entries. Rejected Entries shall be deemed unauthorized by Customer and shall be returned to the Originating Depository Financial Institution as "Not Authorized" and will be subject to the Nacha Rules.

(e) Stop Payment. Customer agrees not to use ACH Positive Pay as a means to stop payment of any ACH Entry that Customer initially authorized the Originator to process.

(f) Receipt of ACH Credit Entries. Customer agrees to update its records to reflect the Originator's payment having been received as of a date that is no later than the Settlement Date as required by Nacha Rules.

(g) Entries Excluded From ACH Positive Pay. Not all ACH Entries can be reviewed or decisioned through ACH Positive Pay. The following types of ACH Entries will not be presented to Customer through ACH Positive Pay and are not subject to Default Decisions. Any disputes regarding these ACH Entries must be raised with Customer's assigned Bank Relationship Officer.

(i) ACH Entries originated by Bank, or on Bank's behalf, for Bank's benefit or that of any Affiliate.

(ii) Reversal Entries.

(h) Insufficient Funds. Nothing in the Service Terms for ACH Positive Pay shall require Bank to pay any Accepted ACH Entry that is a debit if Customer does not have sufficient Available Funds, including overdraft protection if applicable, in the applicable Designated Account.

(i) Indemnification. Customer agrees to Indemnify and hold Bank harmless from and against any Losses incurred by Bank in connection with Bank rejecting or accepting any Entry in accordance with Customer's instructions and the Service Terms for ACH Positive Pay. Customer shall Indemnify and hold Bank harmless from and against any Losses incurred by Bank in connection with Bank's compliance with Customer's instructions and the Service Terms for ACH Positive Pay. Customer further understands and agrees that any Entry that is returned as unauthorized under the Service Terms for ACH Positive Pay does not affect Customer's liability for amounts that may be owed to the Originator of the Entry, including liability for penalties and interest that result from the rejection of a debit Entry.

2. Positive Pay Service. Comerica's Positive Pay Service ("**Positive Pay Service**") is a fraud protection solution that compares checks presented for payment at Comerica against a customer's check issue file, providing the customer the opportunity to return checks deemed suspect or that otherwise do not match checks reported to Bank as issued by Customer ("**Suspect Checks**"). Customer may also indicate in an issue file that a check that has been issued should now be considered as "void." Any check that is indicated as void and presented for payment will be included in the report of Suspect Checks, and subject to Customer's obligation to decision such Suspect Check as elected by Customer and set forth below. Suspect Checks shall be made available for Customer to review and decision as set forth below through the Access Method provided by Bank from time to time and elected by Customer. Customers may elect to receive notification of suspect checks or to view suspect checks and, as an option, check images; provided, that Customer retains the responsibility for accessing the Positive Pay Service each Business Day to review for any Suspect Checks and Bank shall not be liable for any failure delay in providing notice of Suspect Checks.

(a) Implementation and Activation. The Positive Pay Service will be made available to Customer and Fees shall begin once implementation is complete. However, Bank shall have no obligation to compare checks presented for payment against Customer's check issue file unless Customer's Positive Pay Service is in "active" status. Customer may request Bank to activate or deactivate the Positive Pay Service by sending a written request to Bank in accordance with the terms of the User Guide

for the Positive Pay Service and such request will become effective within a reasonable time after Bank receives the notice. Deactivating the Positive Pay Service will be deemed Customer's waiver of use of the Positive Pay Service and Customer agrees to be liable for any Losses incurred which use of the Positive Pay Service may have prevented.

(b) Data Transmission. Customer will transmit to Bank all check issue information as required by the User Guide(s) for the Positive Pay Service before checks are issued, unless the Parties agree in writing to a different method. If the Positive Pay Service has been activated and Customer does not transmit check issue information to Bank as required by the User Guide, Bank will present a list to the Customer of all checks presented to Bank for payment as Suspect Checks in order for Customer to make a pay or return decision. If Customer does not respond to Bank with a pay or return decision by the Cutoff Time specified in the User Guide for the Positive Pay Service, the "Return All" default will apply, unless Customer has selected a "Pay All" default in the Documentation and as described in the terms below. Customer agrees to have checks prepared in accordance with Bank's requirements, including the Service Terms and the Deposit Contract. Customer agrees to change check format if requested by Bank.

(c) Authority to Honor Checks. Except with respect to stop payment and voided check issue records requested by Customer as part of the check issue file, Bank has full authority to honor all checks as follows:

(i) Default Positive Pay Service. By default, Bank shall honor all checks that match by serial number and amount to the corresponding check issue records on file.

(ii) Payee Match Option. The Payee Match option of the Positive Pay Service compares the payee name provided to Bank on the check issue file to the name typed on the payee line of the check. If Customer elects to receive and Bank agrees to provide the Payee Match option to Customer, Bank will honor all checks that match the corresponding check issue records on file by: (A) serial number and amount; and (B) payee name, as provided by Customer in check issue file.

(d) Posting or Notification of Suspect Checks; Instruction to Pay or Return. Suspect Checks will be posted for review and decision by Customer each Business Day by the designated time, and Customer is required to use the appropriate Access Method to review and decision the Suspect Checks. If Customer elects to receive alerts for the Positive Pay Service, Bank will make reasonable efforts to report the Suspect Checks to Customer ("**Suspect Item Notification**") by the designated time each Business Day and in accordance with Customer's instructions. Each Business Day Customer must review any Suspect Checks and instruct Bank to either pay or return such Suspect Check(s) prior to the Cutoff Time.

(e) Return All Default Election. The default disposition for Suspect Checks for which Customer does not instruct Bank to pay or return, shall be "Return All." With a "Return All" default, any Suspect Checks (including those that are on the Suspect Item Notification) that that Customer fails to review and instruct Bank to pay or return such Suspect Checks prior to the Cutoff Time on each Business Day, in accordance with the schedule set forth in the User Guide(s) for the Positive Pay Service, will be returned by Bank unpaid.

(f) Pay All Default Election. Notwithstanding the fraud protection benefit of a "Return All" default, Customer may elect to have a "Pay All" default for any Suspect Checks (including those in the Suspect Item Notification). With election of the Pay All default option, Customer acknowledges and agrees that any Suspect Checks (including those that were in the Suspect Item Notification) that Customer fails to review and instruct Bank to either pay or return such Suspect Checks prior to the Cutoff Time on each Business Day in accordance with the schedule set forth in the User Guide(s) for the Positive Pay Service, will be paid by Bank. Customer further acknowledges that the "Pay All" default will not provide any fraud detection benefits in the event that: (i) Customer fails to timely review and instruct Bank as to whether to pay or not pay each Suspect Check prior to the Cutoff Time; and (ii) any Suspect Checks were in fact fraudulent or not intended to be authorized payments made by Customer. Customer agrees that if Bank provides a "Pay All" default to Customer and Customer at any time thereafter fails to timely notify Bank to not pay any one or more Suspect Checks, notwithstanding any duties or liability that Bank may otherwise have had in regard to such checks,

including under Laws, that Customer will: (A) assume all responsibility, liability and Losses in regard to the payment of all Suspect Checks as if Customer had timely reviewed and advised Bank that all Suspect Checks were duly authorized by Customer and properly payable; and (B) indemnify and hold Bank harmless from and against any Losses incurred by Bank arising out of or in connection with any claim including any claim made by Customer or a third party that the payment of any one or more Suspect Checks by Bank was unauthorized by Customer because of fraud or otherwise.

(g) Waiver. Bank's acceptance of check issue information after the designated Cutoff Time shall in no way be deemed a waiver by Bank of the deadline or this Agreement.

(h) Liability and Indemnification. Customer represents, warrants and agrees that each Check Issue File constitutes Customer's statement that all checks listed on the check issue file are properly payable by Bank. By transmitting a check issue file to Bank, Customer represents and warrants that all checks presented for payment that match the information on the check issue file or for which Bank receives an instruction to pay (including by the default selected or otherwise) constitutes Customer's acceptance of such presented check as properly payable and Customer agrees that Bank exercises ordinary care whenever it pays such check (including a Suspect Check) and Bank may charge the Designated Account and shall have no liability in connection with such presented check. Customer understands that Customer will be liable under this provision for checks fraudulently listed on the Check Issue File, and for checks that may not be detected under the procedures identified by this Agreement, such as checks with forged signatures or altered payee names, and Customer agrees to accept such risk of liability. Customer hereby assumes sole responsibility for determining if checks presented for payment from the Designated Account(s) are authorized to be paid from such Designated Account(s), however, the foregoing is not intended to relieve the Bank of its obligation to compare check information as set forth in this Section above. In addition to the limits on Bank's liability as set forth in the General Terms and Conditions, in no event shall Bank be liable for any Losses relating to paying a check that was not properly payable (including a Suspect Check), wrongful dishonor of a check or Bank's or Customer's actions with respect to payment or return of any check (under the UCC or otherwise) if such payment or dishonor was made in accordance with the terms of the Positive Pay Service. Customer agrees that Bank exercises ordinary care whenever it rightfully pays or returns any check for which Customer receives a Suspect Item Notification consistent with the terms of the Positive Pay Service or Customer's instructions. Customer expressly agrees that Customer's failure to timely direct Bank to return any checks presented for payment in accordance with the terms hereof, will constitute acceptance by Customer of such checks and each such presented check will be properly charged against the Account on which it is drawn; the Bank shall have no liability in connection with such presented checks. In addition to Customer's indemnification obligations in the General Terms and Conditions, Customer agrees to indemnify and hold harmless the Bank against any and all Losses resulting directly or indirectly from claims or actions by third parties arising out of or related to Customer's use of the Positive Pay Service, including any claim by a third party arising out of Bank's dishonor of check as part of performing the Positive Pay Service as directed by Customer. This Section shall survive termination of this Agreement.

#### SECTION 4. PAYABLES

1. Account to Account Transfer Service. Comerica's Account to Account Transfer Service ("Account to Account Transfer Service") allows customers to transfer funds between commercial and, in some instances, personal deposit accounts at Bank.

(a) Access. The Account to Account Transfer Service is accessible through the Comerica Integrated Payables Service and/or such Access Method provided by Bank from time to time. By using the Account to Account Transfer Service through Comerica Integrated Payables Service, Customer agrees to the Service Terms for Comerica Integrated Payables Service and such terms are incorporated into and made a part of the Service Terms for the Account to Account Transfer Service by this reference.

(b) Processing.

(i) Funds Transfer Processing. Customer must transmit funds transfer instructions to Bank by Bank's Cutoff Time set forth in the applicable User Guide(s) for the Account to Account Transfer Service (which may be the User Guide for the applicable Access Method). Bank may process instructions received after the Cutoff Time or on non-Business Days on the next Business Day.

(ii) Comerica Treasury Payments. If Customer elects to receive the Account to Account Transfer Service through Comerica Treasury Payments, account transfers are limited to common ownership of the Designated Accounts involved in the transfer.

2. Account Reconciliation Plan. Comerica's Account Reconciliation Plan ("ARP") is an automated service which organizes paid and outstanding check and/or deposit information, allowing customers to efficiently and economically reconcile their bank accounts. The ARP provides the systematic itemization of all debits and/or credits for a specific time period determined by the customers and a reconciliation of the account's final balance.

(a) Additional Services May Be Required. To use ARP, Customer may be required to subscribe to the Positive Pay Service. By using ARP through the Positive Pay Service, Comerica agrees to the Service Terms for the Positive Pay Service and such terms are incorporated into and made a part of the Service Terms for ARP by this reference.

(b) Reports and Statements; Discrepancies. Bank may provide certain reports and statements of account activity to Customer relating to debit and credit transactions on a Designated Account over designated time periods in the manner and at the times agreed to by the Parties. 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 ten (10) Business 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.

(c) Waiver. Bank's acceptance of check issue information after the deadline designated in the User Guide(s) for the ARP shall in no way be deemed a waiver by Bank of the deadline.

(d) No Duty to Identify Duplicates or Errors. 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 elected to receive Bank's Positive Pay Service, in which case Bank's obligations shall be in accordance with the Service Terms for the Positive Pay Service.

3. ACH Origination Services. Comerica's ACH Origination Service ("ACH Service") is an electronic payment method utilizing the nationwide ACH Network for the collection and disbursement of payments. Customers may originate consumer, business, or intra company electronic payment entries using the ACH Service. Customer may elect, and Bank may permit, use of the ACH Service by Customer's Third Party Service Provider (as defined in the Nacha Rules) (a "TPSP").

(a) Definitions. All capitalized terms used but not defined in the Service Terms for ACH Service shall have the meanings ascribed to them in the Nacha Rules.

(b) Applicable Laws.

(i) Customer's Obligations. Customer agrees to be bound by the Nacha Rules. Customer shall not initiate any ACH transaction until Customer familiarizes itself with the Laws applicable to the ACH Service. The duties of Customer set forth in the Service Terms for ACH Service in no way limit the requirements of complying with all applicable Laws. Any Fines for a violation of any Laws applicable to the ACH Service caused by an act or omission of Customer may be assessed against Customer.

(ii) Provision of Rules. Bank will provide Customer with one (1) copy of the Nacha Rules and/or provide Customer with instructions on obtaining electronic access to the Nacha Rules, as well as information where Customer may obtain additional copies of the Nacha Rules. Bank shall have no further obligation to provide Nacha Rules or any other Laws to Customer, or to identify to Customer its specific obligations as an Originator of ACH Entries or otherwise, under the Nacha Rules or any other Laws.

(c) Entry Processing.

(i) **By Customer.** Customer, or Customer's TPSP may only originate credit and/or debit Entries that comply with Bank's Security Procedures, the Service Terms for the ACH Service, and Laws. Customer agrees to initiate only the type(s) of Entry(ies) that Bank has authorized Customer to originate to business entities and/or consumers through the ACH Service. To be eligible for processing, Entries must comply with formatting and other requirements described in the User Guide(s) for the ACH Service and the Nacha Rules.

(ii) **By Bank.** 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. Bank will process, transmit, and settle for the Entries received from Customer which comply with the terms of this Agreement, including the Security Procedures, in a timely manner and in accordance with the Nacha Rules. Bank shall have no obligation to transmit Entries if Customer is in default of any of its obligations under this Agreement.

(d) **Authorization.** Customer authorizes Bank to act as Customer's agent for the ACH Service. Customer authorizes Bank to originate ACH Entries on behalf of Customer to Receivers' accounts based upon the instructions provided by Customer or its TPSP.

(i) **Receiver Authorizations.** Before Customer initiates any credit or debit Entry, Customer will obtain from Receiver proper authorization for the Entry in accordance with the Nacha Rules and other Laws. An authorization must be readily identifiable as either an ACH credit or an ACH debit authorization and must clearly and conspicuously state the terms of the authorization in order that the Receiver understands the authorization to which he, she or it is agreeing. Customer agrees, represents and warrants that it will initiate no Entry after the termination or revocation of a Receiver's authorization.

(ii) **Consumer Debit Authorizations.** All debits to Consumer Accounts must be authorized by the consumer in writing and must be signed or similarly authenticated by the consumer, as permitted by the Nacha Rules, with the exception of Entries for RCK, ARC, TEL, and BOC, which are addressed below. For debit Entries, other than RCK, ARC, TEL and BOC Entries, Customer must be able to provide the consumer with a hard copy of the consumer's authorization. Except with respect to POP, TEL, and Single-Entry WEB entries, the authorization must (A) specify that the Receiver may revoke the authorization; and (B) contain information regarding the manner in which the authorization can be revoked.

(iii) **TEL Entries.** If Customer is permitted to make TEL Entries, it must make an audio recording of the consumer's oral authorization or provide the Receiver with written notice confirming the oral authorization prior to the Settlement Date of the Entry. At Bank's request, Customer must be able to provide a copy of the written notice or duplicate audio recording of the oral authorization to Bank for its use or for the use of the RDFI requesting the information. The authorization must be readily identifiable as an authorization and its terms must be clear and readily understandable. The authorization must contain the following minimum information: (A) the date on or after which the ACH debit to the Receiver's account will occur; (B) the amount of the transaction; (C) the Receiver's name; (D) a telephone number for Receiver inquiries that is answered during normal business hours; (E) the date of the Receiver's oral authorization; and (F) a statement by Customer that the authorization obtained from the Receiver is for a Single-Entry ACH debit.

(iv) **ARC, BOC and RCK Entries.** If Customer is permitted to make ARC, BOC and RCK Entries, authorization consists of: (A) notice from Customer to the Receiver, before Customer's receipt of Receiver's source document or the item, that Customer's receipt of the source document (for ARC and BOC Entries) or item (for RCK entries) constitutes authorization of the Entry in accordance with the terms of the source document or item; and (B) Customer's receipt of the source document or item.

(v) **Retention and Presentment of Authorizations.** Customer must obtain and retain an original or copy of a signed or authenticated written authorization from each Receiver, and readily and accurately reproducible records evidencing any other form of authorization from each Receiver. The record of authorization must be retained by Customer for a period of at least two (2) years following the termination or revocation of the authorization from the applicable Receiver. Customer, upon Bank's request, must present the original, copy, or other accurate

record of the Receiver's authorization to Bank for its use or for use by the RDFI within five (5) Banking Days of Bank's request. Under the Nacha Rules, Bank's liability related to unauthorized Entries may extend beyond the mandatory two (2) year retention period for authorization records. Customer agrees and understands that it is solely responsible for establishing a record retention program that is appropriate for maintaining authorizations relating to each Entry that it originates using the ACH Services. Bank shall have no liability for any Losses associated with Customer's breach of any warranty under the Agreement or the Nacha Rules, and Customer agrees to fully indemnify and hold Bank harmless from and against any such Losses.

(e) **Prenotifications.** If Customer chooses to originate a non-dollar Prenotification Entry to verify the accuracy of a Receiver's routing and account numbers, Customer agrees not to initiate live dollar Entries to that account until at least three (3) Banking Days following the Settlement Date of the Prenotification Entry. Prenotifications will be provided to Bank in the format provided in the Nacha Rules. If the Prenotification results in a rejection, return or Notification of Change, Customer will research the problem and make any necessary corrections before transmitting another Entry. If Customer chooses not to send Prenotification Entries to verify the accuracy of a Receiver's account, Customer is solely responsible for any Entries that are misrouted to incorrect accounts.

(f) **Customer Representations and Warranties.**

(i) **Customer Representations and Warranties.** Customer represents and warrants to Bank that:

(A) All Entries will be complete, accurate, and authorized, and comply in all respects with the Nacha Rules and all other Laws;

(B) Customer shall obtain written authorizations from Receivers for credit and/or debit Entries to those Receivers' accounts at participating financial institutions;

(C) Receiver authorizations shall comply with the Nacha Rules and specifically authorize Customer to release to Bank all information concerning Receivers that may be required by Bank to enable Bank to recover erroneous funds transfers;

(D) 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;

(E) Customer will retain all documentation as required by the Nacha Rules and other Laws;

(F) All Entries will comply with, and be transmitted or otherwise delivered to Bank in accordance with, the formatting and other requirements set forth in the User Guide(s) for the ACH Service; and

(G) Customer will protect the security and integrity of ACH data through its lifecycle and ensure that they have policies, procedures and systems in place that will enable compliance with the ACH Security Framework.

(ii) **Additional Representations and Warranties.** In addition, Customer is deemed to make the same representations and warranties to Bank that Bank makes under the Nacha Rules and other Laws to other participating financial institutions in the ACH system, including foreign ACH system, with respect to Entries originated by Customer.

(iii) **Warranties for Origination of WEB Entries.** If Customer obtains authorization from a Receiver over the internet, Customer represents and warrants that:

(A) Customer utilizes a commercially reasonable fraudulent transaction detection system to screen each WEB Entry;

(B) Customer employs commercially reasonable methods of authentication to verify the identity of the Receiver;

(C) Customer takes commercially reasonable steps to verify that routing numbers are valid;

(D) Customer takes commercially reasonable steps to complete account validation when an account is used for the first time and for subsequent changes made to the account number; and

(E) Customer conducts annual audits to ensure that the financial information it obtains from consumers is protected by security practices and procedures that include, at a minimum, adequate levels of: (1) physical security to protect against theft, tampering, or damage, (2) personnel and access controls to protect against unauthorized access and use, and (3) network security to ensure secure capture, storage, and distribution.

(g) Entry Limits.

(i) **Entry Limits.** Bank may establish a daily dollar limit on the total dollar amount of Entries Customer may transmit to Bank each day. However, Customer agrees that any such daily dollar limit established by Bank is not to be deemed a Security Procedure. The total dollar amount of Entries transmitted by Customer to Bank each day will not exceed the lesser of collected and available balances in Customer's Designated Account(s) or the daily dollar limit established by Bank.

(ii) **Exceeding Entry Limits.** Customer agrees that if an Entry(ies) exceeds such dollar limit and Bank processes such Entry(ies), Customer shall be liable to Bank for such Entry(ies), and Customer authorizes Bank to charge Customer's Designated Account.

(h) **On-Bank Entries.** An Entry accepted for debit or credit to an account maintained with Bank 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.

(i) International ACH Entries.

(i) **Accounts Located Outside U.S.** Customer must obtain Bank's written consent prior to initiating an ACH transaction where the Receiver's account is located in a country other than the U.S. Bank may decline to provide such consent in its sole discretion.

(ii) **International ACH Entries.** If Customer transmits International ACH Transactions ("**IAT Entries**"), as defined in the Nacha Rules, the following additional terms and conditions shall apply:

(A) International ACH Transactions may be subject to different rules, including without limitation return reasons and return time periods, under the Nacha Rules, Laws of the foreign jurisdiction in which the Receiver of the International ACH Transaction is located, or other Laws;

(B) Customer acknowledges and agrees that Customer is solely responsible for determining and complying with applicable requirements relating to the Entry including, but not limited to, Receiver authorization, notification in change of amounts of recurring debits, record keeping and other matters under the Laws of the foreign jurisdiction in which the Receiver of the International ACH Transaction is located; and

(C) Customer is responsible to Bank for all costs, losses or fees incurred by Bank or Bank's ACH processor(s) in completing an International ACH Transaction, including any costs, losses, or fees associated with conversion of funds to or from U.S. Dollars.

(j) Rejected or Returned Entries.

(i) **Rejected Entries.** Bank reserves the right to reject, without liability, any Entry with or without cause. Bank will notify Customer of any such rejection. Customer may remake and transmit such an Entry to Bank, but Bank will not remake any Entry.

(ii) **Returned Entries.**

(A) Bank will debit or credit, as applicable, Customer's Designated Account for each Return. If a debit Entry is returned for any reason, Customer agrees to and will immediately reimburse Bank with sufficient Available Funds to cover the amount of such Entry. In the event a credit Entry is returned for any reason, Bank will redeposit or reverse the amount of such Entry to the Designated Account to the extent the amount of

such Entry was debited from the Designated Account, or take such action as Bank and Customer may agree upon. Bank has no obligation to credit Customer's Designated Account with interest in the amount of any returned Entry Bank has debited from the Designated Account.

(B) Unless Customer has elected the automated re-deposit option for insufficient or non-collected funds, any Entry that is returned for any reason by an ACH Operator will be credited or debited, as applicable, back to Customer. Bank will notify Customer by the end of the first Business Day following the Business Day of Bank's receipt of the Return. Bank will not have any obligation to retransmit a Return provided Bank complied with the Service Terms for ACH Service with respect to the original Entry. However, if Customer remakes and/or retransmits a returned Entry, Bank will process it as a new Entry.

(iii) **Re-Deposit Option.** If Customer has elected the automated re-deposit option for insufficient or non-collected funds, Bank will re-submit returned debit Entries no more than one (1) time. If the re-submitted debit Entry is returned for any reason, it will be subject to the terms above for Returned Entries. Customer agrees to pay for this option in accordance with the Fee Schedule provided by Bank. In addition, Customer agrees to indemnify and hold Bank harmless from and against any Losses incurred by Bank arising out of, resulting from or claimed by Receiver as a result of Bank re-depositing the returned Entry based upon Customer's selection of the re-deposit option.

(k) **Cancellations and Amendments.** Customer has no right to cancel or amend any Entry after Bank or Bank's agent has received the Entry. 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 Customer's responsibility to remake and submit the Entry.

(l) **Reversals.** If Customer requests a reversal of an Entry or File in compliance with the Security Procedures and the Nacha Rules, Bank will process the reversal request pursuant to the Nacha Rules. In initiating a Reversing Entry for an Erroneous Entry or File, Customer warrants that it has initiated the Reversing Entry within five (5) Banking Days following the Settlement Date of the Erroneous Entry and within twenty-four (24) hours of discovery of the error. Customer also warrants that the Receiver of a Reversing Entry has been notified of the reversal, and the reason for the reversal, no later than the Settlement Date of the Reversing Entry. 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 for interest or related losses if the reversal requested by Customer is not effected. For both Reversing Entries and Files, Customer shall indemnify and hold Bank harmless from and against any Losses incurred by Bank and all Parties arising out of or related to the transaction(s), regardless of whether the RDFI effects the Reversing Entry or File. If Bank elects to provisionally credit Customer's Account for the amount of any Reversing Entry, such credit remains provisional until the reversal has been effected and the credit will be revoked if the reversal request is rejected, which could occur up to 60 days later.

(m) **Notification of Change.** Customer will not send an Entry containing erroneous Receiver or RDFI information for which Customer has received a Notification of Change ("**NOC**") indicating the erroneous information. If Bank receives a NOC from the ACH Operator, Bank will notify Customer no later than two (2) Banking Days of the Settlement Date of the NOC. Customer understands that the Nacha Rules require Customer to act on a NOC within six (6) Banking Days of receiving a NOC or before initiating another Entry to the same Receiver's account, whichever occurs later.

(i) **Refused NOC.** If the NOC is incorrect, Customer will either notify Bank or generate and deliver a refused NOC to Bank within fourteen (14) calendar days after Customer receives the NOC. The Nacha Rules require Bank to transmit a refused NOC to its ACH Operator within fifteen (15) calendar days of Bank's receipt of the NOC.

(ii) **Erroneous Entry Data.** Customer understands that by submitting an Entry to Bank with erroneous Receiver or RDFI information

that such Entry would not have otherwise contained had Customer complied with the applicable NOC, that:

(A) Customer is authorizing Bank to change such information in that Entry and each subsequent Entry originated by Customer containing the same erroneous information on Customer's behalf and in accordance with the applicable NOC before submitting the Entry to the ACH Operator. Customer understands that although Bank is permitted to make such change on Customer's behalf, Bank has no obligation to do so. Notwithstanding any action by Bank in accordance with this Subsection, Customer remains solely responsible for correcting Entries in accordance with an NOC as required by the Nacha Rules. For clarification, a waiver of any right to enforce Customer's breach of warranty with respect to an Entry does not waive any current or future right of Bank to enforce such right.

(B) Customer may be subject to Fines as well as termination, as set forth in the Nacha Rules and this Agreement. Customer shall indemnify and hold Bank harmless from and against any Losses incurred by Bank (including any Fines) arising out of, related to or resulting from Customer's violations of the Nacha Rules, and any such Losses and Fines shall be immediately due and payable.

(n) Bank Reservation of Rights.

(i) **Bank Reservation of Rights.** Bank reserves the right to:

(A) Process Entries or Files in any sequence, arrangement, or method which Bank, in Bank's sole discretion, deems reasonable;

(B) Be deemed to have accepted Entries only when Bank 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 the Service Terms for ACH Services;

(D) Suspend, reject or accept any or all Entries if Customer does not have sufficient Available Funds in the Designated Account required, or Customer has previously failed to reimburse Bank for any amounts owing to Bank;

(E) Reject or accept any or all Entries if Customer is in default of any term or provision of these ACH Service Terms and/or this Agreement;

(F) Reject or accept any or all Entries if Bank, in Bank's sole and absolute discretion, determines that Customer or Customer's third-party processor does not meet Bank's risk requirements as such requirements may change from time to time; and

(G) To pass on to Customer any Fine assessed by Nacha because of Customer's acts or omissions.

(ii) **Termination Right.** Bank may immediately terminate or suspend the ACH Service, if Bank, in Bank's sole discretion, determines that Customer is in breach of the Nacha Rules or if Bank determines termination is necessary to protect and keep Bank in good standing with Nacha, the Nacha members and/or as an ODFI.

(o) **Payment by Customer.** Customer authorizes the Bank to debit its Account(s) to initiate electronic funds transfers based on the Entries (i.e., Payment Orders) received by Bank and Customer agrees to pay to the Bank the amount of each Entry no later than the date the electronic funds transfer is processed by the Bank as set forth in the Documentation, and the Customer hereby authorizes the Bank to charge its Designated Account for payment of each electronic funds transfer, including, but not limited to, any reversed or returned ACH Debit Transfer. Customer agrees to be obligated and liable for any Payment Order submitted by a TPSP as if such Payment Order was submitted directly by Customer as permitted by the terms of this ACH Service. Bank may in its sole discretion (i) refuse to originate any ACH Credit Entry or any batch of ACH Credit Entries for which adequate funds are not on deposit in Customer's Designated Account with Bank at the time the ACH funds transfer is to be sent, even though such ACH Credit Entry may have already been received or

accepted for processing, (ii) at any time without prior notice require Client to pay the aggregate sum of the ACH Credit Entries in any batch or any ACH Credit Entries before Bank sends such electronic funds transfers to the ACH System, or before crediting a receiver's account held at Bank ("**Prefunding**"), as further described in the Documentation. If Bank requests that Customer Prefund a batch of ACH Credit Transfers, and Customer fails to so pay for such electronic funds transfers, then Bank is not obligated to process any electronic funds transfers or send any electronic funds transfers to the ACH System or debit or credit the account of a receiver held at Bank. If any electronic funds transfer, including a reversed or returned ACH Debit transfer, creates an overdraft in an Account, then Customer agrees to promptly pay Bank on demand and in immediately available funds, the amount of any such overdraft with interest thereon at Bank's then existing overdraft rate for the period involved until such overdraft is paid in full. The foregoing payment obligations will survive termination of the Agreement and this Service Description

(p) Settlement Date.

(i) **Provisional Credit.** Bank's payment of any debit Entry, returned credit Entry or credit Reversal to Customer's Designated 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.

(ii) **Offsetting Charge for Credit Entries.** Funds for a credit Entry will be debited (deducted) from Customer's Designated Account on the Customer's requested Effective Entry Date unless: (a) Bank requires earlier payment; or (b) the date specified is earlier than the Banking Day of processing. For standard credit Entries, the Effective Entry Date is generally one (1) or two (2) Banking Days following the Banking Day of processing.

(iii) **Offsetting Credit for Debit Entries.** The Settlement Date is established by the receiving ACH Operator. The Settlement Date for Bank is also the date that funds will be credited to the Customer's Designated Account. The Settlement Date is generally the Effective Entry Date unless (A) the date specified is earlier than the Banking Day of processing as established by the Originating ACH Operator; or (B) Customer is not enabled for Same Day ACH ("**SDA**") processing, in which case the scheduled Settlement Date will be the next Banking Day following the Banking Day of processing. For standard debit Entries, the Effective Entry Date is generally one (1) Banking Day following the Banking Day of processing.

(iv) **Same Day ACH Entries.** ACH Entries that are eligible for SDA under the Nacha Rules, contain a current or stale Effective Entry Date and are received and verified prior to the designated submission deadline will be handled as an SDA transaction, unless Bank has agreed to disable SDA processing at Customer's request or Bank has disabled SDA processing in its own discretion. All ACH Entries will be processed at the earliest available time. Therefore: (A) mixed batches containing eligible and ineligible SDA Entries may occur resulting in split settlement of the batch; and (B) suspended batches may settle as SDA Entries if released on or after the Entry Effective Date; and (C) ACH Entries received, with a current day Effective Date, on accounts not enabled for SDA will be held until after the last SDA window.

(v) **Other Entries.** Returns, NOCs 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.

(q) **Provisional and Final Payment.** Customer, Customer's TPSP, and Customer's 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.

(r) **Third Party Service Providers.** If Customer transmits Entries through a TPSP, the TPSP is Customer's Third-Party Provider and Customer is responsible for the TPSP's compliance with Laws, including the Nacha Rules. It is Customer's responsibility to monitor all transactions processed by Customer's TPSP and to immediately report any Errors as required by the General Terms and Conditions. Bank is not responsible for the acts or omissions of the TPSP, and Customer's use of the TPSP does

not relieve Customer of any of its obligations under this Agreement or as an Originator under the Nacha Rules. Customer agrees to indemnify and hold Bank harmless from any and all Losses incurred by Bank in connection with any acts or omissions of the TPSP. The Security Procedures used by the TPSP may be different from those used by Customer, and Customer agrees that the Security Procedures established and used by the TPSP, as Customer's Third-Party Provider and agent, are deemed to be elected by Customer and subject to the Security Procedures provisions in the General Terms and Conditions. Customer agrees to be obligated and liable for any ACH Entries (i.e., any Payment Order) submitted by a TPSP as if such ACH Entry was submitted directly by Customer as permitted by the terms of this ACH Service.

(s) **Third-Party Sender.** Customer shall immediately notify Bank in writing if Customer is, or at any time becomes, a Third-Party Sender of ACH Entries on behalf of Customer's customers or any third party. To use the ACH Service as a Third-Party Sender, Customer must enter into a separate agreement for the Third-Party Sender Service with Bank.

(t) **Data Retention.** In addition to complying with the retention requirements for authorizations as set forth in this Agreement and required by the Nacha Rules, Customer shall retain data on file adequate to permit remarking of Entries for one (1) year following the date of their transmittal by Bank as provided herein, and shall provide such data to Bank upon its request. Customer is responsible to retain all items, source documents and records of authorization in accordance with the Nacha Rules.

(u) **Audit.** Upon reasonable notice from Bank to Customer, Bank shall have the right to inspect Customer's books and records and to make on-site visits to any and all Customer locations with regard to: (A) all information deemed by Bank to be necessary or pertinent to Customer's use of ACH Service provided by Bank; and (B) compliance with the Nacha Rules. Information subject to Bank's right of inspection shall include all information maintained by Customer with respect to Customer's customers and clients that is materially related to Customer's ACH transaction activity conducted through Bank under the Service Terms for ACH Service.

(v) **ACH Nacha Format Service.** As an option, Customer may elect to initiate ACH entries by originating, creating and/or delivering to Bank Nacha formatted files for processing. Customer should consult the most current edition of the Nacha Rules to ensure Customer is using the most up to date Nacha file format.

4. **ACH Receiver Services.** Comerica's Automated Clearing House Receiver Service ("**ACH Receiver Service**") offers (i) ability to use a Uniform Identification Payment Code ("**UPIC**") for receiving ACH credits and/or (ii) ACH Receiver Reports that provide information about ACH Credits and ACH Debits posted to designated bank accounts held at Comerica Bank. If Customer elects to receive and Bank agrees to provide the ACH Receiver Services, Customer shall select one (1) or more of the following options during the implementation process:

(a) **UPIC Service.** The following terms apply if Customer elects to receive UPIC Service:

(i) **Assignment of UPIC.** Bank will assign and provide to Customer a UPIC for each Customer Designated Account. The UPIC may be used in place of Bank assigned account number for each Designated Account for purposes of receiving ACH credits to each Designated Account. The purpose of a UPIC is to avoid the Customer's need to provide its Bank assigned account number to those from whom Customer expects to receive ACH credits.

(ii) **Amendment to the Deposit Contract.** The Deposit Contract governing each Designated Account for which Bank provides a UPIC is amended to add the following language:

"All references in the Deposit Contract to "account number" shall include the UPIC number assigned under the Service Terms for ACH Receiver Services."

(iii) **Liability.** Notwithstanding any provisions to the contrary in this Agreement, Bank's liability for providing Customer with a UPIC is no greater or different than Bank's liability for providing Customer with an account number for its Designated Account.

(iv) **User Guide.** ACH Receiver Services are listed in the User Guide for ACH Services.

(v) **Fees.** Customer agrees to pay the Fees for the use of UPIC as set forth in the Fee Schedule. A fee is charged for each ACH credit posted to the Designated Account that identifies the UPIC assigned to Customer for the Designated Account as the beneficiary Account.

(b) **ACH Receiver Reports.** The following terms apply if Customer elects to receive ACH Receiver Reports:

(i) **Access.** ACH Receiver Reports will be transmitted to Customer via such Access Method provided by Bank from time to time. Customer must provide to Bank criteria needed to setup the ACH Receiver Services and inform Comerica of any changes to protocol licenses or delivery access. Some Access Methods may require Customer to sign an Implementation Agreement and/or separate agreement to use the Access Method.

(ii) **Provision of Information.** Bank will provide information about ACH debits and ACH credits posted to Designated Accounts. Reports will be made available the Business Day after each Business Day on which an ACH debit or ACH credit is posted or is received for posting to a Designated Account. Information generally contained in ACH Receiver Reports is: effective entry date, entry amount, Originator, ACH addenda data and other fields required in the NACHA formatted file in accordance with the NACHA Rules, files and reports not distributed in a NACHA format will have data included as designed at the time of setup.

(iii) **Liability.** Bank shall have no liability for delay in providing or its failure to provide ACH Receiver Reports. Customer shall not be obligated to pay for ACH Receiver Reports Bank failed to provide or for reports provided more than three (3) Business Days late.

(iv) **User Guides.** ACH Receiver Reports are listed in the User Guide for ACH Services.

5. **Check Issue Service.** Comerica's Check Issue Service ("**Check Issue Service**") allows customers to direct Bank to create and forward checks drawn on customer's checking account(s) to designated payees in accordance with the customer's instructions.

(a) **Additional Service(s) Required.** To use the Check Issue Service, Customer must receive the Comerica Integrated Payables Service and/or Comerica Integrated Payables Web Service. By using the Check Issue Service with Comerica Integrated Payables Service and/or Comerica Integrated Payables Web Service, Customer agrees to the Service Terms for the Comerica Integrated Payables Service and/or Comerica Integrated Payables Web Service, as applicable, and such applicable terms are incorporated into and made a part of the Service Terms for the Check Issue Service by this reference.

(b) **Accounts.** Customer shall direct Bank to create check(s) drawn against a checking account held by Customer at Bank ("**Checking Account**") through the use of the Check Issue Service. For purposes of the Check Issue Service and the creation of checks under the Service Terms for the Check Issue Service, Customer designates Bank and its agents and employees as agents of Customer with the limited authority to affix an authorized signature to checks requested by Customer under the Service Terms for the Check Issue Service. For purposes of the Service Terms for the Check Issue Service, "**create**" means to print a check requested by Customer using a Customer approved check template, with payment information provided by Customer, and to affix the signature provided by Customer on a check drawn against a Checking Account. Customer must instruct Bank to affix an authorized signature to the checks requested under the Service Terms for the Check Issue Service.

(c) **Authorization.** To utilize this Check Issue Service, Customer authorizes Bank to affix Customer's authorized signature to checks created pursuant to the Service Terms for the Check Issue Service. Customer agrees that checks created as a result of Bank's receipt of instructions through the Check Issue Service are deemed authorized under the terms of the agreement governing the Checking Account on which the checks are to be drawn.

(d) **Processing Limits.** If more than one (1) check request is received from Customer or other customers of Bank, Bank may process the requests in any order it elects. For purposes of the Service Terms for



the Check Issue Service, forwarding a created check means to mail it by U.S. first class mail or give it to a national courier that personally delivers packages, depending on whether Customer chooses to expedite a payment. Notwithstanding the foregoing, Bank will use commercially reasonable efforts to create checks for check requests received by Bank by the Cutoff Time specified in the applicable User Guide(s) for the Check Issue Service on the same Business Day, and to forward them on the same Business Day. Bank does not guarantee that checks will be created and/or forwarded on the same Business Day on which they are requested even if the request is received by Bank on or before the Cutoff Time specified in the applicable User Guide(s) for the Check Issue Service. If a check is not created on the same Business Day that it is received by Bank, it will be created on the next Business Day unless the delay is otherwise excused.

(e) **Changes to Checking Accounts.** Customer will promptly notify Bank, in accordance with the applicable User Guide(s), of any changes to authorized signature, logo, return address, account closure or other changes affecting any Checking Account or the negotiability of the checks created under the Service Terms for the Check Issue Service.

(f) **Duties.**

(i) **Duties of Bank.** Provided that Bank receives Customer's check request in accordance with the requirements set forth in the applicable User Guide(s), Bank's only duties are those specifically set forth in the Service Terms for the Check Issue Service. Checks will be forwarded in the manner agreed upon by Bank and Customer.

(ii) **Duties of Customer.** Customer will notify Bank at least two (2) Business Days prior to making any request for five hundred (500) or more checks on any Business Day. Failure to notify Bank in accordance with the Service Terms for the Check Issue Service may result in a delay in the creation and/or forwarding of Customer's requested checks.

(g) **Check Stock.**

(i) **Approval of Mock-Up.** Customer shall provide to Bank any approved tradename, trademark and/or logo ("**Marks**") it wishes to include on its check stock template. Bank will design a check stock template mock-up containing the specifications provided by Customer. Bank shall provide the check stock template mock-up to Customer for review and approval. Customer shall have thirty (30) days to advise Bank of any changes to the check stock template. If after thirty (30) days Customer has not informed Bank of any changes to be made to the check stock template, it will be deemed accepted by Customer. If Customer does advise Bank of changes to the check template within thirty (30) days, Bank will implement such changes and return the check template mock-up to Customer for review and approval. Customer shall have thirty (30) days to advise Bank of any changes to the amended check template.

(ii) **Customer Liability.** Bank shall have no liability for any mistakes, errors or requests for changes to any check template after Customer has approved the template. If Customer discovers a mistake or error on a check after approving the check template, Customer may instruct Bank to continue using such checks or request a new check template mock-up at Customer's expense.

(iii) **Customer's Marks.** Customer hereby grants to Bank a limited, revocable, nontransferable license to reproduce and use its Marks solely for the purpose of and in connection with the Service Terms for the Check Issue Service. Bank's reproduction and use of Customer's Marks, and all goodwill established thereby and/or associated therewith, shall inure exclusively to the benefit of Customer, and Bank acquires no goodwill or other legal rights or interests in Customer's Marks other than the right to use Customer's Marks in connection with the provision of services pursuant to the Service Terms for the Check Issue Service.

(h) **Limitations of Liability.** Notwithstanding anything in this Agreement to the contrary, in addition to the limitations of liability set forth in the General Terms and Conditions of this Agreement, Bank shall have no liability to Customer, or any intended payee, if a check created under the Service Terms for the Check Issue Service is returned undeliverable or unpaid because of any reason other than Bank's gross negligence or willful misconduct. Customer understands that Bank undertakes no duty in providing this Check Issue Service to determine if funds are available in the Checking Account at the time a check is forwarded. Bank's liability for failure to timely forward a requested check within one (1) Business Day

following receipt of a request received in accordance with the requirements set forth in the applicable User Guide(s) (if such failure is not excused for any reason set forth in the General Terms and Conditions of this Agreement) is limited to the amount of any late fees, penalties or interest incurred by Customer that is imposed by the payee on Customer in payee's ordinary course of business, but in no event will Bank's liability exceed 10% of the face amount of the requested check or \$100, whichever is less.

(i) **Positive Pay.** As an option, and subject to the Fees and Charges set forth in the applicable Fee Schedule, Customer may request Bank to create check issue files for checks created by Bank under the Service Terms for the Check Issue Service and the Positive Pay Service on Customer's Comerica Bank, Comerica Bank & Trust, NA, or Comerica Bank Canada accounts. Bank will use commercially reasonable efforts to create and deliver the check issue file to the Positive Pay Department before a check created under the Service Terms for the Check Issue Service is presented for payment. However, Bank shall have no responsibility or liability for any Losses arising out of the untimely delivery of a check issue file. Customer is responsible for selecting its default actions for checks issued under this Check Issue Service accordingly. If Customer selects this option, Customer is subject to and agrees to the Service Terms for the Positive Pay Service.

6. **Check Services.** Comerica's Check Services ("**Check Services**") allow customers to stop payment of checks, inquire as to the status of checks or request information as to their deposit account(s) at Bank.

(a) **Additional Service(s) Required.** To use the Check Services, Customer must receive the Comerica Integrated Payables Service and/or such Access Method as required by Bank from time to time. By using the Check Issue Service with Comerica Integrated Payables Service, Customer agrees to the Service Terms for the Comerica Integrated Payables Service and such applicable terms are incorporated into and made a part of the Service Terms for the Check Issue Service by this reference.

(b) **Stop Payment Orders.**

(i) **Effectiveness of Stop Payment Orders Through an Access Method.** A stop payment order placed through a permitted Access Method is a "writing" for purposes of the UCC. Unless: (A) Bank agrees to some other time period; or (B) Customer requests, and Bank accepts, the cancellation of a stop payment order, Customer's stop payment order will remain effective for six (6) months, twelve (12) months, twenty-four (24) months or sixty (60) months, from the first Business Day following Bank's acceptance of the stop payment order based on Customer's selection when the stop payment order is placed.

(ii) **Effectiveness of Stop Payment Orders Through Comerica Integrated Payables.** A stop payment order placed through Comerica Integrated Payables Check Services is a "writing" for purposes of the Uniform Commercial Code. Unless (A) Bank agrees to some other time period; or (B) Customer requests, and Bank accepts, the cancellation of a stop payment order, Customer's stop payment order will remain effective for six (6) months from the first Business Day following Bank's acceptance of the stop payment order.

(iii) **Contingency Plan for Transmission of Stop Payment Order.** If either the Check Services or the Access Method Customer uses to access Check Services is inoperative, Customer will transmit stop payment order(s) by such other means as Bank may direct, and such instructions will remain subject to the Service Terms for Check Services as if they were entered without a Contingency Plan.

(iv) **Reasonable Time to Act.** 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. Customer understands that placing a stop payment order on a check may not. Customer cannot stop payment on certain types of checks, such as official, certified, cashier's, or teller's checks issued by Bank, and Bank may pay a check to a person who becomes a "holder in due course" even if a stop payment order is in effect for that check. Customer's obligation on the check or the underlying obligation.

(v) **Standard of Care.** Bank will exercise good faith and ordinary care in implementing Customer's instructions under the Check Services. Bank has no obligation to notify Customer when a stop payment order expires.

(c) **Limitation of Liability.** Notwithstanding anything in this Agreement to the contrary, in addition to the limitations of liability set forth in the General Terms and Conditions of this Agreement, Bank will not be liable for stop payment orders involving duplicate check numbers issued by Customer.

(d) **Indemnification.** In addition to any other Indemnification obligations under this Agreement, Customer shall indemnify and hold Bank harmless from and against any Losses incurred by Bank arising out of, related to or in connection with Bank's refusal to pay any check on which Customer has placed a stop payment order, or if Bank pays any check on which: (ia) Customer has released Customer's stop payment order; (ii) the stop payment order has expired; (iii) the stop payment order has been improperly or inaccurately entered by Customer; or (iv) the stop payment order has not been entered in a timely manner.

7. **Comerica Integrated Payables™ Service.** Comerica Integrated Payables Service ("Integrated Payables Service") provides customers with access to a transaction-based service that enables them to direct Bank and/or its agents to transmit payment requests drawn on customers' designated Bank account(s) or Comerica Commercial Card account(s) by file delivery.

(a) **Services Available Through Integrated Payables.** Customer will only be able to use the Integrated Payables Service to access and use the payment types available through the Integrated Payables Service ("IP Payment Types") that Customer has selected in the Implementation Agreement or is otherwise made available by Bank. Customer agrees to the Service Terms for the applicable IP Payment Type, or in the case of Comerica Commercial Card for Vendor Payments, the terms of the Comerica Commercial Card Services Agreement, and such applicable terms for the IP Payment Type are incorporated into and made a part of the Service Terms for the Integrated Payables Service. IP Payment Types available for use with the Integrated Payables Service include: (i) Comerica Commercial Card for Vendor Payments; (ii) ACH Services; (iii) Check Services; (iv) Check Issue Service; (v) Treasury Management Wire Transfer Service; and (vi) Multibank Payment Request Service.

(b) **Supporting Service Required.** To use the Integrated Payables Service with Check Services, Check Issue Service and/or ACH Services, Customer must receive and use the Check Positive Pay Service with Payee Match Option and/or ACH Positive Pay Service, as applicable, and Customer agrees to the Service Terms for the required supporting Service and such terms are incorporated into and made a part of the Service Terms for the Integrated Payables Service.

(c) **Authorization to Store, Process, Transmit and Make Available.** Customer authorizes Bank to act as its agent for the Payment Type(s) Customer initiates using the Integrated Payables Service. Bank is authorized to store, process, transmit and make available through Bank's agencies and systems, third party financial institutions and Vendors, information regarding accounts and transactions designated by Customer in connection with the Integrated Payables Service.

(d) **Acknowledgments and Confirmations.** By default, Bank will provide Customer with one (1) or more acknowledgements and confirmations (each a "Notice") for payments made by Customer using this Integrated Payables Service. Customer may elect to opt out from receipt of any or all of these Notices. In the event Customer elects to opt-out from the receipt of any or all of these Notices, Customer releases and holds Bank harmless from any liability as a result of this request.

(e) **Payment Instructions.** For all payment instructions transmitted to Bank using the Integrated Payables Service, files must contain all mandatory fields as further described in the applicable User Guide(s). Failure to include any mandatory field, or the submission of an invalid mandatory field, will result in the payment request being rejected and a notice of such rejection will be sent to Customer via the Integrated Payables Service as agreed upon by Customer and Bank. At Customer's option, Bank will provide a confirmation to Customer via the Integrated Payables Service indicating the payment has been successfully processed or forwarded for processing. It is Customer's responsibility to contact Bank at the phone number provided in the applicable User Guide(s) if Customer does not receive a confirmation or rejection of a payment that it requested.

(f) **Next Business Day.** 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 reported by the Integrated Payables Service until the next Business Day.

(g) **Use Limitations.** Customer represents and warrants to Bank that Customer: (i) will access and use the Integrated Payables Service solely to conduct Customer's business; and (ii) will limit access to the Integrated Payables Service to those Customer employees and agents 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 Integrated Payables Service or process orders or instructions. Any orders, instructions or other communications received by Bank via the Integrated Payables Service, using the Security Procedures applicable to the Integrated Payables Service, will be deemed by Bank as received from Customer.

(h) **Limitation of Liability.** Notwithstanding anything in the Agreement to the contrary, in addition to the limitations of liability set forth in the General Terms and Conditions of this Agreement, the following limitations apply. Customer agrees that Bank and its Vendors 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, instruction, or other communication by Customer, or Customer's failure to format any such order, instruction or communication as required by Bank;

(ii) failure by Customer to obtain a confirmation or rejection of an order or instruction;

(iii) cancellation or attempted cancellation by Customer of an order or instruction;

(iv) errors or omissions resulting from Bank's conversion of an order or instruction received from Customer or any Third-Party Provider;

(v) inaccurate or incomplete information received from Customer, another financial institution, or a Third-Party Provider;

(vi) temporary interruptions in Bank's or any other entity's information systems;

(vii) inability to access the Integrated Payables Service, or a Service accessible through the Integrated Payables Service, through the use of the internet or other communications delivery systems; or

(viii) unauthorized use of the Integrated Payables Service, or a Service accessible through the Integrated Payables Service, by Customer or its officers, employees, agents, or third parties.

8. **Comerica's Vendor Payment Registration Assistance Service for Integrated Payables Service.** Comerica's Vendor Payment Registration Assistance Service ("IP Registration Assistance Service") is an optional service for customers who elect Comerica Commercial Card as a payment type for Integrated Payables Service. The purpose of the Registration Assistance Service is to register customer's vendors to support payments by Comerica Commercial Card.

(a) **Additional Services Required.** To use the IP Registration Assistance Service, Customer must receive the Integrated Payables Service and must sign the Comerica Card Solutions Terms. By using the IP Registration Assistance Service with Comerica Integrated Payables Service, Customer agrees to the Service Terms for the Comerica

Integrated Payables Service, and such terms are incorporated into and made a part of the Service Terms for the IP Registration Assistance Service by this reference.

(b) Authorization. Customer authorizes Bank to contact Customer's designated vendors in furtherance of migration of such vendors to process payments via Customer's designated Comerica Commercial Card Vendor Card (as defined in the User Guide) ("**Vendor Card**"), as applicable.

(c) Vendor Registration Assistance Responsibilities.

(i) Bank will assist Customer in registering vendors for accepting Vendor Card for payments. Bank reserves the right to limit the number of vendors included in the Registration Assistance Service. Bank will provide to Customer the period during which Bank will provide the Registration Assistance Service.

(ii) Customer shall provide complete and updated contact information for each vendor in the vendor registration file. Bank must be able to rely solely on the vendor contact name and phone number information that Customer provides. If, however, incomplete or outdated vendor contact information is provided by the Customer, Bank may, at its discretion, attempt to: (Aa) take steps to contact the vendor to determine on Customer's behalf the department and individual who is to receive Payment Information (defined below); or (B) identify the appropriate department and individual by conducting a basic internet search.

(iii) Upon receipt of Customer's vendor registration file that includes all the information requested by Bank for the Registration Assistance Service, Bank will contact each vendor contact person using the name and telephone number provided by Customer.

(iv) Bank will make at least two (2) attempts to reach the appropriate department and individual based upon the information Customer provided or that Bank obtained directly from the vendor or by doing a basic internet search for the vendor during the Registration Assistance Service period.

(v) Bank will provide Customer with confirmation periodically of each vendor's status to receive payment by Vendor Card. Bank does not guarantee that any vendor will accept payment by Vendor Card.

(vi) If a vendor agrees to receive payments from Customer via Vendor Card, Bank will provide the vendor with a Vendor Card account number, expiration date and card verification code.

(vii) The information Bank provides to the vendor in accordance with these Service Terms shall be collectively referred to as "Payment Information".

(viii) If for any reason the vendor is unable to use that Payment Information to receive payment, Bank assumes no liability. The vendor must contact Customer directly for error resolution.

(ix) By authorizing a Vendor Card payment, Customer agrees that the Payment Information is correct.

(d) Limitation of Liability. Notwithstanding anything in the Agreement to the contrary, in addition to the limitations of liability set forth in the General Terms and Conditions of this Agreement:

(i) Bank assumes no liability for any errors in vendor registration if: (A) vendor registration is conducted by anyone other than Bank; or (B) registration information and Payment Information is validated by Customer.

(ii) Bank assumes no liability for the actions of Customer or the vendor.

9. Comerica Integrated Payables Web Service. Comerica Integrated Payables Web Service ("**Integrated Payables Web Service**") is a payment service that includes internet-based software and tools ("**IPW Software**") allowing customers to access various services to initiate and send payments and track, export, and reconcile transactions. Customers may also elect to receive assistance with setting up and/or migrating their vendors from check payments to ACH or Comerica Commercial Card payments.

(a) Payment Types Available Through Integrated Payables Web Service. Customer will only be able to use the Integrated Payables Web Service to access and use the payment types available through the Integrated Payables Web Service ("**IPW Payment Types**") that Customer has selected in the Implementation Agreement or otherwise made available by Bank. Customer agrees to the Service Terms for the applicable IPW Payment Type, and such applicable terms for the IPW Payment Type are incorporated into and made a part of the Service Terms for the Integrated Payables Web Service. IPW Payment Types available for use with the Integrated Payables Web Service include: (i) Comerica Commercial Card for Vendor Payments; (ii) ACH Services; (iii) Check Issue Service; (iv) Treasury Management Wire Transfer Service; and (v) Multibank Payment Request Service.

(b) Access and Supporting Service Required. To use the Integrated Payables Web Service with the Check Issue Service and/or ACH Services, Customer must receive and use the Check Positive Pay Service with Payee Match Option and/or ACH Positive Pay Service, as applicable, and Customer agrees to the Service Terms for the required supporting Service and such terms are incorporated into and made a part of the Service Terms for the Integrated Payables Web Service.

(c) Authorization.

(i) **Bank Vendors.** For purposes of the Service Terms for the Integrated Payables Web Service, all references to "**Bank**" shall include Bank's Vendors.

(ii) **Generally.** Customer authorizes Bank to act as its agent for the Payment Type(s) Customer initiates using the Integrated Payables Web Service. Bank is authorized to store, process, parse, format, generate, transmit, route and make available through Bank's agencies, systems, third-party financial institutions and/or Vendors, payment files and records, information regarding accounts, and transactions designated by Customer.

(iii) **Duplicates.** In the event Bank detects a duplicate payment file submitted by Customer, Bank is hereby authorized to automatically suspend processing such duplicate files until further instruction from Customer. Bank will notify Customer of such detected duplicate files. However, for clarification, the foregoing shall not impose on Bank any responsibility to detect duplicate files. For every payment file that is submitted to Bank through the Integrated Payables Web Service, the system will automatically perform duplicate file checking. The system will compare the submitted payment file with all past payment files processed for Customer to check for any possible matches based on the total dollar amount and the total number of payment records in the file. If a match is detected, processing of the submitted payment file is automatically suspended. Bank will visually inspect both the submitted payment file and the matching duplicate file to verify if the payment records in the two (2) files are truly identical. Bank will review the Payee Names, Payment Numbers, Payment Amounts, and Payment Dates in both files. Once the review has been completed, if the submitted file is not identical to the previously processed matching files, the file will be released for processing. In the event that the submitted file is a duplicate file, Bank will contact Customer and inquire if the file should be released or cancelled out of the system. Bank reserves the right to make reasonable changes to the duplicate file checking process.

(d) Payment Orders.

(i) **Customer's Responsibility.** Customer is responsible for providing instructions to Bank and any other financial institutions that will input account information into the Integrated Payables Web Service, or process orders or instructions.

(ii) **File Formats.** Customer shall provide Bank with a sample payment data file and corresponding record layout prior to receiving the Integrated Payables Web Service. For all payment instructions transmitted to Bank using the Integrated Payables Web Service, files must conform to the sample payment data file that Customer provides to Bank, and that Bank approves. Failure to conform to the sample payment data file will result in the payment request being rejected and a notice of such rejection will be sent to Customer by Integrated Payables Web Service as agreed upon by Customer and Bank. Bank will provide a confirmation to Customer via the Integrated Payables Web Service once the payment has been successfully processed. It is Customer's responsibility to contact Bank at

the phone number provided in the applicable User Guide if Customer did not receive a confirmation or rejection of a payment that it requested.

(iii) **Notifications.** Bank will electronically notify Customer of file processing status.

(iv) **Data Storage.** Bank will store Customer's payment data information in its database for archival. The most recent twelve (12) months of payment history will be available to Customer via the Integrated Payables Web Service.

(e) Customer's Additional Representations and Warranties.

(i) **Customer Representations and Warranties.** Customer represents and warrants to Bank that Customer:

(A) will limit access to and usage of the Integrated Payables Web Service and related documentation, including the User Guide for the Integrated Payables Web Service (collectively "**Documentation**") to those Users who are authorized to use the Integrated Payables Web Service and who require access to the Integrated Payables Web Service to perform their jobs;

(B) will use the Integrated Payables Web Service and Documentation solely to conduct its business and solely in the ordinary course of its business operations;

(C) will ensure that Users or permitted agents will use the Integrated Payables Web Service only in accordance with the Documentation;

(D) and shall not do, or attempt to do, nor permit any other person or entity to do any of the following:

(1) use any Proprietary Property for any purpose, at any location or in any manner not specifically authorized by the Service Terms for the Integrated Payables Web;

(2) make any or retain any copy of any Proprietary Property except as specifically authorized by the Service Terms for the Integrated Payables Web;

(3) create or recreate the source code for the Integrated Payables Web Service, or re-engineer, reverse engineer, decompile or disassemble the IPW Software;

(4) modify, adapt, translate or create derivative works based upon the IPW Software or Documentation, or combine or merge any part of the IPW Software or Documentation with or into any other software or documentation;

(5) refer to or otherwise use any Proprietary Property as part of any effort either (i) to develop a program having any functional attributes, visual expressions or other features similar to those of IPW Software, or (ii) to compete with Bank;

(6) remove, erase or tamper with any copyright or other proprietary notice printed or stamped on, affixed to, or encoded or recorded in any Proprietary Property, or fail to preserve all copyright and other proprietary notices in any copy of any Proprietary Property made by Customer;

(7) sell, market, license, sublicense, distribute or otherwise grant to any person or entity, including any outsourcer, vendor, consultant or partner, any right to use any Proprietary Property provided by Bank;

(8) use the IPW Software to conduct any type of service bureau or time-sharing operation or to provide remote processing, network processing, network telecommunications or similar services to any person or entity, whether on a fee basis or otherwise; or

(9) share screen shots of the IPW Software with any person(s) who is not a User.

(ii) **No Guarantees.** 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 Integrated Payables Web Service.

(f) Limitation of Liability. NOTWITHSTANDING TERMS IN THE GENERAL TERMS AND CONDITIONS OF THIS AGREEMENT TO THE CONTRARY, BANK'S TOTAL LIABILITY UNDER THESE INTEGRATED PAYABLES WEB SERVICE TERMS SHALL UNDER NO CIRCUMSTANCES EXCEED THE FIRST SIX (6) MONTHS FEES ACTUALLY PAID BY CUSTOMER TO BANK UNDER THESE INTEGRATED PAYABLES WEB SERVICE TERMS.

#### 10. Comerica's Vendor Payment Registration Assistance Service for Integrated Payables Web Service.

Comerica's Vendor Payment Registration Assistance Service for Integrated Payables Web ("IPW Registration Assistance Service") is an optional service for customers who elect ACH and/or Comerica Commercial Card as a payment type(s) for the Integrated Payables Web Service. The purpose of the IPW Registration Assistance Service is to register customer's vendors to support payments by ACH and/or Comerica Commercial Card.

(a) Additional Services Required. To use the IPW Registration Assistance Service, Customer must receive the Integrated Payables Web Service and one or more of the following: (i) Comerica Commercial Card Service; and/or (ii) ACH Services. By using the IPW Registration Assistance Service, Customer agrees to the Service Terms for the Integrated Payables Web Service, the Service Terms for ACH Services (if applicable) and the terms and conditions of the Comerica Commercial Card Service Agreement (if applicable). If Customer intends to terminate the Comerica Commercial Card Service Agreement, Customer must provide Bank with advance notice and Bank will work with Customer to evaluate alternative payment types for the affected vendors.

(b) Authorization.

(i) Customer authorizes Bank to contact Customer's designated vendors in furtherance of migration of such vendors to process payments via ACH drawn against Customer's Designated Account and/or via Customer's designated Comerica commercial card ("**Vendor Card**") which can include single-use virtual cards or assigned Vendor Cards, as applicable.

(ii) For purposes of the Service Terms for IPW Registration Assistance Services, all references to "Bank" shall include Bank's Vendors.

(c) Vendor IPW Registration Assistance Responsibilities.

(i) Bank will assist Customer in registering vendors for accepting ACH and/or Vendor Card for payments. Bank reserves the right to limit the number of vendors included in the IPW Registration Assistance Service. Bank will provide to Customer the period during which Bank will provide the IPW Registration Assistance Service.

(ii) Customer will provide complete and updated contact information for each vendor in the vendor registration file. Bank must be able to rely solely on the vendor contact name and phone number information that Customer provides. If, however, incomplete or outdated vendor contact information is provided by the Customer, Bank may, at its discretion, attempt to: (A) take steps to contact the vendor to determine on Customer's behalf the department and individual who is to receive Payment Information (defined below); or (B) identify the appropriate department and individual by conducting a basic internet search.

(iii) Upon receipt of Customer's vendor registration file that includes all the information requested by Bank for the IPW Registration Assistance Service, Bank will contact each vendor contact person using the name and telephone number provided by Customer.

(iv) Bank will make at least two (2) attempts to reach the appropriate department and individual based upon the information Customer provided or that Bank obtained directly from the vendor or by

doing a basic internet search for the vendor during the IPW Registration Assistance Service period.

(v) Bank will provide Customer with confirmation periodically of each vendor's status to receive payment by ACH and/or Vendor Card. Bank does not guarantee that any vendor will accept payment by ACH and/or Vendor Card.

(vi) If a vendor agrees to receive payments from Customer via ACH and/or Vendor Card: (A) for ACH transactions, vendor will register and provide an account number and routing instructions using the Integrated Payables portal; (B) for single-use virtual card transactions, vendor will register and receive Vendor Card account information using the Integrated Payables portal; (C) for assigned Vendor Card transactions, vendor will register using the Integrated Payables portal. Bank will provide the vendor with a Vendor Card account number, expiration date and card verification code.

(vii) The information Bank provides to the vendor, and vendor provides in accordance with these Service Terms shall be collectively referred to as "**Payment Information**."

(viii) If for any reason vendor is unable to use that Payment Information to receive payment, Bank assumes no liability. The vendor must contact Customer directly for error resolution.

(ix) By authorizing a Vendor Card payment, Customer agrees that the Payment Information is correct.

(d) Limitation of Liability. Notwithstanding anything in this Agreement to the contrary, in addition to the limitations of liability set forth in the General Terms and Conditions of this Agreement:

(i) Bank assumes no liability for any errors in vendor registration if: (A) vendor registration is conducted by anyone other than Bank; or (B) registration information and Payment Information is validated by Customer.

(ii) Bank assumes no liability for the actions of Customer or the vendor.

11. **Controlled Disbursement Service**. Comerica's Controlled Disbursement Service ("**Controlled Disbursement Service**") is a solution offering businesses and government agencies greater control over general disbursements. The Controlled Disbursement Service provides customers same-day notification of the amount of disbursements clearing that day via Comerica Bank's information reporting systems. Required funds are drawn from a predetermined funding account so that customers know exactly what charges to expect on a given day. The Controlled Disbursement Service enables customers to better manage funds for optimal return, minimizing idle balances in their accounts.

(a) Definitions. For purposes of Service Terms for the Controlled Disbursement Service: "**Funding Bank**" means Comerica Bank; "**Disbursing Bank**" shall mean Comerica Bank and Trust, N.A. Funding Bank and Disbursing Bank are collectively referred to as "**Bank**." Comerica Bank and Trust, N.A. shall be deemed a Vendor of Bank.

(b) Opening and Maintaining Accounts. Customer will complete and execute deposit account documents requested to open: (i) a controlled disbursement account drawn on Disbursing Bank ("**Disbursement Account**"); and (ii) a commercial demand deposit checking account held at Funding Bank ("**Funding Account**").

(c) The Disbursement Account.

(i) **Deposits**. The Disbursement Account is intended to be a zero balance account, meaning no deposits, including ACH credits or incoming wire transfers for credit, are to be made directly into the Disbursement Account. However, if from time to time an incoming deposit is received, the Disbursing Bank may accept the deposit and, at its option, transfer such deposit to the Funding Account.

(ii) **Debits**. Only check transactions (checks drawn against the Disbursement Account) and ACH debits are expected to occur in connection with the Disbursement Account. While the Disbursing Bank may accept drawn down wires against the Disbursement Account, it is under no obligation to do so, and such transactions will not be reported under the Controlled Disbursement Service. The only type of transactions

intended for the Disbursement Account are checks drawn by Customer on the Disbursement Account and ACH debits. The Customer should not initiate wires of any kind, ACH credits or any other types of credit transactions from the Disbursement Account, nor direct others to initiate such transactions against the Disbursement Account.

(iii) **Guaranteed or Standard Presentment**. Bank will determine, based on risk rating, if Customer will be setup with guaranteed or standard presentment and will notify Customer in writing of the presentment type.

(d) 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 the Controlled Disbursement Service. 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 Funding Bank to disclose to Disbursing Bank such information concerning Customer's affairs as Disbursing Bank may deem appropriate.

(e) Check Numbers. Customer will not at any time issue more than one (1) 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.

(f) 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 the presented check.

(g) Report of Incoming Debits. Disbursing Bank will, on each Business Day, inform Funding Bank of the total aggregate amount of all checks and other debits, net of adjustments ("**Total Clearings**"), 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 the Controlled Disbursement Service.

(h) The Funding Account. Customer agrees not to close the Funding Account without the express written consent of Bank. Customer agrees to maintain sufficient Available Funds 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 of Customer's accounts at Bank to reimburse Bank for the deficit. Overdrafts which may be allowed by Bank, in its sole and absolute discretion, shall be an obligation of the Customer. 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 Disbursement Account to be returned unpaid.

(i) 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.

(j) 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 applicable Deposit Contract, this Agreement, or as otherwise agreed in writing by Customer and Bank.

(k) Special Circumstances. Customer acknowledges that Bank may at times be unable to provide a report of the 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.

(l) Return of Unpaid Items. Funding 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: (i) there are insufficient Available Funds on deposit in the Funding Account by the established deadline to fund the actual or estimated Total Clearings; (ii) debits cannot be posted because the Disbursement Account or Funding Account is frozen, blocked, closed or because of any other condition; or (iii) any communications failure or other condition prevents Funding Bank from monitoring Customer's Dollar Limit and/or the Items presented for payment at Disbursing Bank.

(m) Stop Payment Orders. Customer may issue stop payment orders on Items drawn on the Disbursement Account in accordance with the terms of Funding 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, in enough time to give the Disbursing Bank a full Business Day in which to act on any stop payment order. Funding Bank or Disbursing Bank shall not be liable for payment of any Item under a stop payment order during such time.

(n) Disbursing Bank's Duties, Limitation of Liability and Customer Indemnification. For avoidance of doubt, the limitation of liability and indemnification provisions in the General Terms and Conditions of this Agreement apply to both Disbursing Bank and Funding Bank. Funding Bank shall not be liable for any acts or omissions of Disbursing Bank. Customer agrees that Disbursing Bank's liability for the Controlled Disbursement Service shall be limited to the same extent as that of Funding Bank. Customer further agrees to indemnify and hold Disbursing Bank harmless from and against any and all Losses incurred arising out of or related to the Controlled Disbursement Service and its performance of the duties described in the Service Terms for the Controlled Disbursement Service to the same extent as Customer is obligated to indemnify and hold harmless the Funding Bank.

**12. Comerica Treasury Payments Integrated Payables™ Service.** Comerica Treasury Payments Integrated Payables Service ("Treasury Payments Integrated Payables Service Schedule") provides customers with access to a transaction-based service that enables them to direct Bank and/or its agents to transmit payment requests drawn on customers' designated Bank account(s) by file delivery.

(a) Services Available Through Comerica Treasury Payments Integrated Payables. Customer will only be able to use the Comerica Treasury Payments Integrated Payables Service to access and use the payment types available through the Comerica Treasury Payments Integrated Payables Service ("Payment Types") that Customer has selected in the Implementation Agreement or as otherwise made available by Bank. Customer agrees to the Service Terms for the applicable Payment Type, and such applicable terms for the Payment Type are incorporated into and made a part of the Service Terms for the Treasury Payments Integrated Payables Service. Payment Types available for use with the Treasury Payments Integrated Payables Service currently include: (i) Treasury Management Wire Transfer; (ii) Account to Account Transfer; (iii) ACH Origination Services, and (iv) Stop Payments which is part of Check Services.

(b) Access. Customer may access and use the Treasury Payments Integrated Payables Service through Comerica Treasury Payments. By using the Treasury Payments Integrated Payables Service with Comerica Treasury Payments, Customer agrees to the Service Terms for Comerica Treasury Payments and such terms are incorporated into and made a part of the Service Terms for the Treasury Payments Integrated Payables Service by this reference.

(c) Authorization. Customer authorizes Bank to act as its agent for the Payment Type(s) Customer initiates using the Treasury Payments Integrated Payables Service. Bank is authorized to store, process, transmit and make available through Bank's agencies and systems, third party financial institutions and Vendors, information regarding accounts and transactions designated by Customer in connection with the Treasury Payments Integrated Payables Service.

(d) Acknowledgments and Confirmations. By default, Bank will provide Customer with one (1) or more acknowledgements and confirmations (each a "Notice") for payments made by Customer using this Treasury Payments Integrated Payables Service. Customer may elect to opt out from receipt of any or all of these Notices. In the event Customer elects to opt-out from the receipt of any or all of these Notices, Customer releases and holds Bank harmless from any liability as a result of this request.

(e) Payment Instructions. For all payment instructions transmitted to Bank using the Treasury Payments Integrated Payables Service, files must contain all mandatory fields as further described in the applicable User Guide(s). Failure to include any mandatory field, or the submission of an invalid mandatory field, will result in the payment request being rejected and a notice of such rejection will be sent to Customer via the Treasury Payments Integrated Payables Service as agreed upon by Customer and Bank. At Customer's option, Bank will provide a confirmation to Customer via the Treasury Payments Integrated Payables Service indicating the payment has been successfully processed or forwarded for processing. It is Customer's responsibility to contact Bank at the phone number provided in the applicable User Guide(s) if Customer does not receive a confirmation or rejection of a payment that it requested.

(f) Next Business Day. 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 reported by the Treasury Payments Integrated Payables Service until the next Business Day.

(g) Use Limitations. Customer represents and warrants to Bank that Customer: (i) will access and use the Treasury Payments Integrated Payables Service solely to conduct Customer's business; and (ii) will limit access to the Treasury Payments Integrated Payables Service to those Customer employees and agents who require access to perform their jobs. Customer is responsible for providing instructions to Bank, other financial institutions and any Vendor who will input account information into the Treasury Payments Integrated Payables Service or process orders or instructions. Any orders, instructions or other communications received by Bank via the Treasury Payments Integrated Payables Service, using the Security Procedures applicable to the Treasury Payments Integrated Payables Service, will be deemed by Bank as received from Customer.

(h) Limitation of Liability. Notwithstanding anything in the Agreement to the contrary, in addition to the limitations of liability set forth in the General Terms and Conditions of this Agreement, the following limitations apply. Customer agrees that Bank and its Vendors 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, instruction, or other communication by Customer, or Customer's failure to format any such order, instruction or communication as required by Bank;

(ii) failure by Customer to obtain a confirmation or rejection of an order or instruction;

(iii) cancellation or attempted cancellation by Customer of an order or instruction;

(iv) errors or omissions resulting from Bank's conversion of an order or instruction received from Customer or any Third-Party Provider;

(v) inaccurate or incomplete information received from Customer, another financial institution, or a Third-Party Provider;

(vi) temporary interruptions in Bank's or any other entity's information systems;

(vii) inability to access the Treasury Payments Integrated Payables Service, or a Service accessible through the Treasury Payments Integrated Payables Service through the use of the internet or other communications delivery systems; or

(viii) unauthorized use of the Treasury Payments Integrated Payables Service, or a Service accessible through the Treasury Payments Integrated Payables Service, by Customer or its officers, employees, agents, or third parties.

13. **Electronic Data Interchange Service.** Comerica's Electronic Data Interchange Service ("**EDI Service**") provides electronic data transfer of business information through Bank's ACH, Lockbox, and/or Treasury Management Wire Transfer Services. Payment related remittance data is attached to the customer's payment transactions in standardized formats established by the Accredited Standards Committee (ASC) of the American National Standards Institute (ANSI). The EDI Service offers three options: Origination, Receipt, and Translation, each of which is described below.

(a) **Definitions.** All capitalized terms used but not defined in the Service Terms for the EDI Service shall have the meanings ascribed to them in the Nacha Rules.

(b) **Service Options.** Customer may elect to receive one or more of the following EDI Service options within the EDI Service:

(i) **EDI Origination Service.** The EDI Origination Service allows addenda records to be passed containing payment remittance information attached to wires and/or originated ACH Entries to transfer through the wire and ACH Direct Send processes to Beneficiary/Receiver accounts. This option requires Customer to use ACH Services and/or Treasury Management Wire Transfer Service. By using the EDI Service with ACH Services and/or Treasury Management Wire Transfer Service, Customer agrees to the Service Terms for ACH Services and/or Treasury Management Wire Transfer Service, as applicable, and such applicable terms are incorporated into and made a part of the Service Terms for the EDI Service by this reference.

(ii) **EDI Receipt Service.** The EDI Receipt Service provides payment related remittance information for incoming wire, lockbox and/or ACH items sent to Bank. The data can be communicated in an electronic transmission or online through Comerica Treasury Information Reporting or Comerica File Reporting and by using such Services, Customer agrees to the Service Terms for Comerica Treasury Information Reporting and/or Comerica File Reporting, as applicable, and such applicable terms are incorporated into and made a part of the Service Terms for the EDI Service by this reference. Customer may elect to receive a hardcopy advice by fax or hard copy sent via mail the next Business Day after Bank receives the data.

(iii) **EDI Translation Service.** The EDI Translation Service provides the translation of data to and/or from Customer's own proprietary format, ANSI, Bank Administration Institute (BAI) or flat file standard formats to and/or from the EDI standard file format.

(c) **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 EDI Service that are set forth in the Service Terms for the EDI Service. Failure to comply with the processing requirements and Security Procedures will relieve Bank of any obligation to process any transmission submitted or received as part of this EDI Service.

(d) **Limitation of Liability.** Notwithstanding anything in this Agreement to the contrary, in addition to the limitations of liability set forth in the General Terms and Conditions 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, expressly required by the Service Terms for the EDI 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.

14. **Multibank Payment Request Service ("Multibank Service").** Comerica's Multibank Payment Request Service ("**Multibank Service**") permits customers to relay instructions through Bank to other financial institutions to transfer funds from an account held by the customer at that institution. Each such instruction is a "**Request**."

(a) **Additional Services Required.** To use the Multibank Service, Customer must receive the Comerica Integrated Payables Service and/or Comerica Integrated Payables Web Service. By using the Multibank Service with Comerica Integrated Payables Service and/or Comerica Integrated Payables Web Service, Customer agrees to the Service Terms for the Comerica Integrated Payables Service and/or Comerica Integrated

Payables Web Service, as applicable, and such applicable terms are incorporated into and made a part of the Service Terms for the Multibank Service by this reference.

(b) **Authorization.** Customer must provide each financial institution to which Bank sends Requests using the Multibank Service with express, written authorization to act on payment Requests that Bank sends to such institution under the Multibank Service. At Bank's request, Customer will provide Bank with a copy of any such written authorization to another institution.

(c) **Format.** Bank has no duty to act on a Customer's Request if: (i) for Requests submitted via the Comerica Integrated Payables Service, such Request does not comply with Bank's format specifications in the Comerica Integrated Payables Service User Guide(s); and (ii) for Requests submitted via Comerica Integrated Payables Web Service, such Request does not comply with the format agreed upon between Customer and Bank in the Service Terms for the Comerica Integrated Payables Web Service. Customer authorizes Bank to reformat Requests as necessary for processing. However, Bank has no duty to reformat a Request, or to transmit Requests to other financial institutions, if the Request does not comply strictly with the format specifications, is defective, incomplete, or erroneous, or otherwise is inconsistent with the Service Terms for the Multibank Service.

(d) **Authority.** Bank may act on any Request using the Multibank Service as Bank considers appropriate, notwithstanding (i) any error, omission, defect, or lack of clarity in the terms of the Request; or (ii) that the Request appears to duplicate one or more other Requests made using the Multibank Service.

(e) **Requests.** Upon receipt of Customer's Request, Bank will transmit Customer's Request to the designated financial institution, subject to the terms of this Agreement and the Business Day schedules for Bank, SWIFT, and such other financial institution. Bank will take reasonable steps to assure that a Request that Customer properly transmits to Bank is transmitted to the financial institution designated by Customer, but Bank has no responsibility for any act or omission by such financial institution, including any failure of funds to reach the intended payee. For clarification, a Request made by Customer using the Multibank Service is not a "**Payment Order**" as that term is defined in the Service Terms for the Treasury Management Wire Transfer Service.

(f) **Changes and Cancellations.** If Customer wishes to cancel or amend a Request made using the Multibank Service, Customer must contact the financial institution to which the Request is directed and act in accordance with that institution's procedures.

15. **Real-Time Payment Service.** Comerica's Treasury Management Real-Time Payment Service ("**RTP Service**") allows Customers to originate real-time Payment Instructions and Payment-related Messages (each as defined in the RTP System Rules) to participating receiving financial institutions in the United States. Comerica will transact real-time Payment Messages and Payment-related Messages via the RTP network owned and operated by The Clearing House Payment Company LLC ("**TCH**") or similar networks at its sole discretion. Real-Time Payment Messages are only available for transactions between U.S. based accounts at financial institutions participating in the RTP network.

(a) **RTP System Rules.** The RTP Service is subject to the RTP Participation Rules and RTP Operating Rules as issued and amended from time to time by TCH (collectively, "**RTP System Rules**"). By using the RTP Service, Customer agrees to comply with the then current version of the RTP System Rules.

(b) **Definitions Specific to RTP Service.** The capitalized terms used but not defined in the Service Terms for RTP Service shall have the meaning ascribed to them in RTP System Rules.

(c) **Authorizations and Service Offerings.**

(i) **Method.** Customer authorizes Bank to process Customer's Payment Instructions and Payment-related Messages by any method Bank deems appropriate.

(ii) **Transfer of Funds.** By sending a Payment Instruction, Customer irrevocably authorizes Bank to debit Customer's Designated Account for the amount of such Payment Instruction, send a Payment

Message to the Receiving Participant and transfer funds in the amount of such Payment Instruction to the Receiving Participant for the benefit of the Receiver designated in the Payment Instruction. Customer authorizes Bank to make an RTP Payment and transfer funds in accordance with the Service Terms for the RTP Service. Each Payment Instruction that Customer submits to Bank shall be deemed Customer's Payment Order. For all Payment Instructions Customer submits to Bank, Customer authorizes Bank to debit Customer's Designated Account in U.S. Dollars for the U.S. Dollar amount indicated in Customer's Payment Instruction.

(iii) **Fees.** Customer authorizes Bank to debit Customer's Designated Account for Bank's Real-Time Payment Services Fees and Charges, as applicable.

(iv) **Fraud Monitoring.** Customer acknowledges that fraud detection software will be used with the RTP Service and may cause rejection of or delays in the processing of Payment Instructions and Payment Messages. Payment Instructions and Payment Messages suspected for fraud and authorized outside of standard banking hours may be held over to the next Business Day.

(v) **Irrevocable Payment; Returns.** Customer acknowledges that RTP Payments are final and irrevocable, and that Receivers are under no obligation to return the funds received, including funds related to an RTP Payment made in response to an unauthorized or erroneous Payment Instruction or a fraudulent Request for Payment. The Request for Return of Funds message can be used between the parties to a RTP Payment to correct erroneous or unauthorized RTP Payments; provided, that any obligation of the Receiving Participant to refund an RTP Payment is subject to the RTP System Rules.

(vi) **Cancellation or Amendment; Delays.** Customer has no right to cancel or amend any Payment Instruction after Bank has received the Payment Instruction. Customer acknowledges that Payment Instructions, Payment Messages and other messages may be rejected or delayed for any reason including, when necessary for risk management, fraud review, compliance Laws and the RTP System Rules or other reasons; and Bank shall have no liability to Customer for any rejections or delays.

(vii) **Requests for Payment.** Bank's RTP Service permits Customers to deliver Requests for Payment messages electronically to third parties who have RTP capabilities available to them through their financial institution. Customer acknowledges and agrees that if it requests Bank to send a Request for Payment: (A) the Request for Payment will only be made to request payment for a Legitimate Purpose (as defined by the RTP Rules); (B) Customer shall not engage in deception of any kind to induce the Message Receiver to make a Payment; (C) Customer will not use language in a Request for Payment that could reasonably be perceived by the Message Receiver as threatening or intimidating; (D) Customer will not send the Request for Payment or subsequent messages within a timeframe that could reasonably be perceived by the Message Receiver as harassing; and (E) Customer shall provide Bank with information and documentation to support its Request for Payment and its compliance with Laws within five (5) Business Days of receiving a request from Bank, unless a shorter time is required for Bank to timely respond to a Message Receiving Participant in compliance with the RTP System Rules. Customer shall be responsible for all Losses incurred by Bank in connection with Customer's Requests for Payment.

(d) **Discovery of Unauthorized Payment Orders and Liability.** Customer can check the status of Payment Instructions, Payment Messages and RTP Payments through available viewing and reporting services or Access Methods, and Customer agrees that Bank has no obligation to separately notify Customer when Bank makes an RTP Payment or in the event Bank rejects or delays a Payment Instruction or Payment Message or if any Payment Instruction or Payment Message is returned. Bank may require Customer to enroll in certain Reporting Services or Alerts Services in order to use the RTP Service. Customer agrees to exercise ordinary care on the basis of the information available to Customer to discover any payment which Customer did not make or authorize. Customer agrees to provide Timely Notice to Bank of any Errors, including any unauthorized RTP Payment, Payment Instruction or Payment Message as required by the General Terms and Conditions of this Agreement. Customer agrees to waive any other time period which might otherwise apply for providing such notice to Bank. In addition to the liability limits set forth in the General Terms and Conditions with respect to

Timely Notice, if Customer fails to provide Timely Notice to Bank of an enforceable, but allegedly unauthorized Payment Instruction or Payment Message, Customer agrees that Bank will not be liable for any subsequent similar enforceable, but allegedly unauthorized, Payment Instruction or Payment Message.

(e) **Amount of Payment Instruction and Fees.** Customer is obligated to pay and Bank shall debit Customer's Designated Account for the amount of each Payment Instruction at the time Customer's Payment Message is originated. If Customer does not have sufficient Available Funds in the Designated Account when Bank receives the Payment Instruction and at the time the Payment Message is originated, Bank may exercise Bank's rights in General Terms and Conditions of this Agreement to pay or and execute the Payment Instruction or reject or return the Payment Instruction, in addition to any other rights available under Laws.

(f) **Limitations of Liability.** Notwithstanding anything in the Agreement to the contrary, in addition to the limitations of liability set forth in the General Terms and Conditions of this Agreement, the following limitations apply:

(i) In no event shall Bank be liable for:

(A) detecting duplicate Payment Instructions, Payment Messages, Payment Message Responses, or Payment-Related Messages;

(B) detecting errors contained in any Payment Instructions, Payment Messages, Payment Message Responses, or Payment-Related Messages;

(C) determining whether the Receiver or Receiving Participant is the entity or individual that Customer intended;

(D) any acts or omissions of any third party including the Receiver or Receiving Participant, including but not limited to, a Receiving Participant's failure to: (1) send an acknowledgement, (2) timely credit the Receiver, and/or (3) identify the Receiver to whom it gave Payment Message;

(E) failure of the funds to reach the intended payee or Receiver;

(F) Bank's failure or refusal to refund to Customer the amount of the Fees, Charges or Payment Instruction paid to Bank, unless Bank has obtained a refund of the Payment Message; and/or

(G) any Customer transaction or request that is improper, illegitimate, deceptive, threatening, intimidating, or harassing.

(ii) Bank's liability to Customer in performing or failing to perform the RTP Service described in the RTP Service Terms, if any, will be limited as stated in the Agreement or as otherwise required by the RTP System Rules.

(g) **Representations and Warranties.** Customer is deemed to make the same representations and warranties to Bank that Bank makes under the RTP System Rules and other Laws to TCH and other Participants in the RTP System with respect to each Payment Instruction, Payment-related Message, transaction and request made by Customer. In addition, Customer represents and warrants that:

(i) each Payment Instruction, Payment-related Message, transaction and request submitted through the RTP Service: (A) is made in accordance with the RTP System Rules; and (B) does not violate Laws; and

(ii) each time that Customer requests Bank to submit a Request for Payment, the request (A) is made for a Legitimate Purpose; and (B) is not part of a fraudulent scheme to induce a payment; harassing, or otherwise unlawful including violations of prohibitions on unfair, deceptive, or abusive acts or practices established by applicable Laws.

(h) **Customer Indemnity.** In addition to any other indemnification obligations in the RTP Service Terms or the General Terms and Conditions of this Agreement, Customer shall indemnify and hold Bank harmless from and against any Losses incurred by Bank arising out of, related to or in connection with any Payment Instruction or Payment-related Message processed on behalf of Customer, RTP Payment made



pursuant to these Service Terms or the RTP System Rules, or Bank processing a Request for Payment pursuant to the RTP System Rules.

(i) **Limitations.** Customer shall not originate Payment Instructions or Payment-related Messages on behalf of third parties. Customer acknowledges that the amount of each RTP Payment is subject to limitations established by the RTP System Rules and Bank (if any), as amended from time to time.

16. **Comerica's Returned Items Service.** Comerica's Returned Items Service ("Returned Items Service") provides image replacement documents or original returned checks that were previously deposited to an account, and offers the options listed below in regard to those returned items.

(a) **Providing the Service.** Bank will provide to Customer an image of each returned item that had been previously deposited to a Designated Account. In addition, Bank will provide, at Customer's election: (i) fax notification or telephone notification of returned items; (ii) electronic transmissions containing specific information about the returned items; (iii) duplicate advices with images of returned items by mail or fax, and/or Bank will re-present one (1) time every item that meets the re-presentment criteria made available by Bank and selected by Customer.

(b) **Available Options.** To receive the Returned Items Service, Customer shall select from one (1) of the following options, and in addition may elect additional features that Bank may offer from time to time. Bank will image all returned items that were previously deposited to Customer's Designated Account and perform one (1) or more of the following options, as selected by Customer, on the Business Day following Bank's receipt of proper notification that an item was returned by the drawee financial institution.

(i) **Re-present Returned Items Based on Predetermined Criteria.** If Customer selects this option, Bank will cause each returned item that meets Customer's predetermined criteria to be re-presented to the drawee bank one (1) time. Returned items that will not be re-presented are those that do not meet the Federal Reserve criteria for re-presentment, e.g., items returned with a designation such as "account closed" or "deceased payee". If the re-presented item is paid, credit to the Designated Account will be posted in accordance with the terms of the Deposit Contract governing the Designated Account. If a returned item is returned a second time, Bank will charge such item to the Designated Account to which it was originally deposited unless Customer instructs Bank to charge such item to another account. Customer agrees that if it elects to re-present an item, which includes the re-presentment of that item to the drawee bank, such action could affect 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 re-presenting of such returned items.

(ii) **Posting for review through Treasury Information Reporting.** Each Business Day on which Bank receives a returned item for the Designated Account, Bank will make a copy of such item available for viewing through Treasury Information Reporting. Customer acknowledges the obligation to review the site each Business Day to review any items that may have been posted since the prior Business Day.

(iii) **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.

(iv) **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 Bank and the telephone number to call. If there is no answer, Bank has no further duty.

17. **Treasury Management Wire Transfer Service.** Comerica's Treasury Management Wire Transfer Service ("Wire Service") allows customers to receive funds from senders and originate funds transfers, including payments, to beneficiaries in the U.S. and authorized foreign countries. Comerica will transact funds transfers via Fedwire, SWIFT, or similar networks at its sole discretion. Funds transfers are not available to or from all countries, including countries subject to U.S. regulatory restrictions. If you have entered into a separate wire transfer agreement with Bank, this Agreement including these Wire Service Terms will control to the extent of any inconsistency.

(a) **Additional Services May Be Required.** Bank may provide the Wire Service through the Comerica Integrated Payables Service, Comerica Integrated Payables Web Service and/or Electronic Data Interchange Service. By using the Wire Service with the Comerica Integrated Payables Service, Comerica Integrated Payables Web Service and/or Electronic Data Interchange Service, Customer agrees to the Service Terms for such Service, and such terms are incorporated into and made a part of the Service Terms for the Wire Service by this reference.

(b) **Definitions Specific to Wire Service.** Unless otherwise defined in this Agreement, capitalized words, phrases and definitions used in the Service Terms for the Wire Service have the meaning ascribed to them in Article 4A of the UCC. To the extent any of the definitions of terms described below conflict with the definitions ascribed to them elsewhere in the Service Terms for the Wire Service, the definitions below shall prevail as to the Wire Service.

(i) **Execute:** To carry out a Payment Order to completion. If Bank is also the beneficiary's bank, the term "Execute" includes Bank's acceptance of Customer's Payment Order for purposes of the Service Terms for the Wire Service and of the application of UCC 4A to the transaction.

(ii) **Fedwire:** The Federal Reserve wire transfer network.

(iii) **Funds Transfer:** The series of actions, beginning with Customer's request for a Payment Order through the Execution of the Payment Order, including, if applicable, the cancellation, reversal, adjustment or delay in posting of the Payment Order; or any other subsequent action by a third party that may result in further action with respect to the Payment Order.

(c) **Authorizations.**

(i) **Method.** Customer authorizes Bank to process Customer's Funds Transfers by any method Bank deems appropriate.

(ii) **Transfer of Funds.** Customer authorizes Bank to transfer funds in accordance with these Wire Service Terms and the User Guide(s) for the Wire Service.

(iii) **International Payment Orders.** Unless otherwise instructed by Customer, which instruction Bank may require to be in writing, Customer's Payment Orders for payment outside of the U.S. will be converted by Bank into the local currency of the beneficiary bank ("Local Currency") at the then prevailing rate of exchange offered by Bank in Detroit, Michigan. Should Bank elect not to convert Customer's Payment Order into the Local Currency, or should Bank accept Customer's request not to convert Customer's payment into the Local Currency, Customer's Payment Order will be processed in U.S. Dollars.

(iv) **All Payment Orders.** For all Payment Orders, Customer authorizes Bank to debit Customer's Designated Account in U.S. Dollars for the U.S. Dollar amount indicated in Customer's Payment Order or, if Customer has indicated payment in a Local Currency, Customer authorizes Bank to debit Customer's Designated Account for the U.S. Dollar equivalent at Bank's then prevailing rate of exchange.

(v) **Fees.** In addition, Customer authorizes Bank to debit Customer's Designated Account for Bank's wire transfer Fees and Charges, as applicable. If required by Laws, Bank will advise Customer of Charges that may be deducted from the Payment Order amount by intermediary banks and the beneficiary bank.

(d) Execution of Payment Orders.

(i) **Applicable Rules.** Bank may use any means or routes Bank, in Bank's sole discretion, considers suitable to affect Customer's Funds Transfer. Any portion of a domestic Funds Transfer may be accomplished through Fedwire or other methods available to Bank. An international Funds Transfer may be accomplished through any transfer system(s) Bank selects. 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.

(ii) **Execution of Payment Orders.** Bank or Bank's 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. Each such authorized and/or compliant Payment Order Bank Executed is enforceable and Customer is liable to Bank for payment of the Payment Order and applicable Fees and Charges.

(e) Rejection of Payment Orders. Bank reserves the right to reject any Payment Order with or without cause. Customer may receive notice of rejected Payment Orders through available viewing and reporting services or Access Methods, but Bank has no obligation to separately notify Customer in the event a Payment Order is rejected.

(f) Cancellation or Amendment of Payment Orders. If Bank receives a cancellation or stop payment instruction for a Payment Order not yet Executed, 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.

(g) Business Day for Accepting Payment Orders. Bank may accept Payment Orders on a Business Day in the form and manner Bank designates from time to time. Funds Transfer communications received on non-Business Days or after the close of a Business Day will be treated in the manner described in the applicable User Guide(s) and/or online screen instructions for the Wire Service. Customer agrees that 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 Cutoff Time than Bank has for accepting Funds Transfers; and (iii) use any means or routes Bank, in Bank's sole discretion, considers suitable to effect the Funds Transfer.

(h) Discovery of Unauthorized Payment Orders and Liability. Customer can check the status of Payment Orders through available viewing and reporting services or Access Methods. Bank will generally provide a confirmation of each Executed Payment Order but Bank has no obligation to separately notify Customer when a Payment Order is Executed or in the event a Payment Order is rejected by Bank or returned to Bank after its Execution. Customer agrees to exercise ordinary care on the basis of the information available to Customer to discover any Funds Transfer which Customer did not make or authorize. Customer agrees to provide Timely Notice to Bank of any Errors, including any unauthorized Payment Order, as required by the General Terms and Conditions of this Agreement. Customer agrees to waive any other time period which might otherwise apply for providing such notice to Bank. In addition to the limits on liability with respect to Timely Notice in the General Terms and Conditions, if Customer fails to provide Timely Notice to Bank of an enforceable, but allegedly unauthorized Payment Order, Customer agrees that Bank will not be liable for any subsequent similar enforceable, but allegedly unauthorized, Funds Transfer.

(i) Payment. Customer is obligated to pay and Bank shall debit Customer's Designated Account for the amount of each authorized Payment Order and the applicable wire transfer Fees and Charges in effect at the time Customer's Payment Order is Executed. If Customer does not have sufficient Available Funds in the Designated Account when Bank receives the Payment Order and at the time of Execution of the Payment Order, Bank may exercise Bank's rights in the General Terms and Conditions of this Agreement. Customer also understands and agrees that for international wires, in addition to Bank's Fees and Charges, each bank through which the Payment Order is sent for final delivery to the beneficiary bank may deduct fees from the wired funds and the beneficiary bank may also deduct fees prior to paying the funds to the beneficiary.

Fees charged by the beneficiary bank to the beneficiary are subject to any agreement between the beneficiary and the beneficiary bank.

(i) Limitations of Liability. Notwithstanding anything in this Agreement to the contrary, in addition to the limitations of liability set forth in the General Terms and Conditions of this Agreement, the following limitations apply and Bank will not be liable for:

- (A) detecting duplicate Payment Orders;
- (B) detecting errors contained in any Payment Order or Funds Transfer communication;
- (C) duplicate Payment Orders, either given by Customer or which comply with the Security Procedures;
- (D) determining whether the beneficiary or beneficiary bank is the one Customer intended;
- (E) any acts or omissions of the beneficiary bank, including but not limited to its failure to: (1) obtain a receipt, (2) timely credit the beneficiary, and/or (3) identify the payee/beneficiary to whom it gave payment of the transfer;
- (F) failure of the funds to reach the intended payee or beneficiary; and/or
- (G) Bank's failure or refusal to refund to Customer the amount of the Fees, Charges 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.

(j) Customer Indemnity. In addition to any other Indemnification obligations under this Agreement, Customer shall indemnify and hold Bank harmless from and against any Losses incurred by Bank arising out of, related to or in connection with any third-party allegation that a Payment Order contravenes or compromises the rights, title or interest of any third party and/or contravenes any Laws, court order or other mandate or prohibition with the force or effect of law.

(k) Termination. In addition to the termination rights in the General Terms and Conditions of this Agreement, the Wire Service may be terminated by either party without prior notice. However, upon termination a notice will be given to the other party as soon as practical, but in no event more than five (5) Business Days after the effective termination date.

18. **Business Sweep Service.** Comerica's Business Sweep Service ("**Sweep Service**") enables Customer to have Excess Funds automatically transferred out of an Account each Business Day and applied in accordance with the Sweep Service options Customer has elected, as described further below.

(a) Defined Terms. For purposes of this Section, the following terms will have the meanings given below:

(i) "**Acceptance**" refers to the Business Sweep Acceptance form on which Customer will indicate its elections for the Sweep Service.

(ii) "**Collected Balance**" means the balance in an Account that is made available in accordance with Bank's funds availability policy, less the amount of any holds on the Account.

(iii) "**Excess Funds**" means the amount of Collected Funds in the Root Account that exceeds the Target Balance as of the close of business on any Business Day.

(iv) "**Root Account**" is the eligible checking Account from which Excess Funds will be automatically transferred pursuant to Customer's Sweep Service elections.

(v) "**Target Balance**" is the amount of funds that Customer desires to maintain in the Root Account in connection with the Sweep Service, as indicated on the Acceptance.

(b) Sweep Service Setup and Options. The Sweep Service options include sweeps from the Root Account to a money market Account ("**Deposit Sweep**"), revolving loan account ("**Loan Sweep**"), or government cash investment fund ("**Investment Sweep**"). Customer will indicate on the Acceptance its selected Sweep Service option, Root Account and Target Balance. Customer can request to change its

elections made in the Acceptance by providing Bank at least 7 days' prior written notice.

**The FDIC requires that Bank gives its depositors notice of the status of their deposits and transactions in the event of a Bank failure. In all cases, funds in a Root Account that are not swept to Customer's selected Sweep Service option prior to the applicable Cutoff Time will be treated as a deposit with Bank and insured under the applicable FDIC insurance rules and limits. The status of funds swept under each of the Bank's Sweep Service options are described below.**

(c) Deposit Sweep. If there are Excess Funds in the Root Account after the close of a Business Day, Customer authorizes and directs Bank to transfer the Excess Funds to Customer's eligible money market deposit account ("MMDA"). If the amount of Collected Funds in the Root Account after the close of a Business Day is less than the Target Balance, Customer authorizes and directs Bank to transfer the amount needed to restore the Target Balance (the "Deficiency") from the MMDA to the Root Account; provided, that Bank has no obligation to transfer funds from the MMDA to the Root Account if the Deficiency is greater than the Collected Balance in the MMDA or if such transfer would exceed any transfer or withdrawal limitations on the MMDA as set forth in the Deposit Contract. Customer remains responsible for any and all fees associated with any Deficiency in the Root Account in accordance with this Agreement and the Deposit Contract.

**Funds that have been swept into the MMDA are deposits with Bank insured under the applicable FDIC insurance rules and limits.**

(d) Loan Sweep. If there are Excess Funds in the Root Account after the close of a Business Day, Customer authorizes and directs Bank to withdraw the Excess Funds from the Root Account and apply them as a payment on Customer's eligible line of credit with Bank ("Loan"). Provided there are sufficient Excess Funds in the Root Account, Bank will debit the Root Account and credit to the Loan an amount equal to the lesser of: (i) the amount by which the Collected Funds exceed the Target Balance, or (ii) the outstanding balance of the Loan. All amounts transferred from the Root Account to the Loan will be applied to the Loan in accordance with the terms of Customer's Loan agreement. Customer acknowledges and agrees that Customer remains obligated under the Loan agreement to make timely payments on the Loan, whether or not there are sufficient Excess Funds in the Root Account to apply to the Loan on any given Business Day.

If there is a Deficiency in the Root Account at the end of a Business Day, Customer authorizes and directs Bank to make a draw on the Loan in the amount of the Deficiency and deposit that amount into the Root Account; provided, that Bank has no obligation to draw against the Loan if: (x) the Deficiency is greater than the amount available for disbursement on Customer's Loan; (y) any default exists under the Loan agreement or any other instrument, note, guaranty or other document that evidences, secures or guarantees the Loan (collectively, the "Credit Agreement") or this Agreement; or (z) Bank is otherwise excused or prohibited under the Credit Agreement or Laws from drawing against the Loan to cover the Deficiency. Customer remains responsible for any and all fees associated with any Deficiency in the Root Account in accordance with this Agreement and the Deposit Contract.

Customer represents and warrants to Bank that the individual establishing the Loan Sweep Service is authorized to incur debt and borrow money on Customer's behalf. The Loan Sweep Service will be terminated automatically upon the maturity of the Loan or in the event the Credit Agreement has been terminated, Customer has closed the Loan, or Bank has demanded payment under the Credit Agreement.

**Funds that have been swept out of the Root Account and applied as a payment on the Loan and are NOT FDIC-insured deposits.**

(e) Investment Sweep. If there are Excess Funds in the Root Account after the close of a Business Day, Customer authorizes and directs Bank to transfer the Excess Funds to a trust Customer has established with Bank or its affiliate for this purpose ("Trust") and use the Excess Funds to purchase an undivided fractional ownership interest in an investment fund managed by Bank or its affiliate ("Investment Fund"). The Excess Funds will be transferred to the Trust at the end of the Business Day and invested in the Investment Fund for the benefit of Customer no earlier than the beginning of the next Business Day.

If there is a Deficiency in the Root Account at the end of a Business Day, Customer authorizes and directs Bank to make a withdrawal from the Investment Fund on Customer's behalf and transfer the funds to the Root Account to cover the Deficiency; provided, that Bank has no obligation to make a withdrawal from the Investment Fund if the Deficiency exceeds the amount of Customer's interest in the Fund or if Bank is otherwise excused or prohibited from making such withdrawal under the terms of the Trust, the Investment Fund or Laws. Customer remains responsible for any and all fees associated with any Deficiency in the Root Account in accordance with this Agreement and the Deposit Contract. Customer authorizes Bank to transfer and withdraw funds from the Root Account or Investment Fund to offset any overdraft or other liability Customer owes Bank. Customer acknowledges that the Root Account balance shown on ATM receipts and through other reporting methods may include funds invested in the Investment Fund, which are NOT FDIC-insured deposits.

The Investment Sweep option may not be available to all customers; see the Acceptance for eligibility requirements and restrictions. Customer agrees to execute any documents required by Bank or its affiliate in order for Bank to honor Customer's instructions to transfer funds to the Trust and invest in the Investment Fund on Customer's behalf. Upon termination of the Investment Sweep Service, unless otherwise directed in the written notice of termination, Bank acting as agent for Customer shall withdraw from the Investment Fund the amount representing Customer's interest therein and credit the funds to the Root Account.

(i) No Investment Advice. Customer acknowledges that Bank has not made any representations or recommendations as to the suitability or quality of any investments (including but not limited to the Investment Fund) nor are its employees authorized to do so. Bank is not acting as Customer's investment adviser or broker in connection with any investment in the Investment Fund as part of the Sweep Service.

(ii) Liability. Bank shall not be liable for any Losses Customer may incur resulting from any loss of value or value fluctuations of the Investment Fund, including but not limited to because of a delay in investing any Excess Funds in the Investment Fund on Customer's behalf or withdrawing Customer's share of the Investment Fund to cover a Deficiency in the Root Account. Customer agrees to hold Bank harmless from any Losses caused directly or indirectly by any inconsistencies between the business days and hours of operation among Bank, its affiliates and any applicable markets or investment companies with respect to the Investment Fund.

**Funds that have been invested in the Investment Fund are NOT FDIC-insured deposits. In the event of Bank's failure, Customer would have general creditor status for the funds that were invested in the Investment Account. THE INVESTMENT FUND IS NOT FDIC INSURED, IS NOT A DEPOSIT OR OTHER OBLIGATION OF BANK AND IS NOT GUARANTEED BY BANK. THE INVESTMENT FUND MAY LOSE VALUE, INCLUDING POSSIBLE LOSS OF THE PRINCIPAL INVESTED.**

(f) General Terms. By enrolling in the Sweep Service, Customer appoints Bank to act as Customer's agent for the purpose of transferring funds to and from the Root Account, MMDA, Loan, and/or Investment Fund, as applicable, in order to maintain the Target Balance in the Root Account. Only certain types of Accounts may be eligible to enroll in the Sweep Services, as set forth in the Acceptance or as otherwise determined by Bank from time to time. In addition to Bank's limits on liability as set forth in the Master Agreement, Bank shall not be liable for any failure or delay in sweeping funds to or from the Root Account, MMDA, Loan and/or Investment Fund unless caused by Bank's negligence, and Bank shall not be liable for loss of any interest income or payment of interest from such failure or delay, or for any increased interest due on a Loan due to failure or delay in making any sweep to make a payment on a Loan. In the event of Bank's negligence, Bank's maximum liability to Customer shall be limited to either: (i) the amount of interest that would have been earned if Bank had swept the Excess Funds into the MMDA or Investment Fund, or (ii) the difference between the increased interest due on the Loan and the amount of interest that would have been due on the Loan if Bank had swept the Excess Funds to pay the Loan.

## SECTION 5. RECEIVABLES

1. **Cash Letter Deposit Service.** Comerica's Cash Letter Deposit Services allow customers to periodically deliver cash letters with acceptable items (individually "**Cash Letter**", collectively "**Cash Letters**") to Bank for processing and deposit. The Cash Letter Deposit Services apply to Cash Letter deposits delivered to Bank through electronic image Cash Letter delivery ("Image Cash Letter Deposit Service") as described below. Bank reserves the right to refuse to process a Cash Letter in total or any item contained in the Cash Letter that does not meet the requirements described in the Service Terms for the Cash Letter Deposit Services.

(a) **Image Cash Letter Delivery and Processing.** The Image Cash Letter Deposit Service allows Customer to make deposits to Customer's Designated Account by transmitting to Bank an electronic file with the images of the checks that Customer wishes to deposit ("**Image Cash Letter**") via an Access Method provided by Bank from time to time. The following terms apply to the Image Cash Letter Deposit Service:

(i) If Customer is a depository institution: (A) Bank will accept and process electronic images in accordance with and subject to the Electronic Check Clearing House Organization's ("**ECCHO**") rules; and (B) Customer agrees to become a member of ECCHO and to remain a member of ECCHO while exchanging Image Cash Letters with Bank.

(ii) Except as otherwise agreed, only checks and drafts drawn or payable through U.S. financial institutions are acceptable items for inclusion in an Image Cash Letter. If Bank allows Customer to include Canadian checks and drafts in an Image Cash Letter, they may be sent in either USD/CAD or CAD/CAD. Details for preparation and delivery of Image Cash Letters are set forth in the User Guide for Cash Letter Deposit Services.

(iii) The transmission of check images and electronic deposit slips must be of a type and in a form acceptable to Bank as described in the User Guide for Cash Letter Deposit Services or other material Bank provides Customer in conjunction with the Image Cash Letter Deposit Service.

(iv) Unless prohibited by Laws, Customer will be liable to Bank to the same extent that Bank is liable under Laws, including the possibility of consequential damages to the maker/drawer of the original check that Customer imaged and transmitted to Bank electronically, to any intermediary financial institution and to the paying bank/financial institution, if:

(A) any check that Customer imaged and transmitted to Bank is re-presented after payment has been made on such check by the financial institution on which it was drawn or payable through.

(B) any check that Customer imaged and transmitted to Bank is not of the quality that Bank has advised Customer that it requires or is not of such higher standard of quality required by Laws, and as a result, the image, Substitute Check (as defined by applicable Laws) or Image Replacement Document (as defined by applicable Laws) that Bank placed into the banking system for payment was not of the quality that Bank requires or of such higher standard of quality required by Laws.

(C) the maker/drawer of a check that Customer imaged and transmitted to Bank suffered a loss that could have been prevented if the original check had been presented for clearing and payment. For example: the amount of the original check was \$10 but that amount was altered to read \$100 before Customer imaged and transmitted such check to Bank. The maker's/drawer's account was debited for \$100 or such check was returned for non-sufficient funds but would not have been returned had the amount read \$10. In such case, Customer will be liable if the outcome would not have occurred if (i) the altered check was presented in its original form (not imaged), and (ii) the alteration would have been detected.

(v) Customer agrees to keep the original imaged and transmitted checks in a secure place until they are destroyed and to adopt

check destruction policies, procedures, and practices designed to prevent re-presentation of checks already presented for deposit.

(vi) The Image Cash Letter Deposit Service requires the use of a Security Procedure as set forth in the User Guide(s) for the Cash Letter Deposit Services. By using the Image Cash Letter Deposit Service, Customer agrees that the Security Procedure is commercially reasonable for the type, size and volume of deposit transactions Customer will conduct using the Image Cash Letter Deposit Service.

(vii) By using the Image Cash Letter Deposit Service, Customer warrants to Bank that:

(A) Customer is entitled to enforce the check;

(B) the signatures on the check are authentic and authorized;

(C) the check has not been altered;

(D) Customer will not cause or allow any other person or entity to re-present any check that Customer has imaged and transmitted to Bank for deposit unless Bank has advised Customer that Bank was unable to process the image or give Customer credit for such check. Generally, Bank will advise Customer within one (1) Business Day, but in no event more than two (2) Business Days following Bank's receipt of Customer's transmission of checks if Bank was not able to process or credit Customer's Designated Account for a particular check; and

(E) with respect to each check imaged and transmitted to Bank, that (1) Customer has submitted the image in the format and with such associated check information that Bank may specify from time to time, (2) the check accurately represents all of the information on the front and back of the original check, and that all such information is legible on the check, and (3) no person will receive presentment of the original check, its legal equivalent, or a paper or electronic representation of the original check or its legal equivalent, such that that person will be asked to make a payment based on a check that that person has already paid.

(viii) Bank reserves the right to transmit a check for payment or create a Substitute Check or Image Replacement Document for presentment directly or indirectly through the banking check clearing system for final presentment to the financial institution on which such check was drawn or was payable through. If Bank advises Customer that Bank was not able to process Customer's imaged check or give Customer credit for the check for any reason other than "account closed" or "refer to maker" or "stop payment", Customer may image the item and transmit it in a deposit to Bank or deliver the paper item to Bank for deposit. Bank recommends, although Bank does not require, that Customer destroy the original check within ten (10) days of Customer's Designated Account being credited for such check to reduce the possibility and risk that such check will re-enter the banking system process.

(ix) The Service Terms will not relieve Customer of any obligation imposed by Laws, contract, or otherwise regarding the maintenance of records or from employing adequate audit, accounting and review practices. Customer shall retain and provide to Bank, at its request, all information necessary to remake or reconstruct any deposit, transmission file or entry for at least two (2) Business Days following the date that Bank credited Customer's Designated Account for a deposit made using the Image Cash Letter Deposit Service.

(x) Except as provided in the Deposit Contract or otherwise agreed between Customer and Bank, deposits made using the Image Cash Letter Deposit Service will be made available to Customer on the first Business Day after the day that Bank receives such deposits. Deposits received through the Image Cash Letter Deposit Service will be deemed received on the day indicated on the electronic receipt acknowledgement that Bank sends to Customer unless that day is a non-Business Day. In such case, the deposits will be deemed received on the first Business Day thereafter.

2. **Cash Vault Service.** Comerica's Cash Vault Service ("**Cash Vault Service**") expedites incoming cash flow by providing credit for daily

deposits. The customer sends an armored courier to a designated vault or processing center. As an enhancement, customers may also elect to receive the Cash Order Service, which is provided by Bank to supply the Customer with necessary coin and currency.

(a) **Processing Requirements.** Bank will designate the applicable cash vault(s) and/or processing center(s) to be used by Customer in connection with the delivery of its cash, coin and/or check deposits to Bank ("**Shipments**"), and for pick-up of Customer's cash and/or coin orders to Bank ("**Orders**").

(b) **Deposit Processing Service.** Customer acknowledges receipt of the deposit processing requirements contained in the User Guide for the Cash Vault Service ("**Deposit Processing Requirements**") and agrees to prepare its cash, coin and/or check deposits in the manner set forth therein. Bank's representatives may accept delivery of Customer's Shipments containing items for deposit. Only armored couriers may deliver Shipments, or pick up Orders, at cash vaults. Bank reserves the right to not process, or to delay processing, Shipments that are not prepared in accordance with the Deposit Processing Requirements. Bank's receipt for any Shipment, including a non-conforming Shipment, will not be deemed proof of its receipt of the contents listed in an inventory or deposit ticket that accompanies the Shipment, nor shall Bank's acceptance be deemed a waiver of its rights under this Agreement or the Deposit Contract governing the Designated Account. All Shipments are subject to Bank's count which shall be deemed final and the deposit itself is subject to the terms of the Deposit Contract governing the Designated Account to which the deposit is made. Customer assumes full responsibility for the timeliness of delivery of its Shipment and the accuracy, completeness and content of the Shipment, including information it furnishes to Bank with respect to the Shipment.

(i) **Processing of Items for Deposit.** Shipments consisting of coin and/or currency will be provisionally credited on the Business Day of receipt by Bank; provided the delivery arrives before Bank's established deadline. Shipments consisting of checks will be credited in accordance with the Deposit Contract. All deposits received will be subject to verification by Bank within the time frames established by Bank.

(ii) **Discrepancies and Adjustments.** Discrepancies shall be reported in a timely manner in accordance with the procedures set forth in the User Guide(s) for the Cash Vault Service. Failure to timely report discrepancies will be deemed a waiver of the claim and Customer holds Bank harmless for any Losses Customer incurs in regard to the applicable Shipment. If after receiving timely notification, Bank determines that contents of the Shipment are missing or otherwise do not contain all items indicated on the accompanying deposit listing tapes or deposit slips, Bank will make an adjusting entry to the Designated Account and will provide Customer with an advice if there is an adjustment. The advice information will be mailed unless Customer has elected to receive a fax report containing this information.

(c) **Cash Order Service.** Customer agrees to place Orders for cash and/or coin in accordance with Bank's procedures outlined in the User Guide for Cash Vault Services. Customer authorizes Bank to charge the Designated Account for the Order on the Business Day Bank gives the cash and/or coin to Customer's armored courier. If there are not sufficient Available Funds for the Order, Bank is not obligated to give any portion of the Order to the armored courier. Bank reserves the right to limit the amount of Orders and will advise Customer of the limit. Bank reserves the right to reduce or increase the limit upon giving Customer three (3) Business Days prior notice. Such notice may be given by Bank in any manner Bank reasonably determines is expedient. Customer agrees that it will not place an Order for more than its then current cash order limit.

(i) **Verification.** Customer agrees that it will have two (2) or more employees and/or agents jointly verify the contents of the received Order.

(ii) **Discrepancies.** Discrepancies shall be reported in a timely manner in accordance with the procedures set forth in the User Guide(s) for the Cash Vault Service. Failure to timely report discrepancies will be deemed a waiver of the claim and Customer holds Bank harmless for any Losses Customer incurs in regard to the applicable Order.

3. **Comerica Business Deposit Capture Service.** The Comerica Business Deposit Capture Service ("**BDC Service**") allows customers to

scan images of checks, deposit items for electronic delivery into their Comerica account and consolidate deposit information from multiple locations.

(a) **Service.** Customer may deposit checks using the BDC Service only to Designated Accounts that have been set up by Bank to accept electronic deposit slips and electronic images of checks. The transmission of check images and electronic deposit slips must be of a type and form acceptable to Bank, which is described in the User Guide(s) or other material that Bank provides to Customer in conjunction with the BDC Service.

(b) **Type of BDC Service Subscription.** Customer will select only one of the following options for the BDC Service:

(i) **Business Deposit Capture Desktop (BDCD):** Provides access to the Business Deposit Capture Desktop application through Comerica Business Connect to capture deposits on a workstation via a scanner.

(ii) **Business Deposit Capture Desktop with Mobile (BDCDM):** Provides access to the Business Deposit Capture Desktop application through Comerica Business Connect to capture deposits on a workstation via a scanner and provides access to the Business Deposit Capture Mobile application through Comerica Treasury Mobile to capture deposits on a mobile device.

(iii) **Business Deposit Capture Mobile Only (BDCMO):** Provides access to the Business Deposit Capture Mobile application through Comerica Treasury Mobile to capture deposits on a mobile device.

(iv) **Business Deposit Capture Mobile with Limited Desktop Access and Mobile Approver (BDCML):** Provides access to the Business Deposit Capture Mobile application through Comerica Treasury Mobile to capture deposits on a mobile device. In addition, it provides access to the Business Deposit Capture Desktop through Comerica Business Connect application to approve mobile deposits and access reporting.

(c) **General Availability of Funds Deposited.** Except as provided in the Deposit Contract, deposits made using the BDC Service will be made available to Customer for all purposes on the first Business Day after the day that Bank receives such deposits. Deposits received through the BDC Service will be deemed received on the day indicated on the electronic receipt acknowledgement that Bank sends to Customer unless that day is a non-Business Day. In such case, the deposits will be deemed received on the first Business Day thereafter.

(d) **Liability.** Unless prohibited by Laws, Customer will be liable to Bank to the same extent that Bank is liable under Laws, including the possibility of consequential damages to the maker/drawer of the original check that Customer imaged and transmitted to Bank electronically, to any intermediary financial institution and to the paying bank/financial institution, if:

(i) any check that Customer imaged and transmitted to Bank is re-presented after payment has been made on such check by the financial institution on which it was drawn or payable through.

(ii) any check that Customer imaged and transmitted to Bank is not of the quality that Bank has advised Customer that it requires or is not of such higher standard of quality required by Laws, and as a result, the image, Substitute Check (as defined by Laws) or Image Replacement Document (as defined by Laws or check clearinghouse Rules) that Bank placed into the banking system for payment was not of the quality that Bank requires or of such higher standard of quality required by Laws.

(iii) the maker/drawer of a check that Customer imaged and transmitted to Bank suffered a loss that could have been prevented if the original check had been presented for clearing and payment. For example: the amount of the original check was \$10 but that amount was altered to read \$100 before Customer imaged and transmitted such check to Bank. The maker's/drawer's account was debited for \$100 or such check was returned for non-sufficient funds but would not have been returned had the amount read \$10. In such case, Customer will be liable if the outcome would not have occurred if (A) the altered check was presented in its original form (not imaged), and (B) the alteration would have been detected.

(e) Risk Mitigation.

(i) **Controls.** Due to the inherent risk of fraud or loss in connection with the BDC Service, Customer agrees to the following risk mitigation controls as a condition of using the BDC Service:

(A) Keep the original imaged and transmitted checks in a secure place until they are destroyed.

(B) Adopt check destruction policies, procedures, and practices designed to prevent re-presentation of checks already presented for deposit.

(C) Track processing of scanned checks, prior to their destruction, in order to avoid duplicate deposits.

(D) Refrain from depositing demand drafts or remotely created checks through the BDC Service unless approved by Bank in a separate agreement.

(ii) **Restrictive Endorsements.** Bank recommends that Customer endorse checks with a restrictive endorsement containing language such as "for remote deposit only" or "for mobile deposit only"; provided Bank is under no obligation to verify such restrictive endorsement is applied. If Customer does not include a restrictive endorsement on a check deposited using the BDC Service and Customer or a third party deposits or attempts to deposit, a paper copy of the same check at another financial institution, Customer shall indemnify and hold Bank harmless from and against any Losses incurred by Bank arising out of, related to or incurred by Bank in connection with the deposit or attempted deposit of such check. To satisfy Customer's Indemnification obligations under this paragraph Bank may: (A) debit Customer's Designated Accounts and if such Designated Accounts do not have sufficient available funds to cover the amounts owed, then Bank may debit other accounts of Customer at Bank, or (B) set-off against any amounts Bank owes to Customer.

(f) **Equipment.** Customer agrees to use the type of equipment and telecommunication services in connection with the BDC Service that Bank may specify from time to time. Failure to use the specified equipment and/or telecommunications services may impact Customer's ability to use, or affect the quality of, the BDC Service. Any equipment that Bank may order on Customer's behalf in connection with the BDC Service shall be covered by a separate agreement executed by Customer and Bank's scanner service provider. Bank makes no representations or warranties concerning, and has no responsibility or liability for, any equipment or services that Bank does not provide to Customer under a written agreement. Any equipment that Bank gives to Customer to use during a testing or pilot period of the BDC Service is not to be shared by Customer with any other person or entity without Bank's prior written consent, which may be conditioned upon the third party's agreement to contractual terms that are acceptable to Bank.

(g) **Security Procedures.** The BDC Service requires the use of a Security Procedure as set forth in the User Guide(s) for the BDC Service and/or in the online screen instruction for the BDC Service.

(h) **Warranties.** By using the BDC Service, Customer warrants to Bank that Customer will not cause or allow any other person or entity to re-present any check that Customer has imaged and transmitted to Bank for deposit unless Bank has advised Customer that Bank was unable to process the image or give Customer credit for such check. Generally, Bank will advise Customer within one (1) Business Day, but in no event more than two (2) Business Days following Bank's receipt of Customer's transmission of checks if Bank was not able to process or credit Customer's Designated Account for a particular check. Customer warrants to Bank, with respect to each check imaged and transmitted to Bank, that (i) Customer has submitted the image in the format and with such associated check information that Bank may specify from time to time, (ii) the check accurately represents all of the information on the front and back of the original check, and that all such information is legible on the check, and (iii) no person will receive presentment of the original check, its legal equivalent, or a paper or electronic representation of the original check or its legal equivalent, such that that person will be asked to make a payment based on a check that that person has already paid.

(i) **Image Quality.** Bank reserves the right to transmit a check for payment or create a Substitute Check or Image Replacement Document for presentment directly or indirectly through the banking check clearing

system for final presentment to the financial institution on which such check was drawn or was payable through. If Bank advises Customer that Bank was not able to process Customer's imaged check or give Customer credit for the check for any reason other than "account closed" or "refer to maker" or "stop payment," Customer may attempt to redeposit such item using the BDC Service, or in the manner that Customer would have if Customer did not have the BDC Service. Bank recommends, although Bank does not require, that Customer destroy the original check within ten (10) days of Customer's Designated Account being credited for such check to reduce the possibility and risk that such check will re-enter the banking system process.

(j) **Maintenance of Records.** This Agreement will not relieve Customer or Bank of any obligation imposed by Laws, contract, or otherwise regarding the maintenance of records or from employing adequate audit, accounting and review practices. Customer shall retain and provide to Bank, at its request, all information necessary to remake or reconstruct any deposit, transmission file or entry for at least two (2) Business Days following the date that Bank credited Customer's Designated Account for a deposit made using the BDC Service.

(k) Bank's Proprietary Property.

(i) **Acknowledgement and Restriction on Use.** Customer acknowledges that the User Guides Bank provides to Customer are Proprietary Property of Bank. Copying of the User Guide(s) is strictly prohibited without Bank's prior written consent. Customer shall not acquire any proprietary interest or rights in the BDC Service as a result of using the BDC Service, and Customer shall not allow any other entity or person to use the BDC Services without Bank's prior written consent.

(ii) **Disabling of Proprietary Property Upon Termination.** Upon termination of the BDC Service, Customer will destroy any of Bank's Proprietary Property regarding the BDC Service and will take such action as necessary to insure that Customer cannot use the BDC Service. Customer agrees to provide to Bank, at its request, a written affidavit executed by one of Customer's authorized officers, certifying the destruction or disabling of such Proprietary Property.

(l) **Return of Equipment Upon Termination.** Customer's termination set forth in the General Terms and Conditions of this Agreement shall be deemed effective only after Customer returns any equipment that Bank provided in connection with the BDC Service.

4. **Comerica Easy Pay™ Service.** Comerica Easy Pay Service ("Easy Pay Service") is an electronic payment solution that provides customers with a suite of electronic payment options to enable customers' clients ("Payers") to make electronic payments. Electronic payment options may include the internet, mobile application, interactive voice response system or a live agent call center.

(a) Electronic Payment Options.

(i) **Applicable Payment Options.** The electronic payment options and processing features that Bank will provide to Customer shall be mutually agreed to by the Parties. Bank may make additional electronic payment options and processing features available to Customer from time to time. Customer may select such additional options and features and Bank agrees to provide such options and features, as mutually agreed to by the Parties upon Easy Pay Service implementation. After receiving notice of Bank's offering of additional options or features and their pricing, Customer shall provide Bank a written request in the event that Customer would like to select such options or features. Bank agrees to provide such options and features within a mutually agreed-upon amount of time after receiving from Customer the written notice and all other information which Bank, in its sole discretion, determines is necessary to provide such options or features. Customer may cancel electronic payment options and processing features by giving Bank thirty (30) days' written notice.

(ii) **Credit/Debit Card Acceptance.** In the event that Customer elects to accept credit/debit card payments, Customer must arrange for merchant card services either through Bank or a merchant service provider acceptable to Bank. A separate agreement is required for merchant card services through Bank.

(iii) **Automated Clearing House.** In the event that Customer elects to use ACH as a payment option, Customer must elect to receive ACH Services in the Implementation Agreement.

(b) Technology Requirements. Bank and Customer shall mutually agree on the file formats and transmittal standard that Customer will use in conjunction with the Easy Pay Service. Any changes to the agreed upon file formats and transmittal standards must be agreed to in writing by the Parties. If Customer requests, and Bank agrees, to provide technology related assistance, the Parties shall enter into a separate agreement for such assistance.

(c) Customer Obligations. Customer shall:

(i) Ensure that all data, information and instructions Customer supplies to Bank in connection with the Easy Pay Service shall be accurate and complete.

(ii) Only provide Easy Pay Service Access Codes to Users that are authorized to input payment instructions received from Payers.

(iii) Directly manage any and all claims or allegations by Payers related to or arising out of the Easy Pay Service.

(iv) Not utilize or permit Payers to utilize the Easy Pay Service to conduct illegal or fraudulent activity.

(v) Verify the identity of any Payer prior to submitting a payment through the Easy Pay Service.

(vi) Timely post payments, when applicable.

(vii) Not present any terms that are inconsistent with the Agreement for the Easy Pay Service.

(viii) Identify and obtain from its Payers all authorizations and consents related to the use of the Easy Pay Service that are required by the Agreement and applicable Laws.

(ix) Provide an easily accessible and conspicuously noticeable privacy policy on each of its owned, operated or controlled websites that: (a) complies with the applicable privacy Laws governing notice to Payers; (b) discloses usage of third-party technology to collect and use data in connection with the Easy Pay Service; and (c) is consistent with industry standards and provides Payers access to a user choice mechanism.

(x) Deliver through a real-time process or electronic delivery, a file containing current information associated with a Payer, which may include but is not limited to a first name or last name, other legal name, account number assigned by Customer ("**Billing Account Number**"), payment due date, amount due, email address, phone number, mobile phone number and statement mailing date.

(d) Limitation of Liability. Notwithstanding anything in this Agreement to the contrary, in addition to the limitations of liability set forth in set forth in the General Terms and Conditions of this Agreement:

(i) In the event that Bank fails to accurately process a Payer's received payment transaction, Bank's total liability shall be limited to correcting and/or reversing the applicable error, and in the event that Bank cannot correct and/or reverse the applicable error, Bank's liability shall be limited to any actual, provable damages directly arising out of the applicable error; provided, however, that in no event shall Bank's liability exceed the amount of the applicable payment transaction.

(ii) In the event that Bank fails to timely process a Payer's received payment transaction, Bank's total liability shall be limited to processing the applicable payment transaction by the next Business Day, and in the event that Bank cannot process the applicable payment transaction by the next Business Day, Bank's liability shall be limited to any actual, provable damages directly arising out of the applicable error; provided, however, that in no event shall Bank's liability exceed thirty dollars (\$30).

(iii) Bank (and Bank's Vendor) shall not be liable to Customer for any Losses relating to or arising out of any content that Customer or Payers provide for inclusion in the Easy Pay Service.

(e) Customer's Marks.

(i) If requested to do so by Customer, during the term of this Agreement, Bank (and Bank's Vendor) shall have the right and license to use any names, registered and unregistered trademarks, service marks, trade names, service names, trade dress, copyrights, logos, images,

graphics and brand designs as provided by Customer to Bank as they now exist or may be modified during the term hereof (collectively, "Marks") solely for the purpose of and in connection with the Easy Pay Service. By providing Customer's Marks to Bank, Customer: (A) represents and warrants to Bank that it has all rights needed to use Customer's Marks and that Comerica (and all third parties that Comerica may allow to use Customer's Marks to fulfill the purposes of the Agreement) may use the Customer's Marks as contemplated under this Section; (B) grants to Bank a limited, revocable, nontransferable license to reproduce and use the Customer's Marks solely for the purpose and in connection with the Agreement. Subject to and consistent with applicable Laws, Bank shall comply with the standards established by Customer and provided to Bank in writing in advance with respect to the form of Customer's Marks and their usage. Bank's reproduction and use of the Customer's Marks, and all goodwill established thereby and/or associated therewith, shall inure exclusively to the benefit of Customer, and Bank acquires no goodwill or other legal rights or interests in the Customer's Marks other than the right to use the Customer's Marks in connection with this Agreement. Subject to the foregoing, each of the Parties hereto is and shall remain the owner of all rights, title and interest in and to its Marks as the same now exist or as they may hereafter be modified. Any and all rights to Marks not herein specifically granted and licensed to the other party are reserved by the party owning such rights.

(ii) In no event shall Bank be liable for any Losses directly or indirectly arising out of infringement or alleged infringement of the Marks or any patent, copyright, trademark, trade secret or other proprietary right by any materials, images, information, processes or designs furnished by Customer.

(iii) In addition to the Indemnification obligations in set forth in the General Terms and Conditions of this Agreement, Customer shall indemnify and hold Bank harmless from and against any Losses incurred by Bank arising out of, related to, or in connection with actual or alleged infringement of any Mark furnished by Customer to Bank in connection with the Easy Pay Service.

(f) Feedback. Customer agrees that Bank may use any suggestions or other feedback relating to the Easy Pay Service ("Feedback") that is provided to Bank without restriction.

(g) Suspension and Termination.

(i) If at any time Bank reasonably suspects that Customer or any Payer is: (A) involved in any illegal or fraudulent activity; (B) infringing or misappropriating intellectual property; or (C) causing a security or integrity issue to the Easy Pay Service, including by unauthorized access or intentional interference, Bank may immediately suspend activity for the Customer or the applicable Payer.

(ii) In the event of termination of the Easy Pay Service, Bank will provide, at Customer's request, and upon payment of a Fee mutually agreeable to Bank and Customer, data related to the Easy Pay Service provided to Customer and historical payment information related to the Easy Pay Service provided to Customer.

(h) Payer Agreements. As part of the Easy Pay Service, Customer will be required to enter into an agreement between the Customer and each Payer ("Payer Agreement"). The Payer Agreement shall:

(i) Obligate the Payer to ensure, represent and warrant, that all data, information, instructions and representations that it transmits are accurate and complete;

(ii) Obligate the Payer to use the Easy Pay Service in compliance with all applicable Laws;

(iii) Notify Payer of its and Bank's privacy disclosures;

(iv) Obtain the Payer's express consent for Bank to transfer any consumer data that the Payer provides in connection with the use of the Easy Pay Service to Bank's Vendor or to otherwise give Bank's Vendor access to the consumer data for purposes of providing the Easy Pay Service; and

(v) Not contain any terms that are inconsistent with the Agreement for the Easy Pay Service.

5. **Comerica Integrated Receivables Service.** The Comerica Integrated Receivables Service ("**Integrated Receivables Service**") consolidates data, images and information from various incoming payment and depository services offered by Bank into a central online repository for customer access, storage and analysis. Payment Reassociation is an optional enhancement designed to provide straight-through-processing (STP) for receivables by automatically matching incoming electronic and paper payments to open invoice remittance details from a company's accounts receivables (A/R) system and paying customer remittance emails.

(a) **Payment Channels.** A "**Payment Channel**" is the underlying Service or other means that: (i) Customer uses to receive payments and/or other deposits to Customer's Designated Account(s), such as ACH, wire transfer or lockbox; and/or (ii) Bank uses to obtain the data, images and information about such payments and/or other deposits, which Bank makes available to Customer through the Integrated Receivables Service. Customer's Payment Channels shall be selected in the Implementation Agreement. Bank may, from time to time, make available additional Payment Channels. To add additional Payment Channels to Customer's Integrated Receivables Service, Customer shall provide a written request to Bank's Treasury Management Services Department. Bank may require Customer to execute an Implementation Agreement or other Documentation to use the Integrated Receivables Service with a selected Payment Channel, and Customer's use of the Integrated Receivables Service with such Payment Channel shall be subject to the Service Terms for such Payment Channel and/or a Separate Agreement(s).

(b) **System Features And Functionality.** The Integrated Receivables Service shall provide Customer with access to a central online repository, archive, and integration point for Payment Channel data, images and information ("**System**"). The System will connect Customer selected Payment Channels and allow consolidation, reporting and online decisioning capabilities for Customer's receivables associated with such selected Payment Channel(s). Specific features and functionality of Customer's Integrated Receivables Service shall be agreed to by Bank and Customer in the Implementation Documents for the Integrated Receivables Service. All data, images and information reported through the Integrated Receivables Service are reported after such data, images and information are captured through the Payment Channel after final settlement of the incoming payment.

(i) **Data Consolidation.** The System will aggregate data from the Payment Channels selected by Customer in the Implementation Documents for the Integrated Receivables Service and/or requested by Customer in accordance with these Integrated Receivables Service Terms. above.

(ii) **Automation.** The System will enable the automation of payment posting and Customer payment decision workflows for research and action.

(iii) **Data and Image Storage.** The System will enable Customer to retrieve data, images and information for the duration of the retention period requested by Customer and agreed to by Bank in the Implementation Documents for the Integrated Receivables Service. Bank shall have no obligation to retain data, images and/or information beyond the retention period agreed to by Bank and Customer in the Implementation Documents for the Integrated Receivables Service.

(iv) **Data Retrieval.** Customers can search and view data and images, create reports, and download images and data.

(v) **Reports.** Customer may run such other reports as are described in the User Guide for the Integrated Receivables Service.

(c) **Service Availability.** The Integrated Receivables Service will be available during the hours set forth in the User Guide for the Integrated Receivables Service.

(d) **Limitations of Liability.** Notwithstanding anything in this Agreement to the contrary, in addition to the limitations of liability set forth in the General Terms and Conditions of this Agreement, in the event that, through no fault of Customer, its agents, including telecom and internet carriers, or any public internet or telecom carriers, used by either party, the Integrated Receivables Service is not accessible for more than five (5) consecutive Business Days during any rolling thirty (30) day period, Bank's liability to Customer shall be limited to refunding to Customer, on a pro

rata basis, the monthly fee paid for the number of consecutive days the Integrated Receivables Service was not available to Customer.

6. **Classic Lockbox Service and Classic Plus Lockbox Service.** Comerica's Classic Lockbox Service and Classic Plus Lockbox Service (collectively the "**Classic Lockbox Service**") are for businesses with a low volume of invoice-based payments. The Classic Lockbox Service accelerates the conversion of receivables into available funds by reducing mail, processing and deposit float. Remittances are sent by check to a specially numbered post office box using a unique zip code. Bank collects the mail, processes the remittances and deposits the funds to the customer's account. Invoices, remittance information and correspondence are forwarded to the customer if requested as an optional feature to the Classic Lockbox Service. The Classic Lockbox Service is offered to customers with monthly volumes of 100 or less items. The Classic Plus Lockbox Service is offered to customers with monthly volumes of more than 100 but less than 300 items.

(a) **Lockbox.** Bank will provide Customer with a post office address to a post office box designated by Bank for the Classic Lockbox Service ("**Lockbox**"). Customer will have its payors send payments to the Lockbox.

(b) **Customer's Agent.** Customer authorizes Bank to act as its agent to: (i) rent the Lockbox at the appropriate postal facility; (ii) have custody of the keys or combinations for the Lockbox; (iii) have unrestricted and exclusive access to the Lockbox; and (iv) collect the mail from the Lockbox to be processed by Bank.

(c) **Processing of Items Received in Lockbox.** Bank will open all mail and process the items received in the Lockbox in accordance with the procedures described in the Implementation Agreement and the User Guide(s) for the Classic Lockbox Service. Substantial compliance by Bank with the procedures in the Service Terms for Classic Lockbox Service shall be deemed to constitute the exercise of ordinary and reasonable care by Bank.

(d) **Indemnification.** Customer shall indemnify and hold Bank harmless from and against any Losses incurred by Bank arising out of, related to or in connection with 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 the Service Terms for Classic Lockbox Service.

(e) **Limitations of Liability.** Notwithstanding anything in this Agreement to the contrary, in addition to the limitations of liability set forth in set forth in the General Terms and Conditions of this Agreement:

(i) 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 the Service Terms for Classic Lockbox Service.

(ii) Bank will not be liable to Customer or to any third party for any currency, coin or non-check payments received in the Lockbox.

(f) **Termination.** Upon the effective date of termination of the Lockbox Service and Classic Plus Lockbox Service, any items remaining in the Lockbox shall be processed in accordance with the Service Terms for Classic Lockbox Service except as prohibited under any applicable Laws. In the event Bank is unable to process the items in the Lockbox according to the Service Terms for Classic Lockbox Service because items are received in the Lockbox following the effective termination of the Classic Lockbox Service, Bank may return all items to Customer at Customer's expense or, at Bank's option, close the Lockbox and return the items in the Lockbox according to the post office's policies and procedures, and, in either event, Bank's obligations under this the Service Terms for Classic Lockbox Service will terminate.

7. **Lockbox for Remittance Basis Loans Service.** Comerica's Lockbox for Remittance Basis Loans Service ("**Remittance Basis Lockbox Service**") is a lockbox service for businesses with a low volume of high-dollar invoice payments that accelerates reduction of customer's debt secured by a cash collateral account designated in a security agreement between Comerica and the customer. Remittances to the customer are sent by check to a specially numbered post office box using



a unique zip code, accessed only by Comerica's Lockbox Department. Comerica collects the mail, processes the remittances and deposits the funds to the cash collateral account. Invoices, remittance information and correspondence are forwarded to the Customer or other party designated by Customer.

(a) Lockbox. Bank will provide Customer with a post office address to a post office box designated by Bank ("**Lockbox**"). Customer will have its payors send payments to the Lockbox.

(b) Customer's Agent. Customer authorizes Bank to act as its agent to: (i) rent the Lockbox at the appropriate postal facility; (ii) have custody of the keys or combinations for the Lockbox; (iii) have unrestricted and exclusive access to the Lockbox; and (iv) collect the mail from the Lockbox to be processed by Bank.

(c) Processing of Items Received in Lockbox. Bank will open all mail and process the items received in the Lockbox in accordance with the procedures described in the Service Terms for the Remittance Basis Lockbox Service. Substantial compliance by Bank with the procedures in the Service Terms for the Remittance Basis Lockbox Service shall be deemed to constitute the exercise of ordinary and reasonable care by Bank.

(d) Implementation Documents. The account to which funds will be deposited shall be known as the "Cash Collateral Account," or other designation as described in the applicable security agreement entered between Customer and Bank ("**Security Agreement**"). All deductions to pay for Fees and Charges of maintaining the Cash Collateral Account and/or the Remittance Basis Lockbox Service shall be charged to a Designated Account other than the Cash Collateral Account, i.e., General Operating Account.

(e) Indemnification. Customer shall indemnify and hold Bank harmless from and against any Losses incurred by Bank resulting from or in connection with any 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 the Service Terms for the Remittance Basis Lockbox Service.

(f) Limitations of Liability. Notwithstanding anything in this Agreement to the contrary, in addition to the limitations of liability set forth in set forth in the General Terms and Conditions of this Agreement:

(i) 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 the Service Terms for the Remittance Basis Lockbox Service.

(ii) Bank will not be liable to Customer or to any third party for any currency, coin or non-check payments received in the Lockbox.

(g) Termination.

(i) Notwithstanding the termination provision contained in this Agreement, the Service Terms for the Remittance Basis Lockbox Service may not be terminated without the prior written consent of Bank. Customer agrees that Bank shall only be obligated to terminate this Remittance Basis Lockbox Service when Bank is paid in full on all indebtedness owing to Bank as described in the Security Agreement and Fees and Charges owed under the Service Terms for the Remittance Basis Lockbox Service.

(ii) Upon the effective date of termination of the Remittance Basis Lockbox Service under this Agreement, any items remaining in the Lockbox shall be delivered to Customer at Customer's expense and any funds remaining in the Cash Collateral Account shall be transferred to any other account of Customer at Bank which is mutually agreeable to both Parties unless such transfer would be prohibited under any applicable Laws. In the event Bank is unable to process the items in the Lockbox according to the Service Terms for the Remittance Basis Lockbox Service because: (A) Bank's legal counsel has advised that such acts may be deemed prohibited under applicable Laws; or (B) items are received in the Lockbox following the effective termination of the Remittance Basis Lockbox Service under this Agreement, Bank may return all items to Customer at Customer's expense or, at Bank's option, close the Lockbox and return the items in the Lockbox according to post office's policies and

procedures and, in either event, Bank's obligations under the Service Terms for Remittance Basis Lockbox Service will terminate.

(iii) If Customer desires to continue the use of the Remittance Basis Lockbox Service described in these Service Terms after Bank is paid in full on all indebtedness owing to Bank as described in the Security Agreement, Customer must execute a new Implementation Agreement and/or other Documentation as Bank may require.

8. **Lockbox Plus™ Coupon Dominion of Funds (DOF) Service**. Comerica Lockbox Plus Coupon Dominion of Funds (DOF) Service ("**Lockbox DOF Service**") accelerates reduction of customer's debt secured by a cash collateral account designated in a security agreement between Comerica and the customer. Remittances to the customer are sent by check to a specially numbered post office box using a unique zip code, accessed only by Comerica's Lockbox Department. Comerica collects the mail, processes the remittances and deposits the funds to the cash collateral account. Invoices, remittance information and correspondence are forwarded to the customer or other party as designated in the implementation documents.

(a) Lockbox. Bank will provide Customer with a post office address to a post office box designated by Bank for the Lockbox DOF Service ("**Lockbox**"). Customer will have its payors send payments to the Lockbox.

(b) Customer's Agent. Customer authorizes Bank to act as its agent to: (i) rent the Lockbox at the appropriate postal facility; (ii) have custody of the keys or combinations for the Lockbox; (iii) have unrestricted and exclusive access to the Lockbox; and (iv) collect the mail from the Lockbox to be processed by Bank.

(c) Processing of Items Received in Lockbox. Bank will open all mail and process the items received in the Lockbox in accordance with the procedures described in the Service Terms for the Lockbox DOF Service. Substantial compliance by Bank with the procedures in the Service Terms for the Lockbox DOF Service shall be deemed to constitute the exercise of ordinary and reasonable care by Bank.

(d) Accounts. The account to which funds will be deposited shall be known as the "Cash Collateral Account," or other designation as described in the applicable security agreement entered between Customer and Bank ("**Security Agreement**"). All deductions to pay for Fees and Charges of maintaining the Cash Collateral Account and/or the Lockbox DOF Service shall be charged to a Designated Account other than the Cash Collateral Account, i.e., General Operating Account.

(e) Indemnification. Customer shall Indemnify Bank in connection with 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 the Service Terms for the Lockbox DOF Service.

(f) Limitations of Liability. Notwithstanding anything in this Agreement to the contrary, in addition to the limitations of liability set forth in set forth in the General Terms and Conditions of this Agreement:

(i) 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 the Service Terms for the Lockbox DOF Service.

(ii) Bank shall not be liable to Customer or to any third party for any currency, coin or other non-check payments received in the Lockbox.

(g) Termination.

(i) Notwithstanding the termination provision contained in this Agreement, the Service Terms for the Lockbox DOF Service may not be terminated without the prior written consent of Bank. Customer agrees that Bank shall only be obligated to terminate this Lockbox DOF Service and Service Terms for Lockbox DOF Service when Bank is paid in full on all indebtedness owing to Bank as described in the Security Agreement and Fees and Charges owed under the Service Terms for Lockbox DOF Service.

(ii) Upon the effective date of termination of the Service Terms for Lockbox DOF Service, any items remaining in the Lockbox shall be delivered to Customer at Customer's expense and any funds remaining in the Cash Collateral Account shall be transferred to any other account of Customer at Bank which is mutually agreeable to both Parties, unless such transfer would be prohibited under any applicable Laws. In the event Bank is unable to process the items in the Lockbox according to the Service Terms for Lockbox DOF Service because: (A) Bank's legal counsel has advised that such acts may be deemed prohibited under applicable Laws; or (B) items are received in the Lockbox following the effective termination of the Service Terms for Lockbox DOF Service, Bank may return all items to Customer at Customer's expense or, at Bank's option, close the Lockbox and return the items in the Lockbox, according to post office's policies and procedures and, in either event, Bank's obligations under the Service Terms for Lockbox DOF Service will terminate.

(iii) If Customer desires to continue the use of the Lockbox DOF Service described in these Service Terms after Bank is paid in full on all indebtedness owing to Bank as described in the Security Agreement, Customer must execute a new Implementation Agreement and/or such other Documentation as Bank may require.

(h) Security Procedures. Security Procedures for viewing images and reporting through Comerica Business Connect, receiving files from Bank, and transmitting files to Bank through the use of SFTP and Comerica Data Vault, are fully described in the applicable User Guides. Generally, the differences in Security Procedures are:

(i) Comerica Business Connect requires the use of a security token, customer IDs, and passwords as described in the User Guide(s) for the Lockbox DOF Service.

(ii) SFTP requires the use of an ID, password and specified IP address.

(iii) Comerica Data Vault requires the use of Software that generates a password that is only known to the Software.

9. Lockbox Plus™ Coupon Service. Comerica Lockbox Plus Coupon Service ("**Lockbox Plus Coupon Service**") accelerates the conversion of receivables into available funds by reducing mail, processing and deposit float. Remittances can be by check accompanied by a payment coupon or electronic payment with coupon type data. Bank collects the paper mail (checks and coupons) and/or electronic payments (with data), processes the remittances and deposits the funds to customer's designated account.

(a) Lockbox. Bank will provide Customer with a post office address to a post office box designated by Bank for the Lockbox Plus Coupon Service ("**Lockbox**"). Customer will have its payors send payments to the Lockbox.

(b) Customer's Agent. Customer authorizes Bank to act as its agent to: (i) rent the Lockbox at the appropriate postal facility; (ii) have custody of the keys or combinations for the Lockbox; (iii) have unrestricted and exclusive access to the Lockbox; and (iv) collect the mail from the Lockbox to be processed by Bank.

(c) Processing of Items Received in Lockbox. Bank will open all mail and process the items received in the Lockbox in accordance with the procedures described in the Service Terms for the Lockbox Plus Coupon Service. Substantial compliance by Bank with the procedures in the Service Terms for the Lockbox Plus Coupon Service shall be deemed to constitute the exercise of ordinary and reasonable care by Bank.

(d) Indemnification. Customer shall indemnify and hold Bank harmless from and against any Losses incurred by Bank arising out of, related to or in connection with 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 the Service Terms for Lockbox Plus Coupon Service.

(e) Limitations of Liability. Notwithstanding anything in this Agreement to the contrary, in addition to the limitations of liability set forth in set forth in the General Terms and Conditions of this Agreement:

(i) 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 the Service Terms for Lockbox Plus Coupon Service.

(ii) Bank shall not be liable to Customer or to any third party for any currency, coin or other non-check payments received in the Lockbox.

(f) Termination. Upon the effective date of termination of the Service Terms for the Lockbox Plus Coupon Service, any items remaining in the Lockbox shall be processed in accordance with this Agreement except as prohibited under any applicable Laws. In the event Bank is unable to process the items in the Lockbox according to the Service Terms for Lockbox Plus Coupon Service because items are received in the Lockbox following the effective termination of the Service Terms for Lockbox Plus Coupon Service, Bank may return all items to Customer at Customer's expense or, at Bank's option, close the Lockbox and return the items in the Lockbox according to post office's policies and procedures and in either event, Bank's obligations under these Service Terms for Lockbox Plus Coupon Service will terminate.

(g) Security Procedures. Security Procedures for viewing images and reporting through Comerica Business Connect, receiving files from Bank, and transmitting files to Bank through the use of SFTP and Comerica Data Vault, are fully described in the applicable User Guides. Generally, the differences in Security Procedures are:

(i) Comerica Business Connect requires the use of a security token, customer IDs, and passwords as described in the User Guide(s) for the Lockbox Plus Coupon Service.

(ii) SFTP requires the use of an ID, password and specified IP address.

(iii) Comerica Data Vault requires the use of Software that generates a password that is only known to the Software.

10. Wholesale Lockbox Service. Comerica's Wholesale Lockbox Service ("**Wholesale Lockbox Service**") is a traditional lockbox service for businesses with a low volume of high-dollar invoice payments. The Wholesale Lockbox Service accelerates the conversion of receivables into available funds by reducing mail, processing and deposit float. Remittances are sent by check to a specially numbered post office box using a unique zip code. Bank collects the mail, processes the remittances and deposits the funds to the customer's account. Invoices, remittance information and correspondence are forwarded to the customer.

(a) Lockbox. Bank will provide Customer with a post office address to a post office box designated by Bank for the Wholesale Lockbox Service ("**Lockbox**"). Customer will have its payors send payments to the Lockbox.

(b) Customer's Agent. Customer authorizes Bank to act as its agent to: (i) rent the Lockbox at the appropriate postal facility; (i) have custody of the keys or combinations for the Lockbox; (iii) have unrestricted and exclusive access to the Lockbox; and (iv) collect the mail from the Lockbox to be processed by Bank.

(c) Processing of Items Received in Lockbox. Bank will open all mail and process the items received in the Lockbox in accordance with Service Terms for the Wholesale Lockbox Service. Substantial compliance by Bank with the procedures in the Service Terms for Wholesale Lockbox Service shall be deemed to constitute the exercise of ordinary and reasonable care by Bank.

(d) Indemnification. Customer shall indemnify and hold Bank harmless from and against any Losses incurred by Bank arising out of, related to or in connection with 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 the Service Terms for Wholesale Lockbox Service.

(e) Limitations of Liability. Notwithstanding anything in this Agreement to the contrary, in addition to the limitations of liability set forth in set forth in the General Terms and Conditions of this Agreement:

(i) 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 the Service Terms for Wholesale Lockbox Service.

(ii) Bank will not be liable to Customer or to any third party for any currency, coin or non-check payments received in the Lockbox.

(f) Termination. Upon the effective date of termination of the Service Terms for Wholesale Lockbox Service, any items remaining in the Lockbox shall be processed in accordance with the Service Terms for Wholesale Lockbox Service except as prohibited under any applicable Laws. In the event Bank is unable to process the items in the Lockbox according to the Service Terms for Wholesale Lockbox Service because items are received in the Lockbox following the effective termination of the Service Terms for Wholesale Lockbox Service, Bank may return all items to Customer at Customer's expense or, at Bank's option, close the Lockbox and return the items in the Lockbox according to the post office's policies and procedures, and, in either event, Bank's obligations under the Service Terms for Wholesale Lockbox Service will terminate.