



***FRONTIER  
NETTELLER***

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**CASH MANAGEMENT SERVICES AGREEMENT**

# Cash Management Services Agreement

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## **CASH MANAGEMENT SERVICES AGREEMENT**

This Cash Management Services Agreement (the "Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between Frontier Bank, LaGrange, Georgia (the "Bank") and \_\_\_\_\_ (the "Company", a \_\_\_\_\_ (type of business) doing business in \_\_\_\_\_ (City), \_\_\_\_\_ (State). Pursuant to this Agreement the Company selects certain specified services indicated herein in the *Acceptance of Services* (Part II) and the Bank agrees to provide those services under the applicable Terms and Conditions set forth in this Agreement.

### **Part I. Definitions**

The following words or terms have the designated meanings:

1. *"Agreement"* means this Cash Management Services Agreement, including Exhibits, as it may be amended from time to time.
2. *"Addendum"* or *"Addenda"* means any writing executed and delivered simultaneously with or subsequent to the execution of this Agreement and intended by the parties to supplement the provisions of this Agreement.
3. *"Administrator"* means the person acting on behalf of the Company who will have full responsibility for giving authority to Authorized Users, assigning and maintaining confidentiality of Identifications and PINs, and notifying the Bank of any and all suspicious activity with regard to any account or transaction affected through the Online Banking Cash Management System.

4. *"Authorized Users"* means those persons authorized by the Company to use Frontier Bank Online Banking Cash Management for some or all of the following functions:

- View Authorized Account related information
- Set up payment orders
- Initiate payment orders
- Transfer funds between accounts
- Download Authorized Account information
- Other functions as allowed by the Company

The functions are used on behalf of the Company and subject to specified restrictions and limitations as set by the Company.

5. *"Authorized Account"* means the account or accounts of the Company maintained at the Bank and which the Bank may debit for any Company payment order executed pursuant to this Agreement. In the absence of any such designation, any account maintained by the Company at the Bank is an Authorized Account.

6. *"Authorized Person"* means a person authorized to execute, modify, amend or terminate this Agreement on behalf of the Company.

7. *"Available Funds"* means funds on deposit in an Authorized Account and available for withdrawal pursuant to the Bank's applicable funds availability schedule.

8. *"Payment Order"* means an instruction of the Company to the Bank transmitted orally, electronically, or in writing, to pay, or to cause another bank to pay, a fixed or determinable amount of money to a beneficiary if:

- (i) the instruction does not state a condition of payment to the beneficiary other than time of payment,
- (ii) the Bank is to be reimbursed by debiting an account of, or otherwise receiving payment from the Company, and
- (iii) the instruction is transmitted by the Company directly to the Bank or to an agent, funds-transfer system, or communication system for transmittal to the Bank.

Payment orders include for purposes of this Agreement, all instructions transmitted electronically to the Bank, via Frontier Online Banking Cash Management under the Company's Frontier Bank Online Banking Identification and PIN (Personal Identification Number). No payment order is accepted by the Bank until executed by the Bank. The Bank reserves the right to refuse to accept any payment order.



**Part III. Fee Schedule**

The Company agrees to pay Bank for services provided under the Agreement in accordance with the schedule of charges set forth below in this Agreement. The Bank may change its fees from time to time upon notice to the Company of such change. Notice may be by sending written notice or posting notification of said changes on Bank's website. Company's continued use of the Cash Management Services evidences Company's acceptance to any changes in fees

**A. Cash Management and ACH**

Monthly Maintenance Fees:*	\$35.00
Transmission Fee (per ACH file):	15.00
Transaction Charge (per ACH item):	.12
Notification of Change (per ACH transmission):	25.00
Returned Items (per ACH transmission):	5.00

\*Monthly Maintenance Fees include NetTeller, Power Pay, Cash Management and ACH availability.

All miscellaneous fees will be charged at the standard disclosed amounts (see Business Account fee disclosure and/or current Fee Schedule which are by this reference incorporated as a part of this Agreement as if fully set forth herein). In addition, the Company may incur fees for ancillary services through Frontier Cash Management such as, but not limited to, stop payments or internal transfers. The service charge(s) will be debited from account designated by Company.

**B. Wire Transfers**

Outgoing Domestic Wire (through Frontier Cash Management)	\$20.00
Incoming Domestic Wire	7.50

Wire fees are in addition to the transaction amounts and will be charged to the account from which transactions are originated.

**Part IV. Security Procedures**

**A. Information about Security Procedures**

Security Access is defined and controlled by the Company.

Bank will issue a validated Access Identification Number (Access ID) and PIN to the designated Administrator only to be used together with its Online Banking ID and Online Banking PIN. If Company desires any distribution of the Access ID and PIN to enable more "Users" to access Company's accounts, the distribution of

information will be provided by the Administrator and **not** Frontier. Company will be solely responsible for establishing and maintaining security levels of access for each person authorized to send or receive information for Company. Bank is authorized to act on any instructions received through Frontier Cash Management and Company agrees that Bank will not be liable for any losses as the result of any breach of security codes by the Company, its employees, or agents. Bank is authorized by Company to make security changes as required or requested by the authorized agent of Company. Such authorized individual (Administrator) is identified in Exhibit B of this Agreement.

Company agrees to use the system solely to conduct its business and agrees to limit access to those employees who require access to the system. Company agrees that Bank will not be liable for any loss or damage arising directly or indirectly, in whole or in part from (a) any inaccuracy of incompleteness in the input or an order or instruction from the Company; (b) any failure by Company to obtain a confirmation of any order or instruction; or (c) any cancellation or attempted cancellation by Company of any order or instruction.

Company will provide all equipment (e.g., telephone, terminals, computer, etc.) necessary to use Frontier Cash Management. Bank will have no responsibility for such equipment.

**Company understands that when Bank acts on any instruction to transfer funds by ACH or wire transfer from accounts Company maintains at Bank (each, an "Order"), Bank and any beneficiary's bank may rely solely on (a) the beneficiary's account number even if it identifies a person different from the named beneficiary, and (b) if provided to Bank, the identification number of any other financial institution through or to which the funds are to be transferred, rather than the name of the financial institution. Company expressly agrees to be bound by any Order, whether or not authorized, issued in its name and accepted by Bank in compliance with the security procedure(s) as indicated below.**

#### **B. Security Procedures for Balance Reporting**

1. Complete Exhibit C to specify accounts to be accessed through Frontier Cash Management.
2. To add or delete accounts, please contact your account officer or other bank representative for assistance or obtain from our website.
3. Individual Authorized to Administer System Security Access is defined below:

The individual defined in Exhibit B is authorized by the Company to access Frontier Cash Management and to initiate instructions to Bank

concerning overall system security. The Company agrees to promptly notify Bank in writing of any change to the authorized Administrator.

**Note: The Bank may require the Company to provide a resolution and/or other appropriate documentation authorizing the Administrator and substitutions thereto.**

**C. Security Procedures for ACH Services**

1. The Company agrees to abide by the following procedures when submitting ACH transaction requests to the Bank:
  - a. Prior to acceptance as an ACH Originator, the Company must submit completed ACH Origination Application (Exhibit A) *for approval* by the Bank.
  - b. The Company agrees to complete an ACH Authorized Representatives List (See Exhibit D) identifying the individuals to be contacted to verify file totals or discrepancies.
  - c. The Company agrees to comply with all procedures relating to the transmission of data by the Internet as may be defined by the Bank.
  - d. An Originator Transmittal Request Form (see Exhibit E) must be completed and signed by an authorized employee of the Company as specified in Exhibit D. This form must accompany the transaction request before the request will be considered as received by the Bank. This form should be faxed to the Bank's Data Center at (256) 401-3031 by 2:00 p.m. CT on the scheduled transmission day. The Company agrees that the transmittal will serve as approval for the Bank to submit the requested transaction to the ACH. If the Origination Transmittal Request Form is not received by the cut off time on the scheduled transmission day, the Bank will call a person specified on the ACH Authorized Representatives List. The Company further understands that this list of authorized individuals will be in full force and effect until such time as the Bank is notified in writing, by certified mail, return receipt requested, of any changes to the list. Such notice should be mailed to the following:

Frontier Bank  
Attn: Data Processing Manager  
137 James Payton Boulevard  
Sylacauga, AL 35150

- e. The Company acknowledges that it is solely responsible for the accuracy and content of all originated transactions.
- f. The Bank is not obligated to originate any transaction that has been returned. The Company agrees to provide the Bank with any requested information that would allow the Bank to verify that a transaction has been properly authorized.
- g. The Bank, may without prior notice, obtain any monies owed to the Bank from the Company or from any of the Company's accounts at the Bank

**Note: The Bank may require the Company to provide a resolution and/or other appropriate documentation to substantiate listed Representatives' authority and substitutions thereof.**

## **Part V. Frontier Cash Management Terms and Conditions**

### **A. General Terms and Conditions**

Every day is a business day, except Saturdays, Sundays and federal holidays. Saturdays, Sundays and federal holidays are not Business Days even if a majority of Bank's offices are, in fact, open. Transactions, deposits, instructions, and entries received by Bank after established cutoff deadlines will be treated as received on the next Business Day. Bank may change any cutoff deadline at any time upon notice to Company.

In addition to these Terms and Conditions, the Services provided to Company shall be subject to the Bank's other Services' processing descriptions or procedures, Bank's rules and regulations governing deposit accounts (Customer Account Signature Card which includes, but is not limited to, the Deposit Account Rules and Regulatory Disclosures), Bank's services and fees, and, if applicable, by the provisions of any software license agreement(s) whether or not executed by Company, by regulations, any ACH operating rules (specifically including but not limited to the National Automated Clearing House Association ("NACHA") Operating Rules and Guidelines, collectively, the "ACH Rules") and by Article 4A of the Uniform Commercial Code.

The Terms and Conditions of Company's signature card and Deposit Account Rules and Regulatory Disclosures with Bank are by this reference incorporated as a part of this Agreement as if fully set forth herein. If any inconsistency exists between such agreements and these Terms and Conditions, then the Terms and Conditions of this Agreement shall control but only to the extent necessary.

These Terms and Conditions supersede any prior agreement with Company relating to funds transfer services.

In addition to, and notwithstanding anything to the contrary herein, Bank shall not be responsible for any loss arising from or in connection with any constraints placed upon Bank by any governmental or regulatory authorities regarding the services contemplated in this Agreement, or in the event Bank does not provide the Services contemplated herein as a result of acts of God, acts of governmental authority, or a public enemy, or war, riots, fires, floods, civil commotions, equipment or software failures, electrical, telecommunication, computer or mechanical failure, delays or failure to act of any carrier or agent or, without limiting the generality of the foregoing, any other cause beyond Bank's reasonable control.

**The Bank shall be responsible only for performing the services expressly provided for in the Agreement, and shall be liable only for its gross negligence or willful misconduct in performing those services. In no event shall the Bank have any liability for any consequential, special, punitive or indirect loss or damage, which the Company may incur or suffer in connection with this Agreement.**

**B. DISCLAIMER OF INFORMATION AND WARRANTIES**

**BANK MAKES NO WARRANTIES, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND THE MERCHANTABILITY, WHETHER TO COMPANY OR TO ANY OTHER PARTY WITH RESPECT TO THE SERVICES PROVIDED BY BANK OR ANY COMPUTER PROGRAMS OR OTHER SOFTWARE PROVIDED BY BANK PURSUANT TO ANY SERVICE.**

Company represents and warrants to Financial Institution and agrees that (a) each person shown as the Receiver on an Entry received by Financial Institution from Company has authorized the initiation of such Entry and the crediting of its account in the amount and on the Effective Entry Date shown on such Entry, (b) such authorization is operative at the time of transmittal or crediting by Financial Institution as provided herein, (c) entries transmitted to Financial Institution by Company are limited to those types of Credit Entries set forth herein, (d) Company shall perform its obligations under this Agreement in accordance with all applicable laws and regulations, including the sanctions laws administered by the Office of Foreign Asset Control ("OFAC"), and (e) Company shall be bound by and comply with the Rules as in effect from time to time, including without limitation, the provision making payment of an Entry by the Receiving Depository Financial Institution to the Receiver provisional until receipt by the Receiving Depository Financial Institution of final settlement for such Entry. Company specifically acknowledges that it has received notice of the Rule

regarding provisional payment and of the fact that, if such settlement is not received, the Receiving Depository Financial Institution shall be entitled to a refund from the Receiver of the amount credited and Company shall not be deemed to have paid the Receiver the amount of the Entry. Company shall indemnify Financial Institution against any loss, liability or expense (including attorney's fees and expenses) resulting from or arising out of any breach of any of the foregoing representations or agreements.

Company agrees to provide all information, which Bank may reasonably request including, without limitation, specifications, signature cards, transmissions and documents.

**C. Proprietary Property**

Company acknowledges that all computer programs and systems used in providing the services, and all information relating thereto, constitute proprietary property of Bank, having great commercial value to Bank, and Company shall not acquire any proprietary interest or rights therein as a result of its use of the Services.

Neither Company nor its agents or employees shall modify or attempt to modify the Bank's systems. Specifically, Company shall not attempt to modify, reverse engineer, reverse compile, or disassemble any part of the system's object code.

Company agrees to hold the Bank and its software developer harmless for any damages including any loss of profits or other incidental, special, exemplary or consequential damages, resulting from the use of, misuse of, or inability to use the system, whether or not informed of the possibilities of damages in advance.

**D. Fees**

Unless otherwise agreed in writing, Company shall pay Bank the fees, charges and assessments set forth for the services provided in this Agreement, Business Account Fee Disclosure and Fee Schedules, plus additional fees and expenses for any extraordinary services. Company agrees that Bank may debit any of Company's accounts for any and all such fees expenses, taxes or assessments.

**E. Limitation of Liability**

Bank will not individually or severally under any circumstances, be liable for any special, incidental, indirect, consequential or punitive losses or damages whether or not the likelihood of such losses or damages was known by either party at the time Company first obtained Services from Bank or at the time any instruction or order is given to Bank pursuant to any Services. In addition, Bank shall not be liable for any losses or damages caused, in whole or in part, by the action or inaction of Company, or any agent or employee of Company, whether or not such

action or inaction constitutes negligence or a breach of these Terms and Conditions. Bank shall not be liable for any damage, loss, liability or delay caused by accident, strike, fire, flood, war, riot, equipment breakdown, electrical, telecommunication or mechanical failure, acts of God, or any cause, which is reasonably unavoidable, or beyond its reasonable control. Company agrees that the fees charged for the performance of Services shall be deemed to have been established in contemplation of these limitations on liability.

Company acknowledges that the reconstruction of events causing Company to sustain damages becomes difficult and may be inaccurate more than 30 calendar days following the occurrence of such events. Therefore, Company agrees that any claim, action, suit or proceeding against Bank for damages resulting in any respect from its acts or omissions in the performance of the Services must be brought within 30 calendar days from the date of Bank's alleged act or omission.

Company agrees to immediately notify Bank of any claim by Company, or any claim that is made to Company by a third party, that any act or omission by Bank in connection with any Service has caused Company or such third party to sustain any damages.

With respect to the performance of services under this Agreement that are not covered by UCC 4A, the parties will be governed by a standard of ordinary care. The Bank will be deemed to have exercised ordinary care if its action or failure to act has been in conformity with the Bank's prescribed procedures and such procedures do not vary unreasonably from the general banking uses and practices not disapproved by any provision of the Uniform Commercial Code.

**F. Indemnification**

Company agrees to indemnify, defend and hold the Bank, its parent company, affiliates and/or subsidiaries, directors, officers, employees, and agents, individually and collectively harmless from and against any damage, loss or liability of any kind, including without limitation, reasonable attorneys fees and court costs which result directly or indirectly, in whole or in part, from the Services.

**G. Amendment and Termination**

Bank may amend these Terms and Conditions, its User Guides (if applicable), and Frequently Asked Questions and Answers from time to time by giving written notice to Company, by sending a copy of the amended documents to Company's current billing address, or by posting notification including revised copy on the Bank's website. Company's continued use of the Cash Management Services evidences Company's agreement to any such amendments.

Bank reserves the right to terminate Services or any Service, by giving ten (10) days written notice. However, Bank reserves the right to immediately terminate Services to Company at its sole discretion for any reason including, but not limited to, lack of payment for services or suspected breach of security procedures. Further, Bank reserves the right to take all actions, including immediate termination of this Service or any part thereof, which Bank believes is necessary or appropriate to comply with applicable laws, governmental policies and regulations. Bank will promptly notify Company of its decision to terminate service

## **H. Notices**

All written notices to the Bank shall be delivered or sent by certified mail, return receipt requested to the following:

Frontier Bank  
Attn: Data Processing Manager  
137 James Payton Boulevard  
Sylacauga, AL 35150

Notices sent to Company shall be effective when delivered or mailed to Company's current billing address or other known address as shown in the records of the Bank or when delivered or mailed to some other address deemed in its discretion more appropriate by the Bank.

## **I. Entire Agreement**

This Agreement, Online Banking Agreement, Business Accounts - Online Banking Enrollment Form, Deposit Account Disclosure, Signature Card, Frequently Asked Questions and Answers, "Online Banking" Security Statement, "Online Banking" Web Site Agreement, Wire Transfer Agreement and other written agreements constitute the entire agreements between the parties and supersede any prior agreements or representations relating to the Services and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements. In the event performance of the Services provided herein in accordance with the terms of this Agreement would result in a violation of any present or future statute, regulation, or government policy to which the Bank is subject and which governs or affects the transactions contemplated by this Agreement, then this Agreement shall be deemed amended to the extent necessary to comply with such statute, regulation, or policy and the Bank shall incur no liability to the Company as a result of such violation or amendment.

## J. Terms and Conditions for ACH Origination

The Company may request that the Bank permit it to initiate electronic entries through the Bank to accounts maintained at the Bank and at other financial institutions, by means of the Automated Clearing House (the "ACH") transactions. The Bank will agree to do so on the Terms and Conditions of this Agreement.

Now, therefore, the Company and the Bank agree as follows concerning ACH transactions:

1. **Rules.** The Company acknowledges receipt of a copy of the operating rules (the "Rules") of the National Automated Clearing House Association ("NACHA"). The Company agrees to comply with and be bound by the Rules as amended from time to time. It will be the Company's responsibility to maintain revisions to the original publication provided the Company by Frontier Bank.
2. **Transmission of Entries: Security Procedures.** The Company will transmit and/or deliver all debit and credit entries to the Bank at the location, on or before the deadlines, described in Transmittal Rules (see #16 below). The Company authorizes the Bank to transmit all entries received by the Bank from the Company in accordance with the terms of this Agreement and to credit or debit entries to the specified accounts.
3. **Financial Institution Obligations.** In a timely manner and in accordance with the Rules, the Bank will process, transmit, and settle for the entries received from the Company, which comply with the terms of this Agreement, including the security procedures.
4. **Warranties.** The Company warrants to the Bank all warranties the Company is deemed by the Rules to make with respect to entries originated by the Company. Without limiting the foregoing, the Company warrants and agrees that (a) each entry is accurate, is timely, has been authorized by the party whose account will be credited or debited, and otherwise complies with the Rules; (b) each debit entry is for a sum which, on the settlement date with respect to it, will be owing to the Company from the party whose account will be debited, is for the sum specified by such party to be paid by the Company, or is a correction of a previously transmitted erroneous credit entry; (c) the Company has complied with all pre-notification requirements of the Rules; (d) the Company will comply with the terms of the Electronic Funds Transfer Act if applicable, or Uniform Commercial Code Article 4A (UCC4A) if applicable, and shall otherwise perform its obligations under this Agreement in accordance with all applicable laws and regulations. The Company will retain the original or copy of the customer authorization record as required by the Rules for a

period of not less than two (2) years after termination or revocation of such authorization and will, upon request of the Bank, furnish such original or copy to the Bank. The Company shall indemnify and hold harmless the Bank, its agents, officers, directors, shareholders, servants, and employees against any loss, liability or expense (including attorney's fees, costs of court, and other expenses) resulting from or arising out of any breach of the foregoing warranties or agreements.

5. **Provisional Credit.** The Company acknowledges that the Rules make provisional any credit given for any entry until the financial institution crediting the account specified in the entry receives the final settlement. If the financial institution does not receive final settlement, it is entitled to a refund from the credited party and the originator of the entry shall not be deemed to have paid the party.
6. **Settlement.** The Company will maintain an account with the Bank at all times during the term of this Agreement. The Company will maintain in the account immediately available collected funds sufficient to cover all credit entries initiated by it. The Company agrees that these funds will be available to the Bank two (2) business days prior to the applicable settlement date. The Company authorizes the Bank to debit its account two (2) business days prior to the applicable settlement date in the amount of each entry.
7. **Cancellations or Amendment.** The Company shall have no right to cancel or amend any entry/file after its receipt by the Bank. However, the Bank shall use reasonable efforts to act on a request by the Company to cancel an entry/file before transmitting it to the ACH or crediting an on-us entry. Any such request shall comply with the security procedures described in the Agreement. The Bank shall have no liability if it fails or is unable to effect the cancellation.
8. **Rejection of Entries.** The Bank may reject any entry, including an on-us entry, which does not specifically comply with the requirements of this Agreement and may reject any entry if the Company is not in the Bank's sole opinion otherwise in compliance with the terms of the Agreement. The Bank shall notify the Company by telephone of such rejection no later than the business day such entry would otherwise have been transmitted by the Bank to the ACH or, in the case of an on-us entry, its effective entry date. The Bank shall have no liability to the Company by reason of the rejection of any entry or the fact that such notice is not given at an earlier time than that provided for herein. The Bank shall retain the right to reject any on-us transaction for any valid reason such as, but not limited to, insufficient funds or revoked authorization.

9. **Notice of Returned Entries.** The Bank shall notify the Company by telephone or fax of the receipt of a returned entry from the ACH no later than one (1) business day after the business day of such receipt. The Bank shall have no obligation to retransmit a returned entry if the Bank has complied with the terms of this Agreement with respect to the original entry. If a customer of the Company returns any transaction, then it is the Company's responsibility to collect any funds that are owed. The Bank has no obligation to originate a transaction where authorization has been revoked.
10. **Reversals.** The Company may initiate a reversing entry or file of entries as permitted by the Rules.
11. **Periodic Statement.** The periodic statement issued by the Bank for the Company's account will reflect entries credited and debited to the Company's account. The Company agrees to notify the Bank within a reasonable time, which for the purposes of the Agreement shall not be more than thirty (30) days after the Company receives a periodic statement, of any discrepancy between the Company's records and the information in the periodic statement.
12. **Inconsistency of Name and Account Number.** The Company acknowledges that if an entry submitted to the Bank describes the receiver inconsistently by name and account number, payment of the entry may be made on the basis of the submitted account number even if it identifies a person different from the named receiver.
13. **Data Retention.** The Company shall retain data on file adequate to permit remaking of entries for five (5) business days following the date of their transmittal to the Bank as provided herein and shall provide such data to the Bank upon its request.
14. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama and the NACHA Rules.
15. **Miscellaneous.** The Bank may amend the terms of this Agreement from time to time by notice to the Company. Either party may terminate this Agreement upon ten (10) days written notice to the other sent by certified mail, return receipt requested, or prepaid courier. However, Bank reserves the right to take all actions, including immediate termination of this Service or any part thereof, which Bank believes is necessary or appropriate to comply with applicable laws, governmental policies, and regulations. The Bank shall have no obligation to transmit entries if the Company is in default of any of its obligations under this Agreement, including the obligation to pay the Bank for each credit entry. The Bank shall be entitled to rely on any written notice believed by it in good faith to

be signed by one of the Authorized Representatives whose names and signatures are set forth in the Exhibit D. This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama in which the Bank does business without regard to its conflicts of laws provisions. Venue for all purposes is hereby exclusively fixed in Talladega County, Alabama.

16. **Transmittal Rules.** The Company agrees to submit all debit and credit entries to the Bank in accordance with the requirements of NACHA and subject to the following:
- a. Data must be received from the Company in a NACHA format or other form acceptable to the Bank. This may include transmission by the Internet, or other means deemed acceptable to the Bank. Transactions delivered in file format must match the specifications defined by the Bank.
  - b. The Company agrees to deliver credit transaction requests to the Bank no later than 2:00 p.m. Central Time (CT) two (2) business days before effective date of the transactions. Delivery of this information should be made to:

Frontier Bank  
Attn: Data Processing Manager  
137 James Payton Boulevard  
Sylacauga, AL 35150
  - c. The Company agrees to deliver debit transaction requests to the Bank no later than 2:00 p.m. Central Time (CT) one (1) business day before effective date of the transactions. Delivery of this information should be made to:

Frontier Bank  
Attn: Data Processing Manager  
137 James Payton Boulevard  
Sylacauga, AL 35150
  - d. An Originator Transmittal Request Form must be completed and signed by an authorized employee of the Company as specified on Exhibit E. This form must accompany the transaction request before the request will be considered as received by the Bank.
  - e. The Company agrees that the Bank will not be responsible when unable to transmit the Company's transactions due to unexpected equipment problems including, but not limited to, transmission line

problems. The Bank agrees to make all reasonable attempts to transmit the Company's transactions in a timely manner.

- f. The Company agrees that it is responsible for establishing effective dates of transactions that do not conflict with weekends, national holidays, or other non-bank business days. If the effective date of an ACH transaction conflicts with any of these non-bank business days, the Bank will originate the transactions so that the effective date is one (1) business day following the requested effective date.
- g. In the case of on-us transactions for which the Bank is both the Originating Depository Financial Institution (ODFI) and the Receiving Depository Financial Institution (RDFI), the Bank reserves the right to return any transaction originated from the Bank, acting as ODFI, for any valid reason.
- h. The Company agrees that it is solely responsible for settling the accounts for any transactions that are returned. The Company, as Originator, bears the sole responsibility of collecting funds that are owed due to returned transactions.
- i. The Company acknowledges its responsibility to generate pre-notification entries at least six (6) calendar days before the effective date for all transactions.
- j. The Company agrees to provide the Bank an annual schedule of the days the Bank can anticipate receipt of ACH transactions. The schedule is to be provided to the Bank five (5) business days in advance of the first ACH transaction of each new year. The Company is responsible for notifying the Bank of any changes to the prearranged scheduled date in sufficient time for the Bank to accommodate the requested change.

## **K. Terms and Conditions for Wire Transfer Services**

The Terms and Conditions set forth in this part describe the Bank's Wire Transfer Service through Frontier Cash Management, which enables the Company to transfer collected and available funds from Company's bank account(s) as stated herein. By signing and returning this Agreement, Company agrees to be legally bound by the following terms and conditions:

1. **Initiating Transfers.** Company's Authorized User(s) (as set and controlled by Company's Administrator) may direct Bank to transfer funds from any of Company's bank accounts listed on Company's signup documents, to any other account with Bank or to an account at another financial institution in accordance with the terms and conditions stated herein. If Company chooses to utilize more than one account for wire transfer services, a maximum amount must be established for each account. Wire transfer requests will be accepted during the normal business hours of Bank's Wire Transfers Department, which are 8:30 a.m. to 2:00 p.m. CT. Such business hours are subject to change upon written notice to Company.
2. **Honoring Transfers.** Bank will be under no obligation to honor, either in whole or in part, any wire transfer request. If Bank creates an overdraft to complete a wire transfer, Company agrees to repay Bank upon demand. However, Bank is under no obligation to create an overdraft for that purpose.  
Bank will initiate all properly transmitted wire transfer requests on the date received, provided such requests are received by Bank within the established deadlines of the Wire Transfers Department. Bank will initiate Company's wire transfer on the day the Company requests the transfer, provided such day is a business day for Bank and for the receiving bank and Bank receives the request prior to the deadlines established from time to time by the Bank. **However, the Bank shall have no liability, including for Bank's own negligence, should any transmission not be made for any reason until next business day for both the receiving bank and the Bank. In initiating any wire transfer request, Bank may utilize any means of transmission as Bank selects from the means available to Bank at such time.**
3. **Authorization to Charge Account.** Upon receipt of the Wire Transfer Request, Company authorizes Bank to charge Company's account(s) in the amount of wire transfer requests plus any applicable fees and/or charges as well as any other charges incurred by us. See Part III of this Agreement and the current " Fee Schedule" for fees.
4. **Confirmation: Account Reconciliation.** Completed wire transfer requests will be reflected on Company's wire confirmation and/or periodic account statement. Company agrees to notify Bank, as soon as possible, of any discrepancy between Company records and any confirmation advice or periodic account statement. **If Company fails to notify Bank of any such discrepancy within thirty (30) days**

**following the date of the confirmation advice or periodic account statement, whichever is sooner, Company agrees that Bank will not be liable for any losses, regardless of any negligence, if any, by Bank with respect to any such discrepancy.**

- 5. Compensation.** Bank's only responsibility to Company hereunder for failure to perform or error solely caused by Bank shall be to correct at Bank's expense any such failure to perform or error. Correction shall take the form of transferring the correct amount and/or refunding any amounts transferred in error together with compensation for loss of interest as described below, provided that Company promptly notifies Bank of any error. Company shall fully assist Bank in obtaining a recovery of any funds transferred in error. Bank shall have a reasonable amount of time to research and correct any alleged error. In the event the transfer was subject to Regulation E of the Federal Reserve Board, then Bank shall comply with the error resolution procedures set forth therein. If Company suffers any loss of interest resulting from Bank's error in executing a funds transfer request, or from Bank's failure to execute a funds transfer, in accordance with these terms and conditions, Bank will reimburse Company for such losses as stated herein ("Compensation"), provided that Company has complied with these terms and conditions, and provided further, that such error was within Bank's reasonable control. Such Compensation shall be limited to the interest lost for a period not exceeding fourteen (14) days following Company's receipt of the confirmation advice, terminal printout or periodic account statement (whichever occurs first), and shall be calculated by using a rate not to exceed the Federal Funds Rate in effect at the Federal Reserve Bank of Atlanta for the period involved. Compensation will be paid either by credit to Company's account with the Bank or by check. **Company agrees that Company will not be entitled to any other compensation, including compensation for any other direct, indirect, incidental or consequential damages, nor will the Company be entitled to any punitive or exemplary damages.**
- 6. Limitation of Liability.** Except as otherwise stated herein, the Bank shall be liable to Company only for gross negligence or willful misconduct in the performance or nonperformance of the Wire Transfer Services provided herein. An Indemnified Party (correspondent bank or agent) shall not be responsible for any loss arising from or in connection with any inaccuracy, act, or failure to act on the part of any person not within such Indemnified Party's reasonable control, nor shall an Indemnified Party be responsible for any loss arising from any error, power failure or delay in transmission of any funds transfer request, including without limitation to, any inoperability of communication facilities, or other circumstances beyond our reasonable control. Provided an Indemnified Party has complied with these Terms and Conditions, Company agrees to indemnify and hold such Indemnified Party harmless against any claim of a third party including without limitation claims of negligence by any person or entity arising from or in connection with these Terms and Conditions or the services provided hereunder, including, but not limited to, reasonable attorney fees and costs of defense.

**However, in no event shall an Indemnified Party be liable to Company for any consequential, special, punitive, exemplary or other direct or indirect losses or damages which Company may incur or suffer by reason of these Terms and Conditions or the Services provided hereunder, whether or not the likelihood of such losses or damages was known by such Indemnified Party.**

**7. Additional Terms and Conditions**

**a. Fees**

Company agrees to pay all fees for Wire Transfer Services as set forth in Bank's published fee schedule. The Bank may change its fees from time to time upon notice of such change. Notice may be by sending written notice or posting notification of said change(s) on Bank's website. See Part III B of this Agreement for fees relating to wire transfers initiated or received through Frontier Cash Management.

**b. No Waiver**

Except for changes made in accordance with these Terms and Conditions, no deviation, whether intentional or unintentional, shall constitute a change hereto, and no such deviation shall constitute a waiver of any right or duty of either party hereto.

**c. Association of Rules and Regulations**

This Agreement shall be subject to all terms, conditions, rules, regulations, and procedures (the "Agreements") of any funds transfer association, funds transfer system or clearing house utilized by the Bank to effect any funds transfer. All such Agreements are incorporated herein by reference with the same force and effect as if the Agreements were repeated fully herein.

**d. Transfer in United States Dollars**

Company agrees that if the transfer is requested in United States Dollars to a foreign country, payment may, at the paying (or Bank's correspondent) bank's option, be made in the currency of the country to which the transfer is made and at the paying bank's rate of exchange for United States Dollar transfers.

**e. Termination**

Bank shall terminate Company's use of our Wire Transfer System upon receipt of Company's written notice. Bank also reserves the right to terminate or amend any Service provided hereunder upon written notice to Company. However, notwithstanding anything herein to the contrary, Bank reserves the right to take all actions, including immediate

termination of this Service or any part thereof, which Bank believes is necessary or appropriate to comply with applicable laws, governmental policies, regulations and tariffs.

f. **Notices**

Unless otherwise stated herein all notices by these Terms and Conditions shall be in writing, sent by certified mail, return receipt requested, or prepaid courier, and signed by a duly authorized officer(s) and/or agent(s). Notice to Bank will be sent to the following:

Frontier Bank  
Wire Transfer Department  
Post Office Drawer 630  
Sylacauga, Alabama 35150

Notice to Company will be sent to the address currently of record for Company's account. Unless otherwise specified herein, notices will be effective when received.

## **Part VI. Disputes**

If a dispute arises out of or relates to this Agreement or the breach thereof, the parties agree as follows:

1. **Agreement to Arbitrate.** Company and Bank (each being referred to as a "party" and collectively as the "parties") agree, with limited exceptions, that any and all disputes, claims, or controversies of any kind and nature between the parties arising out of the subject matter of this Agreement or relating to the relationship between the parties will be resolved through mandatory, binding arbitration. This agreement to arbitrate covers any and all claims or disputes (a) that arise out of or relate to the Agreement or Services to be provided by Bank; (b) that arise out of or relate to any past transactions or dealings between the parties; (c) that arise out of or relate to any future transactions or dealings between the parties; and/or (d) about whether any claims, controversies, or disputes between the parties are subject to arbitration to the extent permitted by federal law. Because the parties have agreed to arbitrate, each party is waiving its rights to have disputes resolved in court by a judge, except as set forth below.
2. **Examples of Arbitration Claims.** Examples of disputes that are required to be arbitrated under this Agreement include, but are not limited to, the following claims: (a) any alleged breach of any contractual promise; (b) any claim that any Service performed is void or voidable based on alleged fraud, unconscionability, duress, illegality, or any other ground; (c) any alleged claim that any Alternative Dispute Resolution Agreement between the parties is void or voidable based on alleged fraud, unconscionability, duress, illegality, or any other ground; (d) any

alleged claim that the parties never entered into a Service contract or an Alternative Dispute Resolution Agreement; (e) all claims regarding the scope or interpretation of any agreement between the parties or any Alternative Dispute Resolution Agreement; (f) all claims regarding the terms, disclosures or conditions of any deposit account; (g) tort claims; (h) alleged violations of federal or state statutes; (i) claims for injunctive or equitable relief; and (j) permissive and compulsory counterclaims to any claim subject to arbitration.

3. **Exceptions to Arbitration.** Notwithstanding any language in this Agreement to the contrary, either of the parties may seek its remedies in an action at law, including, but not limited to, a detinue action, or in any permitted non-judicial manner (such as, but not limited to, the right to set-off, the right of self-help repossession under Article 9 of the Uniform Commercial Code and foreclosure under power of sale) and its discretion to do so shall not be deemed to be a waiver of its right thereafter to insist upon and seek specific enforcement of its rights under this Agreement.
4. **Arbitration to be conducted by an Arbitration Administrator.** The party seeking arbitration shall select one of the following three arbitration administrators: National Arbitration Forum, American Arbitration Association or JAMS/Endispute. Except as modified hereby, the arbitration shall be conducted according the rules and procedures of the selected Administrator.
5. **Costs of Arbitration.** In the event arbitration is initiated by either party, the costs of said arbitration will be paid as the arbitrator so provides. The arbitrator is not permitted to assess attorney's fees or expert witness fees unless the applicable substantive law permits such an award.
6. **Location of Arbitration.** Any arbitration proceedings hereunder shall be held in Talladega County, Alabama.
7. **Law Applicable to Arbitrate Proceeding.** The arbitrator is required to follow all substantive laws applicable to any dispute, including the statute of limitations. The arbitrator will be bound by the Federal Rules of Evidence, and must respect any applicable attorney-client privilege, attorney work-product and any other applicable privilege. The arbitrator is required to issue a written decision setting forth the decision and the reasons for that decision. The parties agree that the arbitrator's decision will be final, binding, and enforceable in any court of competent jurisdiction.
8. **Judicial Review of Arbitrators Decision.** The parties agree that the arbitrator's decision cannot be appealed. The arbitrator's decision is subject to judicial review only on the grounds set forth in Title 9, Section 10 of the United States Code.

9. **No Class Actions or Joiner of Additional Parties.** Company agrees that it cannot serve as a class representative or participate as a class member in an arbitration proceeding, that only Company's claims will be addressed in the arbitration proceeding, and that additional parties cannot be added to the arbitration proceeding unless the parties agree in writing before the arbitration. A dispute between the parties is required to be arbitrated even if there are additional parties to the dispute or even if Company makes allegations that its dispute should be handled as a class action.
10. **Severability and Reformation.** If it is ever determined that some portion of this Agreement is void, voidable, or unenforceable, or if the inclusion of some provision in this Agreement would render the Agreement unenforceable, the parties agree that the void, voidable, or unenforceable provision or the provision that renders the Agreement unenforceable will be severed from the remainder of the Agreement, leaving the remainder of the Agreement enforceable. The parties further agree that a court Arbitration Agreement may reform any portion of this Agreement found to be void, voidable, or unenforceable, or the inclusion of which would render the Agreement unenforceable.
11. **Federal Arbitration Act Applies.** The parties understand and agree that this arbitration agreement is made pursuant to a transaction involving interstate commerce and shall be governed by the Federal Arbitration Act.
12. **Successors.** This Agreement shall be binding upon and shall inure to the benefit of Company and Company's agents, heirs, successors and assigns and Bank, together with all of its director, officers, employees, agents, parent corporations, subsidiary corporations, and corporations affiliated with Bank by direct or indirect common ownership.

## **Part VII. General Terms**

1. **Assignment.** Neither party may assign or transfer any of its rights or obligations under this Agreement, except that, after reasonable notice to the Company, the Bank may transfer its rights and obligations under this Agreement to a wholly owned subsidiary of the Bank or to an affiliate of the Bank directly or indirectly wholly owned by the corporate entity that directly or indirectly wholly owns the Bank.
2. **Amendments by Bank.** This Agreement, and all terms governing the services covered by this Agreement, including all service charges and other fees, may be amended at any time by the Bank as by sending a copy of the amended documents to Company's current billing address, or by posting notification including revised copy of the Bank's website. Company's continued use of the cash management services evidences Company's agreement to any amendment.

3. **Severability.** In the event that any court or tribunal of competent jurisdiction determines that any provision of the Agreement is illegal, invalid, or unenforceable, the remainder of this Agreement shall not be affected thereby.
4. **Headings.** The titles or captions used in this Agreement are for convenience only and will not be used to construe or interpret any provisions hereof.
5. **No Extension of Credit.** Nothing in this Agreement nor any course of dealing between the Company and the Bank constitutes a commitment or obligation of the Bank to lend money to the Company or obligates the Bank to extend any credit to the Company, to make a loan to the Company, or otherwise to advance funds to the Company to pay for any payment order.
7. **Termination.** Either party may terminate this Agreement by written notice to the other signed by an Authorized Person on behalf of the Company or an officer of the Bank on behalf of the Bank and sent at least ten (10) calendar days prior to the termination date specified in such notice. Said notice to be sent by certified mail, return receipt requested, or prepaid courier. However, notwithstanding anything herein to the contrary, Bank reserves the right to take all actions, including immediate termination of this Agreement or any part thereof, which Bank believes is necessary or appropriate to comply with applicable laws, governmental policies and regulations. Further, Bank reserves the right to terminate Services to Company, in its sole discretion, for any reason including, but not limited to, lack of payment for services or suspected breach of security procedures. Bank will promptly notify Company of its decision to terminate service. No such termination shall affect any claim or cause of action of either party, which existed prior to or at the time of the termination.
8. **Exhibits.** All exhibits and fee schedules currently effective and as amended are by this reference incorporated as a part of this Agreement as if fully set forth herein.
9. **Authority.** Company's representative(s) and/or agent(s) and Bank's representative(s) and/or agent(s) each hereby warrant and represent that their signatures set forth below have been and are on the date written below duly authorized to execute this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

(Signatures on Next Page)

**COMPANY**

**FRONTIER BANK**

By: \_\_\_\_\_  
Authorized Signature

By: \_\_\_\_\_  
Authorized Signature

Name: \_\_\_\_\_  
Type or Print

Name: \_\_\_\_\_  
Type or Print

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Company Business Address:

\_\_\_\_\_  
\_\_\_\_\_

Company Mailing Address:

\_\_\_\_\_  
\_\_\_\_\_



**Exhibit A**

**Frontier Bank  
ACH Origination Application**

Applicant: \_\_\_\_\_

Business Address: \_\_\_\_\_  
\_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_ Type of Business \_\_\_\_\_

Under Present Management since: \_\_\_\_\_ Contact Person: \_\_\_\_\_

Our Customer Since: \_\_\_\_\_ No. of Years in Operation: \_\_\_\_\_

=====

**Maximum Dollar of Transactions (Per Transmission):**

**Debit Transaction:** \_\_\_\_\_ **Credit Transaction:** \_\_\_\_\_

Type of Transactions (In Detail): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Account for Funds Origination: \_\_\_\_\_

Frequency of Funds Origination: \_\_\_\_\_

**Other Accounts:**

Checking: \_\_\_\_\_

Savings: \_\_\_\_\_

Other: \_\_\_\_\_

**Exhibit A (Cont'd)**

**Frontier Bank  
ACH Origination Application  
Page 2**

**Credit References:**

Name	Contact	Phone	Type of Business
<hr/>			
<hr/>			
<hr/>			
<hr/>			

**Required Financial Information:**

Frontier Bank may require ACH origination applications to be supported by a full financial disclosure. Documents required may include: tax returns for three previous years, an interim financial statement (after 90 days from the fiscal closing), including a balance sheet, profit and loss statement, and a cash flow statement.

\*\*\*\*\*

The undersigned hereby certify that the information given in the foregoing statement is true and complete and is submitted for the purpose of obtaining ACH origination services. You are hereby authorized to obtain such information as you may require concerning the foregoing statements which shall at all times remain the property of Frontier Bank.

**Signature(s) of Authorized Representative:**

Typed Name	Title	Signature	Date
<hr/>			
<hr/>			
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## **Exhibit B**

### **Individual Authorized to Administer System Security Access**

The following individual (Administrator) is authorized by Company to access Frontier Cash Management and to initiate instructions to Bank concerning overall system security. The Administrator will have full administrative authority to add and/or edit cash management users for Company. The Administrator will have full responsibility for giving authority to Authorized Users, assigning and maintaining confidentiality of Identifications and PINs and notifying the Bank of any and all suspicious activity with regard to any account or transaction affected through the Online Banking Cash Management System.

Company agrees to promptly notify Bank in writing of any change to the authorized Administrator.

**Individual authorized to administer  
system security access:**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Due to the responsibility of the Administrator, the Bank may require the Company to provide a resolution and/or other appropriate documentation authorizing the Administrator and substitutions thereof.**

## Exhibit C

### Balance Reporting Account Summary

The following accounts are to be accessed through Frontier Cash Management:

**(P)** indicates Primary Checking Account from which monthly Maintenance Fees will be debited. These may include NetTeller and ACH Origination fees. Wire fees will be debited from the account used for the wire transfer.

<u>Account Number</u>	<u>Account Type</u>	<u>Allow ACH Transactions (Yes/No)</u>	<u>Allow Wires (Yes/No)</u>	<u>Maximum \$ Limit for Each ACH Acct</u>	<u>Maximum \$ Limit for Each Wire</u>
(P) _____	_____	_____	_____	_____	_____
1. _____	_____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____	_____
4. _____	_____	_____	_____	_____	_____
5. _____	_____	_____	_____	_____	_____
6. _____	_____	_____	_____	_____	_____
7. _____	_____	_____	_____	_____	_____
8. _____	_____	_____	_____	_____	_____
9. _____	_____	_____	_____	_____	_____
10. _____	_____	_____	_____	_____	_____

**NOTE:** If additional accounts are to be included, please make a copy of this exhibit and include information on the additional copy. To add or delete accounts, please contact your account officer for assistance.

## Exhibit D

### ACH Authorized Representatives List

\*\*\*\*\*

**Person to notify in the event the file totals are incorrect or a transaction or file rejects:**

Name: \_\_\_\_\_ Position: \_\_\_\_\_  
*Type or Print*

Phone No.: \_\_\_\_\_

Alternate Contact Person:

Name: \_\_\_\_\_ Position: \_\_\_\_\_  
*Type or Print*

Phone No.: \_\_\_\_\_

**Person to notify if file has been corrupted or altered:**

Name: \_\_\_\_\_ Position: \_\_\_\_\_  
*Type or Print*

Phone No.: \_\_\_\_\_

Alternate Contact Person:

Name: \_\_\_\_\_ Position: \_\_\_\_\_  
*Type or Print*

Phone No.: \_\_\_\_\_

**Exhibit D (Cont'd)**

**ACH Authorized Representatives List  
Page 2**

\*\*\*\*\*

**Person who is designated as Authorized Signer on Origination Transmittal Request Form (Exhibit E):**

Name: \_\_\_\_\_ Position: \_\_\_\_\_  
*Signature*

Name: \_\_\_\_\_  
*Type or Print*

Phone No.: \_\_\_\_\_

Alternate:

Name: \_\_\_\_\_ Position: \_\_\_\_\_  
*Signature*

Name: \_\_\_\_\_  
*Type or Print*

Phone No.: \_\_\_\_\_

**(The Bank may require the Company to provide a resolution authorizing Representatives listed herein and substitutions thereof.)**

**Exhibit E**

**Originator Transmittal Request Form**

**Submit Copy of Completed Form to:  
Attn: Data Center, Computer Room  
Phone: (256) 401-3024  
Fax: (256) 401-3031**

Company Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Originator ID: \_\_\_\_\_ Account No. \_\_\_\_\_

\*\*\*\*\*

**Debit Transaction Detail:**

Total # of Debit Transactions: \_\_\_\_\_  
Total Dollar Amount of Debit Transactions: \$ \_\_\_\_\_  
Desired Effective Date: \_\_\_\_\_

\*\*\*\*\*

**Credit Transaction Detail:**

Total # of Credit Transactions: \_\_\_\_\_  
Total Dollar Amount of Credit Transactions: \$ \_\_\_\_\_  
Desired Effective Date: \_\_\_\_\_

\*\*\*\*\*

**Authorized Signer designated on Exhibit D of Cash Management Services Agreement:**

Name: \_\_\_\_\_ Date: \_\_\_\_\_