



## Tejas Bank Mobile Deposit Service Agreement

This Tejas Bank Mobile Deposit Service Agreement (the "Agreement") contains the terms and conditions for use of the Mobile Deposit Service (the "Service") that Tejas Bank provides to you. Before you can enroll in and have access to the Service, you must enroll in the Online Banking Service and execute the Tejas Bank Online Terms and Conditions (the "Online Banking Agreement") and the Electronic Notice Disclosure and Consent, which are both hereby incorporated by reference and are made a part of this Agreement. Other agreements you have entered into with the Bank in connection with your Tejas Bank accounts and other services, including but not limited to, as applicable, the Personal Deposit Account Agreement (including Arbitration Agreement), Business Deposit Account Agreement, Funds Availability Disclosure, Consumer Privacy Notice, Online Privacy Policy, Fees and Features Guide, and Account Signature Card (collectively, the "Account Agreements") are incorporated by reference and made a part of this Agreement. Terms not otherwise defined in this Agreement shall have the definition ascribed to those terms in the Account Agreements and Online Banking Agreement. In the event of a conflict between this Agreement, the Online Banking Agreement, and/or the Account Agreement, this Agreement will govern.

In this Agreement, the words "you" and "your" refer to each account owner or anyone else including each person, or, if applicable, entity with authority to deposit, withdraw, or exercise control over a deposit account. The words "you" and "your" also include any user you authorize to use the Service on your behalf. The words "Bank," "we," "us," and "our" refer to Tejas Bank.

**1. Services.** The Service is designed to allow you to make mobile deposits (each such deposit a "Mobile Deposit" and collectively "Mobile Deposits") to your checking, savings or money market accounts from home, office, or other remote locations by using a mobile device with the Bank's downloadable mobile application "Software" to capture images of paper checks and transmitting the images and associated deposit information to the Bank or the Bank's designated processor ("Processor"). You acknowledge and agree that a Mobile Deposit made by you using this Service is not an "Electronic Fund Transfer" as that term is defined in Regulation E promulgated by the Consumer Financial Protection Bureau. The terms "Bank" and "Processor" are used interchangeably when used in relation to any services performed by a Processor on behalf of the Bank including, but not limited to, the receipt and processing of images and check data and any notices related thereto. The mobile device must capture an image of the front and back of each check (as herein defined) to be deposited (each an "Image" and, if more than one, "Images") in accordance with the Mobile Deposit Procedures outlined in the Agreement and provided to you in the Service documentation (the "Procedures"). After capture of the front and back Images and all other required data and information from the paper check, you will transmit, via the Internet, the Mobile Deposit containing the Images and all other required data and information from or pertaining to the check to the Bank or Processor using the Software. Subject to compliance with the terms, provisions and conditions of this Agreement, the Bank will process the Mobile Deposit on the day of receipt of the Mobile Deposit and enter the Images of the check into the collection process, in accordance with the Account Agreements pertaining to the account(s) into which the Mobile Deposit is to be made and this Agreement.

**2. Acceptance of these Terms.** Indicating your acceptance of the terms of this Agreement within the Mobile Application or your use of this Service constitutes your acceptance of this Agreement. This Agreement may be amended from time to time and we will provide notice of such changes to you as may be required by applicable law. We will notify you of any material change via e-mail, by providing a link to the revised Agreement on our website or by an online or mobile secure message. You will be prompted to accept or reject any material change to this Agreement the next time you use the Service after the Bank has made the change. We may terminate your right to use the Service if you reject such change. Your acceptance of the revised Agreement or the continued use of the Service will constitute your consent to be bound by the revised Agreement. Further, the Bank reserves the right, in its sole discretion, to modify, add, or remove any part of the Service. Your continued use of the Service will constitute your acceptance of any such changes to the Service. No changes requested by you shall be effective unless received and agreed to in writing by the Bank.



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**3. Hardware and Software.** In order to use this Service, you must obtain and maintain, at your sole cost and expense, a compatible mobile device and/or other hardware and software that meets all technical requirements, as specified by the Bank from time to time, for the proper delivery of the Service and that fulfills your obligation to obtain and maintain secure access to the Internet. Refer to our compatibility requirements for current hardware and software specifications. The Bank is not responsible for any third party software you may need to use this Service. Any such software is accepted by you "as is" and is subject to the terms and conditions of the software agreement you entered into directly with the third party software provider at time of download and installation. You understand and agree that you may also incur, and shall pay, any and all expenses related to the use of the Service, including, but not limited to, telephone, mobile data, or Internet service charges. You understand and agree that you are solely responsible for the operation, maintenance and updating of all equipment, software and services used in connection with the Service and the cost thereof, and you hereby agree that you will perform, or cause to be performed, all vendor recommended maintenance, repairs, upgrades and replacements. The Bank is not responsible for, and you hereby release the Bank from, any and all claims or damages resulting from, or related to, any virus or malware or related problems that may be associated with your using electronic mail or the Internet. The Bank is not responsible for, and you hereby release the Bank from, any and all claims or damages resulting from, or related to, defects in or malfunctions of your hardware or software, or failures of or interruptions in any electrical, telephone, mobile data, or Internet services. The Bank hereby advises you, and you hereby agree to scan your mobile device, hardware and software on a regular basis using a reliable virus detection product in order to detect and remove viruses or harmful malware.

**4. Fees.** We may, upon notice to you, to the extent required by applicable law, charge a fee for use of the Service. You are responsible for paying the fee for the use of this Service. Any fee that is charged will be disclosed prior to your Mobile Deposit. The Bank may change the fee for use of this Service from time to time pursuant to Section 2 of this Agreement. You authorize the Bank to deduct any such fee from any of your Bank accounts, even if such deduction causes an overdraft in the account. Should you fail or refuse to pay any charges under this Agreement, you agree to pay all collection costs (including reasonable attorney's fees) that may be incurred by the Bank.

In addition to the Service fees, you agree to pay all taxes, tariffs and assessments levied or imposed by any government agency in connection with the Service, this Agreement, and/or the software or equipment made available to you (excluding any income tax payable by the Bank). You are also responsible for the costs of any communication lines and any data processing charges payable to third parties.

**5. Eligible Items and Security Interest.** You agree to scan and deposit only checks as the term check is defined in Federal Reserve Regulation CC ("Reg. CC"). You agree that the Image of the check that is transmitted to the Bank shall be deemed an "item" within the meaning of Articles 3 and 4 of the Uniform Commercial Code (1990 Official Text).

You agree that you will not use this Service to scan and deposit any of the following checks ("Prohibited Check"), which shall be considered prohibited notwithstanding that such checks may constitute "checks" under Reg. CC:

- Checks payable to any person or entity other than the owner(s) of the account into which the check is being deposited.
- Checks containing an alteration to any of the fields on the front of the check, 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 is drawn
- Checks payable to two or more persons jointly, not alternatively, unless deposited into an account jointly owned by all payees.
- Checks previously converted to a substitute check, as defined in the Account Agreements, are "image replacement documents" that purport to be substitute checks.
- Checks drawn on a financial institution located outside the United States.
- Checks that are remotely created checks, as defined in the Account Agreement.



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- Checks not payable in United States currency.
- Checks dated more than six (6) months prior to the date of deposit.
- Checks prohibited by the Bank's current procedures related to this Service or which are otherwise not acceptable under the Account Agreement governing your Bank account.
- Checks payable on sight or payable through Drafts.
- Checks with any endorsement on the back other than that specified in this Agreement.
- Checks that have previously been negotiated, submitted through this Service, or through a remote deposit capture service offered at any other financial institution.
- Money Orders or Postal Money Orders.
- Travelers Checks.

You agree that we may, in our sole discretion, amend the list of Prohibited Checks from time to time. If you deposit a Prohibited Check, you agree to indemnify and reimburse the Bank for, and hold the Bank harmless from and against, any and all losses, costs and expenses (including reasonable attorneys' fees) the Bank may incur associated with any warranty, indemnity or other claim related thereto.

You grant us a security interest in all of your accounts or other deposits (whether general or special) at the Bank, and in all funds in such accounts or other deposits, to secure your obligations to the Bank under this Agreement to the maximum extent permitted by applicable law. This security interest will survive termination of this Agreement.

**6. Endorsements and Procedures.** You agree to restrictively endorse any check transmitted through the Service with your name and the legend "FOR TEJAS BANK MOBILE DEPOSIT ONLY" or as otherwise instructed by us. You shall scan the front and back of each check to be deposited and thereby capture the image of the front and back of each check and any other required data from each check and transmit the Images to be deposited and all other required data and information from or pertaining to such checks to us or our Processor in accordance with the Procedures. We reserve the right to amend the Procedures, with or without prior notice to you. You agree to comply at all times with the Bank's "Safety and Security Procedures" published on the Bank's website and to safeguard the confidentiality and security of the Security Procedures and all other proprietary property or information the Bank provides to you in connection with the Service and to notify us immediately if you have any reason to believe the security or confidentiality required by this provision has been or may be breached. You acknowledge, understand and agree the Security Procedures are not designed for the detection of errors. The Bank is not, and will not be, obligated to detect errors by you or others, even if the Bank takes certain actions from time to time to do so. To ensure accuracy, you shall key the amount of each check prior to transmitting the Mobile Deposit in accordance with the Procedures. You may send multiple Mobile Deposits to us or Processor on the same day, not to exceed the deposit limits discussed in Section 13 of this Agreement.

**7. Image Quality.** The Images of checks transmitted to the Bank using this Service must be legible, as determined in our sole discretion. Without limiting the foregoing, each Image of each check must be of such quality that the following information can be clearly read and understood by sight review of such Image:

- The amount of the check;
- The payee of the check;
- The signature of the person who wrote the check;



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- The date of the check;
- The check number;
- The information identifying the drawer and the paying bank that is preprinted on the check, including the MICR line; and
- All other information placed on the check prior to the time an Image of the check is captured, such as any required identification written on the front of the Check and any endorsements applied to the back of the check.

Each Image shall also comply with any other requirements established from time to time by the Bank, and shall meet all standards for image quality established by the American National Standards Institute (ANSI), the Board of Governors of the Federal Reserve, or any other regulatory agency, clearinghouse or association.

**8. Receipt of Mobile Deposit and Notification.** You agree that you shall be solely liable for, and the Bank shall not have any liability whatsoever to you for, any Mobile Deposit or the Images or other information contained therein that are not received by the Bank. You also agree to be liable for Mobile Deposits or the Images or other information contained therein that are intercepted or altered by an unauthorized third party or dropped during transmission. You agree that the Bank has no obligation to accept a Mobile Deposit and, therefore, we reserve the right to reject any Mobile Deposit or the Images or other information contained therein transmitted through this Service, at our discretion, without liability to you. Unless required by applicable law, the Bank has no obligation to notify you of the rejection of a Mobile Deposit or the Images or other information contained therein and shall have no liability to you for failing to do so. A Mobile Deposit is considered received by the Bank when a complete copy of the Mobile Deposit has been written on a Bank electronic storage device in conformity with the Bank's technical and operational requirements. To meet the cut-off time referenced in Section 9, the Mobile Deposit must be received by the Bank prior to the cut-off time and successfully pass the edits for conformity with the technical requirements. For purposes of determining when a Mobile Deposit has been delivered and received, the Bank's records shall be determinative. If customer elected to receive a receipt, upon receipt of a Mobile Deposit, we will send a confirmation that we have received the Mobile Deposit. Your receipt of such confirmation does not mean the transmission was error free, complete or will be considered a Mobile Deposit and credited to your account.

Upon receipt of a Mobile Deposit submitted by you, the Bank may examine such Mobile Deposit and the Images and other information contained therein to ensure that you have complied with this Agreement and followed the Procedures. If the Bank determines that you have not complied with this Agreement or followed the Procedures or if errors exist in the Images or other information contained in the Mobile Deposit, the Bank, in its sole discretion, may either reject the Mobile Deposit or elect to correct the error, and accept and process the corrected Mobile Deposit (a "Corrected Mobile Deposit"). As a form of correction, the Bank may credit your account for the full amount of the deposit and make any necessary adjustments to the account to correct the error. The Bank may, at its option, also perform a risk management analysis of one or more Mobile Deposits submitted by you to detect potentially fraudulent checks, and, in its sole discretion, the Bank may reject any such Mobile Deposit, the Images or other information contained therein. If after examination of a Mobile Deposit, the Images and other information contained therein, the Bank determines that you have complied with this Agreement, processed and transmitted the Mobile Deposit in accordance herewith and with the Procedures, the Bank shall accept the Mobile Deposit for deposit to your Account. Notwithstanding the fact that Bank has accepted a Mobile Deposit for processing, any credit made to your Account shall be provisional until the final settlement of the deposited item, and you shall remain liable to the Bank for any errors, inaccuracies, breach of warranties and any other loss sustained by, or claim made against, the Bank.



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**9. Availability of Funds.** Funds from your Mobile Deposit that are received and accepted by the Bank will be made available to you at the time and on the basis described below.

When You Can Withdraw Funds You Have Deposited
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Our general policy is to allow you to withdraw funds deposited in your account on the first business day after the day we receive your deposit. Funds from electronic direct deposits will be available on the day we receive the deposit. In some cases, we may delay your ability to withdraw funds beyond the first business day. Then the funds will generally be available by the fifth business day after the day of deposit.
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For additional information on our Funds Availability policies, including the definition of a Business Day, please refer to your Account Agreements. The Service is subject to transaction limitations and the Bank reserves the right to change our Funds Availability policy, in our sole discretion, subject to applicable law.

**10. Laws, Rules, and Regulations.** You agree to comply with all existing and future operating procedures used by the Bank for processing of transactions. You further agree to comply with, and be bound by, all applicable state or federal laws, rules, regulations, orders, guidelines, operating circulars and pronouncements, affecting checks and drafts, including, but not limited to, all rules and procedural guidelines established by the Board of Governors of the Federal Reserve and the Electronic Check Clearing House Organization ("ECCHO") and any other clearinghouse or other organization in which Bank is a member or to which rules Bank has agreed to be bound. These procedures, rules, and regulations (collectively the "Rules") and laws are incorporated herein by reference. In the event of conflict between the terms of this Agreement and the Rules, the Rules will control.

**11. Presentment.** The manner in which the Images are cleared, presented for payment, and collected shall be in the Bank's sole discretion subject to applicable law and the Account Agreement. The Bank, in its sole discretion, shall select the clearing agents used to collect and present the Images, and the Bank's selection of the clearing agents shall be considered to have been designated by you.

**12. Maintenance and Disposal of Transmitted Checks.** You shall mark, stamp, or write on the original check "Electronically Presented" after scanning the check in accordance with Section 6 of this Agreement. You agree to securely store the original check for a period of fifteen (15) calendar days from the date of the Image transmission (such period the "Retention Period"). During the Retention Period, you shall take appropriate security measures to ensure that: (a) only authorized persons shall have access to original checks, (b) the information contained on such checks shall not be disclosed, (c) such checks will not be duplicated or scanned more than one time and (d) such checks will not be deposited or negotiated in any form. During the Retention Period, you agree to promptly (but in all events within 5 business days) provide the original check to the Bank upon request. The risk of loss due to the unavailability of the original or copy of a check for any reason, during the Retention Period, shall be exclusively on you.

Upon expiration of the Retention Period, you shall securely and irretrievably destroy the original checks you transmitted using commercially reasonable methods of destruction. You are obligated to ensure that the original checks are not accessed by unauthorized persons during the storage, destruction and disposal process and, once destroyed, the original checks will be



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unable to process and all sensitive personal and financial information undecipherable. You hereby indemnify the Bank for, and hold the Bank harmless from and against, any and all claims, demands, actions, causes of action, losses and damages, of whatever nature or kind, and regardless of the theory upon which the same is (are) based, caused directly or indirectly by, arising out of, related to, in connection with or resulting wholly or partially from, the retention and destruction of original checks by you.

**13. Deposit Limits.** We may establish limits on the dollar amount and/or number of Check Images or Mobile Deposits from time to time. If you attempt to initiate a Mobile Deposit in excess of these limits, we may reject your Mobile Deposit. If we permit you to make a Mobile Deposit in excess of these limits, such Mobile Deposit will still be subject to the terms of this Agreement, and we will not be obligated to allow such a Mobile Deposit at other times. Your dollar deposit limit will be disclosed to you at the time that you make the Mobile Deposit. The Bank reserves the right to change the limits. Any such change shall be effective immediately and may be implemented prior to your receipt of notice thereof.

**14. Return of Checks and Chargebacks.** Any credit to your account of any deposit using the Service is provisional until final payment of the item deposited. If a check deposited through the Service is dishonored, rejected, or otherwise returned as unpaid by the drawee bank, or the item is rejected, or returned by a clearing agent or collecting bank for any reason, including, but not limited to, issues relating to the quality of the Image, you agree that an original check will not be returned to you, but that we may charge back the amount of the original check and provide you with an Image of the original check, a paper reproduction of the original check or a substitute check. You will reimburse us for all loss, cost, damage or expense caused by or relating to the processing of the returned item. You agree not to deposit or otherwise negotiate an original check after our chargeback. We further reserve the right to chargeback to your account at any time, any Check we subsequently determined was a Prohibited Check. You further agree the Bank is not liable for any loss, costs, or fees you may incur as a result of our chargeback of any item deposited through the Service.

**15. Yours and Our Duties and Responsibilities.** Our duties and responsibilities are limited to those described in this Agreement, the Account Agreements, the Online Banking Agreement, and any other agreements governing the accounts. We will use commercially reasonable care in performing our responsibilities under this Agreement. (You agree to carefully review your account statement and each transaction as soon as possible. If there are any errors or discrepancies regarding checks deposited through the Service including, without limitation, unauthorized transactions, signatures or alterations, you agree to promptly notify us of such errors or discrepancies within the time set forth in the Personal Deposit Account Agreement or Business Deposit Account Agreement, as applicable. Otherwise, we will consider the information contained in your account statement correct. Subject to applicable law, you may not make any claim against us for transactions reflected on a statement that you believe are incorrect, altered, forged, unauthorized or improperly paid unless you notify us of that claim in writing within 30 calendar days after the statement was sent or made available to you.)

In all instances, we and, if the services of a third party provider are utilized in the provision of the Service, such third party's sole liability to you shall be limited to the correction of any errors made.

We shall not be responsible for suspension of performance of all or any of our obligations, responsibilities or covenants hereunder, whether expressed or implied, if at any time, or from time to time, compliance therewith is prevented or hindered by, or is in conflict with, any federal or state law, regulation or rule, the order of any court of competent jurisdiction, any act of God or of the public enemy, war, epidemic, strike, or work stoppages of the U.S. Postal Service and commercial carrier(s), or





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electric power disruption or shortage, telecommunications failure or computer failures; acts, omissions or errors of any carrier and/or agent operating between you and us or us and any Federal Reserve Bank or other agency utilized to exercise transfers or any recipients of transferred funds; any incorrect, unauthorized or fraudulent use or other fraud by any person other than our employees; or, without limiting the generality of the foregoing, any other cause or circumstance beyond our control or other conditions or circumstances not wholly controlled by us, which would prohibit, retard or otherwise affect our complete or partial performance under this Agreement.

**16. Internet Disclaimer.** The control and flow of documents, files, data, or other information 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). We cannot guarantee that such events will not occur. Accordingly, we disclaim any and all liability arising out of, resulting from or related to, such events, and in no event shall we be liable for any damages of any kind (whether in contract, in tort or otherwise) that are attributable or in any way related to the Internet infrastructure or your or our ability or inability to connect to the Internet.

**17. Contingency Plan.** You agree that, in the event you are not able to capture, process, produce or transmit a Mobile Deposit to us, or otherwise comply with the terms hereof or of the Procedures, for any reason, including, but not limited to, communications, equipment or software outages, interruptions or failures, you will make the deposit in a manner consistent with other methods for making deposits provided by us until such time that the outage, interruption or failure is identified and resolved. You hereby acknowledge and agree that we shall not be liable to you for any loss or damage of any nature sustained by you as the result of your inability to use the Service. The deposit of original checks through these other methods shall be governed by the terms and conditions of the Personal Deposit Account Agreement and/or Business Deposit Account Agreement and not by the terms of this Agreement.

**18. Information.** We may from time to time request additional information from you in order to evaluate a continuation of the Service to be provided by us hereunder and/or adjustment of any limits set by this Agreement. You agree to provide the requested information immediately upon request by us, in the form that we require. You authorize us to investigate or reinvestigate at any time any information provided by you in connection with this Agreement or the Service and to request reports from credit bureaus and reporting agencies for such purpose. If you refuse to provide the requested information, or if we conclude, in our sole discretion, that your credit risk is unacceptable, we may terminate the Service according to the provisions hereof. You shall provide written notice to us of any changes to the information previously provided by you to us. Such notice must be received by us within five (5) business days of the change.

**19. Confidential Information.** You agree to hold confidential, and to use only in connection with the Service, all information furnished to you by us or by third parties from whom we have secured the right to use the Service, including, but not limited to, our product and service pricing structure, system design, programming techniques or other unique techniques. Notwithstanding anything to the contrary contained herein, it is understood and agreed by the parties hereto that the performance of the Service is or might be subject to regulation and examination by authorized representatives of federal and/or state banking authorities, and you agree to the release by us of your reports, information, assurances and other data and information as may be required under applicable laws and regulations. This clause shall survive the termination of the Agreement.

**20. User Warranties.** You warrant to us that:



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- You will only deposit checks that are authorized by this Agreement, the Procedures and the Personal Deposit Account Agreement and/or Business Deposit Account Agreement governing your account.
- You will not (i) create duplicate Images of the checks, (ii) transmit a duplicate Image to us, or (iii) deposit or otherwise negotiate the original of any check of which an Image was created. You further warrant that no subsequent transferee, including but not limited to us, a collecting or returning bank, drawer, drawee, payee or endorser, will be asked to pay the original check from which the Image(s) was created or a duplication (whether paper or electronic, including ACH entries) of the check(s).
- No subsequent transferees of the Image(s), including but not limited to us, a collecting or returning bank, drawer, drawee, payee or endorser, shall sustain a loss as the result of the fact that the Image was presented for payment or returned instead of the original check.
- Each Image you transmit to us contains an accurate representation of the front and the back of each check and complies with the requirements of this Agreement.
- All data and other information you provide to us, including, but not limited to, data contained in the MICR line of each check is complete, accurate and true and complies with the requirements of this Agreement.
- You will comply with this Agreement and all applicable rules, laws and regulations.
- You are not aware of any factor that may impair the collectability of the check.
- This Agreement is valid and enforceable against you in accordance with its terms, and the entry into, and performance of this Agreement by you will not violate any law, or conflict with any other agreement, to which you are subject.
- There is no action, suit, or proceeding pending or, to your knowledge, threatened, which if decided adversely, would affect your financial condition or operations.
- All checks and your transactions are, and will be, bona fide. All signatures on checks are authentic and authorized.

**21. Cooperation with Investigations.** You agree to cooperate with us in the investigation of unusual transactions, poor quality transmission, and resolution of client claims, including by providing, upon request and without further cost, any originals or copies of checks deposited through the Service in your possession and your records relating to such checks and transmissions.

**22. Termination.** We may terminate this Agreement at any time for any reason. This Agreement shall remain in full force and effect unless and until we terminate it. Without limiting the foregoing, this Agreement may be terminated if you breach any term of this Agreement, if you use this Service for any unauthorized or illegal purposes or you use the Service in a manner inconsistent with the terms of the applicable Account Agreement, or any other agreement with us. Sections 5; 7; 10; 12; 14; 20; 21; 22; 23; 25; 28; 29; and 30 shall survive termination of this Agreement.

**23. Enforceability.** No delay or waiver by us of any power, right, remedy or obligation under or in connection with this Agreement on any one occasion will constitute a waiver of that power, right, remedy or obligation on any subsequent occasion. In any event, no such waiver or delay by us will be effective unless it is in writing and signed and approved by us.

**If any provision of this Agreement is deemed to be invalid, illegal or otherwise unenforceable in any respect by a court or other governmental agency having competent jurisdiction over us, that provision will continue to be enforceable to the extent permitted by that court or agency and the remainder of that provision will no longer be considered part of this Agreement. All other provisions of this Agreement, however, will remain in full force and effect.**





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**24. Ownership and License.** You agree the Bank retains all ownership and proprietary rights in this Service, associated content, technology, and website(s), including, but not limited to, the object and source codes therefore, and any and all updates, upgrades, fixes and enhancements thereto and any and all documentation, user guides and instructions pertaining thereto. Your use of the Service is subject to and conditioned upon your complete compliance with this Agreement. Without limiting the effect of the foregoing, any breach of this Agreement immediately terminates your right to use the Service. Without limiting the restriction of the foregoing, you may not use the Service (i) in any anti-competitive manner, (ii) for any purpose that would be contrary to our business interest, or (iii) to the Bank's actual or potential economic disadvantage in any aspect. You may use this Service only for the purpose intended in accordance with this Agreement. You may not copy, reproduce, distribute or create derivative works from the content and agree not to reverse engineer, reverse compile, or create derivative works from any of the technology used to provide this Service.

**25. Other Terms.** You may not assign this Agreement, in whole or in part, or delegate any of your responsibilities under this Agreement to any third party or entity. We may, in our sole discretion and at any time, assign this Agreement, in whole or in part, or delegate any of our rights and responsibilities under this Agreement to any third party or entity. The captions and headings contained in this Agreement are for convenience of reference only and shall not be used to limit the applicability or meaning of any provisions of this Agreement. This Agreement constitutes the entire statement of the terms and conditions that apply to the subject matter hereof. This Agreement supersedes any prior agreements between the parties relating to the Service.

**26. Governing Law.** This Agreement is governed by federal law and, to the extent not preempted by federal law, with the laws of the state where we open your Account, or, if we transfer your Account to another location, where we currently maintain your Account, without regard to its choice of law provisions.

**27. Indemnification and Third Parties.** You hereby indemnify Bank and each of its parents, subsidiaries and affiliates and their respective officers, directors, employees, members, partners, agents, insurers and attorneys (each an "Indemnified Party" and, collectively, the "Indemnified Parties") for, and hold each of the Indemnified Parties harmless from and against, all actions, causes of action, claims, damages, liabilities and expenses (including reasonable attorneys' fees) of any nature or kind (including those by third parties) arising out of, or related to, this Agreement, including all actions, causes of action, claims, damages, liabilities and expenses arising out of, related to or resulting from: (a) your (i) failure to report required changes, (ii) transmission of incorrect data to Bank or (iii) failure to maintain compliance with the Rules, (b) (i) Bank's provision of the Service, and/or (ii) Bank's action or inaction in accordance with, or in reliance upon, any instructions or information received from any person Bank reasonably believes to be you, (c) your breach of any of your representations, warranties, covenants or other agreements or responsibilities under this Agreement and/or (d) your breach or violation of any Rules; provided, however, you are not obligated to indemnify Bank for any damages solely and proximately caused by Bank's gross negligence or willful misconduct.

**28. DISCLAIMER OF WARRANTIES.** YOU AGREE YOUR USE OF THIS SERVICE AND ALL INFORMATION AND CONTENT (INCLUDING THAT OF THIRD PARTIES) IS AT YOUR RISK AND IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. TO THE EXTENT ALLOWED BY LAW, WE DISCLAIM ALL WARRANTIES OF ANY KIND AS TO THE USE OF THE SERVICES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. WE MAKE NO WARRANTY THE SERVICES (i) WILL MEET YOUR REQUIREMENTS, (ii) WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE SERVICE WILL BE ACCURATE OR RELIABLE, AND (iv) ANY ERRORS IN THE SERVICE OR TECHNOLOGY WILL BE CORRECTED. YOU AGREE THAT NO



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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 THE SERVICE TO BE PERFORMED PURSUANT HERETO.

THE BANK MAKES ABSOLUTELY NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, IN LAW OR IN FACT, TO YOU OR TO ANY OTHER PERSON AS TO ANY COMPUTER HARDWARE, SOFTWARE OR EQUIPMENT IN CONNECTION WITH THE SERVICE, INCLUDING, BUT NOT LIMITED TO, YOUR MOBILE DEVICE OR RELATED EQUIPMENT, YOUR COMPUTER SYSTEMS OR RELATED EQUIPMENT, YOUR SOFTWARE, OR YOUR INTERNET SERVICE PROVIDER OR ITS EQUIPMENT, OR AS TO THE SUITABILITY OR COMPATIBILITY OF THE BANK'S 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.

**29. LIMITATION OF LIABILITY.** Except as specifically provided in this Agreement or where applicable law requires a different standard, you agree that neither we nor any third party service provider engaged by us to perform any of the services related to the Service, shall be responsible for any damages or losses, whether related to property or bodily injury, incurred as a result of your using or attempting to use the Service, whether caused by equipment, software, Internet Service Providers, browser software or any agent or subcontractor of any of the foregoing. Without limiting the foregoing, we will not be liable for delays or mistakes which happen because of reasons beyond our control, including without limitation, acts of civil, military or banking authorities, national emergencies, insurrection, war, riots, acts of terrorism, failure of transportation, communication or power supply, or malfunction or unavoidable difficulties with our equipment. You also agree that we or any third party service provider that we engage with, will not be responsible for any direct, punitive, special or consequential, economic or other damages arising in any way out of the installation, use or maintenance of the equipment, software, the Service or Internet Browser or access software, or from the unavailability of the Service or for any errors in information provided through the Service. If a court finds that we are liable to you because of what we did (or did not do, as the case may be) under or in connection with this Agreement, you may recover from us only your actual damages, in an amount not to exceed the total fees and charges paid by you to us under and in connection with this Agreement during the six (6) month period immediately preceding the event giving rise to our liability. You agree that the dollar limitation described in the preceding sentence is reasonable, to the extent permitted by Applicable Law.

**IN NO EVENT WILL YOU BE ABLE TO RECOVER FROM US ANY SPECIAL CONSEQUENTIAL, EXEMPLARY, AND INDIRECT OR PUNITIVE DAMAGES OR LOST PROFITS, EVEN IF YOU ADVISE US OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES, SUBJECT TO APPLICABLE LAW.**

Effective 06/01/2015