



Tejas Bank Mobile Banking Service Agreement

The Tejas Bank Mobile Banking Service ("Mobile Banking Service" or "Service") is provided to you by Tejas Bank ("Bank," "we," and "us"). This Mobile Banking Service Agreement ("Agreement") sets forth the terms and conditions for use of the Mobile Banking Service. By clicking the "I Agree" button below, you agree to all the terms, conditions, and notices contained or referenced in this Agreement. You must enroll in the Internet Banking Service and execute the Internet Banking Agreement before you can enroll in the Mobile Banking Service. The Internet Banking Agreement is hereby incorporated by reference and is made a part of this Agreement. Access to and use of the Mobile Banking Service is subject to all applicable federal, state, and local laws and regulations.

1. DESCRIPTION OF THE MOBILE BANKING SERVICE. Unless your cellular phone is limited to texting, Mobile Banking Service refers generally to any service allowing an existing Bank customer to access and view accounts, including checking, certificates-of-deposit, money markets, loans, and lines-of-credit, selected by the customer ("Accounts") from a web-enabled mobile phone or device ("Mobile Device") whose network allows secure SSL traffic and supports WAP browsers. The services available to the text-enabled cellular phone are limited as further described in this Agreement. We do not guarantee the functionality of the Service on all wireless devices; however, generally, the Service should be compatible with any web-enabled mobile phone or other Mobile Device, regardless of make, model, or mobile service provider. This proprietary solution adapts to any screen size and can change dynamically to present items on any screen in a pleasing format. The Mobile Banking Service allows you to view transaction history, view Account balances, view account transaction history, transfer funds between Accounts, pay bills to payees and view alerts. This Agreement supplements but does not replace your Deposit Account Agreement and Internet Banking Agreement. In the event of an inconsistency between the terms of the Deposit Account Agreement or the Internet Banking Agreement and this Agreement, this Agreement shall govern. Undefined terms herein shall have the meaning assigned to them in the Deposit Account Agreement or the Internet Banking Agreement, as applicable.

In most cases you may use the Service to gain access to deposit accounts in which you have an unrestricted right to withdraw funds. However, the Bank, as it may determine at any time and from time to time in its sole discretion, may deny Service account access, restrict Service account transactions, or place limits on the specific dollar amount of funds that may be withdrawn or transferred from any account.

You acknowledge and agree that these services may be provided by an independent third party service provider ("Vendor") as selected by Bank, and that both the Vendor and the Service are subject to change from time to time without notice to you. You further acknowledge, agree, and stipulate that the Vendor is an independent contractor providing software and data transmission services and is not the agent of you or the Bank. Neither the Bank nor the Vendor is responsible for the actions or omissions of the other.

2. SERVICE INCLUDED.

- Use of the Service requires a web-enabled Mobile Device or a cellular phone that is text-enabled.
- The text-enabled cellular phone service ("SMS Texting") is limited to making a balance inquiry, viewing transaction history on the account, and view alerts. Text messages are sent to you without being encrypted thus you assume all the risk associated with third party interception. With the exception of the text-enabled cellular phone, the Service is similar to internet banking on a personal computer. You can view your available account balance and review account history on the Account selected by you.
- The Service allows you to transfer money between your accounts. You must select the accounts to and from which funds will be transferred through the use of the Internet Banking service, and you will receive a confirmation when the transaction is completed. Frequency and amount limitations of transfers are set forth below.



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- If you have signed up for our Internet Banking Bill Pay Service, the Service allows you to pay bills to payees. A confirmation message and number will be displayed after the bill payment is complete. The payees must be set up through the Internet Banking Service. A new payee cannot be set up on the Internet Banking Bill Pay Service through your Mobile Device.
- If you have Alerts on your account, you may review the Alerts with the Service. New Alerts cannot be set up using this service and must be set up through the use of the Internet Banking Service.
- From time to time, we may develop additional mobile banking services. As such services are developed you will have the opportunity to add them to your Mobile Banking Service, provided you have compatible wireless hardware and software.

3. ELIGIBILITY/HOW TO REGISTER FOR MOBILE BANKING SERVICE. To use the Service, you must have an open account at the Bank, register for Internet Banking, and have a compatible Mobile Device. During the registration process, you will enter your mobile phone number as well as other information required to authenticate your identity. After you have accepted these Terms and Conditions and clicked "Continue", you will receive a SMS Text Message to your Mobile Device acknowledging that you have registered for this Service. After you receive the SMS Text Message, you will be provided with further instructions on how to access the Service using the browser on your Mobile Device as well as how to receive account balance information using SMS Texting. During this registration process, you will be required to provide your Internet Banking identification credentials ("Internet Banking ID" and "Password") that you must use each time you access the Service.

4. SECURITY PROCEDURE. The use of the Access Code and your Mobile Device is a security procedure established by Bank to authenticate the identity of the person attempting to gain access to the Service. The security procedure is not designed for the detection of errors and we make no representation or warranty as to the security of the information. We may require you to change your Access Code from time to time for security reasons. You should keep your Access Code in a secure location. Any person having access to your Access Code will be able to access these Services and perform all transactions, including reviewing Account information and using the Bill Pay Services. With this Access Code, a third party will be able to use your Internet Banking Service to add new payees to the Bill Pay Service. **YOU ARE RESPONSIBLE FOR SAFEGUARDING THE ACCESS CODES AND YOUR MOBILE DEVICE. PROVIDING THESE ACCESS CODES TO ANOTHER PERSON EFFECTIVELY CONSTITUTES A GRANT OF AUTHORITY TO ACCESS YOUR ACCOUNTS UNDER FEDERAL RESERVE BOARD REGULATION E ("REG E").**

(a) You agree to comply with the "Security Procedures" and any other Security Procedures Bank directs you to use, and you acknowledge and agree that the Security Procedures, including (without limitation) any code, password, personal identification number, user identification technology, token, certificate, or other element, means, or method of authentication or identification used in connection with a Security Procedure ("Security Devices"), constitute commercially reasonable security procedures under applicable law for the initiation of transfers and access to confidential customer information. You authorize us to follow any and all instructions entered and transactions initiated using applicable Security Procedures unless and until you have notified us, according to notification procedures prescribed by us, that the Security Procedures or any Security Device has been stolen, compromised, or otherwise become known to persons other than you or your representative(s) and until we have had a reasonable opportunity to act upon such notice. You agree that the initiation of a transaction using applicable Security Procedures constitutes sufficient authorization for Bank to execute such transaction notwithstanding any particular signature requirements identified on any signature card or other documents relating to your deposit account maintained with Bank, and you agree and intend that the submission of transactions and instructions using the Security Procedures shall be considered the same as your written signature in authorizing us to execute such transaction. You acknowledge and agree that you shall be bound by any and all transactions initiated through the use of such Security Procedures, whether authorized or unauthorized, and by any and all transactions and activity otherwise initiated by you, to the fullest extent allowed by law. You further acknowledge and agree that the Security Procedures are



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not designed to detect error in the transmission or content of communications or transaction initiated by you and that you bear the sole responsibility for detecting and preventing such error.

(b) You agree to keep all Security Procedures and Security Devices protected, secure, and strictly confidential and to provide or make available the same only to your authorized representative(s). You agree not to disclose or provide any Security Procedures or Security Devices to any unauthorized person. Where you have the ability to change or modify a Security Device from time to time (e.g., a password or User Name), you agree to change Security Devices frequently in order to ensure the security of the Security Device. You agree to notify us immediately, according to notification procedures prescribed by us, if you believe that any Security Procedures or Security Device have been stolen, compromised, or otherwise become known to persons other than you or your authorized representative(s) or if you believe that any transaction or activity is unauthorized or in error. In the event of any actual or threatened breach of security, we may issue you a new Security Device or establish new Security Procedures as soon as reasonably practicable, but we shall not be liable to you or any third party for any delay in taking such actions.

(c) We reserve the right to modify, amend, supplement, or cancel any or all Security Procedures, and/or to cancel or replace any Security Device, at any time and from time to time in our discretion. We will endeavor to give you reasonable notice of any change in Security Procedures; provided that we may make any change in Security Procedures without advance notice to you if we, in our judgment and discretion, believe such change to be necessary or desirable to protect the security of our systems and assets. Your implementation and use of any changed Security Procedures after any change in Security Procedures shall constitute your agreement to the change and your agreement that the applicable Security Procedures, as changed, are commercially reasonable and adequate for the purposes intended.

5. AVAILABILITY OF SERVICE. We will use reasonable efforts to make the Service available for your use on a continuous basis. The Service may be unavailable for short periods of time for regular or emergency system maintenance. We will endeavor to have our scheduled maintenance occur during non-peak hours. In addition, accessibility to the Service may be interrupted because of conditions beyond our control, including outages in Internet, cellular or other communications availability. We will use diligent efforts to re-establish the Services as promptly as possible. We do not promise the Service will always be available for your use. We may elect to discontinue this Service at any time. If we choose to discontinue the Service, we will provide you with reasonable notice in advance of that fact. We reserve the right at all times to take actions to protect our systems and information, including denial of access to users of the Service.

6. PHYSICAL AND ELECTRONIC SECURITY. Because the Mobile Banking Service is similar to Internet Banking on a personal computer, there are security risks associated with the use of the Service. The hardware and software that you use in connection with the Service may be subject to unauthorized tracking or other manipulation by spyware or other malicious code. We are not responsible for advising you of the existence or potential effect of such malicious code, and your use of your hardware and software is at your own risk. We will use commercially reasonable efforts to secure the Service to prevent access by unauthorized persons and to prevent the introduction of any malicious code, such as a computer virus. However, no security system is failsafe, and despite our efforts the security of the Service could be compromised or malicious code could be introduced by third parties. We will provide you with notice if your information is the subject of a security breach as required by applicable law.

You acknowledge and agree that it is your responsibility to protect yourself and to be vigilant against e-mail and/or text messaging fraud and other internet frauds and schemes (including, without limitation, fraud commonly referred to as "phishing" or "pharming"). You acknowledge that, other than at the time you are registering for this Service, the Bank will never contact you by e-mail or text message in order to ask for or to verify Account numbers, Security Devices, or any sensitive or confidential information, and will never provide links to websites in e-mails or text messages that the Bank



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transmits to you. In the event you receive an e-mail, text message, or other electronic communication that you believe, or have reason to believe, is fraudulent, you agree that you shall not respond to the communication, provide any information to the sender of the communication, click on any links in the communication, or otherwise comply with any instructions in the communication. To the extent allowed by law, you agree that the Bank is not responsible for any losses, injuries, or harm incurred by you as a result of any electronic, e-mail, text message or internet fraud.

7. ACCOUNT ACCESS. Transfers and Payments from your Account initiated via the Mobile Banking Service will be deducted on the day you initiate them. If the day you initiate a Transfer or Payment falls on a weekend or holiday, we will process your transaction the next Transfer Day. We may refuse to act on your Transfer instructions or Payment request if sufficient funds are not available in your Account on the date you want us to make the Transfer or Payment.

8. PROCESSING INTERNAL FUND TRANSFERS. We can process a Transfer until 6:00 p.m. CST on a Transfer Day. If you initiate a Transfer after the cutoff time, the Transfer will be reflected in your account and available for your use at the time the Transfer is initiated, but it will be processed the following Business Day. You are fully obligated to us to provide sufficient funds for any payments or transfers you make or authorize to be made. If we complete a payment or transfer that you make or authorize and we subsequently learn that you have insufficient funds for the transaction, you agree that we may reverse the transaction or offset the shortage with funds from any other deposit account(s) you have with us to the extent permissible by the applicable law and the terms of any other relevant agreements.

If there are insufficient funds in your Account to make a Transfer or Payment, we may refuse to make the Transfer or Payment or we may make the Transfer or Payment and overdraw your Account. In either event, you are responsible for any non-sufficient funds ("NSF") charges that may apply.

9. CANCELLING TRANSFERS OR PAYMENTS. You may cancel a pending Transfer or Payment transaction. However, to do so, you must use the Internet Banking Service and we must receive your instruction to cancel prior to the cutoff time on the Transfer Day or Business Day the transaction is scheduled to be processed. If we don't receive your instruction to cancel a transaction before that time, we may process the transaction and shall not be liable to you or any third party for any harm suffered as a result.

10. TRANSFERS FROM MONEY MARKET DEPOSIT ACCOUNTS. Federal regulations require us to limit, either by contract or in practice, the number of certain types of transfers from money market deposit accounts. You are limited to six (6) preauthorized electronic fund transfers per calendar month. Each fund transfer through the Service from your money market deposit account is counted as one of the six (6) transfers permitted each calendar month. However, payments to your loan accounts with us are not counted toward this transfer limit for money market deposit accounts.

11. TRANSFERS FROM SAVINGS ACCOUNTS. Federal regulations also require us to limit, either by contract or in practice, the number of certain types of transfers from savings accounts. You are limited to six (6) preauthorized electronic fund transfers per statement cycle, which is three months. Each fund transfer through the Service from your savings account is counted as one of the six (6) transfers permitted each statement cycle. However, payments to your loan accounts with us are not counted toward this transfer limit for savings accounts.

12. BILL PAYMENT SERVICE AND TRANSFERS. If you have signed up for our Online Bill Payment Service, you can use this Service to initiate one-time immediate bill payments, which will be processed during the next bill pay processing time. You cannot use this Mobile Banking Service to set up new payees. You must use the Online Bill Payment Service to set up new payees. The Bank reserves the right to decline to make Payments to certain persons and entities. You agree that any Payment for taxes, Payments that are court-ordered, government payments and Payments outside of the United States are



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prohibited and you agree that you will not attempt to use the Service to make these types of Payments. You may not schedule Payments or create a new Payee through this Mobile Banking Service. Please refer to your Internet Banking Service Agreement for the procedures that must be followed to perform these functions.

Payments are posted against your ledger balance, plus if any, other line of credit.

For all Payments, you agree to allow at least five (5) Business Days for a Check Payment and at least two (2) Business Days for an Electronic Payment between the date you initiate a Payment and the Payment due date (that is, the due date shown on your invoice or provided in your agreement with the payee, not taking into account any applicable grace period). If you fail to allow the prescribed number of days, you will be fully responsible for all late fees, finance charges or other actions taken by the Payee. If you initiate your Payment and follow all instructions provided, and the Payment is not received by the Payee in a timely manner, a representative of Bank will work with the Payee on your behalf to have any late fees or charges reversed.

When you initiate a Bill Payment that will be made by check, you authorize us to issue a check drawn on your qualified designated checking account for the requested amount. If sufficient funds are not available in your designated account when the check is presented for payment, we may refuse to honor the check and return it unpaid. At our sole discretion, we may elect to pay the check regardless of the insufficient funds. In either event, your qualified designated account will be charged our then current fee for processing insufficient items, whether the check is paid or returned, as applicable. You are responsible for any loss or penalty that you may incur due to a lack of sufficient funds or other conditions that may prevent the withdrawal of funds from your account.

If a Payment is to be made electronically and your Account does not have sufficient funds to make a Payment as of the date the Payment is attempted to be made, the Payment will continue to attempt to be paid until sufficient funds are in the account to satisfy the Payment or until the account is closed. If your Account does not have sufficient funds to make a Transfer at the time a Transfer is attempted to be made, the Transfer will not be made and you will receive a message that states "ERROR Funds unavailable to complete transfer." Bank shall have no obligation or liability if it does not complete a Transfer or Payment because there are insufficient funds in your account to process a transaction. In all cases, you are responsible for either making alternate arrangements for the Payment or rescheduling the Payment through the Service.

Recurring Payments and Transfers cannot be made through this Service. One-time Payments do not reoccur, are not made until you enter the Payee and amount of the current bill and submit the Payment. A stop payment cannot be placed on an Electronic Bill Payment transaction once issued and the Payment cannot be cancelled. However, a stop payment can be placed on a Bill Payment transaction by Bill Payment check any time prior to the check being presented for final payment subject to the completion of a Stop Payment Request.

In the event a Payment is returned to us for any reason, you authorize us, in our sole and absolute discretion, to either research and correct the Payment information or to void the Payment and re-credit your Account.

In order for the Bill Payment Service to remain in active status, you must pay a bill at least once every two (2) months.

13. CONFIRMATION NUMBERS. Upon completion of a Transfer or Payment, a confirmation message will be displayed on your Mobile Device confirming that the transaction has been completed. If Alerts have been enabled, an SMS Text message will be sent to confirm the Transfer or Payment. You should record the Payee information (if applicable), the date of the Transfer or Payment, and the amount of the Transfer or Payment, in your checkbook/transaction register or other permanent record. This procedure will help in resolving any problems that may occur. No printed receipts are issued through the Service.



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14. LIMITATIONS. Your use of the Service is subject to the following limitations:

(a) **DOLLAR AMOUNT.** There may be a limit on the dollar amount of the transactions you can make using the Service. Security reasons limit the dollar amount of transactions and these limits are subject to change from time to time. Payment can only be made with U.S. currency.

(b) **FREQUENCY.** In addition to the Federal banking regulations that restrict the number of transfers and withdrawals, there may be limits on the number of transactions you can make using the Service. These limits are for security reasons and are subject to change.

(c) **FOREIGN TRANSACTIONS.** No Payments may be made to Payees outside the United States. Additional limitations may be contained in this Agreement. Your ability to initiate transactions may also be limited by the terms of other agreements you have with the Bank or by applicable law.

15. SMS TEXTING SERVICE. The Mobile Banking Services enables you to access your Account(s) through an SMS text enabled Mobile Device. By activating/registering your Mobile Devices for this service, you agree to receive and send electronic text messages about your Accounts. Bank will send text messages to you based upon the instructions you provide at the time of the SMS request that you send. You hereby acknowledge and accept that each message is sent to you without being encrypted and will include certain information requested on your Account(s).

You may request and receive text messages concerning your accounts on any text enabled Mobile Device. It is your responsibility to determine if your wireless carrier provider supports text messages and your Mobile Device is capable of receiving text messages. Bank's SMS messages are subject to the terms and conditions of your agreement(s) with your wireless carrier provider and you acknowledge that your use of the SMS service may result in additional or changed fees by your mobile device carrier. Once you activate your Mobile Device for this Service, YOU are solely responsible for keeping any personal information in your Mobile Device secure. For your protection, you agree to:

- Log in to Internet Banking and cancel SMS Texting if you or your wireless carrier provider cancel your service.
- Log in to Internet Banking and cancel SMS Texting if your Mobile Device is lost or stolen
- Contact Bank if your Mobile Device is lost or stolen.
- Log in to Internet Banking and cancel or edit SMS Texting if there are changes to your wireless carrier provider or Mobile Device number (cell phone number).
- Erase your "Sent Message" and "Inbox" that may contain your SMS PIN number or other personal information.

You acknowledge, agree and understand that your receipt of any SMS messages may be delayed or prevented by factor(s) affecting your wireless carrier provider and/or other factors outside our control. We neither guarantee the delivery nor the accuracy of the contents of any message(s). You agree to the terms of the indemnification clause as specified on the Internet Banking Agreement. You also agree not to hold the Bank liable for any losses, damages or costs that may arise in whole or in part, from:

- Non-delivery, delayed delivery, or the misdirected delivery of any message; or
- Inaccurate or incomplete content in any message; or
- Your reliance on or use of the information provided in any SMS service message for any purpose.

The Bank provides this service as a convenience to its customers. The Bank does not use text messages for any purpose not included in this Agreement and will not respond to text messages sent to us that do not comply with appropriate action codes. A SMS message does not constitute an official record for the Account to which it pertains. Bank reserves the right to terminate this service or begin charging a fee for this service at any time without prior notice to you, except where required



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by law. All provisions of any agreements or disclosures previously made pertaining to your Account(s) remain in effect and are not superseded or amended by this Agreement.

16. NO FEES TO ACCESS MOBILE BANKING SERVICE. There is no fee or charge assessed by us for you to register for or access the Mobile Banking Service. (We may assess fees or charges in the future; you will receive notice of such fees or charges, as required by law.) You may, however, incur charges to receive Internet service on your Mobile Device. You may also incur charges from your wireless carrier when sending and receiving text messages. You will be responsible to your wireless carrier for any such Internet or text messaging charges.

17. PRIVACY AND SOLICITATION. The Bank is committed to protecting your privacy. All information gathered from you in connection with using the Mobile Banking Service will be governed by the provisions of the Your Financial Institution Privacy Policy (the "Privacy Policy"), which is incorporated herein by reference, and the receipt of which you acknowledge as part of your acceptance of this Agreement. Upon enrollment, you are also providing your express prior consent permitting us to contact you for fraud prevention, servicing, telemarketing purposes, or other purposes as provided in the Privacy Policy.

18. EXPORT CONTROL & INTERNATIONAL USE. The United States controls the export of products and information containing encryption ("Controlled Technology"). You agree to comply with such restrictions and not to export or re-export any Controlled Technology within the Service to countries or persons prohibited under the Export Administration Regulations ("EAR"). By downloading any products or information from this Service, you are agreeing that you are not in a country where such export is prohibited and that you are not a person or entity to which such export is prohibited.

You are responsible for compliance with the laws of your local jurisdiction regarding the import, export, or re-export of any products or information subject to the EAR. We do not make any representation that any content or use of the Service is appropriate or available for use in locations outside of the United States. Accessing the Service from locations where its contents or use is illegal is prohibited by the Bank. Those choosing to access the Service from locations outside the United States do so at their own risk and are responsible for compliance with local laws.

19. PROPRIETARY RIGHTS. Other than your materials and account information, all content received on the Mobile Banking Service is the exclusive property of Tejas Bank and/or its licensors and is protected by copyrights or other intellectual property rights.

20. YOUR RESPONSIBILITIES.

(a) **PROVIDING HONEST AND ACCURATE INFORMATION UPON REGISTRATION.** You agree to provide true, accurate, current, and complete information about yourself as requested in registering for the Service, and you agree to not misrepresent your identity.

(b) **NO ILLEGAL USE OF THE MOBILE BANKING SERVICE.** You agree not to use the Service to conduct any business or activity or solicit the performance of any activity that is prohibited by law or any contractual provision by which you are bound with any person. You agree to comply with all applicable laws, rules, and regulations in connection with the Service. You certify that you are 18 years of age or older or otherwise able lawfully to enter into contracts under applicable law.

(c) **PROMPT NOTIFICATION OF THEFT OR DESTRUCTION OF EQUIPMENT.** You agree to notify us in a timely manner in the event you lose, change, or destroy the device whose phone number is registered with the Mobile Banking Service.

(d) **NAMING OF ACCOUNTS.** You agree not to use any personally-identifiable information when providing shortcuts or creating nicknames to your Accounts.

(e) **DUTY TO INSPECT.** You shall inspect all transaction history, reports, journals, and other material evidencing the output of the service(s) performed by Bank. You must report all errors to the Bank for services performed and indicated in the



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transaction history, reports, journals, and other material evidencing the output of the service(s) or otherwise reported to you daily by the close of business on the banking day following the day on which the Service(s) is rendered. You must report all other errors within a reasonable time not to exceed sixty (60) days from the date that the error is made. Failure of you to promptly report errors within such specified time shall preclude you from asserting against the Bank any claims arising from the error or any loss caused by the error.

21. THE BANK'S RESPONSIBILITIES. Bank agrees to use ordinary care in rendering Services under this Agreement. You recognize and agree that ordinary care does not mean error free. You agree to pay all attorneys' fees, costs and expenses Bank may incur in collecting any sums you owe to Bank for overdrafts, service charges or otherwise in enforcing any rights Bank may have under the terms of this Agreement or applicable law, rule or regulation applicable to your account(s) or the Services rendered by Bank under this Agreement. You also agree to pay all attorneys' fees, costs and expenses that Bank may incur as the result of defending any claim or action made against Bank by you, or on your behalf where Bank is found not to be liable for such claim. In no event shall Bank be liable to you for attorneys' fees incurred by you in any action brought by you against Bank.

Our sole responsibility for an error in a transfer will be to correct the error. Without limiting the generality of the forgoing, we will not be responsible for the following matters, or for errors or failures of our Services as result of:

(a) **ACCESS.** We will not be liable under this Agreement for failure to provide access or for interruptions in access to our Services due to a system failure or due to other unforeseen acts or circumstances.

(b) **YOUR MOBILE DEVICE & YOUR SOFTWARE.** We will not be responsible for any errors or failures from any malfunction of your Mobile Device or any malicious software or other problems related to the Mobile Device used with our Services. We are not responsible for any error, damages or other loss you may suffer due to malfunction or misapplication of any system you use, including your mobile browser (Internet Explorer Mobile®, Safari®, Opera Mini™/Opera Mobile™ or otherwise), your mobile service provider, your personal financial management or other software (such as Quicken® or Microsoft Money®), or any equipment you may use to access or communicate with the Service.

(c) **OTHER.** Any Transaction or instruction that: (i) exceeds your collected and available funds on deposit with the Bank; (ii) is not in accordance with any condition indicated by you and agreed to by the Bank; (iii) the Bank has reason to believe may not be authorized by you; (iv) involves funds subject to hold, dispute, or legal process preventing their withdrawal; (v) would violate any provision of any present or future risk control program of the Federal Reserve or any current or future rule or regulation of any other federal or state regulatory authority; (vi) is not in accordance with any other requirement stated in this Agreement or any Bank policy, procedure or practice; or, (vii) for the protection of the Bank or you, the Bank has reasonable cause not to honor.

22. CONTACT INFORMATION/HOURS OF OPERATION. In case of questions about the Service or your electronic transactions contact customer service at:

Tejas Bank
Attn: Electronic Banking
P.O. Box 140
Monahans, TX 79756
Phone: 432-943-4230
Email: notify@mytejasbank.com

Representatives are available for assistance from the hours of 8:00 a.m. to 5:00 p.m. CST, Monday through Friday, except holidays.



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23. AUTHORITY AND JOINT ACCOUNTS. You hereby represent and warrant that you have full right, authority and power to execute, deliver and perform this Agreement. If this account is a joint account, you are jointly and severally liable under this Agreement. Each of you acting alone may perform transactions, obtain information, terminate this Agreement or otherwise transact business, take actions or perform under this Agreement. We are not required to obtain the consent of, or notify either of you. However, each of you will only be permitted to access accounts for which you are an owner or authorized user. Each of you individually releases us from any liability and agrees not to make a claim or bring any action against us for honoring or allowing any actions or transactions where the person performing the action or transaction is one of you or is otherwise authorized to use your Mobile Banking account. Each of you agrees to indemnify us and hold us harmless from any and all liability (including, but not limited to, reasonable attorney's fees) arising from any such claims or actions.

24. INTERNET DISCLAIMER. For any service(s) described in the Agreement utilizing the Internet, Bank does not and cannot control the flow of data to or from Bank's network and other portions of the Internet. Such flow depends in large part on the performance of Internet Services provided or controlled by third parties. Actions or inactions of such third parties can impair or disrupt your connections to the Internet (or portions thereof). Bank cannot guarantee that such events will not occur. Accordingly, Bank disclaims any and all liability resulting from or related to such events and in no event shall Bank be liable for any damages (whether in contract or in tort) that are attributable to the public Internet infrastructure, your ability to connect to the Internet, or Bank's ability to connect to the Internet on your behalf.

25. LIMITED LIABILITY. YOU UNDERSTAND THAT THERE ARE RISKS ASSOCIATED WITH THE USE OF A MOBILE DEVICE, AND THAT IN THE EVENT OF THEFT OR LOSS, YOUR CONFIDENTIAL INFORMATION COULD BE COMPROMISED.

IN NO EVENT WILL WE OR ANY OF OUR 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 THE MOBILE BANKING SERVICE), INDIRECT, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH YOUR USE OF THE MOBILE BANKING SERVICE EVEN IF YOU, BANK, OR BANK'S SERVICE PROVIDER HAVE BEEN SPECIFICALLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE EXTENT ALLOWED BY LAW, THE AGGREGATE LIABILITY OF BANK AND OUR THIRD PARTY SERVICE PROVIDERS UNDER THIS AGREEMENT SHALL NOT EXCEED ONE THOUSAND DOLLARS.

YOU ACKNOWLEDGE AND AGREE THAT YOUR USE OF THE SERVICE SHALL BE AT YOUR SOLE RISK AND THAT THE SERVICE IS PROVIDED BY BANK ON AN "AS IS" BASIS. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, BANK MAKES NO, AND HEREBY DISCLAIMS ANY AND ALL, REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, IN LAW OR IN FACT, WHATSOEVER TO YOU OR TO ANY OTHER PERSON AS TO THE SERVICES OR ANY ASPECT THEREOF, INCLUDING (WITHOUT LIMITATION) ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, OR SUITABILITY. YOU AGREE THAT NO ORAL OR WRITTEN ADVICE OR REPRESENTATION OBTAINED FROM ANY BANK EMPLOYEE OR REPRESENTATIVE SHALL CREATE A WARRANTY OR REPRESENTATION FOR PURPOSES OF THIS AGREEMENT OR ANY SERVICES TO BE PERFORMED PURSUANT HERETO.

BANK MAKES NO REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, TO YOU AS TO ANY MOBILE DEVICE HARDWARE, SOFTWARE, OR EQUIPMENT USED IN CONNECTION WITH THE SERVICE (INCLUDING, WITHOUT LIMITATION, YOUR MOBILE DEVICE OR RELATED EQUIPMENT, YOUR SOFTWARE, OR YOUR MOBILE SERVICE PROVIDER OR ITS EQUIPMENT), OR AS TO THE SUITABILITY OR COMPATIBILITY OF BANK'S



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SOFTWARE, INTERNET DELIVERED SERVICE, EQUIPMENT OR COMMUNICATION INTERFACES WITH THOSE THAT YOU USE, OR AS TO WHETHER ANY SOFTWARE OR INTERNET DELIVERED SERVICE WILL PERFORM IN AN UNINTERRUPTED MANNER, INCLUDING (BUT NOT LIMITED TO) ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

BANK SHALL NOT BE RESPONSIBLE OR LIABLE FOR ANY ERRORS OR FAILURES RESULTING FROM DEFECTS IN OR MALFUNCTIONS OF YOUR MOBILE DEVICE HARDWARE OR SOFTWARE, FOR THE QUALITY OF PERFORMANCE OR LACK OF PERFORMANCE OF ANY SOFTWARE OR HARDWARE OR INTERNET DELIVERED SERVICES SUPPLIED BY BANK TO YOU IN CONNECTION WITH THIS AGREEMENT, OR FOR THE TRANSMISSION OR FAILURE OF TRANSMISSION OF ANY INFORMATION FROM YOU TO BANK OR FROM BANK TO YOU. BANK SHALL NOT BE RESPONSIBLE FOR NOTIFYING YOU OF ANY UPGRADES OR ENHANCEMENTS TO ANY OF YOUR MOBILE DEVICE HARDWARE OR SOFTWARE.

26. RELATIONSHIP OF PARTIES. You and Tejas Bank acknowledge and agree that the relationship of Bank and you is that of an independent contractor and that this Agreement does not establish or create a general agency, joint venture, partnership, or employment relationship between them.

27. FORCE MAJEURE. The Bank shall not be responsible for any liability, loss, or damage resulting from Bank's failure to perform any Service or to perform any other obligations under this Agreement which is caused by an act of God, fire, floods, adverse weather or atmospheric conditions or other catastrophes; war, sabotage, riots, acts of public enemy, or acts of governmental authority or the Board of Governors of the Federal Reserve; labor difficulties; equipment or computer failure or destruction or the unavailability, interruption, or malfunction of communications facilities or utilities; delays or failure to act by you or third parties and their personnel; criminal acts; or generally any cause reasonably beyond the Bank's control.

28. INDEMNIFICATION. In addition to the indemnification and liability provisions contained elsewhere in this Agreement, the following provisions apply: You agree to indemnify, defend, and hold Bank and our affiliates, officers, directors, employees, consultants, agents, Mobile Banking 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 damages that result from misuse or loss of your phone or misuse of the Service. You will be liable for, hold harmless, and will indemnify Bank, and their employees and agents from and against all claims of any sort by third parties or others arising out of this Agreement, including all losses and expenses incurred by Bank arising out of your failure to report required changes, transmission of incorrect data to Bank, or failure to maintain compliance with all laws, regulations and rules. Except for those losses caused directly by Bank's failure to exercise ordinary care or to act in good faith, you agree to indemnify and hold Bank, its officers, directors, shareholders, agents, employees, and affiliates, and their respective officers, directors, agents and employees, harmless from and against any and all losses, costs, suits, damages, claims, liabilities and expenses (including reasonable attorneys' fees) arising from or related in any way to (i) any services performed in connection with this Agreement, (ii) Bank's action or inaction in accordance with or reliance upon any instructions or information received from any person reasonably believed by Bank to be an authorized representative of you or Authorized User, (iii) your breach of any of your covenants, agreements, responsibilities, representations or warranties under this Agreement, and/or (iv) your breach of applicable laws, rules or regulations.

29. AREA OF SERVICE. The Services described in this Agreement are solely offered to citizens and residents of the United States of America and may not be accessed while outside of the United States of America.

30. PROGRAM REVISIONS. We may, from time to time, revise or update, or perform maintenance upon, our program, the Services, and/or related material, resulting in interrupted service or errors in the Services or rendering prior versions



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obsolete. We also may need to change the scope of our Services from time to time. We will attempt to provide prior notice of such interruptions and changes but cannot guarantee that such notice will be provided. We reserve the right to terminate this Agreement as to all prior versions of our programs, the Services, and/or related material and limit access to our more recent versions and updates. Use of the Service after the effective date of any such revisions, updates, and/or changes will constitute your consent to the same.

31. NOTICES. All notices required under this Agreement shall be sent in writing or electronically by a telecommunications device capable of creating a written record and delivered, mailed, or made available to you at the most recent address on file with the Bank and to us at the address set forth herein or to such other address as such party may designate from time to time. All notices shall be effective upon mailing or electronic transmission.

32. TERMINATION. This Agreement will be in effect from the date your registration is submitted by you and accepted by Bank and at all times while you are using the Mobile Banking Service. Either you or Bank may terminate this Agreement and your use of the Service or any product within the Service at any time with or without notice. All applicable provisions of this Agreement shall survive termination by either you or Bank.

33. LIABILITY FOR TRANSACTIONS COVERED BY REGULATION E (CONSUMER ACCOUNTS). To the extent a transaction is an “electronic fund transfer” under Federal Reserve Board Regulation E, tell us AT ONCE if you believe your Password has been lost or stolen, or if you believe that a Mobile Banking transaction has been made without your permission using information from your check. Telephoning is the best way of keeping your possible losses down. Call us at 432-943-4230 during our normal business hours (Monday through Friday, excluding holidays, from 8:00 a.m. until 5:00 p.m. CST) or write us at P.O. Box 140, Monahans, TX 79756.

34. NOTIFICATION OF LOSS You could lose all the money in your account. If you tell us within two (2) Business Days after you learn of the loss, theft, or unauthorized transaction, you can lose no more than \$50.00 if someone used your Access Code or made a transaction without your authorization.

If you do NOT tell us within two (2) Business Days after you learn of the loss, theft, or unauthorized transaction, and we can prove we could have stopped someone from using your Access Code or the Service without your authorization if you had told us, you could lose as much as \$500.00. Also, if your statement shows a transaction that you did not make or authorize, tell us at once. If you do not tell us within sixty (60) days after the statement was mailed, electronically transmitted, or otherwise made available to you, you may not get back any money you lost after the 60 days if we can prove that we could have stopped someone from taking the money if you had told us in time.

If a good reason (such as a long trip or hospital stay) kept you from telling us, we will extend the time periods as may be reasonable under the circumstances.

35. BANK’S FAILURE TO COMPLETE TRANSACTIONS (CONSUMER ACCOUNTS). To the extent that a Mobile Banking Service transaction is an “electronic fund transfer” under Federal Reserve Board Regulation E that relates to an Account established primarily for personal, family, or household purposes, if we do not properly complete a transfer to or from your Account on time or in the correct amount according to the terms of this Agreement, we will be liable for your losses or damages. However, we will not be liable (and any payment guarantee provided elsewhere in this Agreement will not be applicable) if any of the following occurs:

- Through no fault of ours, you do not have sufficient collected funds in the Account to complete the transaction;
- The transaction would exceed the credit limit on any overdraft line of credit linked to the Account;
- Your Mobile Device, Internet service provider, Cellular service provider, telephone line, modem, router, or other equipment is not operating properly;



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- The Service is not working properly and you were aware of the malfunction when you initiated the transaction;
- You do not properly follow the instructional materials provided in connection with Mobile Banking;
- You do not authorize a Payment within a sufficient period of time for your Payment to be received by the payee by the due date;
- You have not provided us with the correct Payee name, address, account information, Payment amount, or other instructions necessary to complete the Payment, or the foregoing instructions that may be stored on your Mobile Device or the host system have been lost;
- A Payee mishandles or delays the handling of Payments sent by us;
- Your funds are held or frozen, or a court order or other legal process prevents us from making a transaction;
- Your Access Code has been reported lost or stolen;
- We have reason to believe that a transaction has not been properly authorized or authenticated, or is fraudulent, erroneous, or illegal;
- You have exceeded the limitations on frequency of transactions or dollar amount of transactions applicable to the Service or the Account;
- Your Mobile Device service has been disconnected or there are deficiencies in the quality of your mobile data transmissions;
- Circumstances beyond our control (such as telecommunication or electrical outages and malfunctions, postal strikes or delays, computer system failures, or natural disasters) prevent the transaction;
- Making a transfer would cause us to violate any law, rule, or regulation to which we are subject; or
- Any failure on our part was not intentional and resulted from a bona fide error notwithstanding procedures to avoid such error, except for actual damages (which do not include indirect, incidental, special, or consequential damages).

There may be other exceptions to liability stated in this Agreement, or in other agreements we have with you, or otherwise provided by applicable law.

36. ERROR RESOLUTION (CONSUMER ACCOUNTS). In case of errors or questions about your electronic transfers, telephone us, write us at or E-mail us at the number or location provided in Paragraph 22 as soon as you can if you think that your statement is wrong or you need more information about a transaction listed on your statement or appearing on the account activity screen of your PC and/or Mobile Device, we must hear from you no later than sixty (60) days after we sent the FIRST statement on which the problem or error appeared or you received notification of the problem or error on your PC and/or Mobile Device. You must:

- Tell us your name and the Account number.
- Describe the error or the transaction 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 of the suspected error.
- If the suspected error relates to a bill payment made via the Mobile Banking Bill Payment Service, tell us the account number used to pay the bill, payee name, the date the payment was sent, payment amount, confirmation number, and the payee account number for the payment in question. (This information appears on a screen in the Internet Banking Service.) If you tell us orally, we may require that you send us your complaint or question in writing within ten (10) Business Days. We will determine whether an error occurred within ten (10) Business Days (twenty (20) Business Days for transactions that have occurred within 30 days after the first deposit to the account) after we hear from you and will correct any error promptly. If we require more time, however, we may take up to forty-five (45) days (ninety (90) days for point-of-sale transactions, transactions initiated outside the United States, or transactions that have occurred within 30 days after the first deposit to the account) to investigate your complaint or question. If this additional time is necessary, and your written notification has been received by us, we will credit your account within ten (10) Business Days (twenty (20) Business Days for transactions



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that have occurred within 30 days after the first deposit to the account) 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 within ten (10) Business Days (twenty (20) Business Days for transactions that have occurred within 30 days after the first deposit to the account), we will not credit your account and we will still have up to forty-five (45) days (ninety (90) days for point-of-sale transactions, transactions initiated outside the United States, or transactions that have occurred within 30 days after the first deposit to the account) for our investigation. We will tell you the results within three (3) Business Days after completing our investigation. If we decide that there was no error, we will send you a written explanation. You may ask for copies of the documents that we used in our investigation.

36. GOVERNING LAW. These terms and conditions of this Agreement shall be governed by and construed in accordance with the laws of Texas, without regard to its conflict of law provisions and without regard to your state of residence.

37. ENFORCEMENT. In the event a dispute arises either directly or indirectly, under this Agreement, the venue for any and all litigation resulting therefrom shall be in a court of appropriate jurisdiction in Massachusetts. The prevailing party in any such action shall be entitled, subject to applicable law, to payment by the other party of its reasonable attorney's fees (which may be or include the allocable cost of in-house counsel) and costs, including fees for any litigation, arbitration, mediation, appeal, or bankruptcy proceedings, and any post-judgment collection actions, if applicable.

38. MISCELLANEOUS PROVISIONS.

(a) **HEADINGS.** The headings and captions contained in this Agreement are included only for convenience of reference and do not define, limit, explain, or modify this Agreement or its interpretation, construction, or meaning.

(b) **SEVERABILITY.** The holding of any provision of this Agreement as invalid, illegal, or unenforceable, in whole or in part, shall not affect the other provisions of this Agreement, which shall remain in full force and effect.

(c) **WAIVER.** No waiver by the Bank (whether or not in writing) of any term, condition, or obligation of you shall bind the Bank to waive the same term, condition, or obligation again, nor shall any other provision, condition, term, or obligation hereof be affected by such a waiver.

(d) **BINDING EFFECT.** This Agreement shall inure to the benefit of and be binding upon the successors, heirs, trustees, and permitted assigns of the parties hereto.

(e) **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties hereto concerning the subject matter hereof. All contemporaneous agreements or understandings concerning the subject matter hereof, whether oral or written, are merged into this Agreement.

(f) **TRANSFERS AND ASSIGNMENTS.** You cannot transfer or assign any rights or obligations under this Agreement without Bank's written consent. The Bank may assign its rights and delegate its duties under this Agreement to a company affiliated with the Bank or to any other party.