



Flatirons Bank

## ONLINE BANKING AGREEMENT

In this Online Banking Agreement (the “**Agreement**”), “**Bank**”, “**we**”, “**us**”, and “**our**” means Flatirons Bank and “**you**” and “**your**” means to each person or entity that is an owner of an account, a Secondary User (defined below), or a party-in-interest to an account (such as a co-trustee of a trust account). This Agreement states the terms and conditions that apply when you use Online Banking (defined below). These terms and conditions are in addition to those that apply to any accounts you have with us or any other services that you obtain from us. You must follow all our instructions and procedures applicable to Online Banking. We may contract with third party service providers or other parties (“**Service Providers**”) with respect to one or more of the Online Banking services or the provision of an Online Banking service or parts thereof.

Online banking provides a secure web browser-based suite of electronic services that allow you to manage your banking activity online (“**Online Banking**”). If you request Online Banking and it is available, we will grant access to your Administrator (defined below) to establish, maintain and delete Secondary User (defined below) access, authority, and applicable dollar limits and service limitations, and perform other administrative tasks with respect to your use of all or any part of Online Banking. Certain Online Banking services require our approval or may be subject to limitations we may impose from time to time.

### 1. ACCESSING YOUR ACCOUNT ONLINE

- a. **Login Credentials.** To access Online Banking, you must use the username you select and other means of access we provide from time to time (which may include, but is not limited to, touch authentication, facial recognition, single use authentication codes, authentication application, or devices), together with your unique password. Your username, any other means of access we provide, and your password (“**login credentials**”) are confidential and may not be shared with any other person. Release of this information will permit full access to your accounts, including but not limited to account numbers, account activity, check images on your accounts, any personal information retained by us, and the ability to transfer or wire funds to and from your account(s). We reserve the right to change your password for any reason we deem appropriate, in our sole discretion, or to deny access to Online Banking for security or risk reasons, without prior notice.
- b. **Secondary Users.** You may establish separate passwords for each individual who is authorized to access and use Online Banking (each, a “**Secondary User**”), as well as set limits on each Secondary User’s authority to access information and conduct transactions (including submitting wire transfer request forms through the “Correspondence” or “Messaging” sections of Online Banking). You assume sole responsibility for the actions of Secondary Users.
- c. **Accounts.**
  - i. **Qualifying Accounts.** A Qualifying Account is an account of which you are either an owner or an authorized signer designated to conduct transactions on the owner’s behalf. We undertake no obligation to monitor transactions to determine whether they are executed on the owner’s behalf. Account information and activity regarding Qualifying Accounts at other financial institutions cannot be accessed through Online Banking.
  - ii. **Joint Accounts.** When your Online Banking account is linked to one or more joint Qualifying Accounts, we may act on verbal, written, or electronic instructions from any authorized signer. Joint Qualifying Accounts using the same Online Banking username will be identified as one service for the purpose of determining fees to be charged for the service.
- d. **Availability.** Online Banking is generally available 24 hours per day, seven days per week. Account information is updated, and transactions are processed daily on Business Days. “**Business Days**” are Monday through Friday, excluding bank holidays.
- e. **Security Procedures.** Security of your transactions is important to us. You are required to change your password regularly through Online Banking. For your protection, sign off after every Online Banking session and close your browser to ensure confidentiality. We may accept as authentic any instructions given to us through use of your login credentials. You agree to keep your login credentials secret. **You agree that if you give your login credentials to someone else, you are authorizing them to act**

**on your behalf, and we may accept any instructions they give us to make transfers or otherwise use Online Banking.**

You agree to contact us immediately if you believe your login credentials have been lost, stolen or you otherwise have reason to believe they may have been compromised, or if someone has transferred or may transfer money from your account without your permission. The best way to limit your possible losses is by calling us at 303.530.4999 between 9:00 AM and 5:30 PM MT, Monday through Friday. WE CANNOT ACCEPT NOTIFICATION OF LOST OR STOLEN LOGIN CREDENTIALS OR UNAUTHORIZED TRANSFERS VIA EMAIL OR VOICEMAIL. Transactions that you or someone else acting with you initiates with fraudulent intent are authorized transactions.

We may be liable for certain security breaches to the extent required by applicable law and regulation. We do not assume any other liability or otherwise guarantee the security of information in transit to or from our facilities. Please note that we reserve the right to (i) monitor or record all communications and activity related to Online Banking; and (ii) require verification of all requested transfers in the manner we deem appropriate before making the transfer (which may include written verification by you). You agree that our records will be final and conclusive as to all questions concerning whether or not your login credentials were used in connection with a particular transaction. If any unauthorized use of your login credentials occurs, you agree to (i) cooperate with us and appropriate law enforcement authorities in identifying and prosecuting the perpetrator; and (ii) provide reasonable assistance requested by us in recovering any unauthorized transfer of funds.

- f. **Improper Use.** In the event of improper use of Online Banking, we may immediately suspend or revoke your right to use Online Banking and may immediately invalidate all your passwords and access to Online Banking. You agree not to defeat, permit violation of, or attempt violation of the security features of Online Banking, and shall not use, permit, or attempt to use any password or other method of access other than those validly assigned to you. You agree to indemnify, defend, and hold us harmless from and against any damages caused by improper use of Online Banking.

## **2. LIMITS**

You must have sufficient available funds or credit in any account from which you instruct us to make a payment or transfer. You acknowledge that you have received and agree to the Deposit Account Agreement and Disclosure that you received upon opening of your deposit account, as the same may be amended from time to time. We reserve the right, in our discretion, to suspend or deny use of any Online Banking service and to impose transactional or other limits on the use thereof.

## **3. ONLINE BANKING SERVICES AND TRANSACTIONS**

Online Banking provides you, someone you have authorized by giving them your login credentials (even if that person exceeds your authority), Secondary Users, and in the case of businesses, your Administrator, to view detailed account information online. It also allows you to instruct us to perform the following actions:

- a. Transfer funds between your Qualifying Accounts;
- b. Electronic transfers via Automated Clearing House (“ACH”) transactions between your Qualifying Account(s) at this institution and your Qualifying Account(s) at other financial institutions;
- c. Transfer funds using Person-to-Person Payment (“P2P”) services.
- d. Transfer funds by wire;
- e. Review check images on accounts;
- f. Access your Qualifying Accounts through Mobile Banking (defined in Section 8);
- g. Enable use of Mobile Deposit (defined in Section 8) on the Mobile Application (defined in Section 8) to deposit checks from your mobile device into Qualifying Account(s) with us;
- h. Enable use of the online bill payment system to make payments out of your accounts;
- i. Request a stop payment;
- j. Set up account and debit card alerts;
- k. Temporarily block or unblock debit cards;
- l. Make loan payments and advances from revolving lines of credit;
- m. Request an address change;
- n. Obtain account information that we make available about your Qualifying Account(s);
- o. View account activity and electronic statements (if enrolled) on your accessible accounts; and
- p. Other services as we may offer from time to time.

#### 4. INTERNAL TRANSFERS

The internal transfer service provides you with the ability to initiate a funds transfer between accounts held at the Bank. Transfer restrictions on certain accounts as established by law may apply. The details regarding these restrictions are included in the account disclosures provided at the time the account was opened.

#### 5. EXTERNAL TRANSFERS

The external transfer service provides you with the ability to initiate a funds transfer between accounts held at the Bank and Qualifying Accounts held at other financial institutions. To use the external transfer service, you must be at least 18 years old. The external transfer service may not be available to all customers. Transfers from made after 4:00 PM MT will be processed on the next Business Day.

- a. **Processing Transfer Requests.** You agree it is your responsibility to ensure you enter valid and correct external account information. External account transfers sent to invalid or incorrect account numbers may not be recoverable and we are not responsible for returning funds due to an unrecoverable external account transfer error. You authorize us to correct any errors that we identify in conjunction with the transfer request. You agree that we may place a hold on funds in your account pending completion of an external transfer.

We reserve the right to decline to effect any transfer, to submit transfer instructions or orders or to carry out change or cancellation requests in our sole discretion. We reserve the right to suspend your right to use this transfer service immediately and without prior notice to you. We may modify or discontinue this transfer service or your use of some or all accounts within this transfer service, with or without notice, and will not be liable to you, any other user, or any third party for such modification or discontinuation.

- b. **Verifying and Authorizing Transactions.** The financial institutions at which Qualifying Accounts are maintained (“**Financial Institutions**”) may contact us to verify your transfer instructions. You authorize us to provide Financial Institutions with such information as may be required to verify your transfer instructions. You authorize us to provide your transfer instructions to Financial Institutions via any method we deem suitable and to authorize Financial Institutions to debit and credit your accounts in accordance with your instructions.

You hereby appoint us and our Service Providers as your attorney-in-fact for the purposes of effecting transfers to or from your Qualifying Accounts. We and our Service Providers are entitled to rely on the foregoing authorization and power of attorney granted by you. You understand that your relationship with Financial Institutions is independent of us and your use of this external transfer service.

We are not responsible for the acts or omissions of any Financial Institution or other provider of any Qualifying Account, including, without limitation, any modification, interruption, or discontinuance of any Qualifying Account by such provider.

- c. **Eligible Accounts.** You agree to enroll only checking, savings, money market, and corporate accounts and are aware that not all types of accounts are eligible for external account transfers. Ineligible accounts may include, without limitation, individual retirement accounts, certificates of deposit, trusts, custodial accounts and other types of accounts. By enrolling in or using the external transfer service, you represent and warrant that you are an owner of the enrolled external account(s) and are authorized by any other owners of the external account(s) to enroll said account(s) to make external transfers.
- d. **Limits.** The standard external transfer limit is \$25,000 per day. This amount is subject to change at any time, and exceptions may be made in our sole discretion. An exception in one instance shall not be construed as a modification of a limit or as obligating us to make any future or other exception. If desired, a different limit may be requested but is not guaranteed and is subject to our approval.
- e. **Your Representations and Warranties.** Subject to our Privacy Policy and Privacy Notice, you agree that we may use, copy, modify, display, and distribute any information (including, without limitation, personal information), data, materials, or other content (“**Information**”) you provide us for the purposes of providing this service, and you hereby give us a license to do so. By submitting Information, you represent that you have the right to license such Information to us for the purposes set forth in this Agreement. You further represent and warrant that you have the right to authorize and permit us access to the Qualifying Accounts to effect such transfers or for any other purpose authorized by this Agreement, and you represent and warrant that you are not violating any third-party rights by disclosing and authorizing us to use such information. You represent and warrant that the Information you are

providing us is true, current, correct, and complete. You hereby authorize and permit us and our Service Providers to use Information submitted by you to accomplish these purposes.

- f. **Compliance with Laws.** As a condition to using the external transfer service, you agree that you are solely responsible for the use of such service and that you will use the service in accordance with this Agreement. All external account transfers are subject to the rules and regulations of the other financial institution. You agree to be bound by the rules and regulations that govern applicable funds transfer systems. You agree not to transfer funds to an external account where the transfer would (i) not be allowed under the rules and regulations of such account, or (ii) be in violation of applicable laws, including, but not limited to, laws and regulations designed to prevent “money laundering” or the transfer of funds to accounts that are blocked under regulations of the Office of Foreign Assets Control of the United States Treasury Department. We may request additional information that we deem reasonably necessary to ensure that you are not using this service in violation of applicable laws.
- g. **Indemnification.** You agree that we shall not be liable and that you will indemnify and hold us harmless from and against any costs, fees, losses, or damages of any kind incurred as a result of (i) our access to the Qualifying Accounts; (ii) our debit or credit or inability to debit or credit the Qualifying Accounts in accordance with your transfer instructions; (iii) any inaccuracy, incompleteness, or misinformation contained in the information retrieved from the Qualifying Accounts; (iv) any charges imposed by any provider of Qualifying Accounts; and (v) any funds transfer limitations set by the other financial institutions or other providers of the Qualifying Accounts.

## 6. PERSON-TO-PERSON PAYMENT

You may send one-time transfers to Bank customers or a depositor of another financial institution (the “**Recipient**”) using P2P services. Notice is given to the Recipient by you (the “**Sender**”) providing the Recipient's email address or mobile phone number. You may originate P2P transfers by use of a computer or a mobile smart phone. You may register for the Service which will make future transfers more convenient for you. The Bank uses a third-party service provider, Allied Payment Network (“**P2P Service Provider**”), to provide P2P services. When participating in the P2P service, you are providing information to our P2P Service Provider from your mobile phone, desktop, laptop, or other computer. Our P2P Service Provider is a vendor of the Bank.

By participating in the P2P service, you are representing to the Bank that you are the owner or you have the authority to act on behalf of the owner of the mobile phone number or email address you are using to send or receive messages regarding P2P transfers. In addition, you are consenting to the receipt of emails or automated text messages from the Bank or its agent, regarding the P2P transfers and represent to the Bank that you have obtained the consent of the Recipients of your intended P2P transfers.

Funds may be transferred to any account in the United States as long as the transfer is legal and allowed by the Financial Institutions involved.

- a. **Eligibility.** Bank account holders aged 18 years and older are eligible to use P2P services to send funds to a Recipient. Any individual age 18 years and older with an account in the United States that may receive ACH transactions may use P2P services to receive funds that are transferred by the Sender. P2P service is not offered to individuals under the age of 18. Other restrictions and eligibility requirements apply as described in this Agreement or other disclosures. We do not knowingly collect any personal information from or about individuals under 18 years of age. Please do not submit such information to us. If you are a parent or legal guardian, please do not allow your children to submit personal information without your permission. By using P2P services, you represent that you meet these requirements.
- b. **Transfers.** You may make one-time P2P transfers by entering your debit card number and email address. The Sender provides the Recipient's email address or mobile phone number, and the P2P Service Provider uses this information to notify the Recipient. A Recipient must accept the transfer within 10 days, or the transfer will be cancelled and reversed. During this period, funds will be removed from the Sender's Account for the amount of the transfer and any applicable fees. Once the Recipient has successfully accepted the transfer, funds will be sent to the Recipient's Financial Institution for deposit to the Recipient's account. If the Sender and Recipient are both Bank customers enrolled in the P2P service, transfers will be immediately debited from the Sender's Account and reflected in the Recipient's Account. If the Sender and Recipient are both enrolled in the P2P service but are customers of different Financial Institutions, transfers will be immediately debited from the Sender's Account and will be delivered to the Recipient's Financial Institution once claimed. The Bank is not responsible for any failure of another financial institution to timely credit its customer's account.

You acknowledge and agree that transfers will be completed using only the email address or mobile phone number you enter even if it identifies a person different from your intended Recipient. The name you enter will help you identify your intended Recipient in the drop-down menu and your transaction history but will not be used to process payments. You must accurately enter the Recipient's email address or mobile phone number since your obligation to pay for the transfer will not be excused by an error in the information you enter.

Transfer Instructions relating to external accounts and the transmission and issuance of data related to such transfer Instructions shall be received pursuant to the terms of this Agreement, and the rules of the National Automated Clearing House Association ("**NACHA**") and the applicable automated clearing house, as well as any EFT Network, or networks, utilized to automate the transfer of funds and governed by Regulation E, (collectively, the "**Rules**"). The parties agree to be bound by such Rules as in effect from time to time. In accordance with such Rules, any credit to an Account shall be provisional until the Bank or the third-party institution, which holds the account, has finally settled such credit.

It is the responsibility of the Sender and Recipient of funds to provide accurate information. You agree that you as Sender are authorized to withdraw or as Recipient are authorized to deposit funds into the Accounts whose numbers you provide or into the Accounts associated with the card number you are providing. You authorize the Bank, directly or through third parties, to make any inquiries considered necessary to validate your identity. This may include asking you for further information, requiring you to take steps to confirm ownership of your email address or financial instruments, ordering a credit report and verifying your information against third party databases or through other sources.

You authorize the Bank to debit your account to complete the transfer you request. If you are receiving funds, you authorize the crediting of your account using card networks or NACHA.

- c. **Sender Acknowledgement.** By using this Service you, as the Sender, authorize the sending of an email or text message instructing the Recipient how to receive the funds that you are sending. You are further authorizing any Recipient of this message to act on the instructions to receive the funds you are sending. You acknowledge that any party receiving the email message at the email address you provide or text message at the mobile phone number you provide may obtain the funds you are sending.

You acknowledge and agree that we are not responsible for determining the identity of the party who receives the email or text message and acts upon the email or text message you provide. Your funds may not reach the intended Recipient because of errors made by the Sender or Recipient and you could lose all the funds. The funds that are credited to the account cannot be recalled by us. If you suspect that you have entered information incorrectly, call us immediately and we may be able to cancel the transfer. We have no obligation to cancel the transfer or to reimburse funds that were transferred according to the Sender's instructions. Furthermore, we may reject any transfer request and may terminate your use of this Service for any reason including attempting insufficient funded transfers.

- d. **Recipient Acknowledgement.** By using the P2P service, you as the Recipient, are confirming that you are the person to whom the Sender intends to transfer funds. As the Recipient, you will be asked to provide your debit card information that will be used to transfer funds to your Account. If you choose not to provide your debit card information or your institution does not participate, you will be asked to provide account information including account number and routing information for your Financial Institution. In this case the funds will be transferred through the Automated Clearing House.

It is important that you enter accurate information. You agree that the Bank, the receiving Financial Institution and our P2P Service Provider may rely solely on the instructions you provide. If you enter inaccurate cardholder or account number information the funds may be deposited into another person's account. You acknowledge that the Financial Institution may make the deposit based on the account number or card number you provide even if those numbers do not correlate to the name that you provide. Retrieval of these funds will be the Recipient's responsibility to work with the Financial Institution to which the funds were sent. You may lose all the funds that were transferred. The funds that are credited to the account cannot be recalled by us.

If you suspect that you have entered information incorrectly or that you have received funds in error, call us immediately and we may attempt to cancel the transaction. We have no obligation to cancel the transfer or to reimburse funds that were transferred according to the Recipient's instructions.

By using the P2P service you agree that you are the intended recipient of the email or text message and that you are the intended recipient of the funds. If you are not the person to whom the funds are

intended, then you agree to take no further action. You understand that it is a federal felony to use another person's identification with the intent to commit unlawful activity. You represent that the information you are providing is your true and correct information. If any information you provide is fraudulent, the Bank reserves the right to recover all costs or losses from you, regardless of whether such costs or losses are incurred directly or indirectly.

- e. **Fees and Limitations on Transfers.** The daily limit for P2P transfers is \$500. If you exceed the daily limit, your payment will not be scheduled. The Bank may establish a limit on the number of P2P transfers and on the total dollar amount of P2P transfers that can be attempted or completed in one day. You may send multiple P2P transfers each day. We may modify the amount and/or frequency limit of P2P transfers at any time. Additionally, we may modify any fees associated with P2P transfers at any time.

Funds may be transferred from the Account from which the debit card is authorized to transfer funds. Such transfers may overdraw your Account and may result in a transfer from another account to cover the overdraft. In any of these situations, a transfer fee will be charged, as applicable. You may be denied service for insufficient funds in your account. You will be responsible for any other transaction fees that apply to your Account.

Please note that your mobile carrier may charge you for text messaging. Please check your mobile service agreement for details on applicable fees. The receiving institution may have limits on the number and type of transfers allowed. The Bank may also charge a transaction fee.

- f. **Timing of Transfers.** Transfers to remove the funds from the Sender's Account may take place immediately. However, the timing of funds received will depend on when the Recipient responds to the email and when their financial institution posts the transfer. The posting of the transfer is dependent on the business days of that Financial Institution.
- g. **Issues Affecting the Posting of Transfers.** You authorize us to debit your account to complete the transfer you request. If you are receiving funds, you authorize the Bank to credit your Account using card networks/switches or NACHA.

Other events may affect the timing or success of a transfer reaching the intended Recipient. Such events may include, but are not limited to, errors made by the Sender or Recipient in entering information, inaccurate account or card number information, delays in posting by the receiving institution, acts of God, and network and NACHA interruptions. If we believe the transfer may be illegal, we may decline or reverse the transfer. The receiving institution may choose not to post the transfer or to delay posting the transfer. Neither the Bank nor the P2P Service Provider is responsible for any delays in the transfer of funds or the posting of funds to the Recipient's Account. You may have certain rights and responsibilities regarding the failure to timely post transactions and you are encouraged to pursue dispute resolution with the receiving financial institution.

Financial Institutions have rules and regulations that govern their accounts. Some of these regulations may not allow a POS or ACH transfer of funds. You are responsible for ensuring that these types of transfers are allowed for the Account that you specify. For example, an IRA may not allow electronic transfers directly into the Account. We are not responsible for any action or lack of action taken by the financial institution that delays, inhibits, or prevents the posting of the transfer to the Account.

- h. **Security.** The Sender and Recipient of funds may choose to register for the P2P service to simplify their future use of the P2P service. The Sender and/or Recipient will be asked to create a username and password. The Sender and Recipient are responsible for keeping them secure. We will not ask you for your password.

If the Financial Institution contacts us or our P2P Service Provider for information regarding your Account, you authorize us to discuss the transfer and the account information you have provided.

- i. **Cookies, Browser Information, and Related Issues.** When you visit the P2P Service Provider's website or other online location (the "Site"), the P2P Service Provider may receive certain standard information that your browser sends to every website you visit, such as the originating IP address, browser type and language, access times and referring website addresses, and other information. This data may be used, among other uses, to improve the operation of the Site and to improve the security of the Site and P2P service by assisting in "authenticating" who you are when you access the Site or P2P service, particularly if you register for the P2P service and are issued or create a username and password.

The P2P Service Provider may also receive additional information about your visit to the Site, including the pages you view, the links you click and other actions you take in connection with the Site and the P2P service. This data may be used, among other uses, to improve the operation of the Site and the P2P service.

Like most websites, the Site also uses "cookies," which are small data files placed on your computer or other device by the web server when you visit the Site. Most such cookies are "session" cookies that are only used for a specific period during which you are on the Site, but a few are "persistent" cookies that stay on Your hard drive and are read by the web server when you return to the Site (unless you erase them). The Site uses cookies to store your preferences and other information on your computer in order to save you time by eliminating the need to repeatedly enter the same information and to display your personalized content on your later visits to the Site. These cookies are linked to personal information about you, such as your email address. Most web browsers automatically accept cookies, but you can modify your browser setting to decline cookies if you prefer. However, if you choose to decline cookies, you may not be able to sign in or use other interactive features of the Site that depend on cookies.

You may encounter the Service Provider's cookies or pixel tags on websites that we do not control. For example, if you view a web page created by a third party or use an application developed by a third party, there may be a cookie or pixel tag placed by the web page or application.

- j. **Access to Information About You.** You may review and update the personal information maintained about you in the "Manage Account" section of the Site at any time to ensure that it is accurate.

Once you close your Accounts with the Bank or you no longer have a debit card, you may no longer send P2P transfers. However your Account information will be maintained for a retention period to accommodate any residual issues that may arise.

## 7. WIRE TRANSFERS

The Bank offers consumer wire transfer services through Online Banking. You may initiate domestic wire transfers by submitting request forms through the "Correspondence" or "Messaging" sections of Online Banking. We may establish a maximum wire transfer limit for you. Wire transfers initiated through Online Banking may not exceed \$25,000 per transaction. Our standard wire fees will be charged to your account.

We will process wire transfer requests solely based on information received from you. If you describe any beneficiary or institution inconsistently by name and number, we and other institutions may process the order solely on the basis of the number, even if the number identifies a person or entity different from the named beneficiary or institution. YOU AND BANK AGREE THAT THESE SECURITY PROCEDURES CONSTITUTE A COMMERCIALY REASONABLE METHOD OF PROVIDING SECURITY AGAINST UNAUTHORIZED TRANSFERS. Tell us at once if the security procedure described above is compromised in any way.

You must bring a claim arising out of a wire transfer within one year after the claim arises. We are liable to you for a loss you suffer only to the extent such loss is caused solely by our gross negligence or willful misconduct. Our liability will only extend to the resulting direct loss not to exceed the amount of the disputed wire transfer and any related fees. We shall not be liable to you for any consequential, indirect, punitive, or exemplary damages. We shall not be liable for acts or omissions by you, anyone acting with your authorization, or any other person, including, without limitation, any funds transfer system, any Federal Reserve Bank, any beneficiary bank, and any beneficiary, none of which shall be deemed our agent. Additionally, we shall be excused from delaying or failing to execute a wire transfer for circumstances beyond our control.

In addition to other indemnification provisions in this Agreement, you shall be liable to us and shall indemnify and hold us harmless from and against any and all claims, causes of action, damages, expenses (including reasonable attorneys' fees, to the extent permitted by law, and other legal expenses), liabilities, and other losses resulting from acts, omissions, or provisions of invalid or inaccurate data by you or any person acting on your behalf or with your authorization.

## 8. MOBILE BANKING

"**Mobile Banking**" is a suite of services that enable you to conduct banking transactions with us by using your approved mobile device. "**Mobile device**" means a cellular telephone or similar wireless communications device (a) that is installed with Mobile Banking applications permitted by us ("**Mobile Application**") that you have downloaded to conduct Mobile Banking transactions, or (b) that is capable of conducting Mobile Banking transactions by using other protocols we may choose to permit, such as the wireless application protocol through the use of the website ("**Mobile Web**"). Mobile Banking is part of our Online Banking service. We

reserve the right to change the Mobile Application, Mobile Web, and other protocols that we allow for Mobile Banking at any time without prior notice.

- a. **Mobile Banking Functions.** To access Mobile Banking, your Mobile Device must be Internet enabled and connected to the Internet, enabled to receive and transmit data, and must include mobile browser and texting functionality. To receive any Mobile Banking service, you must be enrolled in Mobile Banking. Enrollment requires identification of your banking relationship with us to our Mobile Banking Service Provider(s). By enrolling in Mobile Banking, you agree to the terms and conditions contained in this Agreement with respect to Mobile Banking and you authorize us or our Service Providers to provide Mobile Banking to you on the terms and conditions set forth in this Agreement.

When you access Mobile Banking with your mobile device, you will see a menu of available Mobile Banking functions (e.g., access to account information; view balances, view or search for transactions; locate branches; execute specific types of internal or external funds transfers). We may add, modify, or delete particular Mobile Banking functions or geographic areas served by Mobile Banking from time to time without providing prior notice to you. We also reserve the right to refuse any transaction that you may request through Mobile Banking.

Certain functions described in this Agreement or available through Online Banking may not be available with Mobile Banking. All terms and conditions in this Agreement or on the Online Banking website that limit or govern your use of Online Banking also limits and governs your use of those functions through Mobile Banking. You agree to always use Mobile Banking in accordance with the instructions that we provide to you, including instructions posted on the Bank's website. We reserve the right to make changes or upgrade components of Mobile Banking from time to time. You accept full responsibility for understanding how to use Mobile Banking before you do so, how to properly use your mobile device and Mobile Application, and how to use Mobile Banking as modified in the event that we make changes to Mobile Banking. We are not liable to you for your failure to properly use Mobile Banking or your mobile device or for any losses or damages caused by such failure.

- b. **Mobile Banking Availability.** We will use reasonable efforts to make Mobile Banking available for your use on a continuous basis. We do not guarantee functionality of Mobile Banking (or any Mobile Applications) on all mobile devices, on all communications networks, in all geographic regions, or at all times. You understand and agree that Mobile Banking may not be accessible or may have limited utility over some mobile networks, such as while roaming. Mobile Banking is not certified to operate for end users trying to access it while outside the United States. Mobile Banking may be temporarily unavailable for regular or emergency system maintenance. We will endeavor to have our scheduled maintenance occur during non-peak hours, but we may conduct maintenance at any time. In addition, your accessibility to Mobile Banking may be interrupted because of conditions beyond our control, including because of outages in Internet availability. We will use commercially reasonable efforts to re-establish Mobile Banking in those instances, but we do not promise the Mobile Banking will always be available for your use. We may elect to discontinue Mobile Banking (or any of the services that we provide, from time to time, through Mobile Banking) at any time. If we choose to discontinue Mobile Banking, we will endeavor to provide you with reasonable notice but will not be required to do so. In the case of a disaster, your Mobile Banking may be suspended in order to allow emergency and responding personnel to use the cellular networks. In no event, regardless of cause, shall we be liable to you for unavailability of Mobile Banking, or your inability to access Mobile Banking or to execute Mobile Banking functions.
- c. **Mobile Banking Fees.** Currently, we charge no fees to enroll in or use any Mobile Banking Service. However, we may assess fees (i) set forth in the other agreements, disclosures or fee schedules for particular banking products or accounts (such as overdraft or funds transfer fees), or (ii) for products and services that you may purchase through Mobile Banking. We reserve the right to institute or change fees for all or any individual Mobile Banking service after sending you prior notice.
- d. **Mobile Device and Communications.** You are responsible for providing your own mobile device that supports the Mobile Application. Mobile Banking users may be required to download, install and use certain applications, software systems and programs developed by us, our licensors or other third parties. We are not responsible for any damage to your mobile device resulting from those activities, and you will be engaging in those activities at your own risk. To download the Mobile Application, please follow the instructions found in the Mobile Banking page of our website. Depending on its make and model, your mobile device may need to be capable of receiving an SMS text message to initiate the download.



You are responsible for obtaining your own mobile communications service provider. Your mobile communications service provider may charge you for Internet-related use, including, without limitation, downloading Mobile Application and sending or receiving SMS text messages, so please see your mobile carrier for further details about its charges. You are responsible for all fees and charges that you may incur to any mobile communications service provider or any other third parties while using Mobile Banking.

We are not a party to, and we have no duty, liability or responsibility with respect to or in connection with (i) your mobile communications service provider agreement, or (ii) any mobile device, hardware, software or other any product or service you may purchase from others relating to your use of Mobile Banking. This Agreement does not amend or supersede any agreements that you have with third parties (such as your mobile device supplier and your mobile communications service provider), and you remain subject to all terms, fees, costs, other charges, limitations and restrictions in those agreements with third parties. Your mobile device supplier and your mobile communications service provider are responsible for their products and services. You agree that any problems you may have concerning those companies' products, services, or agreements shall be resolved by you directly with them, and without involving us.

- e. **Mobile Applications License.** In connection with your use of Mobile Applications, we and our licensors (or other third parties who have directly or indirectly granted rights in those software systems and programs with respect to Mobile Banking) require your agreement to certain license rights arrangements and end-user agreements set forth in this Agreement. By enrolling in portions of Mobile Banking relating to those software systems and programs, and by downloading and installing Mobile Applications, you evidence your acceptance of the terms and conditions of such license. We may also condition your use of Mobile Applications upon you affirming such license using "I Accept" dialogue box acknowledgements, or by other affirmative or use-based acknowledgement and agreement systems.

You are hereby granted a personal, limited, non-transferrable, non-exclusive, non-sublicensable, revocable and non-assignable license ("**License**") to download, install and use the Mobile Application on your mobile device within the United States and its territories. If you obtain a different mobile device, you will be required to download and install the Mobile Application, and your use of the Mobile Application thereafter will be under the same terms set forth in this Agreement. The act of downloading will constitute your entering into a new License agreement for that mobile device. We and our Service Providers retain all rights in and to the Mobile Applications not expressly granted to you in this Agreement. You agree to delete all such software from your Mobile Device promptly if the License or this Agreement terminates for any reason. We reserve the right to change, add to or terminate services with our Mobile Banking Service Providers, to substitute different Mobile Banking Service Providers, and to enter into or arrange for the provision of Mobile Banking applications by other licensors and third parties. This License is at all times subject to your compliance with the terms and conditions of this Agreement and the other agreements between you and Bank.

You may cancel the Mobile Application service by deleting the Mobile Application from all mobile devices on which the Mobile Application has been installed.

We will revoke this License immediately upon (i) your termination of Mobile Banking in accordance with this Agreement; (ii) your deletion of the Mobile Application from your mobile device; (iii) your noncompliance with this Agreement or relevant terms of any of the other agreements between you and us; or (iv) at any time, with or without notice, with or without cause. Upon revocation or other termination of this License, you agree to immediately delete the Mobile Application from your mobile devices if you have not already done so. We and any or all of our licensors, as applicable, reserve and retain all right, title, and interest in the Mobile Application not granted to you in this Agreement, including, without limitation, all patent rights, copyrights, trademarks and trade secrets. This License entitles you to use the Mobile Application solely in conjunction with Mobile Banking and your Mobile Device and for no other reason. You may not sublicense the Mobile Applications to anyone. You agree that you will not (i) modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile the Mobile Application or any part of Mobile Banking; (ii) copy or reproduce all or any part of the Mobile Application or Mobile Banking; or (iii) interfere or attempt to interfere with the operation of Mobile Banking or the Mobile Application.

The Mobile Application does not include all operating systems or other software or applications that may be required to operate the Mobile Application. You are solely responsible for licensing such third-party software, at your own cost and expense. You understand and agree that the Mobile Applications

contain trade secrets and other proprietary and confidential information and that you will make commercially reasonable efforts to protect and maintain the confidentiality of such information. You agree that you will not (i) print, copy or duplicate any portion of the Mobile Application; (ii) alter, remove or conceal any copyright notices on the Mobile Application; or (iii) make the Mobile Application available to anyone except your agents for purposes specifically related to your authorized use (and in that case, subject to such agents' agreement to comply with the restrictions herein). You may not use the Mobile Application for any purpose other than your personal or authorized business use. You agree to comply with all our procedures and requirements in connection with your use of the Mobile Applications.

## 9. MOBILE DEPOSIT

Mobile Deposit provides you with the ability to deposit original checks to your accounts from home or other remote locations by taking a photo of the original checks and transmitting the digital images and associated deposit information to use with a mobile device. Mobile Deposit is available through the Mobile Application. In order to use Mobile Deposit, you will be required to accept the terms and conditions of the Mobile Deposit Agreement which you can access via the Mobile Application when you initiate enrollment in Mobile Deposit.

## 10. TEXT BANKING

Text banking allows you to receive on-demand information-only access to your accounts directly from your Mobile Device. You may enroll in text banking via Online Banking or the Mobile Application. You will be required to accept additional terms and conditions prior to enrolling in text banking.

## 11. BILL PAYMENTS AND E-PAYMENTS

The bill payment and e-payment services (which include ACH, P2P, and other electronic transfers) provide you with the ability to make payments from a designated account to any business or person with appropriate instructions (“Payee”). These services may be subject to a separate agreement and disclosure, the provisions of which are in addition to those in this Agreement. You must have sufficient available funds or credit in the account from which you instruct us to make a payment. You are not limited in the number of payments made through this service, but there may be additional fees based on the number of payments made and per day aggregate dollar amount limits may apply.

- a. **Scheduling Payments.** Payments may be established as single or automatic recurring payments. Payments are processed on Business Days and must be submitted prior to the daily cutoff time then in effect. Recurring payment dates which do not fall on a Business Day will be automatically adjusted, based on the payment options you select. The day on which the payment is to be sent is referred to as the “date/recurrence.” You will be responsible for any bill payment you make that contains an error or is a duplicate of another payment.

When you schedule a payment, you authorize us to reduce your account balance accordingly. If the available balance is not sufficient to make the payment that you have authorized, we may either refuse to pay the item or make the payment and thereby overdraw the account. In either event, you are responsible for any insufficient funds and overdraft charges that may be imposed, as stated in our fee and disclosure statements. We reserve the right to refuse to accept any bill payment or e-payment transaction. Bill payments for alimony, child support, taxes, government fees, or court ordered payments are not always accepted. You can make these payments, but we do not guarantee that it will be accepted or posted in a timely fashion and you do so at your own risk.

- b. **Payment Delivery.** Bill payments and e-payments will be sent to the Payee either electronically or by paper check mailed to the Payee via the U.S. Postal Service. E-payments may also be sent via ACH. The choice of delivery method is solely at the discretion of our Service Provider. Checks, electronic payments, withdrawal orders, or instruments of any kind can be drawn on your account in any order. You should be aware that other transactions (such as ATM, online transfers, or in-branch withdrawals) may affect the amount of funds available to make your payment.

When you schedule a payment, an estimated delivery date is given based on the method of delivery being used to make the payment. However, payments should be scheduled at least five Business Days before the Business Day on which a payment is due to ensure that there is sufficient time to process and deliver the payment. We are not responsible for payment delivery delays caused by the U.S. Postal Service or for payment processing delays after the Payee has received the payment. Any charges imposed as a result of your failure to transmit payment transactions at least five Business Days before a payment is due are your responsibility. Our responsibility for any late payment beyond this timeframe is strictly limited to the late charge only, up to a maximum of \$50 per occurrence.

- c. **Limitation of Liability.** We are not responsible for a payment that is not made if you did not properly follow the instructions for making a payment. We are not liable for any failure to make a payment if you fail to promptly notify us after you learn that you have not received credit from a payee for a payment. We are not responsible for your acts or omissions or those of any other person, including, without limitation, any transmission or communications facility, and no such party shall be deemed to be our agent. In any event, we will not be liable for any special, consequential, incidental, or punitive losses, damages, or expenses in connection with this service, even if we have knowledge of the possibility of them. We are not liable for any act, failure to act or delay in acting if it is caused, in whole or in part, by any cause beyond our reasonable control.

We have the right to change this service as set forth in this Agreement or by notice mailed to you at the last address shown for the account in our records, by posting notice in our branches or on our website, or as otherwise permitted by law. We reserve the right to terminate or modify this service at any time. You may terminate this service by written notice to us. We are not responsible for any payment made before we have a reasonable opportunity to act on your termination notice. You remain obligated for any payments made by us on your behalf.

## 12. STOP PAYMENTS

- a. **Check Stop Payments.** The stop payment service provides you the ability to initiate a stop payment order for a check drawn on a specified account with the Bank. Subject to certain limitations, you may order us to stop payment on an item payable from your account in the manner provided for in the Deposit Account Agreement and Disclosure, the terms of which are incorporated herein by reference.
- b. **Bill Pay and E-Pay Stop Payments.** You may also initiate a request to delete or stop pending bill payments or e-payments (including ACH, person to person, and other electronic transfers) (together, "Payment") through Online Banking. If you have a scheduled a Payment and would like to cancel it, you must do so before the Payment is processed. The time varies based on the settlement method being used for the Payment. If you cannot access Online Banking to request that the Payment be deleted, please contact us for further assistance prior to the cutoff time.

Once a Payment has been processed, you cannot delete or stop electronically settled bill payments or e-payments. You may be able to stop a bill payment only if it has been paid by paper check. To stop a paper payment initiated online, contact us at 303.530.4999. We will only be able to stop the online check payment if the paper check has not cleared and we are able to process the stop payment request before the check clears. To be effective, this type of stop payment request must precisely identify the name of the Payee, Payee's account number, payment amount, and date you scheduled the payment to be processed. If you call, we will also require you to put your request in writing and submit it to us within 14 calendar days after you call. We will charge your account our regular fee for each stop payment order you give. We will not be responsible for failing to act on a stop payment if you do not give us the correct Payee or other identifying information or we do not have a reasonable opportunity to process the stop payment order, and we are not responsible for any indirect, incidental, special, or consequential damages, except to the extent such limitation of liability is not permitted by law, resulting therefrom.

## 13. LOAN PAYMENT AND ADVANCES

This service provides you with the ability to make loan payments to loan accounts held at the Bank. Additionally, this service provides you with the ability to make advances from overdraft protection lines of credit, home equity lines of credit (HELOC) or other revolving loan accounts held at the Bank, subject to approval by Bank in our sole discretion. You must have sufficient available funds or credit in any account from which you instruct us to make a payment or advance. You are not limited in the number of loan payments or advances made through this service.

## 14. EQUIPMENT, HARDWARE, AND SOFTWARE

We may recommend or require specific hardware or software to be used in connection with Online Banking. Such recommendations or requirements may change from time to time. Unless we agree otherwise in writing, we make no representations or warranties relating to and we will not provide technical support for such hardware or software. You are responsible for providing, maintaining, and bearing all costs of equipment that is necessary for using Online Banking, including without limitation, telephones, terminals, modems, computers, and software. We assume no responsibility for defects or incompatibility of any computers or software that you use in connection with Online Banking.

You agree to use Online Banking only for its intended purposes as described in this Agreement, and you agree only to access those portions of Online Banking that have been designed to interact with you. Such access shall only be through the required sign-in procedures and user menus developed for your interaction with Online Banking. You shall not access, permit access, or attempt access of the program code, database, buffers, cache, or processing of Online Banking, and you shall not alter, replace, or substitute (or permit or attempt alteration or substitution of) any portion of Online Banking, including without limitation, the code, database, buffers, cache, or processing of Online Banking.

#### **15. EXPORT CONTROLS**

Software programs, materials, tools, and technical data may be subject to U.S. export controls or the trade laws of other countries. You agree to comply with all export control regulations. You also acknowledge that you, not Bank, have the responsibility to obtain such licenses to export, re-export or import as may be required. You agree not to export or re-export to entities on the most current U.S. export exclusion lists or to any country subject to U.S. embargo or terrorist controls as specified in the U.S. export laws.

#### **16. SERVICE PROVIDERS**

To the extent applicable to you or made known to you, you agree to comply with the requirements of the contracts between us and any of our Service Providers relative to Online Banking or any part thereof. We may, from time to time, refer you to third-party service providers for the provision of products or services not offered by us. You acknowledge and agree that such third-party service providers are not affiliated with or endorsed by us. You further agree that we do not guarantee such products or services and are not liable for the actions or inactions of any such third-party service providers.

#### **17. PROPRIETARY RIGHTS**

You agree that we, and our Service Providers, own all rights in and to Online Banking. You shall use Online Banking only as expressly authorized by this Agreement. You may not copy, reproduce, distribute, create derivative works, reverse-engineer, or reverse-compile Online Banking or any of the services or technologies of us or our Service Providers. You acknowledge that Online Banking is the exclusive property of Bank and our contracted Service Providers and has a substantial commercial value. As such, you agree to take all reasonable precautions necessary to protect and preserve the confidentiality of Online Banking information.

#### **18. LIMITATIONS ON BANK LIABILITY**

If we do not complete a payment transfer on time or in the correct amount according to our agreement with you, we will be liable for your losses only to the extent of the amount of payment or transfer that should have occurred, if we are unable to resolve the problem. However, there are exceptions and we may deny the transfer in the situations outlined below.

##### **We will not be liable if:**

- a. Through no fault of ours, you do not have enough money available in the account from which a payment or transfer is to be made, whether internal or external, or if the account has been closed or is not in good standing, or if we reverse a payment or transfer because of insufficient funds.
- b. Any payment or transfer would exceed the credit limit or available collected funds balance of any account, internal or external.
- c. Your equipment or ours was not working properly and the breakdown should have been apparent to you when you attempted to conduct the transaction.
- d. You have not given us complete, correct, or current account numbers or other identifying information so that we can properly credit your account, another party's account, or otherwise complete the transaction.
- e. You do not properly follow our instructions or if you provide us with wrong or inaccurate information or fail to correct or tell us about any inaccuracy of which you are aware.
- f. You do not notify us within a reasonable period of time for your payment or transfer to be received, sent, debited, or credited, as the case may be, by the time it is due.
- g. The funds in the account from which a payment or transfer is to be made is subject to a legal process or any hold, block, or other claim restricting the transaction or account.
- h. Circumstances, such as but not limited to, computer, telephone line, or electrical failure, of nature, civil disturbances, suspension of banking hours or other such circumstances, or persons beyond our control prevent, delay, intercept, or alter the transaction, despite reasonable precautions that we have taken.
- i. You fail to ensure all information and/or instructions you provide us to perform Online Banking account maintenance on your behalf is complete, correct, and current.

We shall not be liable for any damage, loss, or liability arising from the use of Online Banking or the information and data that is or is not reported on Online Banking, except to the extent that the damage, loss, or liability arises from our own gross negligence. Information and data available on Online Banking are provided for general reference purposes only.

## 19. INDEMNIFICATION

To the fullest extent permitted by applicable law, and except as prohibited by applicable law, you hereby release and agree to hold harmless, defend, and indemnify us, our directors, officers, employees, agents, affiliates, controlling persons, representatives, and their successors and assigns, from and against any and all liabilities, demands, claims, actions or causes of action, assessments, losses, damages, costs, and expenses (including, without limitation, reasonable attorneys' fees and expenses) and all files, penalties, and interest thereon as a result or arising out of, directly or indirectly, (i) our actions or omissions in connection with providing Online Banking, if such actions or omissions are in accordance with your instructions or the terms of this Agreement; (ii) any breach of your representations or warranties, or other actions or omissions by you, including without limitation, your violation of applicable law; (iii) any actions of third parties (including, without limitation, other financial institutions, automated clearing houses, the Federal Reserve Bank or any third party with which we may contract in connection with Online Banking; (iv) any transmission or instruction, whether or not authorized, acted upon by us in good faith; or (v) any act or omission by you (or any of your authorized agents) in connection with, or any intentional or unintentional failure by you (or any of your authorized agents) to comply with, utilize, or follow information security procedures and protections, including, without limitation, any act, omission, or failure related to access number(s), password(s), login ID(s), security tokens, personal identification number(s), passcode(s), and account number(s) assigned to you. You agree that when applicable law requires us to exercise ordinary care, substantial compliance with the procedures established by us shall be deemed to constitute the exercise of ordinary care, and you agree that occasional, unintentional deviations by us from the procedures set forth herein shall not be deemed a failure to exercise ordinary care as to the transactions with respect to which any such deviations occur.

## 20. TERMINATION

Either party may terminate this Agreement as to some or all of Online Banking, with or without cause, by giving ten days prior written notice to the other party. We may suspend or terminate any portion of Online Banking or this Agreement immediately and without prior notice if: (a) required by law; (b) you breach any agreement with us; (c) the confidentiality of any access device or password is compromised or we have reason to believe that there has been any other breach in the security of Online Banking; (d) we have reason to believe that an unauthorized or fraudulent transaction has taken or may take place involving any of your accounts or Online Banking, including but not limited to fraud, misuse, kiting, or ACH transaction returns; (e) you become insolvent or the subject of a bankruptcy, receivership, or dissolution proceeding; (f) we are uncertain as to any person's authority to give us instructions regarding your accounts or Online Banking; (g) if we identify possible fraudulent or inappropriate activity or use of Online Banking by you or any other person; or (h) we believe, in our sole discretion, that continued provision of Online Banking, or any portion thereof, will cause or could cause a material risk to Bank, including, without limitation, regulatory compliance risk, financial loss, operational risk, fraudulent activity, reputational risk, or system disruption or failures. The termination of this Agreement will not affect the rights or obligations of the parties that arise prior to termination (e.g., the indemnification and record retention requirements). You remain liable for any fees or items paid thereafter.

## 21. GENERAL PROVISIONS

- a. **No Waiver.** The Bank shall not be deemed to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by us. No delay or omission by us in exercising any rights or remedies shall operate as a waiver of such rights or remedies or any other rights or remedies. A waiver on one occasion shall not be construed as a bar or waiver of any rights or remedies on future occasions.
- b. **Enforcement.** In the event that we must enforce the provisions of this Agreement, we may recover the costs of enforcement, including reasonable attorneys' fees. We must maintain the private nature of the financial information contained on Online Banking for the protection of our customers. In the event of any breach of security or unauthorized access to any part of Online Banking by you, Secondary Users, Administrators (if applicable), or anyone to whom you made any portion of your login credentials available, we may obtain an injunction from a court of competent jurisdiction, restraining further misuse of Online Banking.
- c. **Notices.** Except as otherwise provided for in this Agreement, all notices required or permitted under this Agreement shall be in writing. Notices to you may be mailed or delivered to your statement, email,

or mailing address as reflected on our system of record, or included on your statement as a statement message, and shall be deemed received on the earlier of receipt or three days after mailing. Notices to Bank must be mailed or delivered to Bank at 1095 Canyon Blvd., Suite 100, Boulder, Colorado 80302, and shall be deemed effective no earlier than the end of the Business Day following the Business Day after it is received. You further agree that except as may be otherwise required by applicable law: (i) any and all disclosures, notices, or other communications regarding this Agreement may be made by Bank electronically or by posting on Bank's website; and (ii) any electronic disclosure, notice, or other communication Bank makes by posting to Bank's website will be considered received by you when posted by Bank.

- d. **Conflicts.** In the event of a conflict between the terms and conditions of this Agreement and any amendment or addenda hereto, and any other Bank service agreements(s), the amendment, addenda, or other service agreements(s) shall control.
- e. **Amendment.** Bank may amend any of the terms or conditions of this Agreement by giving written notice to you in accordance with Subsection 21(c). Your continued use of Online Banking or your accounts after such notice is given constitutes your agreement to the amendments. Your rejection of any amendments to this Agreement is cause for us to suspend or terminate the depository relationship with or Online Banking provided to you.
- f. **Survival.** Sections 5(g) and 18 through 21, a party's indemnification obligations hereunder, and the other respective obligations of each party which by their nature would continue beyond the termination of this Agreement shall survive termination of this Agreement.
- g. **Governing Law.** The laws of Colorado (without giving effect to its conflict of law principles) govern all matters arising under or relating to this Agreement.
- h. **Severability.** If any provision of this Agreement is determined to be void or unenforceable for any reason, such determination shall not affect the validity or enforceability of any other provision, all of which shall remain in full force and effect.
- i. **Assignment and Delegation.** You may not assign your rights or delegate your obligations under this Agreement and any attempt to do so will be null and void.
- j. **Successors and Assigns.** This Agreement binds and benefits the parties and their respective permitted successors and assigns.
- k. **Entire Agreement.** This Agreement, together with any attached amendments or addendums or any written agreements related to any of the services included in Online Banking, constitutes the final, exclusive agreement between the parties with respect to the provision of Online Banking. All earlier and contemporaneous negotiations and agreements between the parties on matters contained in this Agreement are expressly merged into and superseded by this Agreement.



## ONLINE BANKING AGREEMENT COMMERCIAL ADDENDUM

This Commercial Addendum to the Online Banking Agreement (“**Addendum**”) outlines additional terms and conditions applicable to Online Banking services utilized by commercial customers and consumer customers to the extent that the accounts of such consumer customers are linked to a commercial account in accordance with this Addendum. “**Commercial Agreement**” means this Addendum, together with the Online Banking Agreement (“**Agreement**”) and the Specifications (defined below). To the extent that the provisions of this Addendum conflict with the Agreement, this Addendum controls.

In order to utilize Online Banking, you must designate certain accounts for specific purposes using the Business Online Banking Specifications or Online Banking Cash Management Specifications form, whichever is applicable (the “**Specifications**”). The Specifications may list certain accounts that you wish to access with Online Banking. If it includes the accounts of your parent company, subsidiaries or affiliates, you warrant and represent that they have authorized you to access their accounts through Online Banking in the same manner as your own accounts. You agree to notify us immediately in writing of any change to that authorization.

Please note that this Commercial Agreement is a revision to the agreement formerly known as the Business Online Banking Agreement. The Specifications were previously referred to as the Business Online Banking Designation of Services or the Business Online Banking Cash Management Designation of Services, or other similar specifications forms that you may have previously executed, whichever is applicable.

### 1. ADMINISTRATOR

You must designate an authorized individual to serve as the Administrator for your Online Banking account. We will provide the Administrator with an individual username and temporary password. Your Administrator can establish Secondary Users and set limits on each Secondary User’s authority to access information and conduct transactions. You assume sole responsibility for the actions of your Administrator, the authority he or she gives to others to act on your behalf, and the actions of Secondary Users. You authorize us to reset passwords for your Administrator. Password resets for Secondary Users must be conducted by your Administrator, as we may not be able to do so.

### 2. SECURITY PROCEDURES

You are required to use a security token to authenticate wire transfers and ACH origination requests. A security token is a device that adds an additional level of security to your Online Banking account. The Bank uses a third-party service provider, Google Authenticator, to provide a virtual security token you can download to your mobile device(s). Google Authenticator generates a one-time six (6) digit code (which will change every 30 seconds) to use when prompted prior to initiating a wire transfer or ACH origination request. Security tokens should be stored securely. You may choose to increase the security of your Online Banking account by using Google Authenticator as a security contact/authorization method.

We recommend that your Administrator establish a minimum of two Secondary Users and each Secondary User’s authority and functions such that the Secondary Users act independently, with no single Secondary User allowed to both initiate and approve wire transfer, external transfer, or ACH origination requests. If you choose not to follow this recommendation, you agree to indemnify, defend, and hold us harmless for any unauthorized activity that may have been prevented by following this recommendation.

You agree to maintain close control over all Bank property (including login credentials and security tokens) you acquire or receive from us in connection with Online Banking. You agree to notify and cause the Administrator and each Secondary User to notify us immediately of any actual or suspected breach of confidentiality of any login credentials or security procedure. Except as otherwise provided in this Commercial Agreement or by applicable law, you will be solely liable for all funds transfer instructions and other communications and transactions that were initiated utilizing your security procedures before we received and had a reasonable opportunity to act on such notice. You acknowledge that the purpose of security procedures is to verify the authenticity of the transaction, not to detect errors in the transmission or content of the transaction.

### 3. LINKED ACCOUNTS

To the extent that we, in our sole discretion, permit you to link consumer and business accounts to any or all of the Online Banking services, you understand and agree, whether in your capacity as an owner of the linked

consumer account(s) (“**Consumer**”) or in your capacity as an owner of the linked business account(s) (“**Business**”), that:

- a. Except as otherwise provided for in the Commercial Agreement or any other written agreement between us and Consumer, and except as otherwise required by context or applicable law, Consumer will be considered a Business under, and subject to, the terms and conditions of the Commercial Agreement;
- b. Bank is authorized to link consumer and business account(s), to permit consumer accounts to be accessed through the Online Banking account of Business, and to permit, in our sole discretion, Consumer to use Online Banking services offered to Business;
- c. Such linkage does not affect the provisions of any other agreements between Business and Bank, or between Consumer and Bank, that may restrict the use of loan proceeds, prohibit comingling of business or personal funds, otherwise restrict banking activity, and any such other agreements shall continue to bind all parties thereto;
- d. Each Administrator or Secondary User of Business who has the ability to log into, access, and perform transactions through Online Banking is entitled to such access and actions regarding such linked consumer accounts, whether or not such Secondary User is or is not named in any account documentation as an authorized signer or is or is not otherwise authorized to access the consumer account;
- e. The ability of Business, each Administrator, and each Secondary User of Business to access the linked consumer account(s) will include, without limitation, the ability to electronically control such account(s) and to view account balances and activities, initiate transactions and withdrawals, transfer money, and perform other types of electronic transactions to and from the linked accounts; and
- f. ANY AND ALL TRANSACTIONS TO OR FROM CONSUMER’S LINKED ACCOUNT INITIATED THROUGH ONLINE BANKING BY AN ADMINISTRATOR OR SECONDARY USER OF BUSINESS WHO ACCESSED ONLINE BANKING (WHETHER OR NOT INITIATED WITH CONSUMER’S KNOWLEDGE OR APPROVAL) ARE DEEMED TO BE “AUTHORIZED TRANSACTIONS” UNDER REGULATION E.

#### **4. FEES**

Unless otherwise agreed to by us, you shall pay us, on a monthly basis, any and all fees applicable to use Online Banking and related services that you receive from us. There is not currently a monthly cost for accessing Online Banking, although standard charges apply for services such as wires, stop payments, and ACH originated transactions. We reserve the right to revise fees and charges applicable to the services at any time. You will be provided with at least 30 days written notice prior to imposition of any new or increased fees or charges associated with Online Banking and related services.

#### **5. EXTERNAL TRANSFERS**

External transfers are limited to the amount set forth in the Specifications, as the same may be amended or restated from time to time.

#### **6. WIRE TRANSFERS**

The Bank offers wire transfer services through Online Banking. To use the Bank’s wire transfer services, you must also sign and agree to the provisions of the Bank’s Wire Transfer Agreement (including Exhibit A) and other applicable documents as the same may be amended or restated from time to time. You may initiate domestic and international wire transfers through Online Banking. The wire transfer service requires approval by us, and additional documentation may be required. The wire transfer limit is set forth in the Specifications, as the same may be amended or restated from time to time. For wire transfer requests exceeding \$250,000, we will verify the transfer by calling an authorized individual at the phone number designated on the Wire Transfer Agreement between you and us.

#### **7. AUTOMATED CLEARING HOUSE SERVICE**

The Bank offers ACH origination services through Online Banking. In order to use the ACH service, you must also sign and agree to the provisions of the ACH Origination Agreement and other documents, including the Specifications, as the same may be amended or restated from time to time. Credit approval is required for companies originating ACH credit (which may also be referred to as collections or receipts) entries. For ACH requests exceeding \$250,000, we will verify the transfer by calling an authorized signer on the account.

#### **8. POSITIVE PAY SERVICE**

- a. **Positive Pay Service.** You may select Positive Pay services for checks and shall note your selection on the Specifications. If you elect to utilize Positive Pay, you shall manually enter into, or import from your accounting system into, our Positive Pay system, or otherwise transmit to us, directly or through



a third party acceptable to us, in accordance with procedures specified by us from time to time, a file of checks issued each Business Day no later than the Bank-established cut-off time for issued items. We or our Service Provider will match all presented checks with the account number, serial number, and dollar amount to determine if the check is valid and provide an electronic list of exceptions (the “**Exception Report**”) to you the following Business Day. You shall promptly, but by no later than 12:00 PM MT, review the Exception Report and provide a pay/no pay decision for all exceptions. In the event that you do not make a funding decision as to any exception item in the manner summarized above, we may return the item, and you waive all right to dispute the non-payment of the item.

- b. **ACH Positive Pay Service.** You may select Positive Pay services for ACH transactions and shall note your selection on the Specifications. If you elect to utilize ACH Positive Pay, you shall manually enter into, or import from your accounting system into, our Positive Pay system, or otherwise transmit to us, directly or through a third party acceptable to us, in accordance with procedures specified by us from time to time, companies authorized to debit and/or credit your deposit account, with transaction amount limitations and effective/expiration dates. We or our Service Provider will run each ACH file to identify ACH transactions that are suspects based on the authorized company records as provided by you and will provide an electronic list of pending suspect transactions (the “**Suspect Transactions**”) to you on each Business Day. You shall promptly, but by no later than 12:00 PM MT on the Business Day following receipt of the Suspect Transactions, review the Suspect Transactions and provide a pay/return decision for all suspect transactions. You may also elect to allow a suspect transaction to post by authorizing a company for future ACH transactions by adding a new authorized company record or changing an existing record. If you do not provide a pay/return decision or add or maintain company records to allow suspect entries to post in cycle processing, items will reject and will be placed on the Positive Pay exceptions screen the next day. In the event that you do not make a funding decision as to any suspect transaction in the manner summarized above, we will return the item, and you waive all right to dispute non-payment of the item.
- c. **Teller Access to Positive Pay.** As part of the Positive Pay services, we will make available to our tellers the issued checks file received from you. If a check presented for payment over the counter in one of our branches is: (i) presented before we have received, processed, and made available to tellers the issued check file for such check from you; or (ii) a mismatched check, we may, but will not be obligated to, attempt to contact an authorized signer by telephone. If we contact an authorized signer and the authorized signer instructs us to pay the check, you authorize us to pay the check and charge it against the relevant account. If the authorized signer instructs us to return the check, you authorize us to return the check unpaid to the person presenting it to us. If we elect not to attempt to contact an authorized signer, is unable to contact an authorized signer, or the authorized signer fails to give us, in our sole determination, clear instruction to either pay or return the check, we will return the check. If there is a conflict in direction as to pay or not to pay the check, the check will not be paid and will be returned. In the event that you do not make a funding decision as to any suspect transaction in the manner summarized above, we will return the item, and you waive all right to dispute the payment or non-payment of the item.
- d. **Fees for Positive Pay Service.** All fees for Positive Pay are as outlined in our fee schedule, and we will, on a monthly basis, debit your authorized account maintained at Bank for the payment of charges due unless you arrange another payment procedure acceptable to us or the charges are assessed through account analysis.

## 9. COMPLIANCE

You agree to use Online Banking solely to conduct your own business in compliance with applicable law. In addition, you agree to limit Online Banking access to your employees or agents who require such access as part of their responsibilities. You agree to require all persons who use Online Banking to do so in compliance with this Commercial Agreement. It is your responsibility to ensure such persons are familiar with this Commercial Agreement and properly trained in the use of Online Banking, including without limitation obligations to maintain confidentiality of the Commercial Agreement and access to Online Banking (including, without limitation, the security of login credentials). Notwithstanding that we may permit limited use of some of the Online Banking services for personal, family, or household purposes, Online Banking will be used primarily for business or commercial purposes and will not be used for any unlawful purpose.

## 10. EXPORT CONTROLS

Software programs, materials, tools, and technical data may be subject to U.S. export controls or the trade laws of other countries. You agree to comply with all export control regulations. You also acknowledge that you, not

the Bank, have the responsibility to obtain such licenses to export, re-export or import as may be required. You agree not to export or re-export to entities on the most current U.S. export exclusion lists or to any country subject to U.S. embargo or terrorist controls as specified in the U.S. export laws.

#### **11. ACCOUNT MAINTENANCE**

From time to time, you may request the Bank perform account maintenance to your Online Banking (e.g., assistance building ACH/Wire templates, customer support, etc.). The Bank performs account maintenance services at its sole discretion, and you are not guaranteed account maintenance services. We shall not be liable for any damage, loss, or liability arising from any requested maintenance to your Online Banking account except to the extent that the damage, loss, or liability arises from our own gross negligence. You are responsible for ensuring all information and/or instructions you provide us to perform Online Banking account maintenance on your behalf is complete, correct, and current.

#### **12. LIMITATION OF LIABILITY**

Regardless of fault, our liability to you for any damage, loss, or liability, regardless of form, shall not exceed our fees and charges to you in connection with Online Banking for a period of one month prior to the date the damage was incurred. Under no circumstances shall we be liable for any incidental, special, consequential, or exemplary damages or for any damages caused, in whole or in part, by the action or inaction of you or any of your agents or employees. We shall not be liable for any damage, loss, liability, or delay caused by accidents, strikes, flood, fire, war, riot, equipment breakdown, electrical, mechanical, or communication line failure, acts of God or any cause, which is beyond our reasonable control. You further agree that fees charged by us for providing Online Banking shall be deemed to have been established in contemplation of these limitations on our liability.

We and you agree that Positive Pay, as described in the Commercial Agreement, assists us and you in reducing the risk of loss from counterfeit, fraudulent, or forged checks, as well as unauthorized ACH transactions. You further acknowledge that we are unwilling to permit you to use any of the Online Banking services other than Positive Pay without also using the related Positive Pay services, unless you agree to indemnify, defend, and hold us harmless from and against losses we may suffer or incur as a result of counterfeit, fraudulent, or forged checks, or any unauthorized ACH transactions on the accounts that are subject to the Commercial Agreement. Accordingly, if you operate any such accounts without using Positive Pay, you will be deemed to have agreed that, to the fullest extent permitted by law that: (a) we will not be liable to you for any losses paid, suffered, or incurred by you which arise directly or indirectly out of or in connection with the (i) acceptance for deposit, payment, negotiation, or other processing of any check drawn or purporting to be drawn on an account of yours if such check is counterfeit, fraudulent, or contains a forged signature, or the amount of such check is altered or the payee has been altered, or (ii) your failure to provide a funding decision or to add or maintain company records for suspect ACH entries, or your payment or non-payment of any suspect ACH entry, which could have been prevented with the use of Positive Pay; and (b) in addition to the other indemnity provisions set forth in the Commercial Agreement, you will indemnify, defend, and hold us harmless from and against any and all losses, liabilities, or expenses (including reasonable attorneys' fees and expenses) paid, suffered, or incurred by us which arise directly or indirectly out of or in connection with the (i) acceptance for deposit, payment, or negotiation, or other processing of any check drawn or purporting to be drawn on an account of yours if such check is counterfeit, fraudulent, contains a forged signature, or the amount of such check is altered or the payee has been altered, or (ii) your failure to provide a funding decision or to add or maintain company records for suspect ACH entries, or our payment or nonpayment of any suspect ACH entry, which could have been prevented with use of Positive Pay.