

# PNC TREASURY MANAGEMENT SERVICES AGREEMENT

## GENERAL TERMS AND CONDITIONS

### 1. Agreement for Accounts and Services

1.1 Parties. This Agreement contains the terms and conditions under which PNC will provide accounts and selected Services to a customer effective as of \_\_\_\_\_ (Date).

1.2 Definitions. Capitalized terms that are used in this Agreement and not otherwise defined herein shall have the meaning ascribed to such terms in Addendum A attached hereto.

1.3 Business Use. Customer shall use the Services solely to carry on its lawful business. Further, Customer shall not use any of the Services to process or facilitate transactions for or on behalf of any third party without obtaining PNC's prior written consent.

#### 1.4 Responsibilities of the Customer.

1.4.1 Joint and Several Liability. Each Party who participates in any of the selected Services, will be subject to the provisions of this Agreement and any other applicable documentation provided by PNC to Customer prior to and during Service implementation, including but not limited to each respective Service Schedule. Further, each Party who participates in any of the selected Services, will be jointly and severally liable to PNC.

1.4.2 Affiliate Use. Customer must notify PNC in writing before any other affiliate or legal entity uses a Service and must sign all documentation as PNC may reasonably require. The Customer represents and warrants that each participating affiliate or legal entity is duly authorized by law and by all necessary Parties and that each is aware of their obligations under this Agreement and any other applicable documentation. The Customer will provide to PNC upon request evidence of such authorization for such entities to use the selected Services. PNC may continue to rely on the information supplied by Customer until PNC receives written notice of any change and has had a reasonable opportunity to act on such notice.

1.4.3 Service Schedules. Each Service Schedule applicable to a particular Service is available on the Services Portal ([www.PNC.com/TMDocuments](http://www.PNC.com/TMDocuments)). Prior to Customer accessing or using any of the Services, Customer shall review the relevant Service Schedule(s) for such Services and Customer acknowledges and agrees that it has been given access to such Service Schedule(s) via the Services Portal. By accessing or using a Service, Customer agrees to the terms and conditions set forth in the applicable Service Schedule for such Service. Each such Service Schedule is incorporated by reference into this Agreement. In the event of any conflict or inconsistency between any provision of these General Terms and Conditions and any provision of a Service Schedule, the provision set forth in the Service Schedule shall control.

#### 1.5 Fees.

1.5.1 Standard Fees. PNC will charge Customer its standard fees for the Services unless otherwise mutually agreed to in writing. PNC will provide prior written notice of fee changes.

- 1.5.2 Account Analysis. PNC will perform a monthly account analysis to determine if Customer's applicable account balances are sufficient to offset that month's fees. Customer may request to have compensating balances offset fees, in lieu of receiving a monthly invoice. If compensating balances are not sufficient to offset the fees, PNC will debit one of Customer's accounts for the difference, which Customer may designate for that purpose.
- 1.5.3 Combined Compensating Balance. Monthly fees will be itemized on Customer's monthly account analysis statement. If Customer requests PNC to use the combined compensating balances of a legal entity to offset the fees incurred by a different legal entity, Customer represents and warrants to PNC that such use is authorized, has been properly disclosed to third parties if required by law, and will not violate any law, contract or any other obligation owed to any person, including any beneficial owner of the compensating balances or any customer of Customer or such other entity. There may be certain fees that Customer may not pay by compensating balances. PNC will debit one of Customer's PNC accounts for such fees.
- 1.6 Scope.
- 1.6.1 Effective Date. As of the Effective Date this Agreement, and as may be updated, will govern all Services selected. Customer shall at all times be responsible for ensuring it reviews the applicable Service Schedule prior to utilizing any Service.
- 1.6.2 New Services. Any Services which Customer may select and add subsequent to the Effective Date of this Agreement, shall also be governed by this Agreement and the applicable Service Schedule(s). Customer shall access the Services Portal and review each additional Services Schedule(s) prior to selection of any such Services and will be subject to PNC's standard fees for such additional Services.
- 1.6.3 Acceptance. Customer's use of a new Service or continued use of an existing Service will ratify its acceptance of the applicable terms and conditions for that Service.

## **2. Deposit Account Services**

PNC's provision of, and Customer's use of, any deposit account provided by PNC will be governed by the applicable deposit account terms and conditions, which may be separately provided or made available by PNC from time to time.

## **3. Accessing PNC Services and Technology**

3.1 Rights of Use. Subject to the terms and conditions of this Agreement, PNC hereby grants to Customer a nonexclusive, nontransferable right to use the Services and any software or other Technology solely for lawful purposes in accordance with this Agreement. No right is granted for use of the Services or Technology by any third party or by Customer to operate a service bureau. Customer must retain intact all applicable copyright, patent, and trademark notices on and in all copies of any such Technology. Upon termination of a Service, the license to use the Service and Technology shall terminate.

3.2 Limitations to Use. PNC reserves the right to suspend access to all or a portion of a Service, or to temporarily restrict its use, at any time without notice to Customer if PNC suspects a security risk or other technical problem. PNC also reserve the right to terminate your use of a Service if, in its sole judgment, Customer or the authorized user have misused, or PNC reasonably anticipates will misuse, the Service.

3.3 Technology Purchase. Customer is responsible for purchasing, selecting, and maintaining the hardware, software, or other technology Customer use to send data or information to PNC or to access the Services. Customer agrees that PNC will not be responsible for the installation specifications (including cabling, power, and space), the installation, or the operation, maintenance, or technical support of any third-party product.

3.4 File Testing. Customer agrees that PNC will have no liability for any use of the File Format Testing Service, or any action or transaction in connection with the File Format Testing Service. Customer should only use test data for the File Format Testing Service. In addition to the test tool, Customer must complete end-to-end testing and meet all other requirements.

### 3.5 Security Procedures for Use of PNC Services.

3.5.1 Generally. If required for a Service, Customer must select a Security Procedure from the options PNC offers. Security Procedures may include security codes, PINs, tokens, check stock, or other security devices. To initiate transactions Customer must designate one or more Authorized Person(s).

3.5.2 PNC Reliance. If PNC follows a commercially reasonable Security Procedure in acting on any Instruction issued in Customer's name: (a) PNC shall be entitled to rely without investigation on such Instruction; and (b) Customer shall be bound by such Instruction.

3.5.3 Authenticity of Instructions. Security Procedures are intended to confirm the authenticity of Instructions and not to detect errors in the content or transmission of Instructions, and PNC assumes no responsibility for doing so. PNC also assume no responsibility to discover or audit for any unauthorized disclosure or use of the Security Procedure or other breach of security by your employees, agents, or representatives, or any third party, and all losses resulting therefrom shall be solely your responsibility. Customer shall promptly notify PNC of any suspected breach of security, whether involving your employees, agents, or representatives.

3.5.4. Customer Responsibilities. Customer is responsible for all statements made and acts or omissions that occur while your Security Procedures are being used. Where Customer has authorized Any person to use your Security Procedures, your authorization shall be considered by PNC as unlimited and will be effective until Customer revokes the authorization in writing.

PNC Security Procedures are strictly confidential and should be disclosed only to those individuals who need to know them. Customer must instruct those individuals that they should not disclose the Security Procedures or otherwise make them available to anyone.

## 4. Compliance With Laws, Regulation and Policy Requirements

4.1 US Patriot Act and Other Laws. In using and performing the Services, Customer and PNC agree respectively to comply with all Laws, including without limitation the Bank Secrecy Act, the USA PATRIOT Act, the federal anti-money laundering statutes and any laws, regulations and Executive Orders that are enforced or administered by OFAC. Customer represents and warrants that Customer have all licenses that may be required by OFAC to make a payment or conduct any other transaction through PNC. PNC may delay, or refuse to process or carry out, any transaction initiated by Customer or involving one of your accounts with PNC if PNC believe in good faith that such action may be necessary to comply with Laws. If there is a conflict between this Agreement and any Law, then this Agreement shall fully vary such Law to the extent permitted by Law.

4.2 Certification of Beneficial Owners and Other Additional Information. If you are required to provide to us a Certification of Beneficial Owner(s), you agree the information in the Certification of Beneficial Owners executed and delivered to us in connection with implementing any of the Services, as updated from time to time in accordance with this Agreement, is true, complete, and correct as of the date thereof and as of the date any such update is delivered to us. You agree to provide: (i) such information and documentation as may reasonably be requested by us from time to time for purposes of compliance by us with applicable laws (including without limitation the USA PATRIOT Act and other “know your customer” and anti-money laundering rules and regulations), and any policy or procedure implemented by us to comply therewith; and (ii) if you are required to deliver a Certification of Beneficial Owners to us: (a) confirmation of the accuracy of the information set forth in the most recent Certification of Beneficial Owners provided to us, as and when requested by us; and (b) a new Certification of Beneficial Owners in form and substance acceptable to us when the individual(s) identified as a controlling party and/or a direct or indirect individual owner on the most recent Certification of Beneficial Owners provided to us have changed.

#### 4.3 Confidentiality.

4.3.1 Customer Information. In addition to the obligations contained in this Agreement, PNC will handle Customer Information in the manner described in PNC's Data Security Addendum, attached as Addendum B.

4.3.2 Use of Confidential Information. Except as expressly provided in this Agreement or with the other party's prior written consent, each party agrees that: (a) it will not disclose Confidential Information of the other party to any third-party; (b) it will protect the Confidential Information of the other party as required by applicable laws and regulations; and (c) it will not use Confidential Information of the other party for purposes other than as necessary to exercise its rights or perform its obligations under this Agreement. In addition to the foregoing, each party shall have reasonable measures, policies, and procedures designed to: (a) protect the security and confidentiality of the Confidential Information; (b) protect against any anticipated threats or hazards to the security or integrity of such Confidential Information; (c) protect against unauthorized access to or use of such Confidential Information; and (d) ensure the complete, permanent, and secure destruction of such Confidential Information as may be required by this Agreement or applicable law. PNC will notify Customer of any Security Incident within a reasonable time following discovery of such Security Incident, without undue delay, and in any event within the period mandated by applicable law. Neither party makes any representations or warranties as to the accuracy or completeness of its respective Confidential Information.

4.3.3 Permissible Disclosure. Notwithstanding the foregoing, a party may disclose information relating to this relationship to its auditors and regulators and may disclose Confidential Information to those of its Representatives who need to know such Confidential Information as necessary for the party to exercise its rights or perform its obligations under this Agreement, provided that: (a) it informs such Representatives of the confidential nature of the Confidential Information before disclosure; and (b) it ensures that its Representatives shall, in relation to any Confidential Information disclosed to them, comply with the obligations set out in this section as if they were a party to this Agreement. A party may also disclose Confidential Information if legally compelled to do so pursuant to a court or administrative deposition, interrogatory, request for documents, subpoena, civil investigative demand, or other similar legal process or requirement of law, or in defense of any claims or causes of action asserted against it. In making any disclosure under such legal process or requirement of law, each party agrees to use reasonable efforts to preserve the confidential nature of such information and to reasonably cooperate with the other party in an effort to reasonably limit the nature and scope of any required disclosure of Confidential Information. Nothing herein shall require a party to fail to honor a subpoena, court or administrative order, or a similar requirement or request on a timely basis.

4.3.4 Exceptions. No information shall be within the protection of this Agreement where such information: (a) is or becomes publicly available through no fault of the receiving party or its Representatives; (b) is rightly obtained from third-parties, who, to the best of a receiving party's knowledge, are not under an obligation of confidentiality; (c) was known to the receiving party prior to its disclosure without any obligation to keep it confidential as evidenced by tangible records kept by the receiving party in the ordinary course of its business; or (d) is independently developed by the receiving party without reference to the originating party's Confidential Information.

4.3.5 Termination. In the event that this Agreement is terminated for any reason, each party agrees to promptly destroy or return to the other all copies of the Confidential Information of the other, without retaining any copies thereof; provided, however, that each party may retain limited media and materials containing Confidential Information of the other party for reasonable and required compliance, archival, backup and audit purposes, subject to the other terms of this Agreement.

#### 4.4 Representations and Warranties.

4.4.1 Customer and PNC. Each Party represents warrants and covenant that: (a) it is duly organized, validly existing, and in good standing; (b) the execution, delivery and performance of all documents or agreements provided in connection with this Agreement are within each Party's powers, have been duly and validly authorized, and do not contravene its charter, by-laws, or any indenture, agreement, undertaking, law, regulation or order; (c) no approval, consent or authorization of any government authority is necessary to perform or receive any Service; and (d) the terms and conditions contained in this Agreement are valid and binding obligations enforceable in accordance with their terms.

4.4.2 Customer. Customer expressly warrants that: (a) it is not a "Consumer" as defined in section 205.2(e) of Regulation E of the Board of Governors of the United States Federal Reserve Board pursuant to the Consumer Credit Protection Act, as amended, 15 U.S.C. 1601 et. seq., and that Customer will use each Service solely for business, and not personal, family or household purposes; (b) is not a sole proprietor and (c) covenants that it will not use the Services in any manner that violates Applicable Law.

4.4.3 **PNC. PNC MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, IN CONNECTION WITH ANY OF THE SERVICES OR ANY SOFTWARE OR EQUIPMENT PNC MAY SUPPLY TO CUSTOMER, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

4.5 Calls, Monitoring of Use, Consent for Service Calls. Customer agrees that PNC may record and/or monitor any telephone conversations PNC has with Customer in connection with the Services. However, PNC will not be liable to Customer if PNC does not record or maintain a record of a conversation. PNC may monitor and record the activity of any person using a Service. Anyone using a Service, consents to such monitoring and recording. By providing telephone number(s) to PNC, Customer authorizes PNC and its affiliates and designees to contact Customer regarding your Accounts and Services with PNC and our affiliates, using any means, including but not limited to placing calls using an automated dialing system to cell, VoIP, or other wireless phone number, or by sending prerecorded messages or text messages, even if charges may be incurred for the calls or text message.

4.6 Electronic Records, Signatures and Delivery. This Agreement and other documentation may be provided to Customer either in paper form or electronically. Any part of this Agreement in electronic form shall be a "writing" or "in writing" and shall constitute an "original" both in electronic form and when printed from electronic files or records. Notwithstanding any other provision of the Agreement, and any other Communication may, at PNC's option, be in the form of an electronic record. Any Communication may at PNC's option be signed or executed using electronic signatures. For the avoidance of doubt, the authorization under the paragraph may include, without limitation, use or acceptance by PNC of a manually signed paper Communication which has been converted into electronic form (such as scanned into PDF format) for transmission, delivery and/or retention.

4.7 Taxes. Customer is responsible for paying all applicable taxes, based upon the Services selected, including federal, state, and local property, privilege, sales, use, excise, or similar taxes, but excluding taxes based upon PNC's net income or assets.

## **5. Indemnification by Customer**

Customer will indemnify and hold PNC, its officers, employees, agents, affiliates, attorneys, and contractors harmless from any claim, loss, penalty, assessment, cost, or damage, whether in contract or tort (including attorney fees), arising under this Agreement, or in connection with the Services provided under this Agreement, or otherwise, including but not limited to those asserted by third parties including governmental authorities, for reimbursement or damages and those which arise out of or under the Electronic Funds Transfer Act, any applicable state electronic funds transfer rules or regulations, or any rules or guidelines of any automated clearing house. Notwithstanding the foregoing, such indemnification shall not apply to any claims, damages, losses, liabilities, and expenses solely and directly attributable to PNC's gross negligence or willful misconduct. Customer may participate at its expense in the defense of any such action or claim.

## **6. Limitation of PNC Liability to Customer**

6.1 Actual Damages. PNC shall be liable to Customer only for its actual, direct damages resulting from PNC's failure to exercise ordinary care in performing each of the Services, subject to Section 6.3. PNC's responsibility to Customer is limited to PNC's exercise of ordinary care in performing the Services covered by this Agreement. Substantial compliance by PNC with PNC's standard procedures for providing a Service shall be deemed to constitute the exercise of ordinary care. PNC will have no liability to Customer for taking or not taking any action permitted but not required. PNC will not be liable for the action or inaction of any third party, including in handling items deposited to or withdrawn from Customer's Account.

6.2 Types of Damages. Notwithstanding the foregoing, in no event shall PNC its affiliates or subcontractors be liable for any loss of profits, data or goodwill or for any indirect, consequential, incidental, punitive, exemplary, or special losses or damages, or expenses (including without limitation reasonable attorneys' fees), which Customer may incur or suffer, whether the possibility of such damage was known, foreseeable or contemplated by either Party.

6.3 Maximum Damages. PNC (nor any subcontractor or other party with whom PNC may be claimed to be jointly liable) shall not be liable to Customer for any claim or cause of action, whether based on contract, tort, strict liability or any other legal theory: (i) *in the case of a Funds Transfer, Instruction for the transfer of money or other payment* that is misdirected, lost or otherwise paid to the wrong person as a result of our failure to comply with the terms of this Agreement or applicable law, for an amount in excess of the face amount of such Funds Transfer, Instruction or other payment and (ii) *in all other cases* for an amount in excess of twelve (12) times the fees Customer has paid PNC for the particular Service(s) to which the claim or cause of action relates during the month immediately prior to the month in which the act or omission giving rise to the claim occurred.

6.4 No Liability. PNC shall have no liability to Customer for the selection, operation, or maintenance of Customer's equipment, software, or communications facilities.

6.5 Use of Fraud Services. PNC offers fraud prevention tools such as Positive Pay for Checks and ACH Positive Pay, designed to help detect and/or deter check and other payment system fraud. If Customer fails to implement these Services or others made available for this purpose, PNC shall have no liability to Customer for any unauthorized, altered, counterfeit or other fraudulent transactions occurring in Customer's Accounts that the Service was designed to detect or deter.

6.6 Third Party Claims. NO THIRD PARTY SHALL HAVE ANY RIGHTS OR CLAIMS AGAINST PNC UNDER THIS AGREEMENT.

## **7. Termination**

7.1 For Convenience. Either Party may terminate this entire Agreement or any Service at any time upon not less than thirty (30) calendar days prior written notice.

7.2 Immediate Termination by PNC With Notice. PNC may terminate this entire Agreement or a particular Service immediately upon notice to Customer if one of the following occurs: (a) Customer fails to perform or comply with any of the terms or conditions of this Agreement (including, without limitation, any breach of Security Procedures); (b) Customer breaches any other agreement between PNC including, without limitation, any agreement (i) relating to your indebtedness to PNC or (ii) relating to your Account(s) with PNC or (iii) which Customer executes as security for its obligations to PNC; (c) Customer breaches any of its representations and warranties; (d) Customer insolvency, receivership, or voluntary or involuntary bankruptcy, or any assignment for the benefit of your creditors; (e) in PNC's sole judgment, Customer's financial condition or business is impaired or PNC reasonably believes that Customer may not have sufficient available funds in its accounts with PNC to settle transactions hereunder.

7.3 Immediate Termination by PNC Without Notice. PNC may terminate immediately and without prior notice if: (a) in our sole judgment, it is necessary because of legal process, applicable law or regulation, or other government guidelines; or (b) PNC suspects fraud or unlawful activity in connection with any Service.

7.4 Effect of Termination. Notwithstanding any such termination, this Agreement shall continue in full force and effect as to all transactions for which PNC has commenced processing and as to all rights and liabilities arising prior to such termination.



7.5 Orderly Transition. Other than for a termination based on your misappropriation of PNC intellectual property, fraud or other violation of law or regulation, or your failure to pay any undisputed amount by the requisite due date, upon expiration or any termination of this Agreement, in whole or in part, PNC may in its discretion, continue to allow you to access and use the Services after the date of such termination or expiration to effectuate an orderly transition from the Services for a period not to exceed ninety (90) days. During such period, the then-existing fees will continue to be in effect and the terms of this Agreement shall survive and continue to govern the Parties' rights and obligations with respect to the Services.

## 8. Miscellaneous Provisions

8.1 Notice of Change. PNC may change any of the Terms and Conditions of this Agreement and the Services Schedules, including converting Customer's Account from one product to another, by giving Customer notice of the change through PINACLE® or other electronic or written means, including posting notice in PNC's branch offices. Customer's continued use of the Service after the effective date of any such change will constitute Customer's agreement to the change. Notwithstanding the foregoing, PNC may change any term or condition immediately and without notice to Customer if PNC determines in its sole discretion that the change is necessary to: (i) avoid potential loss to Customer or PNC; (ii) due to circumstances that substantially impact PNC's operations or the security of funds transfer; (iii) to comply with any statute, regulation or ruling of any government agency to whose jurisdiction PNC is subject.

8.2 Force Majeure. Neither Party shall have responsibility nor incur liability for any failure to carry out, or any delay in carrying out, any of such Party's obligations under this Agreement caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; pandemics; viruses; epidemics; earthquakes; fire; flood; wars; acts of terrorism; civil or military disturbances; sabotage; riots; interruptions, loss or malfunctions of utilities, or communications services; acts of military authority or similar governmental action or any other cause beyond such Party's reasonable control. Notwithstanding the foregoing, no event or occurrence described in this Section shall relieve Customer of its obligation to make any payment due to PNC.

### 8.3 Governing Law and Venue.

8.3.1 Governing Law. This Agreement is governed by the laws and regulations of the State of Delaware, without regard to principles of conflict of laws. This Agreement is also at all times governed by the laws and regulations of the United States of America, including without limitation the Electronic Signatures in Global and National Commerce Act.

8.3.2 Venue. Customer hereby irrevocably consents and agrees that any action, suit or proceeding resulting from, arising out of, or related to this Agreement shall be instituted in any state or federal court in the State of Delaware and hereby waives any objection which Customer may now or hereafter have to the laying of the venue of any such action, suit or proceeding in any such jurisdiction, on the basis of a more convenient forum or otherwise.

8.4 WAIVER OF JURY TRIAL. **PNC AND CUSTOMER EACH IRREVOCABLY WAIVE ANY AND ALL OF ITS RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR CLAIM OF ANY NATURE ARISING OUT OF, BY VIRTUE OF, OR IN ANY WAY CONNECTED TO THIS AGREEMENT, ANY DOCUMENT EXECUTED IN CONNECTION HEREWITH, ANY AMENDMENT OR SUPPLEMENT HERETO OR THERETO, OR CUSTOMER'S ACCOUNT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. PNC AND CUSTOMER ACKNOWLEDGE THAT THE FOREGOING WAIVER IS KNOWING AND VOLUNTARY.**

8.5 Customer's Agents and Authorized Representatives. Any third party, including without limitation, any third-party processor, used by Customer to take any action in connection with a Service shall be deemed for all purposes under this Agreement to be Customer's agent. All terms of this Agreement will apply to the acts and omissions of each such third party and Customer will be legally bound thereby.



- 8.5.1 As part of the Technology, PNC may make available to Customer APIs, standard or customized integrations or other communication channels for accessing or using the Services or receiving or transmitting information or instructions related to Customer's Accounts.
- 8.5.2 From time to time, PNC may (in its sole discretion) permit Customer to designate one or more Designated Third-Party Providers to engage in TPP Activities. Any such TPP Activities by any Designated Third-Party Provider (a) will be subject to the terms and conditions of this Agreement, any Services Schedule, and such other terms, conditions and instruments as PNC may establish from time to time with respect to the Services and Accounts (or the access or use thereof) and (b) will occur through Technology that PNC has approved for such activities.
- 8.5.3 Before Customer uses a Designated Third-Party Provider to perform TPP Activities, Customer must notify PNC (in a form and manner reasonably acceptable to PNC, including via electronic based methods) as to (a) the identity of such Designated Third-Party Provider, (b) the TPP Activities to be performed by such Designated Third-Party Provider and (c) the Account(s) as to which the Designated Third-Party Provider is permitted to perform TPP Activities. PNC may also require Customer to indicate the Services with which the Designated Third-Party Provider is permitted to interact. Customer must provide PNC such other information as PNC may reasonably request regarding any Designated Third-Party Provider with respect to their TPP Activities and their access, use and interaction with any Account(s), Account information, Services or Technology. Both Customer and its Third-Party Provider must meet all PNC requirements (including the requirements in this Section). PNC are entitled to rely on any notification or authorization (or any revocation of a notification or authorization) made by Customer or its representatives with respect to such Designated Third-Party Provider or TPP Activities (including any notification, authorization or revocation given electronically by Customer's representatives who have administrative access to Customer's Accounts or any online or electronic functionality associated with such Accounts).
- 8.5.4 A Designated Third-Party Provider may be required to enter into a Joint Customer Access Agreement with PNC or other terms, conditions and instruments as PNC may designate from time to time. Customer acknowledges and agrees that (a) PNC has no obligation to allow any Designated Third-Party Provider to access any Account(s), Account information, Services or Technology, and (b) PNC may (at any time and in its sole discretion) revoke, suspend or terminate a Designated Third-Party Provider's access to any Account(s), Account information, Services or Technology, with or without notice to Customer (though PNC will reasonably endeavor to notify Customer as soon as practicable of such revocation, suspension or termination).
- 8.5.5 Customer acknowledges and agrees that each of Customer's Designated Third-Party Provider (s) is acting as Customer's agent and representative with respect to Customer's Account(s), as well as the Services and Technology that PNC makes available hereunder. Action taken by any Designated Third-Party Provider shall be considered an action taken by Customer and not by PNC. A Designated Third-Party Provider is not PNC's vendor, service provider, representative or agent. PNC is not responsible or liable for any of the products or services provided by - or any other actions or omissions of - any Designated Third-Party Provider. PNC's records (rather than the records of any Designated Third-Party Provider) are the official records for Customer's Account(s) and Services. PNC is not responsible for a Designated Third-Party Provider's access, storage, transmission or processing of any data or information it receives from or on behalf of PNC. If a Designated Third-Party Provider sends instructions or data to PNC (or any agent or representative of PNC) with respect to Customer's Account(s) and the Services provided to Customer, PNC (and PNC's agents and representatives) can rely on such instructions and data as if received directly from Customer, and neither PNC nor its agents and representatives have any obligation to confirm the accuracy of such instructions or data. It is

Customer's responsibility to ensure Customer has appropriate agreements in place with any Designated Third-Party Providers with regards to their access and use of Customer's Accounts, Account information, the Services and any Technology (and any information related thereto), including as it relates to the security and protection of Customer's Account(s), Customer's Account information and the access and use of the Services and Technology. Without limiting the foregoing, PNC has no responsibility or liability for (a) any action or omission of any Designated Third-Party Provider in connection with the access or use of (or failure to access or use) any of the Accounts, Account information, Technology or Services, or (b) for any unauthorized transactions or any losses with respect to Customer's Accounts that are attributable to the actions or omissions of any of Customer's Designated Third-Party Providers.

- 8.5.6 Neither Customer nor its Designated Third-Party Providers may use any Technology in a manner or for a purpose not expressly permitted by this Agreement, the Service Schedules or any other terms and conditions applicable to such Technology (including any applicable Joint Customer Access Agreement).
- 8.5.7 PNC reserves the right to suspend or terminate Customer's access to any Technology (including any API connection) if Customer's access or use of such Technology (a) is in violation of this Agreement, any Service Schedule, any other terms and conditions applicable to such Technology or applicable law, or (b) if such access or use poses a threat to the security or operations of PNC (or any of its affiliates or other customers).
- 8.5.8 Certain Services (e.g., PINACLE Connect for NetSuite, Sage Intacct or Microsoft Dynamics 365 Business Central), may use a PNC Connection Provider to (a) facilitate the transfer of information about Customer's Account(s) from PNC to Customer or Customer's Designated Third-Party Provider or (b) transfer Customer's data and instructions (including payment instructions) from Customer's Designated Third-Party Provider to PNC. In order to fully use any such Services, Customer (or Customer's Designated Third-Party Provider) may need to install or use a Connectivity Platform provided by the PNC Connection Provider, which enables such transfer. Before Customer (or Customer's Designated Third-Party Provider) uses any Services that involve the use of a PNC Connection Provider or a Connectivity Platform, Customer (and Customer's applicable Designated Third-Party Provider, if any) must complete the required PNC application and meet all PNC requirements.

8.6 Assignment and Successors. Customer may not assign this Agreement or any of its rights or obligations hereunder, by operation of law or otherwise, without prior written consent of PNC, which consent shall not be unreasonably withheld. No consent is required for PNC to assign or otherwise transfer this Agreement or our rights or obligations under this Agreement. PNC may contract with others to provide all or any part of the Services. This Agreement shall be binding upon, and inure to the benefit of, Customer and PNC and your and our respective permitted successors and assigns.

8.7 Survival. The rights and obligations of the parties which by their nature must survive termination of this Agreement will survive any such termination.

8.8 No Waiver. Except for changes made in accordance with this Agreement, no deviation, whether intentional or unintentional, shall constitute an amendment of this Agreement. Further, no such deviation, delay, or failure to exercise any option or right set forth in this Agreement shall constitute a waiver of any rights or obligations of either Customer or PNC. Any waiver by either Customer or PNC of any provision of this Agreement or any other rights proscribed shall be in writing and shall not constitute a waiver of Parties' rights under that provision in the future or of any other rights.

8.9 Headings. The headings in this Agreement are for convenience only and shall not be used for construction or interpretation of any provisions hereof.

8.10 Severability. If any one or more of the provisions of this Agreement (or any portion thereof) is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement shall not be affected or impaired thereby.

8.11 Entire Agreement. This Agreement (including those documents that are incorporated herein), constitutes the entire agreement with respect to the Services covered by this Agreement and supersedes any previous or contemporaneous proposals, representations, warranties, understandings, and agreements for such Services, either oral or in writing.

8.12 Ownership, Trademarks and Copyrights. All rights, title, and interest, including, without limitation, copyright, in and to our Services are owned by PNC or by the third parties from whom PNC have obtained the right to use them. Customer may not copy, modify, translate, decompile, reverse engineer, reproduce, adapt, or disassemble any Service.

8.13 Notices. Communications required or permitted under this Agreement must be in writing and will be effective upon receipt. Communications may be given in any manner to which Customer and PNC may separately agree, including electronic mail. Without limiting the foregoing, first-class mail, and commercial courier service are hereby agreed to as acceptable methods for providing Communications.

All such Communications shall be delivered to PNC at:

PNC Bank, National Association  
PNC Firstside Center  
500 First Avenue  
Pittsburgh, PA 15219  
Mail Stop P7-PFSC-03-B  
Attention: Treasury Management

**With a copy to:**  
PNC Bank, National Association  
Legal Department  
1600 Market Street, 8<sup>th</sup> Floor  
Philadelphia, PA 19103  
ATTN: Treasury Management Counsel

or to Customer at the primary address provided to PNC at account opening. Notice to such address shall be effective Notice to Customer, including to all affiliated companies. Either Customer or PNC may change or provide additional addresses by Notice to the other given in accordance with this section. Communications sent electronically to Customer will be deemed received and effective when the Communication, or a notice advising of its posting to a website, is sent to the specified electronic mail address.

8.14 Affiliate Sharing. To serve PNC's customers efficiently and offer a full range of financial services PNC shares customer transaction and experience information among its family of companies. PNC companies also share other personal information, such as applications, financial statements, and credit reports. Customer may request that PNC does not share this other personal information (except where such information is used by one PNC company to service customer accounts for another) by writing to PNC at PNC Bank, P.O. Box 96066, Pittsburgh, PA 15226. Please include the name under which Customer's account has been opened, Customer's name, address, account number(s), social security number or tax ID number. PNC also shares customer information as permitted or required by law.

8.15 Facsimile Signatures. If Customer chooses to use facsimile signatures, Customer agrees that: (a) it is impossible for PNC to determine whether or not a facsimile signature is genuine; (b) PNC may honor any and all checks, drafts or other orders for the payment or withdrawal of money bearing or appearing to bear an authorized facsimile signature, even if the facsimile signature was made by an unauthorized person or the item on which a facsimile signature appears is itself a counterfeit item, or the facsimile signature is counterfeit; and (c) Customer assumes full responsibility and will indemnify PNC for all items paid over a forged or unauthorized facsimile signature.

***[remainder of this page left intentionally blank]***

**IN WITNESS WHEREOF**, intending to be legally bound, Customer has caused its duly authorized representative to execute this Agreement on its behalf, as of the Effective Date.

**[CUSTOMER NAME]**

By: \_\_\_\_\_

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

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

Address Line 1: \_\_\_\_\_

Address Line 2: \_\_\_\_\_

City: \_\_\_\_\_ State/Province: \_\_\_\_\_

Zip Code/Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

## ADDENDUM A

### DEFINITIONS

“**Account**” means the business account(s) Customer identifies for use in connection with the Services and which is subject to the Agreement and any other related documentation provided at account opening, as updated, or amended from time to time. Accounts include, but are not limited to, demand deposit and/or interest-bearing checking and savings business accounts, including money market accounts.

“**Agent Processor**” means a third-party agent that acts as Customer's agent and intermediary.

“**Agreement**” means this PNC Treasury Management Services Agreement, and all applicable Service Schedules.

“**API**” means application programming interfaces.

“**Authorized Person**” means an individual designated by Customer to act for Customer with respect to the Services.

“**Beneficial Owner(s)**” means the definition set forth at 31 CFR 1010.230(d).

“**Communication**” means any information or documentation, notice, signature card, periodic statement, disclosure, agreement, or authorization related to the Agreement.

“**Confidential Information**” means all information which is non-public, confidential, and/or proprietary in nature to which one Party is given access by or on behalf of the other Party. Confidential Information shall include, without limitation, technology, know-how, processes, software, databases, employee information, trade secrets, contracts, proprietary information, historical information, financial information, information about or from either party's vendors, product and business requirements, business strategies, operating data, and organizational structures. Customer Information is a subset of Confidential Information.

“**Connectivity Platform**” means any software, platform or other connectivity means provided by or otherwise directed by a PNC Connection Provider.

“**Customer**” means, collectively, the legal business entities and its affiliates, as well as but not limited to governmental and non-profits who are made parties to the Agreement and utilize the Services.

“**Customer Information**” means all non-public personal information of consumers, including, without limitation, information defined as such by the Gramm-Leach-Bliley Act (Pub. L. 106-102).

“**Designated Third-Party Provider**” means any third-party agents, technology solution vendors and other service providers acting on Customer's behalf.

“**Effective Date**” means the date set forth in Section 1.1 (Parties) above on which the Agreement is effective.

“**File Format Testing Service**” means the PINACLE file format testing service, which assists Customer testing files in a test environment.

“**Funds Transfer**” means any payment order or other instruction for moving moneys from an Account such as by wire or ACH credit.

**“Instruction”** means any instruction, direction, payment order, Funds Transfer or other debit or credit order.

**“Joint Customer Access Agreement”** means an agreement between PNC and Customer's Designated Third-Party Provider regarding such Designated Third-Party Provider acting on Customer's behalf.

**“Laws”** means all applicable local, state, and federal laws, rules, and regulations (and the laws of foreign countries, if Customer directs PNC to make a payment to a beneficiary in a foreign country), as amended from time to time.

**“OFAC”** means the Office of Foreign Assets Control.

**“Party”** means each of Customer and PNC, and **“Parties”** means, collectively, Customer and PNC.

**“PIN”** means personal identification number.

**“PNC”** means PNC Bank, National Association located in Wilmington, DE

**“PNC Connection Provider”** means a third-party service provider engaged by PNC.

**“Representative”** means a Party's affiliates, employees, officers, representatives, contractors, subcontractors, and advisers.

**“Security Procedure”** means any security procedure that applies to a Service.

**“Service Schedule”** means the service description, requirements and obligations of the parties found in the respective titled document. Service Schedules are available on the Services Portal.

**“Services”** means one or more of the Treasury Management services provided by PNC.

**“Services Portal”** means [www.PNC.com/TMDocuments](http://www.PNC.com/TMDocuments), or any successor website designated by PNC.

**“Technology”** means any software or other technology to which PNC may give Customer access.

**“TPP Activities”** means any Designated Third-Party Provider obtaining information about Customer's Account(s), sending or receiving data or instructions (including payment instructions) in connection with Customer's Account (s) and the Services PNC provides Customer, or otherwise interfacing with such Account(s) and Services.



## **ADDENDUM B**

### **PNC TREASURY MANAGEMENT DATA SECURITY ADDENDUM**

As a regulated financial institution, PNC maintains a comprehensive cybersecurity program aligned to industry best practices. To meet its information and cybersecurity goals, PNC shall undertake commercially reasonable efforts to provide the Services in accordance with the principles described in this Addendum. This Addendum is an addendum to and supplements Customer's PNC Treasury Management Services Agreement (the TMSA or "Agreement"). In the event of a direct conflict between the terms of this Addendum and an Agreement, the terms of the Agreement shall control. You are referred to as "Customer" in this Addendum and PNC Bank, National Association is referred to as "PNC". The products or services being purchased or provided under the Agreement are collectively referred to herein as "Services".<sup>1</sup>

#### **1. General Obligations**

- 1.1 Use limitation. PNC shall access, process, transfer, and use your Customer Information (as defined in the Agreement) exclusively for the purposes of: (a) providing the Services; (b) complying with reasonable written instructions provided by Customer where such instructions are consistent with the terms of the Agreement; and (c) for meeting any of PNC's reasonable or required compliance, legal, archival, backup, and audit obligations. Where PNC is compelled to process Customer Information under applicable law, it will notify Customer prior to performing the processing unless legally prohibited from doing so.
- 1.2 Confidentiality. PNC and Customer are bound by the confidentiality provisions of the Agreement with respect to provision, processing, use, storage, and deletion of Customer Information.
- 1.3 Compliance with Law. PNC will comply with all laws relating to the protection of Customer Information applicable to the PNC entity performing the Service and to the Services being performed. Customer's instructions related to the processing of Customer Information shall comply with applicable law. PNC shall notify Customer if any instructions from Customer, in PNC's opinion, violate applicable law.
- 1.4 Subcontracting. PNC may delegate or subcontract performance of the Services to third parties, including PNC's affiliates, without Customer's prior consent ("PNC Delegates"). PNC shall ensure that PNC Delegates who have access to your Customer Information adhere to information security standards that are substantially equivalent, but in no event more permissive, than those provided in this Addendum and the Agreement. PNC Delegates will only access, use, transfer, or process your Customer Information in accordance with PNC's written instructions. Notwithstanding any delegation or subcontracting, PNC shall remain liable to Customer for the performance of the Services, regardless of the involvement of a PNC Delegate.
- 1.5 Data Integrity. PNC will provide reasonable assistance to Customer in ensuring that Customer Information held by PNC is reasonably accurate, complete, and, where appropriate information is made available to PNC, kept up to date. PNC recognizes that Customer may have obligations to its data subjects to delete, update, modify, or produce Customer Information. Accordingly, PNC agrees to provide reasonable assistance to Customer in responding to a verifiable data subject's exercise of their rights under applicable law with respect to Customer Information held by PNC.
- 1.6 Data Minimization. In performing the Services, PNC will prevent the collection of information from Customer and Customer's data subjects that is not reasonably relevant or necessary to the performance of the Services.

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<sup>1</sup> To the extent Customer's Agreement includes Services involving the use of Protected Health Information (as defined under HIPAA) by PNC on behalf of Customer, Customer's Business Associate Addendum shall govern PNC's handling of Customer's Protected Health Information.

- 1.7 Return or Destruction. Following the cessation of the Services, including termination or expiration of the Agreement, PNC will cooperate with Customer's request for return or destruction of any Customer information as required by the Agreement or applicable law.
- 1.8 Recordkeeping. PNC will keep records to demonstrate compliance with the obligations described in this Addendum and will make such records available to Customer in a reasonable manner and with reasonable frequency.

## 2. **Security Obligations**

- 2.1 Technical and Organizational Measures. PNC will maintain and enforce commercially reasonable information security and physical security policies, procedures, and standards. At a minimum, PNC will:
  - 2.1.1 Comply with the standards set forth in ISO 27002 published by the International Organization for Standardization and meet the assessment objectives and controls set forth in Special Publications 800-53-A and 800-53, respectively, published by the National Institute of Standards and Technology, as well as any revisions, versions or other standards or objectives that supersede or replace the foregoing.
  - 2.1.2 Maintain an industry-standard level of data security controls, including, but not limited to, logical access controls, data access controls (e.g., role-based access control, rule of least access), accountability tracking, logging and tracking of access to Customer Information, anti-virus software, secured printers, restricted download to disk capability, and provision for system backup.
  - 2.1.3 Cause a SOC 1 audit and a SOC 2 audit (or later equivalent) relating to security, availability, processing integrity, confidentiality, and privacy to be conducted in respect of PNC's infrastructure and related internal controls at each PNC datacenter providing services to Customer. Subject to the establishment of appropriate confidentiality restrictions and upon completion any relevant audit, PNC may provide a copy of such audit's report to Customer on request.
  - 2.1.4 Maintain an incident response program that includes an inter-disciplinary team to respond to, conduct root-cause analysis, and remediate any: (a) unauthorized or unlawful access to, or use, loss, destruction, alteration, or disclosure of any Customer Information held by PNC or any rendering of such Customer Information inaccessible or unusable; or (b) unauthorized access to any PNC controlled facility, computer network, system, or device containing any of your Customer Information ("Security Incidents").
  - 2.1.5 Encrypt all highly confidential or sensitive information (including protected health information and personally identifiable information) at rest and in transit using no less than industry-standard encryption strength.
- 2.2 Documented Information Security Program. PNC will design, maintain, and document a process for designing, establishing, reviewing, updating, and validating its information security policies.
- 2.3 Risk Assessment. PNC will design, maintain, and document a process for vetting the risk posed by PNC third parties, including PNC Delegates. Such process may include, without limitation, requiring such third parties to provide information necessary for PNC to complete periodic risk assessments related to the products or services offered by such third-party.
- 2.4 Business Resiliency. PNC will develop plans relating to data backup, operational business continuity and recovery, pandemic preparedness, and technical disaster recovery, (collectively "Continuity Plans"), and test PNC's compliance with such Continuity Plans no less than annually.
- 2.5 Training. PNC will provide periodic, but no less than annual, security and privacy training to PNC personnel involved in processing Customer Information.

### 3. Data Breach Obligations

- 3.1 PNC to Notify Customer. PNC will notify Customer of any Security Incident within a reasonable time following discovery of such Security Incident, without undue delay, and in any event within the period mandated by applicable law. Such notifications will include such information as is available to PNC sufficient to meet Customer's obligations to notify data subjects, regulators, or other third-parties as required by applicable law. PNC will provide Customer with updated notice if its investigation of a Security Incident uncovers information that would have been disclosed during the initial notification had such information been known. Unless required by applicable law or regulation, PNC will not notify data subjects of any Security Incident directly.
- 3.2 Cooperation. PNC will provide Customer with reasonable assistance and cooperation in Customer's investigation, mitigation, and remediation of any Security Incidents as required by applicable law.
- 3.3 Remediation. PNC will remediate the identified causes of a Security Incident on a commercially reasonable timeline, but in no event longer than required by applicable law or regulation.
- 3.4 Reimbursement of Costs. Subject to the Limitation of PNC Liability to Customer provision in the Agreement, PNC will reimburse Customer for the reasonable costs of breach investigation, notification assessment, notification correspondence, and, where required by applicable law, credit monitoring services ("Incident-Related Costs") that arise from a Security Incident caused solely by PNC's breach of its obligations under this Addendum to Customer.