

American Bank of Commerce
Online Banking – Agreement and Disclosure

PLEASE REVIEW THIS ENTIRE AGREEMENT CAREFULLY, BY CLICKING “I ACCEPT” BELOW OR OTHERWISE USING OR ACCESSING THE SERVICES DESCRIBED HEREIN, YOU ARE ACCEPTING THIS AGREEMENT AND AGREEING TO BE BOUND BY ALL TERMS. By using the Online Banking Services or authorizing others to use them, you accept and agree to be bound by all the terms and conditions of this Agreement as amended from time to time. Please read this Agreement carefully.

1. What This Agreement Covers. This Agreement covers your use of American Bank of Commerce’s Online Banking system (“Online Banking”), which includes any electronic service in any form or medium (included but not limited to through the world wide web, internet, personal computer, smartphone, or other electronic device), provided by American Bank of Commerce (“Bank”) that permits you to access or obtain account information and/or statement updates on your deposit accounts, transfers funds to or from your Bank accounts, pay bills to Bank or to third parties, remotely deposit checks through your mobile device, and receive and send electronic messages to Bank. Access for Online Banking will be provided through Bank’s Website or through software designed for your handheld or other electronic device. Our Website refers to all www.theabcbank.com websites and all other web pages maintained by us and accessible through www.theabcbank.com or through software applications as to handheld or mobile devices. It also includes any other websites or web pages you can access only after you, or a person for whom you are acting as an authorized representative, enter into this Agreement as a condition to accessing the Website. It does not include any website that has its own separate agreement governing online access or any other third-party website not hosted or maintained by Bank.

2. Other Bank Agreements with American Bank of Commerce. The terms and conditions of this Agreement are in addition to, and shall supplement the terms, conditions, rules, and regulations that apply to any of your existing Bank Accounts or services of Bank which you currently use. Without limiting the foregoing, this Agreement is in addition and supplemental to a) any deposit agreement you have regarding any bank account(s) you have with Bank; b) the general Terms and Conditions found on our Website; c) our rules, procedures and policies, as amended from time to time, that apply to the Online Banking Service; d) any then-current rules and regulations of any funds transfer system or payment system used in connection with any account you access through the Bill Payment Service; and e) state and federal laws and regulations, as applicable. Your deposit agreements will continue to apply to your relationship with us, and if this Agreement conflicts with another agreement, or another agreement has terms that are not addressed in this Agreement, then the other agreement will control and take precedence, unless this Agreement specifically states otherwise. The other agreement will only control with respect to the Account or Service it is associated with, and only to the extent necessary to resolve the conflict or inconsistency.

3. Definitions. As used in this Agreement, the words “we”, “our”, “us” and “Bank” mean American Bank of Commerce and all of its affiliates, as applicable. “You,” “your,” and “Customer” refer to the accountholder authorized by the Bank to use Online Banking under this Agreement and anyone else authorized by that accountholder to exercise control over the accountholder’s funds through Online Banking. “Account” or “accounts” means your accounts at Bank. “Online Banking Services” means the services provided pursuant to this Agreement,

including the Bill Payment Service. "Business Days" means Monday through Friday, excluding federal holidays.

4. Security.

(a) Protecting Your Password. In order to maintain secure communications and reduce fraud, you agree to protect the security of your account numbers, codes, marks, signs, public keys, Login IDs, passcodes, pass phrases, security questions, and/or any other means of identification. Bank reserves the right to block access to the Online Banking Services to maintain or restore security to Bank systems if Bank reasonably believes your security features have been or may be obtained or are being used or may be used by an unauthorized person(s). You are liable and responsible for all Online Banking Service transactions made using your means of identification, whether those transactions are made by you or any person you authorize, permit, or enable to have your means of identification (even if the person exceeds your authority) or by any person who obtains through you, by whatever means, your means of identification. If you have given someone your means of identification and wish to terminate that authority, or if you know or believe that your means of identification is otherwise compromised, you must notify Bank so that Bank can take the necessary steps to change the means of identification. You agree to defend, hold harmless, and indemnify Bank from and against any and all claims of any nature arising out of any such access by a person you have authorized, permitted, or enabled to have access to your Bank accounts via the Online Banking Services. For business Accounts, you agree that we may send notices and other communications to the current mailing or electronic address shown in our records, whether or not that address includes a designation for delivery to the attention of any particular individual. You further agree that Bank will not be responsible or liable to you in any if information is intercepted by an unauthorized person, either in transit or at your place of business. You agree to: 1) keep your password secure and strictly confidential, providing it only to authorized signers on your Accounts; 2) instruct each person to whom you give your password that he or she is not to disclose it to any unauthorized person; and 3) immediately notify us and select a new access code if you believe your password may have become known to an unauthorized person. **BANK WILL HAVE NO LIABILITY TO YOU FOR ANY UNAUTHORIZED PAYMENT OR TRANSFER MADE USING YOUR PASSWORD THAT OCCURS BEFORE YOU HAVE NOTIFIED US OF POSSIBLE UNAUTHORIZED USE AND WE HAVE HAD A REASONABLE OPPORTUNITY TO ACT ON THAT NOTICE.**

(b) Security. You understand and acknowledge the importance and essential nature of your role in preventing misuse of your accounts through Online Banking and you agree to promptly examine your paper statement for each of your Bank accounts as soon as you receive it and report to us immediately any known or suspected errors, problems, or concerns. You agree to protect the confidentiality of your account, account number, and password. You understand and acknowledge that your password and/or information related to your account(s) may allow or facilitate unauthorized access to your account(s).

Your password and Login ID are intended to provide security against unauthorized entry and access to your accounts. For security purposes, you are required to change your temporary password upon your initial login to Online Banking. You determine what password you will use and the identity of your password is not communicated to us. You agree that we are authorized to act on instructions received under your password and Login ID. You accept responsibility for the confidentiality and security of your password and agree to change your password regularly. If you have forgotten your password, before entering it wrong three times, select the "Forgot Password" option and you may choose to receive a "Secure Access Code" at one of the e-mail addresses or phone numbers you have on your online banking account. Upon three unsuccessful

attempts entering your password, your access to Online Banking will be revoked. To re-establish your authorization to use Online Banking, you must contact us to have your password reset to the default password, after which you will be required to select a new password. Passwords must be between 5 and 10 characters in length and contain a number. Also, avoid using passwords that are associated with identification which would readily be associated with you, such as social security number, date of birth, business or product names, names of employees, and addresses. For businesses, it is your responsibility to develop, maintain, and adhere to internal procedures to ensure that only your authorized representatives have access to their passwords. In the event that your internal controls fail and access to your password has in any way been compromised, you must contact us immediately. As soon as we have had a reasonable opportunity to respond, we will disable your access to Online Banking and initiate the steps to provide a new default password, enabling you to establish a new confidential password. You understand and agree that during that period, your access to Online Banking will be disabled. Your ability to effect transactions and access your account(s) will be limited to methods other than Online Banking, all as provided for in the applicable agreement(s).

Data transferred via Online Banking is encrypted in an effort to provide transmission security, and Online Banking utilizes identification technology to verify that the sender and receiver of Online Banking transmissions can be appropriately identified by each other. Notwithstanding our efforts to insure that the Online Banking system is secure, you acknowledge that the Internet is inherently insecure and that all data transfers, including electronic mail, occur openly on the Internet and potentially can be monitored and read by others. We cannot and do not warrant that all data transfers utilizing Online Banking, or e-mail transmitted to and from us, will not be monitored or read by others. Furthermore, it is possible that as technology continues to develop, new ways to decode encrypted messages will become available.

5. Online and Mobile Banking Services. To use Online Banking, you must have 1) at least one demand deposit (checking) account, time deposit account, or loan at Bank; 2) access to Internet service; and 3) an e-mail address. You may access your Accounts and our Online Banking Services through the Website to obtain information and perform transactions as authorized on the Bank's Website, or through software applications specifically designed for use on a mobile or electronic device. Once we have verified your account information and, if you are a commercial customer, received and approved your signed Enrollment Form, we will send you confirmation of our acceptance of your enrollment along with your assigned temporary password. It is your responsibility to provide your own Internet service and e-mail access. You authorize Bank to provide you (and in the case of a business account, to your authorized representatives and Delegates) access to your accounts and the Online Banking Services. Online Banking can be used to access only the accounts which you have designated in your Enrollment Form and may include accounts attached as a primary relationship to you if your name is the first name on the account. We are entitled to presume that any access to Online Banking utilizing a valid password has been duly authorized and, without limiting the generality of the foregoing, that you have followed your internal procedures for controlling and managing your internal distribution of your password. We are under no obligation to monitor transactions through Online Banking to determine whether they were made on your behalf. You can use Online Banking to check the balance of your accounts, view account histories, transfer funds between your accounts, pay bills from your accounts in the amounts and on the dates you request (if you have requested the Bill Payment Service on your Enrollment Form and have been approved), and perform other services as provided from time to time. Without limiting the generality of the foregoing, the Bank may, from time to time, make additional services available utilizing Online Banking. A list of such services is available from the Bank. In order to obtain any such services utilizing Online Banking, the Bank may require the execution of additional agreements. Such additional services may require the

payment of additional fees. The Bank offers personal financial management services through Bank's third party service provider(s). If you select personal financial management services, you will be required to agree to separate terms and conditions of our third party service provider(s). Balance and activity information are as of 7:00 p.m. (Central Time) of the previous Business Day.

6. Hours of Access. You may use Online Banking seven days a week, twenty-four hours a day, although some or all of the Online Banking Services may be unavailable occasionally due to emergency or scheduled Online Banking maintenance. However, as provided for more fully herein, the fact that you initiate a transaction at a specified time does not mean that it will be processed then. Certain transactions are processed only on Business Days and at certain times.

7. Fees and Charges. You agree to pay for the Online Banking Services as outlined in this Agreement and in Bank's then current fee schedule. Such fees are subject to change or increase from time to time upon 30 days prior written notice. If you are a commercial customer, you agree that all such fees and charges will be automatically deducted from the Bank checking account designated as the "Primary Checking Account" on your Enrollment Form. The first deduction will occur the month following your first full month of Online Banking Service. If you close your Primary Checking Account, you must contact us immediately to designate another account as your Primary Checking Account. You agree to pay any additional reasonable charges for services you request and which we provide which are not covered by this Agreement. However, nothing herein shall obligate the Bank to provide any services not covered by this Agreement. You are also responsible for telephone and Internet service fees you incur in connection with your use of Online Banking.

8. Posting of Transfers. Transfers completed through Online Banking before 6:00 p.m. (Central Time) on a Business Day are posted to your account the same day. Transfers completed after 6:00 p.m. (Central Time) on a Business Day or on a Saturday, Sunday, or banking holiday, may be posted on the next Business Day. Online Banking identifies transfers based upon the Login ID of the user who made the electronic transfer. Accordingly, you understand and acknowledge that the Postings screen in the Transfer option of Online Banking will not reflect transfers made by multiple users from the same account if different Login IDs are used. You agree to communicate with any other persons with authorized access to your accounts concerning any transfers from your accounts in order avoid overdrafts.

9. Overdrafts. If your account has insufficient funds to perform all electronic fund transfers which have been requested for a given Business Day, then:

(a) Electronic fund transfers involving currency disbursements, like ATM withdrawals, will have priority;

(b) Electronic fund transfers initiated through Online Banking which would result in an overdraft of your account may, at our discretion, be declined;

(c) In the event the electronic fund transfers initiated through Online Banking which would result in an overdraft of your account are not declined, overdraft charges may be assessed pursuant to the terms of the deposit agreement for that account.

10. Limits on Amount and Frequency of Online Banking Transactions. The number of transfers from Bank accounts and the amounts which may be transferred are limited pursuant to the terms of the applicable deposit agreements and disclosures for those accounts.

If a hold has been placed on the deposits made to an account from which you wish to transfer funds, you cannot transfer the portion of the funds held until the hold expires.

11. Mobile Banking Services.

PLEASE READ THE FOLLOWING TERMS AND CONDITIONS CAREFULLY. THEY GOVERN YOUR ACCESS AND USE OF THE AMERICAN BANK OF COMMERCE MOBILE BANKING AND MOBILE REMOTE DEPOSIT SERVICES. BY ACCESSING OR USING THE MOBILE BANKING SERVICE, YOU AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS AND ACCEPT THEM IN FULL, AS THEY MAY BE MODIFIED BY THE BANK FROM TIME-TO-TIME WITH UPDATES POSTED ON THE MOBILE BANKING SERVICE.

(a) What These Terms and Conditions Cover. These Mobile Banking Services terms and conditions govern your use of the Bank Mobile Application Services (defined below). These Mobile Banking Services permit you as Bank customer (including consumers, sole proprietors and other business customers) to perform a number of banking functions included in the Mobile Banking Services through the use of your mobile device (i.e., mobile smart phone or mobile tablet device). Unless indicated otherwise by the context, “linked Bank accounts” or “linked accounts” refers to all of your accounts with Bank or its affiliates that you have linked to the Mobile Banking Services. This Agreement is by and between you and the Bank, and we are solely responsible for the Mobile Banking Services and Contents. Neither Apple, Inc., Google, Inc. (Android) or any other app store where you download the Bank’s mobile application to use the Mobile Banking Services are responsible for the Mobile Banking Services or its Contents.

(b) Relation to Other Agreements. Your use of the Mobile Banking Services is also governed by your Deposit Agreement and Online Banking Agreement. When you link an account to the Mobile Banking Services, you do not change any other agreements you already have with us for that account. You should review your account agreements for any applicable fees, for limitations on the number of transactions you can make, and for other restrictions that might impact your use of an account via the Mobile Banking Services. In the event of inconsistency between a provision of this Agreement and any of the other Bank agreements applicable to your accounts, or any other law or regulation, which permits waiver or modification by agreement, the provisions of this Agreement shall prevail, but only to the extent of the inconsistency.

In addition, you understand and agree you are still subject to the terms and conditions of any agreement you have with any unaffiliated third-party service providers, including, but not limited to, your mobile service provider (e.g. AT&T, Verizon, Sprint, T-Mobile, etc.) or any third-party provider of or marketplace for the Mobile Banking Services (e.g. Apple, Inc., or Google, Inc. (Android)), and this Agreement does not amend or supersede any of those separate third-party service provider agreements. You understand that such services may provide for fees, charges, limitations and restrictions which might impact your use of our Mobile Banking Services (e.g. data use charges, etc.), and you agree to be solely responsible for all such fees, charges, limitations and restrictions. You agree that only your mobile service provider is responsible for the performance and operation of its products and services, including your mobile device and the mobile service provider’s own network. You agree to resolve any problems with your mobile service provider without involving the Bank, Apple, Inc. or Google, Inc. (Android). You must comply with applicable third party terms when using the Mobile Banking Services (e.g. you cannot be in violation of your wireless provider agreement when using the Mobile Banking Service.)

(c) Accepting This Agreement. When you use the Mobile Banking Services described in this Agreement, or authorize others to use them on your behalf, you acknowledge and understand that you also agree to this Agreement, and that you cannot begin using the Mobile Banking Services until you have indicated your agreement as instructed via in the Bank's Online Banking Services. In addition, you provide the Bank with your express consent permitting us to contact you as necessary to provide the Mobile Banking Services (including push notifications to your mobile device). Such activities may include, but are not limited to, providing account alerts, confirming account activity, confirming mobile remote capture deposits, undertaking fraud prevention, servicing, advertising, or for any other purpose as provided in this Agreement. You also provide your express consent to receive advertising messages from unaffiliated third parties that may be included in the Mobile Banking Services or messages we may send to your mobile device. You agree to receive such unaffiliated third party advertisements even if your mobile device is registered on any federal or state do-not-call registry. In addition, to provide certain Mobile Banking Services it may be necessary for Bank to utilize geo-location or other location information from your mobile device, and you expressly allow Bank to use such information to deliver the Mobile Banking Services even if your mobile device is registered on any federal or state do-not-track registry.

(d) Mobile Banking Services. Bank's mobile banking and mobile deposit services (the "Mobile Banking Services") provide personal financial information management services and check deposit via mobile remote deposit capture on your mobile device. The Mobile Banking Services are designed to allow you to conduct mobile banking functions such as balance inquiry and account activity, and to make deposits to your accounts from your mobile device. The Bank reserves the right to add or remove various components of the Mobile Banking Services in Bank's sole discretion. Customer should visit the Bank's website at www.theabcbank.com for a complete listing of current Mobile Banking Services.

Some of the activities listed above may not be available for certain accounts or customers. We reserve the right to modify the scope and type of activities offered via the Mobile Banking Services at any time in our sole discretion. We also reserve the right to refuse to make any transaction you request through the Mobile Banking Services for a variety of reasons as set forth in any of the agreements listed in Section 2 governing your use of the Mobile Banking Services.

Subject to the terms and conditions herein, Customer subscribes to, and Bank agrees to provide, the Mobile Deposit Capture ("MDC") Service to be used by Customer in accordance and in compliance with and the Check Clearing for the 21st Century Act ("Check 21 Act"). The MDC Service enables you to create and submit electronic check images (also known as Image Replacement Documents ("IRD")) to the Bank, for deposit to your personal or business deposit account(s), as applicable, in lieu of the Original Checks (as defined herein) from which such check images were obtained. The dollar amount limits and daily number of transaction limits for MDC Services shall be determined by the Bank in its sole discretion. Customer should visit the Bank's website at www.theabcbank.com or talk to Bank personnel for information regarding dollar limit and daily number of transaction restrictions. Items exceeding Customer's daily limit must be delivered to Bank for processing or held until the next Business Day for transmittal.

Bank retains the ability to either approve or deny your use of Mobile Services, including the MDC Service in Bank's sole and absolute discretion. If Bank approves you to use such Mobile Banking Services, then by using such Mobile Banking Services, you agree to the applicable provisions set forth in this Agreement, you agree to pay any fees that Bank may charge in conjunction with such Mobile Banking Services (as set forth in Bank's current fee schedule), and

you understand and agree that the meanings of the defined terms set forth in this Agreement and any related documentation made available to you by us for use with the Mobile Banking Services.

In the event of any unforeseen issues or failure of this product for MDC Services for deposits, your deposits can be made in person at any Bank branch or by mailing deposits to:

PO Drawer 9
Wolfforth, TX 79382.

(e) Account Ownership/ Accurate Information. You represent that you are the legal owner of the accounts linked to the Mobile Banking Services, and that all the information you provide to us in connection with the Mobile Banking Services, including your e-mail and contact information, is accurate, current and complete, and that you have the right to provide such information to us for using the Mobile Banking Services. You agree not to misrepresent your identity or your account information. You will keep your account information up to date and accurate. You are an authorized user of the mobile device you use to access the Mobile Banking Services.

(f) Use of E-mail Address. We may send messages relating to the Mobile Banking Services to the e-mail address we have on file for you and notify you that responses to your payment inquiries or customer service inquiries are available, or as otherwise described any applicable agreements governing the Mobile Banking Services. Bank will not, however, include any account numbers, access codes or similar non-public personal information in any e-mail response to you. If, for any reason your e-mail address changes or becomes disabled, please contact Bank immediately so that we can continue to provide you with automated messages.

(g) Location-Based Information. If you use any location-based feature of the Mobile Banking Services, you agree that your geographic location and other related personal information may be accessed and disclosed via the Mobile Banking Services, even if your mobile device is registered on any federal or state do-not-track registry. If you wish to revoke Mobile Banking Services access to such geographic location information, you must cease using the location-based features of the Mobile Banking Services.

(h) Information Regarding Mobile Deposit Capture (“MDC”) Transactions. For the purposes of this section and other provisions relating to the MDC Service, any capitalized term not otherwise defined herein has the definition ascribed to it under the Check21 Act. If you have met, in our sole discretion, the conditions we have established for use of MDC Services to make deposits via Electronic Images, we will provide for acceptance for deposit to your account(s) the Electronic Images of Original Checks for collection as allowed under this Agreement and the Documentation.

By depositing Electronic Images with the Bank via the MDC Services, you give us the same warranties and indemnities that we, as a reconverting bank, would give under applicable law or regulation. You understand and acknowledge that all of the warranties deemed given by a depositor of a check to a bank under the Uniform Commercial Code (“UCC”), as applicable from time to time in the State of Texas, shall also apply to any Electronic Image of an Original Check the same as if such Electronic Image or Substitute Check were a paper check within the meaning of the UCC as adopted by the State of Texas (“Texas UCC”). Accordingly, except to the extent that any warranties deemed given under the Texas UCC are expressly superseded by the Check 21 Act or the Check 21 regulations, you understand that you are deemed to give us all the same warranties you would have given under the Texas UCC for the deposit of an Original Check by

transferring to us: (a) any Substitute Check; (b) an IRD or other item purporting to be a Substitute Check; or (c) any Electronic Image that purports to contain a Sufficient Copy of an Original Check or a Substitute Check.

Such warranties also include the following two (2) specific warranties regarding transfer and presentment:

- You warrant that the Electronic Image that we convert to a Substitute Check meets the requirements described in § 229.51(a)(1) – (2) of the Check 21 Regulation (found at 12 CFR §229.51(a)(1) – (2)) for legal equivalence
- And your warranty given above is deemed given to us and any other person, company or bank to which we transfer, present or return the Substitute Check or a paper or electronic representation of the Substitute Check

The above warranties are deemed given to Bank and any person, company or bank to which Bank transfers, presents or returns any of the Images included in such electronic file as a Sufficient Image Copy or that purports to be a Sufficient Image Copy created by Bank or any subsequent bank receiving a copy of such image. Customer represents that it shall permit no third parties to use the MDC Service to deposit Original Checks to Customer's account.

With respect to each and every MDC deposit initiated by you, you represent and warrant to Bank that you shall perform your obligations under this Agreement in accordance with all applicable laws and regulations, including the sanctions laws administered by OFAC and the Bank Secrecy Act.

(i) Prohibited Transactions; Endorsement and Processing; Retention of Original Checks.

(1) Prohibited Transactions. Customer agrees not to use the MDC Service to deposit or otherwise process: (i) non-cash items; (ii) items drawn on foreign banks or payable in other than U.S. money; (iii) items without preprinted magnetic ink routing numbers; (iv) items for which Customer is not a holder in due course; (v) Substitute Checks, except those which have been returned to Customer for any reason; (vi) items payable to any person or entity other than Customer (i.e. no third party deposits); (vii) items containing apparent alterations to any of the information on the front of the check or item, or which you know or suspect (or should know or suspect) are fraudulent or otherwise not authorized by the owner of the account on which the check or item is drawn; (viii) items dated more than six months prior to the date of deposit; (ix) items prohibited by Bank's current procedures relating to the MDC Services or which are not acceptable under the Agreement; (x) Original Checks or other items previously converted to a Substitute Check; (xi) checks or items that are Remotely Created Checks (as defined in Reg. CC); or (xii) Checks or items prohibited by Bank's current Documentation relating to Personal Mobile RDC Services, or checks or items which are otherwise not acceptable under the terms of your account(s).

(2) Endorsement and Processing of MDC Deposits. All checks submitted through the MDC Service must be properly endorsed by the Customer prior to transmittal, and such endorsement must include below the signature "FOR DEPOSIT ONLY – AMERICAN BANK OF COMMERCE ACCOUNT #

_____” with your account number filled in. Items transmitted without such proper endorsement are subject to rejection by Bank. Customer shall submit check images to Bank in such format, and with such associated check information, as Bank may require periodically, utilizing Accredited Standards Committee X9’s Specifications for Electronic exchange of Check and Image Data (DSTU X9.37-2003) and in conformance with the requirements of Bank’s Mobile Application. Bank reserves the right to reject any single check image or group of check images for any reason, before or after it/they appear on Bank’s Online Banking. Customer agrees to inspect and verify the quality of the check images, ensuring that the check images of the front and back of the original check are legible before capturing the image via the MDC Service. Specifically, Customer warrants the following: (i) the check image is an accurate representation of the information contained in the original check, and the check image includes all endorsements from the original check; (ii) each check image contains a record of all MICR line information required for a substitute check, and the check image satisfies all of the requirements of the Check 21 Act and Regulation CC; (iii) the original check, a duplicate check image, or any copy of the original check or check image will not be deposited by Customer with Bank; and (iv) the original check, a duplicate check image, or any copy of the original check or check image will not be presented, transferred or returned such that Bank or any other person will be asked to make a payment based on a check or check image that has already been paid. Bank has no responsibility or liability for any fees incurred due to the rejection of transmitted items for missing/incomplete endorsements. Unless the Bank notifies Customer otherwise, Bank provides same day credit to the applicable account for all items transmitted Customer and received by the Bank within the timelines established by the Bank.

Electronic Images shall be deemed received by us for deposit based upon time of receipt as well as successful receipt of Electronic Images that are complete, usable, and adhere to the standards discussed above. If any Electronic Image is not complete, is not usable, or does not adhere to the Standards, the Electronic Image may not be processed by us, in which event your deposit will be adjusted and notification provided. You understand we will process only your Electronic Images that comply with the standards discussed above and are Sufficient Image Copies, and we will use commercially reasonable efforts to present these Sufficient Image Copies for collection under the Check 21 framework. The daily cut-off time for MDC deposits is 7:00 p.m. CST. Such daily cut-off times may be adjusted by Bank in its sole discretion from time to time upon notice to you. If the deposits are not received by the end-of-day cutoff time, Bank will not guarantee that deposits will be processed that day. Bank may accept these deposits and they will be processed on Bank’s next Business Day. Bank shall give provisional credit for deposits subject to revocation of credit for deposits as provided in Regulation CC and the Uniform Commercial Code as adopted in the State of Texas. The availability of funds for deposits via MDC Services is set forth in this Agreement and in the Bank’s funds availability schedule.

Should a Drawee Financial Institution return an item to us unpaid, we will charge your respective account for such returned item and may either (i) return the item to you, or (ii) re-present it to the Drawee Financial Institution before returning it to you. Items may be returned as Image Exchange Items, rather than Substitute Checks. Should a Drawee Financial Institution or other third party make a claim

against us or seek re-credit with respect to any Electronic Image, we may provisionally freeze or hold aside a like amount in your account pending investigation and resolution of the claim.

Bank may reject any item which does not comply with the requirements set forth herein. Bank may reject any item if Customer has failed to comply with its account balance obligations. Bank may reject any deposit of Customer that does not adhere to the Security Procedures. Bank shall notify Customer by phone or electronic transmission, including e-mail and fax, or such rejection no later than the Business Day such deposit would otherwise have been transmitted by Bank to the Federal Reserve. Notices of rejection shall be effective when given. Bank shall have no liability to Customer by reason of the rejection of any such deposit or the fact that such notice is not given at an earlier time than that provided for herein.

Customer shall have no right to cancel or amend any deposit after its receipt by Bank. However, if such request complies with the security procedures, Bank shall use reasonable efforts to act on a request by Customer for cancellation of a deposit prior to transmitting it to the Federal Reserve, but shall have no liability if such cancellation is not implemented. Customer shall reimburse Bank for any expenses, losses, or damages Bank may incur in implementing or attempting to implement Customer's request for the reversal of a deposit.

You understand and acknowledge that we are relying on the truth and veracity of all Electronic Images submitted for deposit via the MDC Services by you to us, and you warrant that such Electronic Images accurately reflect Original Checks that are, or at the time of the creation of the Substitute Checks, were, in your possession. You also understand that issues regarding returned item collection, returned deposit, and other issues regarding deposit of Items not specifically addressed in this Agreement shall be governed by the terms and conditions of the Deposit Agreement.

(3) Retention and Security of Original Checks. Customer shall retain physical checks that represent the deposit for no longer than (30) days following the date of their transmittal to Bank and agrees to make the originals available to Bank within seventy-two (72) hours of Bank's request for fraud control purposes. Such physical checks must be securely stored, to prevent unauthorized access to the items until they are destroyed (locked cabinet, etc.). You understand that in all cases you are solely responsible for safeguarding all items you retain, during the reasonable period of time described above from destruction, alteration or theft. Items are to be securely destroyed in a commercially reasonable manner that renders it unusable or otherwise unreadable (shredding) on the thirty-first (31st) day following the date of the deposit.

(ii) Funds Availability Regarding MDC Deposits.

(1) Your Ability To Withdraw Funds. These provisions apply only to demand deposit checking accounts where deposits are made via Bank's MDC Services. You agree that Electronic Images submitted via Bank's MDC Services from your mobile device are not subject to the funds availability requirements of the Federal Reserve Board's Regulation CC. Our policy is

generally to make funds from your MDC Services available to you on the first Business Day after the day we receive your deposit. Funds that are deposited using Bank's MDC Services will not be deemed "received" by us until we have received an Electronic Image that meets all of the requirements for deposits (including all requirements to create a Substitute Check) stated in this Agreement and in any Documentation. Once the funds are available, you can withdraw the funds in cash and we will use the funds to pay items and transactions drawn on your account. For determining the availability of your deposits, every day is a Business Day, except Saturdays, Sundays, and holidays. If you make deposit via the MDC Services by the cut-off time of 7:00 p.m. CST on a day that is not a Business Day, we will consider such deposit made on the next Business Day we are open.

(2) Longer Delays May Apply. In some cases, we will not make all of the funds that you deposit via the MDC Services available to you on the first Business Day after the day of your deposit. Depending on the type of check that you deposit, funds may not be available until the second Business Day after the day of your deposit. The first \$200 of your MDC Services deposits, however, will be available on the first Business Day. If we are not going to make all of the funds from your deposit available on the first Business Day, we will notify you at the time you make your deposit. We will also tell you when the funds will be available.

In addition, funds you deposit by check may be delayed for a longer period under the following circumstances:

- We believe a check you deposit will not be paid
- You deposit checks totaling more than the limit allowed by Bank on any one day
- You redeposit a check that has been returned unpaid
- You have overdrawn your account repeatedly in the last six months
- There is an emergency, such as failure of computer or communications equipment

The availability of funds you deposit via the MDC Services may also be delayed for a variety of additional reasons as determined in Bank's sole discretion, including, but not limited to:

- We believe a check you deposit is a duplicate image
- You deposit checks totaling more than any applicable per item limit, daily dollar amount limit, monthly item limit or any other limitations on you're the MDC Services that Bank may impose
- We exercise our rights to investigate any unusual or suspicious MDC items as determined in Bank's sole discretion

We will generally notify you if we delay your ability to withdraw funds for any of these or other reasons, and we will attempt to tell you when such funds will be available. If you will need the funds from a deposit via the MDC Services, you should contact us to inquire when the funds will be available.

(iii) Customer Representation and Agreements; Indemnity. With respect to each and every deposit initiated by Customer, Customer represents and warrants to Bank and agrees that to the best of Customer's knowledge (a) each deposit is made payable to the Customer (b) any necessary authorization is operative at the time of transmittal or crediting/debiting by Bank as provided herein, and (c) Customer shall perform its obligations under this Agreement in accordance with all applicable laws and regulations, including the sanctions laws administered by OFAC. In addition to other indemnification under this Agreement, Customer also shall indemnify Bank 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.

(iv) Limitation on Liability. In addition to the provisions contained in the Agreement, liability shall not exceed the sum of the amount of any loss suffered by the Customer as a result of a breach of warranties under Regulation CC (12 CFR Part 229) up to the amount of any substitute check, interest and expenses (including cost and reasonable attorney fees and other expenses of presentation) related to the substitute check reduced by any amount that the Customer receives and retains as a re-credit. Furthermore, such liability shall be further reduced by the amount of any damages incurred as a result of the negligence or bad faith of the Customer. Without limiting the generality of the foregoing provisions, Bank shall be excused from failing to act or delay in acting if such failure or delay is caused by legal constraint, interruption of transmission of communication facilities, equipment failure, war, emergency conditions, or other circumstances beyond Bank's control.

In addition, Bank shall be excused from failing to transmit or delay in transmitting a deposit if such transmittal would result in Bank having exceeded any limitation upon its intra-day net funds position established pursuant to present or future Federal Reserve guidelines or in Financial Institution's reasonable judgment otherwise violating any provision of any present or future risk control program of the Federal Reserve or any rule or regulation of any other U.S. governmental regulatory authority. In such event, Customer shall be responsible for having a contingency plan in place including temporarily depositing original, paper items at any branch facility of Bank.

Subject to the foregoing limitations, Bank's liability for loss of interest resulting from its error or delay shall be calculated by using a rate equal to the average Federal Funds rate at the Federal Reserve Bank of Dallas for the period involved. At Bank's option, payment of such interest may be made by crediting the account resulting from or arising out of any claim of any person that Bank is responsible for any act or omission of Customer or any other person described in the foregoing agreement.

(v) Customer Responsibilities. Customer will maintain at least one or more accounts at Bank eligible for the transactions conducted via the MDC Services, including receiving MDC deposits. With regard to the MDC Services, Customer will inspect and verify the quality of Electronic Images, ensuring that the Electronic Images of the front and back of the Original Checks are legible for all posting and clearing purposes by Bank. The Customer's applicable account will be charged for any deposited check that

is later returned to Bank owing to an actual or alleged breach of any warranty made in this Agreement. Customer will assist in the installation and implementation of any changes and upgrades to the MDC Services as required by Bank to ensure compliance with regulatory changes and developments, or to protect the integrity and security of such MDC Services. Customer will use the MDC Services to enter, process, and transmit Original Checks in accordance with procedures and transmission deadlines outlined in this Agreement. Customer will verify Bank's receipt of its MDC deposits by reviewing deposits that have been posted to the designated accounts, in addition to cooperating with Bank in any investigation and resolving any unsuccessful or lost transmissions. Customer will comply with all Security Procedures outlined in this Agreement and any Documentation and agrees not to bypass, override or disable any security mechanisms in the processing software or processing equipment. Customer will retain each Original Check for the time frame specified in this Agreement after an Electronic Image of the check has been created and will promptly provide any related Original Check (or Sufficient Copy of the front & back of the Original Check) to Bank as requested to aid in the clearing and collection process or to resolve claims by third parties with respect to any check. Customer understands that in all cases it is solely responsible for safeguarding all such images from destruction, alteration or theft in accordance with the provisions of this Agreement. Customer will use commercially reasonable methods to destroy the Original Checks after the required retention time has expired to render them unusable or otherwise unreadable. Customer will cooperate with Bank in providing information and access to Customer records in the event of lost, mistaken, incomplete, or unusable Electronic Images, or in the event of claims of fraud, alteration, counterfeit or otherwise. Customer may not perform the MDC Services for any third party, and any attempt to do so shall automatically terminate this Agreement, except for any provisions of this Agreement that are expressly to survive such termination.

(i) Reporting Unauthorized Transactions; Liability for Authorized Mobile Application Transactions. To report unauthorized transactions on any of your accounts, please contact us using the information listed in the "Service Contact" section of this Agreement. Requirements for reporting unauthorized transactions are set forth in your Deposit Agreement.

Tell us at once if you believe your mobile ID or password has been compromised or if someone has transferred or may transfer money from your account without your permission. The best way to minimize your loss is to call us immediately. The unauthorized use of your account(s) could cause you to lose all of your money in your accounts, plus any amount available under your overdraft protection plan.

When you give someone your mobile ID and password, you are authorizing that person to use your Mobile Banking Services, and you are responsible for all transactions that person performs while using your Mobile Banking Services. All transactions that person performs, even those transactions you did not intend or want performed, are authorized transactions. If you notify us that the person is no longer authorized, then only transactions that person performs after the time you notify us are considered unauthorized. Additional information regarding unauthorized transfers can be found in your Deposit Agreement.

Transactions initiated by you, or by someone acting with you or at your instruction, with fraudulent intent are also deemed authorized transactions. For your protection, sign off after every Mobile Banking Service session.

(j) Use of Mobile Banking Services. You agree that you will learn how to use the Mobile Banking Services from the instructions contained within the Mobile Banking Services, and you agree that you will contact us at if you have any questions about or problems with the Mobile Banking Services. If the Mobile Banking Services are modified, you are responsible for understanding how to use any modifications. You may not copy (other than a copy for personal or business use), modify, distribute, transmit, display, perform, reproduce, transfer, resell, lease, rent, distribute access to or republish any of the contents of these Mobile Banking Services without the prior written consent of Bank, which may be withheld in its sole discretion. Unless otherwise subject to the provisions of Regulation E for consumer customers as further described in the Deposit Agreement, Bank will not be liable to you for any losses caused by your failure to properly use the Mobile Banking Services or your mobile device.

You agree not to use the Mobile Banking Services in any way that would: (a) infringe any third party's copyright, patent, trademark, trade secret or other proprietary right or rights of publicity or privacy; (b) be fraudulent or involve the sale of counterfeit or stolen items, including, but not limited to, use of the Mobile Banking Service to impersonate another person or entity; (c) violate any applicable law (law, statute, ordinance or regulation (including, but not limited to, those governing export control, consumer protection, unfair competition, anti-discrimination, false advertising, anti-money laundering or bank secrecy); (d) be false, misleading or inaccurate; (e) create liability for us or our affiliates or service providers, or cause us to lose (in whole or in part) the services of any of our service providers; (f) be defamatory, trade libelous, unlawfully threatening or unlawfully harassing; (g) potentially be perceived as illegal, offensive or objectionable; (h) interfere with or disrupt the computer networks connection to the Mobile Banking Service; (i) interfere with or disrupt the use of the Mobile Banking Service by any other user; or (j) use the Mobile Banking Service in such a manner as to gain unauthorized entry or access to the Bank's computer Online Banking or the computer Online Banking of others.

(k) Processing Equipment and Processing Software. You must obtain the Bank's Mobile Application in the Apple or Google (Android) app stores and install it on your mobile device in order to become approved and use the Mobile Banking Services. You must comply with the mobile device hardware, software, and other requirements, as well as applicable Security Procedures, as set forth in this Agreement and in any related documentation or any supplemental information and/or instructions provided by the Bank.

For the MDC Services in particular, you understand that failure to comply with mobile device hardware, software and other requirements regarding the MDC Services may result in you being unable to generate a Sufficient Image Copy in order to create an Electronic Image to complete a MDC deposit.

Bank reserves the right as encryption technology develops to impose further reasonable requirements to maintain the appropriate level of security for the Mobile Banking Services and transactions contemplated hereunder, and you agree to abide by such requirements. Furthermore, you understand and acknowledge that if you do not implement and follow your own commercially reasonable hardware, software, physical access and physical storage security procedures regarding any of the data owned by you, which includes such data containing your sensitive personally identifiable information ("PII") of any individual, the security of your Mobile Banking Services may be compromised. You understand, acknowledge and agree that installation, maintenance and operation of your mobile device (hardware and software) and related security procedures that you adopt and follow, including, but not limited to, data security protection, firewalls and anti-virus software, is your sole responsibility, and that you are solely

responsible for securing, encrypting, protecting and otherwise safeguarding the data owned by you.

In addition to other limitations on Bank's liability contained elsewhere in this Agreement, you understand, acknowledge and agree that the Bank is not responsible for any loss or damages resulting from any errors or failures of your mobile device or data processing Online Banking, including, but not limited to any mobile device virus or malware attack (such as a keystroke logging program or similar malware), any attack by a person attempting or actually gaining unauthorized access to the data owned by you, or any mobile device network problems that may be associated with your access and use of our Mobile Banking Services.

For avoidance of doubt, you understand, acknowledge and agree that all data provided by you to Bank (including, but not limited to, Electronic Images or Substitute Checks retained on any processing equipment, processing software, or any other processing equipment or software (including your mobile device used by you in conjunction with the Mobile Banking Services), and all data produced, compiled or otherwise provided by Bank to you, in any form or format, is your sole and exclusive property and copies thereof shall be provided to you at your request from time to time and at any time. Once such data owned by you is delivered by Bank to you, retrieved by you from Bank, or otherwise created as a byproduct of a transaction between you and Bank and retained by you, such data owned by you is solely within your possession and control.

(l) Security Procedures. Unless otherwise subject to the provisions of Regulation E for consumer customers as further described in your Deposit Agreement, you are responsible for all payments, transfers or other transactions you authorize using the Mobile Banking Service. If you permit other persons to use your mobile device to access the Mobile Banking Service, you are responsible for any transactions they authorize. If you access the Mobile Banking Service on your mobile device, you understand that you will be required to enter your mobile ID and password. The Mobile Banking Service may include your name and certain information about your account, such as the last 4 digits of your account number or specific account transaction information. You understand and acknowledge that transmission of your masked account number and specific information, including dollar amounts or individual payees and payors, does not constitute transmission of personal or private information, and you hereby authorize us to send such information via the Mobile Banking Service to your mobile device. Use of our normal security procedures for maintaining confidentiality and security of information constitutes fulfillment of our obligations to exercise due care.

With regard to the Mobile Banking Services, you agree to the security procedures ("Security Procedures") used by the Bank in connection with such Mobile Banking Services. Such Security Procedures offered by the Bank are described herein and in related documentation applicable to such Mobile Banking Services. As part of the Security Procedures, Bank may employ various authentication technologies, including, but are not limited to, use of mobile IDs, passwords and other "Additional Authentication Information" ("AAI") that Bank may require you to provide at Bank's sole discretion. Bank employs various security and authentication technologies to ensure that you are communicating directly with the Bank, and also to ensure that your mobile device is communicating with a legitimate Bank computer. You are responsible for the establishment and maintenance of your internal procedures reasonably adapted to insure the confidentiality and security of Security Procedures. YOU UNDERSTAND AND AGREE THAT YOU WILL BE RESPONSIBLE FOR MAINTAINING SECURITY AND CONTROL OVER YOUR MOBILE ID AND PASSWORD PROVIDED BY BANK, AND SHALL USE SECURITY FOR SUCH ITEMS COMPARABLE TO THE SECURITY AND CONTROL YOU WOULD USE FOR CASH,

BUT IN NO EVENT LESS THAN REASONABLE SECURITY AND CONTROL IN THE CIRCUMSTANCES.

If you have reason to believe that any Security Procedure has or may have become known by unauthorized persons, you shall immediately notify the Bank by telephone and confirm such oral notification in writing to the Bank within twenty-four (24) hours of the oral notification. The Bank will replace the Security Procedures in accordance with the Bank's standard security requirements related to the Mobile Banking Services. To the maximum extent permitted by applicable law, you will be solely liable for all transactions initiated before the Bank has received such notification and has had a reasonable opportunity to act on such notification. The Bank reserves the right to change any or all of the Security Procedures offered and/or used at any time by giving oral or written notice to you. You agree that your use of the Mobile Banking Services after the Bank provides notice of such changes constitutes your acceptance of the new Security Procedures. You acknowledge that the purpose of Security Procedures is to authenticate the identity of the person initiating the action, not to detect errors in any transmission or content. The Bank is not agreeing to any Security Procedures or other procedure for the detection of errors. You represent that for MDC Services, you consider the Security Procedures to be commercially reasonable with respect to the size, type, and frequency of deposits you anticipate submitting.

No Bank employee, nor any company affiliated with or a third party service provider of Bank, will contact you via e-mail or phone requesting your mobile ID or mobile password. If you are contacted by anyone requesting this information, DO NOT GIVE ANY OF YOUR INFORMATION OUT, and please contact us immediately to report the details of the incident.

(m) Maintenance and Support. Bank is solely responsible for providing any maintenance and support services with respect to the Mobile Banking Services, as specified in this Agreement and under applicable law. Bank and you acknowledge that neither Apple, Inc. nor Google, Inc. (Android) have any obligation whatsoever to furnish any maintenance and support services with respect to the Mobile Banking Services.

(n) Copyrights and Other Intellectual Property; User Conduct. The license granted to you for the Mobile Banking Services is a non-transferable license to use the Mobile Banking Services on an iOS or Android Operating Online Banking product that you own or control and as permitted by the usage rules and terms of service governing the Apple, Inc. App Store or the Google, Inc. Android, as applicable.

Except where otherwise expressly noted or as noted below, all contents of the Mobile Banking Services, including the graphics, icons and overall appearance of the Mobile Banking Services, are the sole and exclusive property of Bank, its subsidiaries or affiliates, or third parties with whom Bank utilizes to provide any portion of the Mobile Banking Services. Certain of Bank's trademarks and/or service marks are also included in the Mobile Banking Services. The posting of the contents of the Mobile Banking Services neither constitutes a waiver of any of Bank's proprietary rights or any other party's proprietary rights, including but not limited to, copyrights, trademarks, service marks, patents, and other intellectual property, nor a transfer by implication, estoppel, or otherwise of any such rights or of any license to the Mobile Banking Service user or to any third party. Contents of the Mobile Banking Services are protected by United States and international copyright laws, both as individual works and as a collection and by United States and international trademark laws. You agree not to delete any copyright, trademark or similar notice from any Contents you obtain from the Mobile Banking Service.

The display of third party trademarks within the Mobile Banking Services does not grant you a license of any kind. Any downloading of material contained in the Mobile Banking Services, or of any site linked to the Mobile Banking Services may be a violation of federal trademark and copyright laws. Any downloading of contents of the Mobile Banking Services or any other service linked to the Mobile Banking Services may be a violation of federal and other trademark laws and federal copyright laws.

Bank and you acknowledge and agree that, in the event of any third party claim that the Mobile Banking Services or your possession or use of the Mobile Banking Services infringes that third party's intellectual property rights, Bank and its third party service providers are solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim.

(o) Mobile Banking Service Contact. Bank and any of its third party service providers are the developers of this Mobile Banking Service. If you have any questions, complaints or claims with respect to the Mobile Banking Service, you may contact Bank by phone at 1-888-902-2552, e-mailing is at onlinebanking@theabcbank.com writing to us at this address: PO Drawer 9 Wolfforth, TX 79382.

(p) Bank Responsibilities. Bank will provide access to the processing equipment and software for the Mobile Banking Services through the Bank's Mobile Application. Bank will also provide maintenance and support for the Mobile Banking Services to ensure the accurate delivery of the Mobile Banking Services, including, but not limited to:

(i) Corrections, contingent or alternate work methods, and repairs to any know Online Banking bugs or errors.

(ii) Modifications, enhancements, or updates that Bank elects to make generally available to its customers.

(iii) Telephone and email support during Bank's normal business hours.

Bank will provide the required mobile ID and password to Customer in order to engage in the Mobile Banking Services. Bank will provide related documentation as well as training materials and support reasonably required for Customer's use of the Mobile Banking Services.

(q) No Warranties. Although Bank attempts to provide accurate information, names, images, pictures, logos, icons, documents, and materials on the Mobile Banking Services, Bank makes no representation, endorsement, or warranty that such Contents are accurate or suitable for any particular purpose. In addition to any other warranty issues discussed in this Agreement, THE MOBILE BANKING SERVICE AND ITS CONTENTS ARE PROVIDED ON AN "AS IS" BASIS. USE OF THE MOBILE BANKING SERVICES AND CONTENTS IS AT YOUR SOLE RISK. THE MOBILE BANKING SERVICES AND CONTENTS ARE PROVIDED WITHOUT ANY REPRESENTATIONS, ENDORSEMENTS, OR WARRANTIES OF ANY KIND WHATSOEVER, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF TITLE OR ACCURACY AND ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, WITH THE SOLE EXCEPTION OF WARRANTIES (IF ANY) WHICH CANNOT BE EXPRESSLY EXCLUDED UNDER APPLICABLE LAW. AS NOTED BELOW, BANK ALSO MAKES NO REPRESENTATIONS, ENDORSEMENTS, OR WARRANTIES, EITHER EXPRESS OR

IMPLIED, WITH RESPECT TO ANY SERVICE OPERATED BY A THIRD PARTY WHICH MAY BE PART OF OR ACCESSED VIA THE MOBILE BANKING SERVICE.

FINALLY WITHOUT LIMITATION AS TO THE FOREGOING, IN REGARD TO LIMITATION OF LIABILITY, IN NO EVENT WILL BANK OR ITS SUBSIDIARIES, AFFILIATES, CONTRACTORS, OR THEIR RESPECTIVE EMPLOYEES BE LIABLE FOR ANY DAMAGES, INCLUDING, WITHOUT LIMITATION, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER UNDER A CONTRACT, TORT OR ANY OTHER THEORY OF LIABILITY, ARISING IN CONNECTION WITH ANY PARTY'S USE OF THE MOBILE BANKING SERVICE OR IN CONNECTION WITH ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUS, ONLINE BANKING FAILURE, LOSS OF DATA, OR LOSS OF USE RELATED TO THIS MOBILE BANKING SERVICE OR ANY SERVICE OPERATED BY ANY THIRD PARTY WHICH MAY BE PART OF OR ACCESSED VIA THE MOBILE BANKING SERVICE, OR ANY CONTENTS OF THIS MOBILE BANKING SERVICE OR ANY OTHER SERVICE, EVEN IF BANK IS AWARE OF THE POSSIBILITY OF SUCH DAMAGES.

If you download the Mobile Banking Service from Apple, Inc. via the Apple App Store, then in the event of any failure of the Mobile Banking Service to conform to the warranty as described in this Agreement, you may notify Apple, Inc., and Apple, Inc. will refund your purchase price for the Mobile Banking Service, if any. However, to the maximum extent allowed by Applicable Law, Apple, Inc. will have no other warranty obligation whatsoever with respect to the Mobile Banking Services, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be the sole responsibility of Bank and any of its third party providers.

(r) Mobile Banking Service Claims. Our Limited Liability for use of Mobile Banking Service. Bank and you acknowledge and agree that Bank, and not Apple, Inc., or Google, Inc. (Android), is responsible for addressing any claims (a) by you or any third party relating to the Mobile Banking Services, or (b) relating to your possession and use of the Mobile Banking Services, including, but not limited to product liability claims or any claim that the Mobile Banking Service fails to conform to any Applicable Law, including applicable consumer protection laws.

IN ADDITION TO ANY OTHER LIMITATION ON LIABILITY OF THE BANK AND ITS THIRD PARTY SERVICE PROVIDERS AS STATED IN THIS AGREEMENT, IN NO EVENT WILL BANK, OR ANY OF ITS OFFICERS, DIRECTORS, SHAREHOLDERS, PARENTS, SUBSIDIARIES, AFFILIATES, AGENTS, LICENSORS, OR THIRD PARTY SERVICE PROVIDERS BE LIABLE FOR ANY CONSEQUENTIAL (INCLUDING, WITHOUT LIMITATION, LOSS OF DATA, FILES, PROFIT OR GOODWILL OR THE COSTS OF PROCUREMENT OF SUBSTITUTE OF GOODS OR MOBILE BANKING), INDIRECT, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH YOUR USE OF THE MOBILE BANKING SERVICE. THE AGGREGATE LIABILITY OF BANK AND OUR THIRD PARTY SERVICE PROVIDERS UNDER THESE TERMS OF USE SHALL NOT EXCEED FIVE HUNDRED DOLLARS. Because some states do not allow the exclusion or limitation of liability for consequential damages, the above limitations may not apply to you.

(s) Indemnification. You understand that there are risks associated with using your mobile device, and that in the event of theft or loss, your confidential or personally identifiable information could become compromised. UNLESS CAUSED BY BANK'S INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE, YOU AGREE TO INDEMNIFY, DEFEND, AND

HOLD BANK AND ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, CONSULTANTS, AGENTS, MOBILE SERVICE PROVIDERS, AND LICENSORS HARMLESS FROM ANY AND ALL THIRD PARTY CLAIMS, LIABILITY, DAMAGES AND/OR COSTS (INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES) ARISING FROM (A) A THIRD PARTY CLAIM, DISPUTE, ACTION, OR ALLEGATION OF INFRINGEMENT, MISUSE, OR MISAPPROPRIATION BASED ON INFORMATION, DATA, FILES, OR OTHERWISE IN CONNECTION WITH THE MOBILE BANKING SERVICE; (B) YOUR VIOLATION OF ANY LAW OR RIGHTS OF A THIRD PARTY; OR (C) YOUR USE, OR USE BY A THIRD PARTY, OF THE MOBILE BANKING SERVICE.

(t) Third Party Beneficiaries. You agree that our third party service providers may rely upon your agreement and representations, and that such service providers are intended third party beneficiaries to this Agreement, with the power to enforce this Agreement against you. BANK and you acknowledge and agree that Apple, Inc., and all of its subsidiaries, and Google, Inc. (Android) and all of its subsidiaries, are third party beneficiaries of these Terms and Conditions and that, upon your acceptance of these Terms and Conditions, either Apple, Inc., or Google, Inc., as applicable, will have the right (and will be deemed to have accepted the right) to enforce this Agreement against you as a third party beneficiary thereof.

12. Bill Pay Service.

(a) Generally. These bill pay terms and conditions set forth the rules, restrictions, guidelines, terms and conditions related to the bill payment services offered by American Bank of Commerce through Bill Payer (the "Bill Payment Services" or "Services"). As used in these bill pay terms and conditions, "you" or "your" refers to each person(s) or entity subscribing to, using or accessing the Bill Payment Services. "We," "it," "us," "our," or the "Bank" refers to American Bank of Commerce and any agent, independent contractor, designee, or assignee that American Bank of Commerce may, in its sole discretion, involve in the provision of Bill Payment Services under this Agreement. "Bill Payer" refers to Bank's agent, independent contractor, designee, or assignee that Bank chooses, in its sole discretion, to involve in the provision of Bill Payment Services under this Agreement. "Payee" means anyone, including Bank, you designate to receive processed Payments. "P2P Payments" or "Person-to-Person Payments" means the Bill Payment Service which allows you to send funds to an outside email or cell phone number.

(b) Bill Payment Services. Bill Payment Services allow you to instruct Bank to transfer funds, either by electronic transfer (such as Automated Clearing House ("ACH")) or by check, to the Payee (each individual transfer being a Bill Payment or Payment).

(c) Account Designation and Payees.

(i) All Bill Payment(s) you make through the Bill Payment Services will be transacted through various service providers. All Bill Payment(s) shall be deducted from the account you have designated as your Bill Payment account (the "Designated Transaction Account").

(ii) Each Payee must appear on the Payee list in your database. To add a new Payee, login to Online Banking, click the "Bill Payment" tab, and follow the instructions on the screen. You may also call the Bank to speak with a representative or visit any branch location for additional information. You may add a new Payment to a "Payee" by accessing the Bill Payment Services through Online Banking and entering

the appropriate information. Most other additions, deletions, or changes can be made through Online Banking or by submitting a written request to the Bank. The Bank reserves the right to refuse to pay any person(s) or entity to which you may direct a Payment.

(iii) You understand that Bank reserves the right, in its sole discretion, to delete your list of Payees if you have not used Bill Payment Services for an extended period of time. If deleted, you must retype the Payee list to use Bill Payment Services again.

(d) Security Procedures. As part of the Bank's Bill Payment Services, Bank employs various security and authentication technologies ("Security Procedures") to ensure that you are communicating directly with Bank, and also to ensure that your computer is communicating with a legitimate Bank computer. Such Bank authentication procedures and technologies include, but are not limited to, use of Login IDs, passwords and other security credentials that Bank may require you to provide at Bank's sole discretion. Such security credentials are required as a component of the Bill Payment Services authentication procedures that Bank may employ, including, but not limited to, security questions and responses and/or use of other hardware-based and software-based security and authentication tools, programs and procedures. You are responsible for establishing and maintaining procedures reasonably adapted to insure the confidentiality and security of Security Procedures. **YOU UNDERSTAND AND AGREE THAT YOU WILL BE RESPONSIBLE FOR MAINTAINING SECURITY AND CONTROL OVER ALL YOUR LOGIN IDS AND PASSWORDS AND SHALL USE SECURITY FOR SUCH ITEMS COMPARABLE TO THE SECURITY AND CONTROL YOU WOULD USE FOR CASH, OR A MECHANICAL CHECK-SIGNING MACHINE, BUT IN NO EVENT LESS THAN REASONABLE SECURITY AND CONTROL IN THE CIRCUMSTANCES.** If you have reason to believe that any Security Procedure has or may have become known by unauthorized persons, you shall immediately notify the Bank by telephone and confirm such oral notification in writing to the Bank within twenty-four (24) hours of the oral notification. The Bank will replace the Security Procedures in accordance with the Bank's standard security requirements related to the applicable Service(s). To the maximum extent permitted by applicable law, you will be solely liable for all transactions, including funds transfer instructions and other communications, initiated before the Bank has received such notification and has had a reasonable opportunity to act on such notification. The Bank reserves the right to change any or all of the Security Procedures offered and/or used at any time by giving oral or written notice to you. You agree that your use of the Services after the Bank provides notice of such changes constitutes your acceptance of the new Security Procedures. You acknowledge that the purpose of Security Procedures is to authenticate the identity of the person initiating the action, not to detect errors in any transmission or content. The Bank is not agreeing to any security or other procedure for the detection of errors. You represent that for the Services, you consider the Security Procedures to be commercially reasonable with respect to the size, type, and frequency of funds transfers you anticipate issuing and the information which will be transmitted.

(e) Services Fees. Any applicable fees will be charged regardless of whether the Services were used during the billing cycle. There may be a charge for additional transactions and other optional services (e.g., stop payments). You agree to pay all such fees and charges and authorize Bank to deduct the calculated amount from your Designated Transaction Account for these amounts and any additional charges that you may incur. You are responsible for any Internet services fees and/or telephone access fees you may be assessed by your Internet and/or telephone service provider.

(f) Processing.

(i) Scheduled Initiation Date. The “Scheduled Initiation Date” is the date you select for the transaction to occur. Funds will be taken out of the Designated Transaction Account, or any such other account as may be designated by you and approved by the Bank, on or several days after the Scheduled Initiation Date. In many cases, your Bill Payments are electronically delivered to the Payee within five (5) Business Days of the Scheduled Initiation Date. However, some Payees are not configured to accept electronic Bill Payments. In these cases, a paper check will be sent to such Payee(s), which may take up to ten (10) Business Days to process and deliver. Standard Bill Payments that are submitted before Bank’s cutoff time for that day are generally debited from your account on the Scheduled Initiation Date and forwarded as guaranteed funds the following Business Day. Bank’s cutoff time for scheduling Payments is currently 2:00 p.m. Central Time.

(ii) Estimated Payment Arrival Date. Bill Payer will calculate the Estimated Arrival Date of your Payment. This is only an estimate. You must allow sufficient time for your Bill Payment to reach the Payee so that it may be processed prior to the due date, excluding any applicable grace period. Bank strongly recommends that you allow adequate time between the date a Payment is scheduled to be sent and the due date, as suggested on the web page you access for Bill Payment Services. If you schedule your Payment following all Bank instructions and requirements, including allowing adequate time between the date a Payment is scheduled to be sent and the due date, as suggested on the web page, and so long as none of the scenarios or circumstances described in Section 6(h) occur, if the Payment is not applied or credited by the Payee in a timely manner, Bank will reasonably work on your behalf to attempt to resolve the matter, and will pay for any late fees and finance charges that occur due to late credit or application of a Payment. Bill Payments are processed by outside service providers and the Bank is not responsible for making Payments upon your authorization or for mailing or sending a Payment to the designated Payee.

(iii) Bill Payments by Check. All standard Bill Payments by check are debited from your Designated Transaction Account when the Payee deposits or cashes the check. The Bill Payment is estimated to be received by the Payee on the “deliver by” date selected by you.

(iv) Single Payments. A single Bill Payment will be processed on the Business Day (generally Monday through Friday, excluding federal holidays) that you designate as the Scheduled Initiation Date, provided the Payment is submitted prior to the daily cutoff time on that date. A single Bill Payment submitted after the cutoff time on the designated process date will be processed on the next Business Day.

(v) Recurring Payments. When a recurring Bill Payment is processed, it is automatically rescheduled by Bill Payer. Based on your selected frequency settings for the Bill Payment, a Scheduled Initiation Date is calculated for the next occurrence of the Payment. If the Scheduled Initiation Date is a non-business date (generally weekends and federal holidays), it is adjusted based upon the following: If you select the “Pay Before” option, the Scheduled Initiation Date for the new occurrence of the Payment is adjusted to the first business date prior to the Scheduled Initiation Date. If the recurring Payment’s “Pay After” option is selected, the Scheduled Initiation Date for the new occurrence of the Payments is adjusted to the first business date after the Scheduled

Initiation Date. Note: If your frequency settings specify the 29th, 30th, or 31st of any month as your Scheduled Initiation Date, and that day does not exist in the month of the Scheduled Initiation Date, then the last calendar day of that month will be used as the Scheduled Initiation Date.

(vi) Send a Donation. You can select from various popular charities or designate your own to send a donation gift. To add a charity, you will need to provide additional information, including but not limited to, the charity's name and address. Additional transaction fees may apply.

(vii) Send a Gift Check. Funds may be sent to individuals in the form of a personalized Gift Check. To add a gift recipient, you must provide additional information, including but not limited to, the individual's name and address. Additional transaction fees may apply.

(viii) Bank's Responsibilities. Unless otherwise required by law, the Bank is responsible only for using ordinary care in processing and sending Bill Payments you authorize according to this Agreement. The Bank is not liable for any of your losses or damages under the following conditions:

(1) If you do not have sufficient funds in your account to make the Bill Payment on the date a Payment is scheduled to be sent.

(2) If you do not allow adequate time between the date a Bill Payment is scheduled to be sent and the due date, as suggested on the web page you access for Bill Payment Services.

(3) If any Bill Payment Payee fails to correctly account for or credit the Bill Payment in a timely manner.

(4) If any Bill Payment you authorize contains an error with regard to the identifying information of the Payee, including the refusal of any such unintended Payee to return any funds transferred as a result of such error.

(5) If funds are being transferred to the account of a third party and the third party's account name and/or number or other identifying information changes, unless you have advised the Bank of the change sufficiently in advance.

(6) If Bank has placed a "hold" on any funds in your account(s) in accordance with Bank's rights under applicable laws or any other agreements between Bank and you.

(7) If a court order, such as garnishment or other legal process, prevents Bank from making a transfer.

(8) If Bank has a reasonable basis for believing that you know or should know that unauthorized use of you Login ID, password, or any other security credential on your account(s) has occurred or may be occurring.

(9) If you default under this Agreement or any other agreement with Bank.

(10) If Bank or you terminate this Agreement.

(11) For any other circumstances beyond the control of the Bank that prevented the Bill Payment, despite reasonable precautions that the Bank has taken, including but not limited to circumstances such as telecommunications outages, power outages, equipment failures, postal strikes, delays caused by other financial institutions, fires and floods.

(g) Limitations on Services.

(i) Payee Limitations. Any Payee you wish to pay through the Bill Payment Services must be payable in US Dollars and must be located in the United States (including US Territories and APO's/AEO's). You shall not use the Bill Payment Services to make Bill Payments to a federal, state or local governmental or tax unit, or to other categories of Payee that the Bank may establish from time to time. Bank may (i) restrict categories of Payees to whom Payments may be sent, and (ii) refuse to pay any Payee for any reason at the Bank's discretion.

(ii) Dollar Limitations. Unless otherwise agreed to by the Bank in writing, the dollar limitation shall be \$99,999.99 for any Payment submitted using the Consumer Bill Payment Services and \$250,000.00 for any Payment submitted using the Business Bill Pay Services. The dollar limitation for P2P Payments shall be \$3,000.00 per P2P Payment and \$3,000.00 per day.

(iii) Available Funds Required. All Bill Payments initiated through the Bill Payment Services are contingent upon sufficient funds available in the Designated Transaction Account to cover the Bill Payment on the Scheduled Initiation Date and the calculated processing date. Please refer to the funds availability disclosure provided to you at account opening to determine the funds availability policy for your account(s). You may request another copy of this disclosure from any Bank representative by telephone, postal mail, or in person at any of our branch locations.

(iv) Cancelling or Changing a Bill Payment. A Bill Payment can be changed or canceled any time prior to the cutoff time on the calculated processing date. To change or cancel a Payment, review the Schedule Payments list from the Payments menu and click "Edit" or "Stop."

(v) Stop Payments. Once a Payment has been processed, it cannot be cancelled. You may, however, request Bank to issue a stop Payment so long as the Payment has not been cleared by the Payee by calling American Bank of Commerce at 1-888-902-2552 or emailing American Bank of Commerce at virtualbanking@theabcbank.com. Once a stop Payment has been issued, it may take several Business Days for the funds to be credited back to your account. A copy of the canceled check can be requested for a nominal fee. Stop Payment fees may apply as detailed in Bank's most current fee schedule.

(h) Authorization to Charge Your Account(s). You authorize the Bank to charge your Designated Transaction Account(s) for any transactions accomplished through the Bill Payment Services, including the amount of any Bill Payment, and for any charges for the Bill Payment Services and/or stop Payment request(s). You authorize the Bank to process Bill Payments according to the instructions that the Bank receives if the instructions are received by

the Bank through the Bill Payment Services. You authorize the Bank to initiate any reversing entry or reversing file, and to debit your Designated Transaction Account(s) in order to correct any mistaken credit entry.

(i) Erroneous Instructions. YOU AGREE THAT TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BANK WILL NOT BE LIABLE FOR ANY INSTRUCTION, FUNDS TRANSFER ORDER, AMENDMENT OR CANCELLATION, OR ANY LOSS ARISING THEREFROM, ERRONEOUSLY TRANSMITTED BY YOU OR ANYONE AUTHORIZED BY YOU HEREUNDER OR CONTAINING AN ERROR IN CONTENT AS PROVIDED BY YOU OR ANYONE AUTHORIZED BY YOU HEREUNDER, REGARDLESS OF WHETHER THE BANK FOLLOWED THE SECURITY PROCEDURES AGREED UPON HEREIN OR ANY APPLICATION HERETO.

(j) Inconsistent Name and Identifying Number.

(i) You understand that if a Bill Payment describes the Payee inconsistently by name and account number, execution of the Bill Payment shall occur on the basis of the account number, even if it identifies a Payee different from the named Payee. Your obligation to pay the Bill Payment to the Bank is not excused in such circumstances.

(ii) The Bank shall have no liability for the execution or failure to execute a Bill Payment that includes a discrepancy between the name of a Payee and an account number, or which is to be made from an account with insufficient available funds. The Bank shall not be responsible for resubmitting any Payment for you after funds become available in your Designated Transaction Account.

(k) Information Authorization. The Bank reserves the right to obtain financial information regarding your Designated Transaction Account from a merchant or financial institution in order to resolve Payment posting problems. You understand and agree that we may disclose information to third parties about your Designated Transaction Account or the Bill Payments you authorize if it is reasonably necessary for completing same.

(l) Exclusions on Warranties. THE BILL PAYMENT SERVICES AND ALL RELATED DOCUMENTATION ARE PROVIDED "AS IS" WITHOUT ANY WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

(m) Liability.

(i) You are solely responsible for controlling and safekeeping access to your Login ID, passwords and security questions. If you want to terminate another person's authority to use the Bill Payment Services, you must notify the Bank and arrange to change your Login ID, passwords and security questions. You will be responsible for any Bill Payment request(s) you make that contain an error or duplicate a previous Bill Payment. The Bank is not responsible for a Bill Payment that is not made if you did not properly follow the instructions as prescribed in this Agreement. The Bank is not liable for any failure to make a Bill Payment if you fail to promptly notify the Bank after you learn that you have not received credit from any Payee(s) for a Bill Payment. The Bank is not responsible for your acts or omissions or those of any other person, including, without

limitation, any transmission or communications facility, and no such party shall be deemed to be the Bank's agent.

(ii) THE FOREGOING SHALL CONSTITUTE THE BANK'S ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY. IN NO EVENT SHALL THE BANK BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING LOST PROFITS (EVEN IF ADVISED OF THE POSSIBILITY THEREOF) ARISING IN ANY WAY OUT OF THE INSTALLATION, USE, OR MAINTENANCE OF THE EQUIPMENT, SOFTWARE, AND/OR THE BILL PAYMENT SERVICES.

(n) Indemnification. TO THE EXTENT PERMITTED BY LAW, THE CUSTOMER AGREES TO INDEMNIFY, DEFEND, RELEASE AND HOLD HARMLESS THE BANK AND ITS AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS, INDIVIDUALLY AND COLLECTIVELY, FROM AND AGAINST ANY DAMAGE, LOSS, OR LIABILITY, INCLUDING WITHOUT LIMITATION FINES, PENALTIES, REASONABLE ATTORNEYS' FEES AND COURT COSTS (COLLECTIVELY, A "LOSS") WHICH RESULT, DIRECTLY OR INDIRECTLY, FROM THE BANK'S PROVIDING SERVICES TO THE CUSTOMER HEREUNDER, EVEN IF SUCH LOSS ARISES, IN WHOLE OR IN PART, FROM THE BANK'S NEGLIGENCE, BUT EXCLUDING ANY LOSS ARISING FROM THE BANK'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, UNLESS OTHERWISE EXPRESSLY PROVIDED IN THE AGREEMENT OR THE APPLICABLE DEPOSIT ACCOUNT AGREEMENT.

(o) Termination or Suspension.

(i) Your Right to Terminate. You may cancel the Bill Payment Services any time by providing us notification in accordance with Section 21 of this Agreement. Your access to the Bill Payment Services will be suspended within three (3) Business Days of our receipt of your instructions to cancel the Bill Payment Services. You will remain responsible for all outstanding fees, checks, and charges issued or incurred prior to the date of cancellation.

(ii) Bank's Right to Terminate or Suspend. You agree that Bank can terminate or limit your access to the Bill Payment Services for any of the following reasons: (i) without prior notice, if you have insufficient funds in any of your Designated Transaction Accounts (the Bill Payment Services may be reinstated, at the Bank's sole discretion, once sufficient funds are available to cover any fees, pending transfers, and debits); or (ii) upon reasonable notice, for any other reason at the Bank's sole discretion, including insufficient volume of transactions. The Bank also reserves the right to temporarily suspend the Bill Payment Services in situations deemed appropriate by the Bank, in the Bank's sole and absolute discretion, including when the Bank believes a breach of the Online Banking security has occurred or is being attempted. The Bank may consider repeated incorrect attempts to enter your Login ID and/or Password as an indication of an attempted security breach. In any such event, the Bank may (but is not obligated to) immediately discontinue making previously authorized Bill Payments, including recurring or scheduled Bill Payments that were previously authorized or issued but not yet processed. Termination or suspension of the Bill Payment Services does not affect your obligations under this Agreement with respect to occurrences before termination or for your cooperation after termination.

13. Stop Payment Requests. Stopping the payment of a check is different from the cancellation of a bill payment. Once the funds to make the bill payment have been debited from your account, you CANNOT cancel or stop that bill payment.

You may, subject to applicable laws and account agreements, initiate stop-payment requests online via the Online Banking only for paper checks you have written on your Bank accounts (not Online Banking Bill Payments). Online stop payment requests are processed at 9:00 am on the Business Day following the date the stop payment has been requested online. To be effective, this type of stop-payment request must precisely identify the name of the payee, the check number, the amount, and the date of the check. By selecting Approve you shall represent your electronic signature for the stop payment, which is binding for 6 months unless the Bank receives a cancellation in writing prior to the expiration date. To extend another 6 months a written renewal order will be required. You will incur stop payment charges as disclosed in the current fee schedule for the applicable account.

14. Disclosure of Account Information and Transfers. You understand information about your accounts or the transfers you make may automatically be disclosed to others, subject to the Bank's Privacy Policy. For example, tax laws require disclosure to the government of the amount of interest you earn, and some transactions, such as large currency and foreign transactions, must be reported to the government. We may also provide information about your accounts to persons or companies we believe would use the information for reasonable purposes, such as when a prospective creditor seeks to verify information you may have given in a credit application or a merchant calls to verify a check you have written. In addition, we routinely inform credit bureaus when accounts are closed because they were not handled properly. We may also seek information about you from others, such as a credit bureau, in connection with the opening or maintaining of your account or in connection with approving your access to the Online Banking. You hereby authorize and agree to all of these transfers of information.

15. Periodic Statements. You will not receive a separate Online Banking statement. Transfers to and from your accounts using the Online Banking and related charges will appear on the respective periodic paper or electronic statements for your Bank accounts.

16. Change in Terms. Subject to applicable law, we may change any term of this Agreement at any time. If the change would result in increased fees for any Online Banking Service, increased liability for you, fewer types of available electronic fund transfers, or stricter limitations on the frequency or dollar amount of transfers, we agree to give you notice at least 30 days before the effective date of any such change, unless an immediate change is necessary to maintain the security of an account or our electronic fund transfer Online Banking or a longer period is required by applicable law. We will post any required notice of the change in terms on the Online Banking Web Site or forward it to you by e-mail or by postal mail. Your continued use of any or all of the subject Online Banking Services indicates your acceptance of the change in terms. We reserve the right to waive, reduce or reverse charges or fees in individual situations. You acknowledge and agree that changes to fees applicable to specific accounts are governed by the applicable deposit agreements and disclosures.

17. Our Liability for Failure to Make a Transfer. If we do not complete a transfer to or from your account, on time or in the correct amount, according to our agreement with you when you have properly instructed us to do so, we will be liable to you for your losses or damages caused as a result. However, there are some exceptions. We will NOT be liable, for instance:

- If, through no fault of ours, you do not have enough money in your account to make a transfer.
- If a legal order directs us to prohibit withdrawals from the account.
- If your account is closed, or if it has been frozen.
- If the transfer would cause your balance to go over the credit limit of an established line of credit or the credit limit for any credit arrangement setup to cover overdrafts.
- If you, or anyone authorized by you, commits any fraud or violates any law or regulation.
- If any electronic terminal, telecommunication device, or any part of Online Banking is not working properly and you know about the problem when you started the transfer.
- If you have not properly followed the on-screen instructions for using Online Banking.
- If circumstances beyond our control (such as, but not limited to fire, flood, interruption in telephone service or other communication lines) prevent the transfer.

In any event, our liability to you will be limited to the lesser of the amount of the transfer requested or your actual damages. In no event will we be liable for any special, exemplary, consequential, or punitive damages, even if we have been advised that they may be incurred.

18. Your Liability for Unauthorized Transfers. CONTACT US AT ONCE if you believe your password has been lost, stolen, used without your authorization, or compromised in any manner, or if someone has transferred or may transfer money from your accounts without your permission. An immediate telephone call to us is the best way to reduce any possible losses. You could lose all the money in your accounts (plus your maximum overdraft line of credit, if any). Also, if your paper statement shows transfers that you did not make, contact us immediately.

19. External Transfers to your accounts Outside American Bank of Commerce (applies ONLY if you have signed up for this service). You may separately sign up for the option of transferring funds between your American Bank of Commerce registered online banking account(s) and accounts at other financial institutions. Inbound transfers move funds INTO your American Bank of Commerce account. Outbound transfers move funds OUT of your American Bank of Commerce account.

External Transfer Fees (Per Item)	
Inbound	FREE
Outbound	\$5.00

Transfers outside of American Bank of Commerce are subject to limits; consumer as shown below, business limits will be determined on a case-by-case basis.

External Limits	
Business Day	\$3000
Monthly (Rolling 30-day)	\$6000

The above limits apply to the total of ALL transfers of a specific type for ALL accounts. Any transfer initiated on a day that is not a Business Day counts towards the applicable limit for the next Business Day. We may change dollar limits at any time. Any decrease will be subject to notice, as required by law, but you agree that we may reduce your limits to the amounts stated above without prior notice upon occurrence. You agree that we may cancel any transfer without prior notice, at our discretion including the following reasons:

- Any of your accounts with American Bank of Commerce are not current or are not in good standing.
- You have had an overdraft, on over-limit item, or an item returned for insufficient funds with respect to any American Bank of Commerce account during the current or 3 prior calendar months.
- You have had prior External Transfers between accounts at other financial institutions cancelled, revoked, or uncompleted due to insufficient funds, revoked authorization, stopped payments, frozen account, or any similar reason.

20. Consumer Account Additional Provisions.

(a) Generally. The following provisions apply to electronic funds transactions to and from accounts of consumer customers whose accounts are established primarily for personal, family or household purposes. You understand these provisions do not apply to you if you are a commercial customer accessing accounts with the Bank established for business purposes.

(b) Your Liability for Unauthorized Transfers. Tell us AT ONCE if you believe your Login ID, password or other device or code which accesses your account has been lost, stolen or otherwise learned or acquired by an unauthorized person, or if you believe that an electronic funds transfer has been made without your permission using information from your check or otherwise. The best way to minimize your loss is to call us immediately. The unauthorized use of your account or PIN could cause you to lose all of your money in your accounts, plus any amount available under your overdraft protection if you do not notify us in a timely manner. Also, if your account statement shows transfers that you did not make, including those made by card, code or other means, tell us at once.

If you contact Bank within two (2) Business Days after you learn of the loss, theft, compromise, or unauthorized use of your Login ID and/or password, you can lose no more than \$50.00 if a third party used your Login ID and/or password without your permission. If you do NOT contact Bank within two (2) Business Days after you learn of the loss, theft, compromise, or unauthorized use of your Login ID and/or password, you could lose as much as \$500.00.

(c) In Case of Errors or Questions about Your Electronic Transfers. Contact us as soon as you can if you think your paper statement is wrong or if you need more information about a transfer listed on your paper statement. We must hear from you no later than 60 days after we sent the FIRST paper statement upon which the problem or error appeared. When you contact us:

- Tell us the name of your business and account number.
- Describe the error or transfer you are unsure about, and explain as clearly as you can why you believe it is an error, or why you need more information.
- Tell us the dollar amount for the suspected error.
- If the suspected error relates to a bill payment made via the Online Banking Bill Payment Service, contact 1-866-208-7227.

We will communicate to you the results of our investigation within 10 Business Days after you contact us and will correct any error promptly. If we need more time, however, we may take up to 45 days to investigate your complaint or question. If we decide to do this, we will provisionally credit your account within 10 Business Days for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and WE DO NOT receive it in the form of a paper writing within 10 Business Days, we may decline to credit your account provisionally. To the extent that the Bank requires additional time for any of the foregoing and to the extent that applicable law does not prohibit the Bank's taking longer, the foregoing time frames are subject to extension without notice.

If we decide that there was no error, we will send you a written explanation within 3 Business Days after we finish our investigation. You may ask for copies of the documents that we used in our investigation. If we have made a provisional credit, a corresponding debit will be made to your account.

(d) Additional Users for consumers as a general rule will not be allowed. Only owners or signers of an account may have access to those accounts through online banking.

21. Business Accounts Additional Provisions.

(a) The Accountholder (You). You are a business organization. As such, you act through one or more authorized persons. You represent and warrant to the Bank that: (1) You are duly organized, validly existing, in good standing, and qualified to do business wherever qualification is required, (2) the execution, delivery, and performance of this Agreement have been duly authorized by all necessary corporate and other action on your behalf, (3) this Agreement represents the legal, valid, and binding agreement of You, enforceable in accordance with its terms (except as the same may be altered or affected by laws of bankruptcy, insolvency, and creditor's rights generally or by general principles of equity) and, (4) this Agreement does not conflict with the articles, agreements, regulations, or other constitutive documents of You or any other agreement or legal requirement to which You are subject.

(b) Owners, Authorized Representatives and Delegates. By accessing any Online Banking Services provided hereby, you agree that you have the right to provide us with instructions, make any decision, obtain any information or make any request associated with the

Account(s) and related Online Banking Services which are the subject hereof. You further agree that each of your authorized representatives, as designated to us in writing, will be acting as your agent and will be bound by this Agreement and any separate agreement governing the Account(s). All transactions that an authorized representative performs on an Account(s) or through the Online Banking Services, including those you did not want or intend, are transactions authorized by you. You are solely responsible for those transactions, and we are not responsible for them.

If you make a person an authorized signer on an Account, we may in our discretion treat that authorized signer as an authorized representative for purposes of access, use and modification of the Online Banking Services. If you notify us that an authorized representative is no longer authorized, only transactions that you did not want or intend and that the authorized representative performs after you notify us, and we have a reasonable opportunity to act on the notice, will be considered unauthorized.

For business accounts, the owner of the Account may manage the authority of your authorized representatives through the Website. The owner of the Account who initially enrolls in the Online Banking Services will be designated as the Administrator of the Account(s) and will have full access to all of the features and benefits of Online Banking Services. We offer the ability to create multiple Login IDs and passwords for various persons within your organization to have access to your Account(s) through the Online Banking Services, each with the access level you designate. In some circumstances, we also permit you to link other business accounts you own or control. Multiple Login IDs and linking Accounts are discussed below.

An authorized representative acting within the authority established using the Website will be called a "Delegate" throughout this Agreement. You agree that you, and not we, are responsible for supervising all of your Delegates and monitoring the actions they take on your behalf, whether or not we provide tools for managing their authority. All transactions that a Delegate performs on an account within the scope of the authority you grant through the Website, including any transactions you did not want or intend, are transactions authorized by you. You are solely responsible for those transactions, and we are not responsible for them. If you revoke or change the authority of a Delegate using the Website, only transactions that you did not want or intend and that the Delegate performs after you change their authorization, and we have a reasonable opportunity to act on that notice, will be considered unauthorized transactions. To notify us that you want to terminate a Delegate appointment you have made on the Website, you must access the Website using your Login ID and password, select the applicable link to manage access to your accounts on the Account Services page, and follow the directions to delete the Delegate, or you must contact Bank customer service by calling 1-888-902-2552 with your notification to remove the Delegate.

THE BANK WILL HAVE NO LIABILITY TO YOU FOR UNAUTHORIZED PAYMENTS AND TRANSFERS MADE USING THE ACCESS CODES YOU ASSIGN THAT OCCURS BEFORE YOU HAVE NOTIFIED US OF POSSIBLE UNAUTHORIZED USE AND WE HAVE HAD A REASONABLE OPPORTUNITY TO ACT ON THAT NOTICE.

For each Delegate, you may designate the activity level for each linked account. If you select to enable Bill Pay for a user, that user will automatically have access to all the accounts that you have set up for Bill Pay, and they will be able to pay bills using the Bill Pay feature.

If you have multiple businesses that you are authorized to obtain Online Banking Services for, and want to link the accounts of the other business to the accounts covered by this Agreement,

you will need to agree separately to this Agreement for each of your businesses. Upon doing so, you may link the accounts of the businesses, at your risk and that of the businesses, but not of Bank, so that you and any Delegate of any of the businesses may use a common Login ID and access code for the Online Banking Services for all linked accounts. This can only be done if you are authorized to link the accounts of the different business and use all the functions of Online Banking Services for each business. You further agree to inform the bank if the authority over any linked account of any authorized agents or employees given access to the account through Business Internet Banking Services decreases or otherwise changes in any manner. Bank is not liable if your authority over any account decreases until you inform us of the change by notifying us at 1-888-902-2552 or at American Bank of Commerce, P.O. Drawer 9, Wolfforth, Texas 79382, and only after we have had a reasonable time to act on such notification.

You are responsible for ensuring that each Delegate maintains the confidentiality of his or her Login ID, password, or other Login Identification.

You agree that each Delegate will access and use each Account, and Online Banking Services, in accordance with the authority given to the Delegate by the delegating owner. Each time the Delegate accesses, views, or transacts on an Account or through Online Banking Services, you represent and warrant to us that the Delegate's action is authorized by the delegating Owner. If we receive conflicting instructions, or if we believe that an Account's security or our security may be at risk as a result of a Delegate, we may at our sole discretion terminate the Delegate's access to the Service, an Account, or the Online Banking Service, or prevent the individual from being a Delegate, without prior notice to you or any account Owner.

The authority of a Delegate will terminate: (a) when we are notified by an Owner through the appropriate channel that the Delegate's authority is terminated and we have a reasonable opportunity to act on the notice, (b) when we are notified by an Owner that the Owner appointing the Delegate ceases to be an Owner on the Account and we have a reasonable opportunity to act on the notice, (c) in the case of consumer accounts and sole-proprietor business accounts, upon our receiving written notice of the death or incapacity of the delegating Owner from a court of competent jurisdiction or from a source that we consider official and reliable and we have a reasonable opportunity to act on the notice, or (d) at our sole discretion if an Owner or Delegate breaches any provision of this Agreement.

22. Interruptions in Services. Bank may on a regular basis perform maintenance on Bank equipment or Online Banking which may result in interruption of the Online Banking Services. Bank will not incur any liability to you as a result of any such interruptions.

23. No Other Use. You may use the Online Banking Services only for your personal use or for the use of your business, and may not reproduce, sell or distribute all or any portion of the information provided to you by the Online Banking Services.

24. Third-Party Software and Third-Party Content. From time to time, we may offer third-party software tools and products that you may elect to install on your computer (collectively "Third-Party Software"). You are responsible for obtaining a valid and separate license agreement with the provider of the Third-Party Software. From time to time, we may also offer information, commentary, and tools supplied by companies that are not affiliated with us ("Third Party Content"). All of the Third-Party Content on the Website is labeled as such, and may be available either in a frame, via a hyperlink, or simply posted to the Website. We do not own any interest in Third-Party Content. We do not edit, review, or endorse any Third-Party Content. You agree and understand that:

- you assume all risk that any Third-Party Software you download and install, or any information you enter into the Third-Party Software, may be accessed by unauthorized third parties; and
- if you use the Third-Party Software to transmit information, you and the Third-Party-Software provider are responsible for the security and confidentiality of that information.

You agree that any Third-Party Software that you download is done at your own risk and you alone are responsible for any damage that might occur to the computer or other electronic device to which you download any Third-Party Software, or any loss or corruption of data that might occur as a result of the downloading or its installation in a computer or other electronic device.

You also agree that you are solely responsible for acquiring and maintaining a computer or other electronic device that has capabilities of handling and accessing the Third-Party Software, including any necessary equipment such as a modem, and that you are responsible for all costs associated with accessing the Third-Party Software. You also agree that any Third-Party Software you download is provided to you “as is” and “as available” and any Third-Party Content you review or utilize is provided to you “as is.” You agree that we make no warranties and have no liability as to:

- the accuracy, completeness, availability or timeliness of the information, text, graphics, or other items provided, stored, evaluated or processed through the Third-Party Software or Third-Party Content;
- the errors or omissions in the delivery or transmission of the Third-Party Software or Third-Party Content from us to you; and
- the Third-Party Software’s or Third-Party Content’s fitness for a particular purpose and non-infringement of any third-party rights.

You also agree that we will not be liable to you for:

- your inability to use the Third-Party Software;
- the accuracy, timeliness, loss or corruption, or misdelivery, of any Account information or any other information processed by the Third-Party Software; or
- unauthorized access to your Accounts or to your account information and any misappropriation, or alteration, of your account information or data as a result of your installation or use of the Third-Party Software.

25. DISCLAIMER OF WARRANTY AND LIMITATION OF LIABILITY.

(a) WE MAKE NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING ANY BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD-PARTY PROPRIETARY RIGHTS, IN CONNECTION WITH THE ONLINE BANKING SERVICES PROVIDED TO YOU UNDER THIS AGREEMENT.

(b) Bank agrees to make reasonable efforts to ensure full performance of the Online Banking Services. Bank will be responsible for acting only on those instructions sent through the Online Banking Services which are actually received and cannot assume responsibility for malfunctions in communications facilities not under its control that may affect the accuracy or timeliness of messages you send. Bank is not responsible for any losses or delays in transmission of instructions arising out of the use of any Internet Service Provider or caused by any browser software. Any information you receive from Bank can only be provided on a best efforts basis for your convenience and is not guaranteed. Bank is not liable for any deficiencies in the accuracy, completeness, availability or timeliness of such information or for any investment or other decision made using this information. Bank is not responsible for any computer virus or related problems which may be attributable to the Online Banking Services or to any services provided by any Internet Services Provider. In the absence of negligence on the part of Bank, none of Bank, any of its affiliates or any of their respective officers, directors, employees or agents, is responsible for any direct, indirect, special, incidental or consequential damages arising in any way out of the use of the Online Banking Services. Because some states do not allow the exclusion of limitation of liability for consequential or incidental damages, in such states the liability of the foregoing entities and individuals is limited to the extent permitted by law. With respect to Bill Pay, Bank has no duty to monitor the payments that are made through the Service. If you are a business and an authorized representative of yours uses your Bill Pay Account to pay bills which are not yours, you assume the entire risk of loss and indemnify and hold us, our directors, officers, employees and agents harmless from all loss, liability, claims, demands, judgments and expenses arising out of or in any way connected with such use.

(c) With respect to business Accounts and use of the Online Banking Services, if we fail or delay in making a transfer pursuant to your instructions, or if we make a transfer in an erroneous amount which is less than the amount per your instructions, unless otherwise required by law, our liability shall be limited to interest on the amount which we failed to timely transfer, calculated from the date on which the transfer was to be made until the date it was actually made or you canceled the instructions. We may pay such interest either to you or the intended recipient of the transfer, but in no event will we be liable to both parties, and our payment to either party will fully discharge any obligation to the other. If we make a transfer in an erroneous amount which exceeds the amount per your instructions, or if we permit an unauthorized transfer after we have had a reasonable time to act on a notice from you of possible unauthorized use as described above, unless otherwise required by law our liability will be limited to a refund of the amount erroneously paid or transferred, plus interest thereon from the date of the payment or transfer to the date of the refund, but in no event to exceed 60 days' interest. If we become liable to you for interest compensation under this Agreement or applicable law, such interest shall be calculated based on the average federal funds rate at the Federal Reserve Bank in the district where the Bank is headquartered for each day interest is due, computed on the basis of a 360-day year. UNLESS OTHERWISE REQUIRED BY LAW, IN NO EVENT WILL BANK, ITS AFFILIATES, AND OUR AND THEIR RESPECTIVE THIRD-PARTY PROVIDERS, PARTNERS, LICENSORS, EMPLOYEES, DISTRIBUTORS AND AGENTS BE LIABLE TO YOU FOR INCIDENTAL, INDIRECT, DIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, HOWEVER CAUSED AND WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR ATTORNEYS' FEES, EVEN IF WE ARE ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES, DAMAGES FOR TELECOMMUNICATION FAILURES, LOSS, CORRUPTION, SECURITY OR THEFT OF DATA, VIRUSES, SPYWARE, LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR LOSS OF PRIVACY ARISING IN CONNECTION WITH YOUR USE OF THE SITE; ANY ACT OR OMISSION BY US IN ADMINISTERING THE SITE; OR THE PURCHASE OR USE OF ANY

GOODS OF MERCHANTS OR SUPPLIERS THROUGH THE SITE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, CLAIMS, OR LOSSES AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

(d) THE LIMITATIONS OF DAMAGES SET FORTH HEREIN ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE AGREEMENT BETWEEN BANK AND YOU. BANK WOULD NOT BE ABLE TO PROVIDE THE ONLINE BANKING SERVICES WITHOUT SUCH LIMITATIONS.

(e) WE DO NOT AND CANNOT WARRANT THAT ONLINE BANKING WILL OPERATE WITHOUT ERRORS OR THAT ANY OR ALL ONLINE BANKING SERVICES WILL BE AVAILABLE AND OPERATIONAL AT ALL TIMES. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, OR OTHERWISE REQUIRED BY LAW, YOU AGREE THAT OUR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR CONTRACTORS ARE NOT LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES UNDER OR BY REASON OF ANY SERVICES OR PRODUCTS PROVIDED UNDER THIS AGREEMENT OR BY REASON OF YOUR USE OF OR ACCESS TO ONLINE BANKING, INCLUDING LOSS OF PROFITS, REVENUE, DATA OR USE BY YOU OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT OR BASED ON WARRANTY. FURTHER, IN NO EVENT SHALL THE LIABILITY OF BANK AND ITS AFFILIATES EXCEED THE AMOUNTS PAID BY YOU FOR THE SERVICES PROVIDED TO YOU THROUGH ONLINE BANKING.

26. Indemnification. You agree, at your expense, to defend, indemnify, hold harmless, protect and fully compensate Bank, its affiliates, and their respective officers, directors, employees, consultants, agents, distributors, partners, licensors and third-party providers from any and all claims, liability, damages, losses, expenses and costs (including attorneys' fees) caused by or arising from (a) a third-party claim, action or allegation of infringement based on your use of the Online Banking Services, or information, data, files or other content you submitted or uploaded; (b) any fraud, manipulation, or other violation of law by you; (c) a breach of this Agreement by you; (d) your acts or omissions; or (e) any third-party claim, action or allegation brought against Bank arising out of or relating to a dispute between its users over the terms and conditions of a contract or related to the purchase and sale of any Online Banking Services. For the avoidance of doubt, if you are a business entity, your obligations hereunder shall extend to indemnification based on the acts and omissions of your employees, consultants and agents.

27. Your Right to Terminate. You may cancel your Online Banking Service at any time by providing us with written notice by postal mail or e-mail promptly confirmed in writing. Your access to Online Banking will be suspended within 1 Business Day of our receipt of your instructions to cancel the service. You will remain responsible for all outstanding fees and charges incurred prior to the date of cancellation. All transfers and other transactions which have already been initiated will be concluded in accordance with this Agreement. We recommend that you cancel any scheduled payments prior to notifying us that you are discontinuing the service.

28. Our Right to Terminate. You agree that we can terminate or limit your access to Online Banking Services for any of the following reasons without prior notice:

- If you have insufficient funds in any one of your Bank accounts. (Online Banking Service may be reinstated, at our sole discretion, once sufficient funds are available to cover any fees, pending transfers and debits.)

- Upon 3 Business Days' notice, if you do not contact us to designate a new Primary Checking Account immediately after you close your Primary Checking Account.
- Upon reasonable notice, for any other reason at our sole discretion.

29. Communications between the Bank and You. Unless this Agreement provides otherwise, you can communicate with us in any one of the following ways:

- Secure e-mail when you are signed in to your Online Banking account.
- E-mail – You can contact us by e-mail at; onlinebanking@theabcbank.com
- Telephone – You can contact us by telephone at:
- 1-888-902-2552
- (Mail – You can write us at: American Bank of Commerce, Attn: Online Banking, PO Drawer 9, Wolfforth, TX 79382

As provided for herein, we may require written confirmation of telephone or e-mail communications but our failure to require such written communication shall in no way serve to limit our right to rely on telephonic or e-mail communications.

30. Assignment. You may not assign all or any part of your rights or obligations under the Agreement without Bank's prior express written consent, which may be withheld in the Bank's sole discretion. Bank may assign or delegate all or any part of its rights or obligations under the Agreement, including, without limitation, the performance of the Services described herein. The Agreement will be binding on and inure to the benefit of the successors and permitted assigns of either party.

31. No Third-party Beneficiaries. This Agreement is for your and Bank's benefit and is not intended to grant, and shall not be construed as granting, any rights to or otherwise benefiting any other person, except as expressly otherwise provided for in the Agreement.

32. Amendment. The Bank has the right to change this Agreement at any time by notice mailed to you at the last address shown for the Designated Transaction Account on the Bank's records, by posting notice in the Bank's branch locations, or as otherwise permitted by law.

33. No Waiver. The Bank shall not be deemed to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Bank. No delay or omission on the part of the Bank in exercising any rights or remedies shall operate as a waiver of such rights or remedies or any other rights or remedies. A waiver on any one occasion shall not be construed as a bar or waiver of any rights or remedies on future occasions.

34. Headings. The headings of sections herein are for convenience only and shall not control or affect the meaning or construction of any of the provisions for this Agreement.

35. Notification. All notices to be delivered by you to Bank pursuant to the Agreement can be made to the mailing address or e-mail address indicated below, as applicable pursuant to the terms of the Agreement and the requirements of the notice.

Bank's mailing address: American Bank of Commerce
P.O. Drawer 9
Wolfforth, TX 79382
Email: Virtualbanking@theabcbank.com

36. Compliance with Laws. Bank and you each agree to comply with provisions of all applicable federal, state, county or municipal laws, regulations and ordinances, and shall be responsible for obtaining any and all authorizations from any applicable governmental authority that may be required for the party to perform hereunder. Furthermore, both parties agree to comply with applicable federal and state privacy laws and anti-money laundering laws. You agree that you shall not use the Services in any manner that is designed or has the effect of violating or evading any laws with regards to currency controls, money laundering, or banking secrecy. You represent and warrant that (a) you are not located in a country that is subject to a U.S. government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country, and (b) that you are not listed on any U.S. Government list of prohibited or restricted parties, such as the U.S. Department of Treasury's Office of Foreign Asset Control's Specially Designated Nationals List.

37. Governing Law; Venue. Bank and you agree that any controversy or claim between Bank and you, or between you and any of the officers, employees, agents, or affiliated companies of Bank, arising out of or relating to the Agreement, any of the transactions contemplated under the Agreement, any of the Services provided pursuant to the Agreement, any of the discussions or negotiations leading up to the making of the Agreement, or any relationship that results from any of the foregoing, whether based in contract, or an alleged tort, or on any other legal theory, and whether asserted as an original or amended claim, counterclaim, cross claim, or otherwise, shall be governed by federal law and all applicable substantive laws of the State of Texas (without regard to its conflict of laws principles). In addition, Bank is subject to certain federal and state regulations, as well as national and local clearing house rules regarding some of the matters addressed in this Agreement, and Bank must comply with these laws, regulations and rules. You agree that if there is any inconsistency between the terms of this Agreement and any applicable law, regulation or rule, the terms of this Agreement will prevail to the extent any such law, regulation or rule may be modified by agreement. You agree that venue for any controversy or claim arising out of or relating to the Services described herein specifically or described in the service documentation generally shall be in Lubbock County, Texas and the laws of the State of Texas shall apply.

38. Other Agreements; Severability; Construction. If any provision of this Agreement or of any writing used in connection with this Agreement is unlawful or unenforceable, each such provision or writing will be without force and effect without thereby affecting any other provision hereof. No waiver of the provisions herein shall be effective unless in writing and signed by the party to be charged with such waiver. No waiver shall be deemed a continuing waiver unless expressly so stated in writing. The headings in this Agreement are for convenience or reference only and will not govern the interpretation of the provisions. Unless it would be inconsistent to do so, words and phrases used in the Agreement should be construed so the singular includes the plural and the plural includes the singular. In addition, any dispute arising from or related to your accounts with the Bank or the Services provided hereunder shall be governed by applicable federal laws and regulations and general commercial bank practices applicable to accounts such as those held by you and Services such as those offered hereunder. Any provision that by its terms or operation is designed to survive termination, expiration or cancellation of these Services shall so survive.

39. Miscellaneous. This Agreement is binding upon your successors and assigns and Bank's successors and assigns. Termination, cancellation or expiration of this Agreement shall in no way affect any obligations imposed on you by other agreements with us. Furthermore, you shall remain obligated under the Fees and Charges section of this Agreement to pay for services rendered, including the payment of the full monthly fee for the month in which termination, cancellation or expiration of the Agreement occurs. **THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN YOU AND THE BANK WITH RESPECT TO THE SUBJECT MATTER HEREOF AND THERE ARE NO UNDERSTANDINGS OR AGREEMENTS RELATIVE HERETO WHICH ARE NOT FULLY EXPRESSED HEREIN.**