



Personal & Small Business Banking  
Terms and Disclosures

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## *I. Welcome to Texas Capital Bank*

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Welcome to Texas Capital Bank! We appreciate your business and will work hard to earn your trust as your banking partner. Your Deposit Account and the products and services we offer in connection with your Account is subject to rules that protect both you and us. Please read these Personal & Small Business Banking Terms and Disclosures (the “Agreement” as further defined below) and our privacy policy and privacy notices carefully and in their entirety so that you understand your rights and responsibilities which pertain to your Deposit Account relationship with us. This Agreement is effective as of September 1, 2023, and supersedes and replaces the previous Personal Banking & Small Business Banking Terms and Disclosures.

### **Contacting Texas Capital Bank**

Should you have any questions about your Account or any other questions, you may choose one of the following options to contact us:

- Call: 877.TEX.BANK (839.2265) (Client Support)
- Facsimile: 877.839.2738 (Client Support)
- Email: [clientsupport@texascapitalbank.com](mailto:clientsupport@texascapitalbank.com)
- Web: [www.texascapitalbank.com](http://www.texascapitalbank.com)
- Online Banking: Secure Message – Log in at [www.texascapitalbank.com](http://www.texascapitalbank.com)
- Mail: 2350 Lakeside Blvd., Ste. 800; Attn: Client Support; Richardson, TX 75082

Please note that there are provisions in this Agreement that require you to notify us of certain changes or events (for example, a change in your address). Generally, any notice this Agreement requires you to provide us must be in writing and sent to the above mailing address.

### **Agreement**

The term “Agreement” includes this document, the Account or service application, the Deposit Account Agreement, Truth in Savings disclosures, other disclosures, such as individual product and regulatory disclosures, and applicable fee schedule provided to you. This Agreement governs all Texas Capital Bank Personal and Small Business Banking Deposit Accounts identified in this Agreement. By signing an Account or services application, Deposit Account Agreement, or any other documents that we provide to you or your Representative(s) or by opening and maintaining an Account with us, you and, where applicable, your Representative(s), accept and agree to be bound by this Agreement and to any subsequent amendments, changes, or modifications to this Agreement. Without limiting the foregoing, the date on which you open an Account is the date such Account is established in our records, subject to you providing us with all documentation required to establish the Account. You expressly authorize us to use this date as the opening date of your Account.

Our relationship will be defined by this Agreement, unless otherwise expressly agreed in writing, and the relationship with you will be that of debtor and creditor. No fiduciary, quasi-fiduciary or any other special relationship exists between you and us. Any internal policies or procedures, if any, that we may maintain in excess of reasonable commercial standards and general banking usage are solely for our own benefit and shall not impose a higher standard of care than otherwise would apply in their absence. There are no third-party beneficiaries to this agreement.

### **Selecting Account and Ownership**

The type of Account you select and designate on the bank-provided document establishes the type of ownership of your respective Account and how property passes on your death. Below is a list and general description of the type of Accounts available for your selection. You will not control the disposition of funds held in some of the following Accounts. If you have questions about the types of Account ownership, including the type of Account ownership that best fits your needs, please consult with your accountant or attorney.

**Single-Party without Payable on Death:** The Party to the Account owns the Account. Upon the death of the Party, ownership of the Account passes as part of the Party’s estate under the Party’s will or by intestacy.

**Single-Party with Payable on Death:** The Party to the Account owns the Account. Upon the death of the Party, ownership of the Account passes to the payable on death beneficiaries of the Account. The Account is not part of the Party’s estate.

**Multiple-Party without Right of Survivorship:** The Parties to the Account own the Account in proportion to the Parties’ net contributions to the Account. The financial institution may pay any sum in the Account to a Party at any time. Upon the death of a Party, the Party’s ownership of the Account passes as part of the Party’s estate under the Party’s will or by intestacy.

**Multiple-Party with Right of Survivorship:** The Parties to the Account own the Account in proportion to the Parties’ net contributions to the Account. The financial institution may pay any sum in the Account to a Party at any time. Upon the death of a Party, the Party’s ownership of the Account passes to the surviving Parties.

**Multiple-Party with Right of Survivorship and Payable on Death:** The Parties to the Account own the Account in proportion to the Parties’ net contributions to the Account. The financial institution may pay any sum in the Account to a Party at any time. Upon the death of the last surviving Party, the ownership of the Account passes to the payable on death beneficiaries.

**Convenience Account:** The Parties to the Account own the Account. One or more convenience signers to the Account may make Account transactions for a Party. A convenience signer does not own (and has no beneficial interest in) the Account. Upon the death of the last surviving Party, ownership of the Account passes as part of the last surviving Party’s estate under the last surviving Party’s will or by intestacy. The financial institution may pay funds in the Account to a convenience signer before the financial institution receives notice of the death of the last surviving Party. The payment to a convenience signer does not affect the Parties’ ownership of the Account.

**Trust Account:** The Parties named as trustees to the Account own the Account in proportion to the Parties’ net contributions to the Account. A trustee may withdraw funds from the Account. A beneficiary may not withdraw funds from the Account before all trustees are deceased. Upon the death of the last surviving trustee, the ownership of the Account passes to the beneficiary. The Trust Account is not part of a trustee’s estate and does not pass under the trustee’s will or by intestacy, unless the trustee survives all beneficiaries and all other trustees.

### **Your Right to File a Complaint**

Texas Capital Bank is state-chartered under the laws of the State of Texas and by state law is subject to regulatory oversight by the Texas Department of Banking (“TDB”), the Federal Deposit Insurance Corporation (“FDIC”), and the Consumer Financial Protection Bureau (“CFPB”). Any consumer wishing to file a complaint against us should contact the TDB, FDIC or CFPB as follows:

#### **Texas Department of Banking**

Consumer Assistance Activities  
2601 N. Lamar Blvd.  
Austin, Texas 78705-4294  
[www.dob.texas.gov](http://www.dob.texas.gov)  
Phone: 877.276.5554  
Facsimile: 512.475.1313  
Email: [consumer.complaints@dob.texas.gov](mailto:consumer.complaints@dob.texas.gov)

#### **FDIC Information and Support Center**

1100 Walnut St., Box #11  
Kansas City, MO 64106  
[www.fdic.gov/consumers/assistance/filecomplaint.html](http://www.fdic.gov/consumers/assistance/filecomplaint.html)  
Phone: 877.ASK.FDIC (275-3342)  
TTY Toll-free number: 1.800.877.8339  
Facsimile: 703.812.1020

#### **Consumer Financial Protection Bureau**

P.O. Box 27170  
Washington, DC 20038  
[www.consumerfinance.gov/complaint](http://www.consumerfinance.gov/complaint)  
Phone: 855.411.CFPB (2372)  
TTY/TDD: 855.729.CFPB (2372)  
Facsimile: 855.237.2392

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## II. General Terms

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### Defining Terms within Agreement

Certain words and phrases appear throughout this Agreement. For purposes of this Agreement the following words and phrases shall have the following meanings:

**ACH:** Represents the Automated Clearing House which is governed by the National Automated Clearing House Association (NACHA) and its Operating Rules.

**ACH Credit Entry:** Refers to an Automated Clearing House Item that results in a credit to your Account.

**ACH Debit Block:** Refers to an automated process which rejects ACH Debit Entries that present against your Account.

**ACH Debit Entry:** Refers to an Automated Clearing House Item that results in a debit to your Account.

**ACH Entry:** Refers to an Automated Clearing House Item.

**Access Device:** Refers to any debit card, Personal Identification Number (PIN), password, or code used to initiate an electronic transfer of funds.

**Account or Deposit Account:** Refers to any Deposit Account you open or maintain with us upon which you are an Authorized Signer or in which you have a legal equitable interest.

**All-Balance Rate Account:** Refers to an account that has one interest rate that is applicable to all balances held for that account.

**ATM:** Refers to the acronym for automated teller machine.

**Automated Clearing House Item:** Refers to any Item that processes through the Automated Clearing House network which is governed by the National Automated Clearing House Association (NACHA) and its Operating Rules.

**Authorized Signer:** Refers to any person whose signature appears on the Deposit Account Agreement covering an Account or whom you authorize with or without our knowledge to effect any transactions on your Account.

**Available Balance:** The balance in your account that is immediately available for the posting, payment, or authorization of payment, withdrawal, or other debit transactions. Funds subject to holds (e.g., funds availability holds or delays, or transaction authorization holds) will not be available for the posting, payment, or authorization of payment, withdrawal, or other debit transactions. The balance available throughout the day for the authorization of payment and withdrawal transactions may increase or decrease as our deposit systems receive or recognize transactions on your account.

**Bill Pay:** Refers to our secure system which allows you to initiate payments by way of the Internet to your Payees.

**Business Day:** Refers to Monday through Friday, except for federal holidays.

**Cash:** Refers to money in the form of bills or coins.

**Checks:** Refers to a Negotiable Instrument or other draft drawn against deposited funds, to pay a specified amount of money to a specific Payee upon demand, and includes Substitute Checks.

**Consumer:** Refers to an individual that maintains his/her Account primarily for personal use.

**Current Balance:** The total amount of money recorded in your account, including funds not yet available for your use. This includes pending transactions, authorization holds and deposits that have not yet been made available. Refer to your account's available balance to determine the funds currently available to you for immediate withdrawal.

**Day or days:** Refers to a calendar day including Saturdays, Sundays, and federal holidays.

**Deposit Account Agreement:** Refers to the Agreement signed by customer designating the Authorized

Signer(s) on an Account and kept on file by us and used to verify signatures and signer's authority to transact business on the Account.

**Electronic Funds Transfer:** Refers to any electronic transaction initiated by a Consumer using an Access Device for personal, family, or household purposes which is governed by Regulation E.

**Funds Transfer:** Refers to all Wire Transfer requests, Automated Clearing House Items, and all other internal and external transfer requests, which are subject to final collection or subsequent return.

**Insufficient Funds:** Refers to an Item which presents against your Account for payment that is dishonored by us due to inadequate funds in your Account.

**Item:** Refers to any Check or any debit Item that may be charged or otherwise paid against your Account, as well as any Check or any credit Item that may be deposited or otherwise credited to your Account.

**May:** Refers to an act that may or may not be taken in the sole discretion of Texas Capital Bank, but in no event shall impose an obligation on Texas Capital Bank to take such action or refrain from acting. You acknowledge and agree that the term "may" is used throughout this Agreement without regard to case.

**Negotiable Instrument:** Refers to a transferable, signed document that promises to pay the Payee a sum of money at a future date or upon demand, such as a Check.

**Non-Affiliated Third Party:** Refers to a company that is not affiliated with us.

**Non-Consumer:** Refers to an entity that maintains its Account primarily for business purposes.

**Non-Personal Account:** Refers to any Deposit Account held by us which is established primarily for business use to conduct commerce. A Non-Personal Account is one and the same as a Small BusinessAccount.

**Non-Public Personal Information:** Refers to information about you that we collect in connection with providing a financial product or service to you. Non-Public Personal Information does not include information that is available from public sources, such as telephone directories or government records.

**Online Banking:** Refers to our secured system which allows you to perform banking activities by way of the Internet.

**Parties:** Refers to the depositor, the issuer of this Account, and a person who, by the terms of the Account, has a present right, subject to request, to payment from a Multiple-Party Account.

**Party:** Refers to an individual or entity who/that has contractual rights to the Account.

**Payee:** Refers to an entity, Consumer or Non-Consumer, who/that receives a payment by way of Check or electronic means, usually through an obligation of the Consumer or Non-Consumer who/that initiated the payment.

**Periodic Statement:** Refers to a summary which lists the activity on your Account for a specified period of time.

**Personal Account:** Refers to any Deposit Account held by us which is established primarily for personal, family, or household use.

**Representative:** For Non-Personal Deposit Accounts, refers to a designated individual of the entity appointed by the entity's Authorized Signer and as listed in the applicable entity Small Business Deposit Account Agreement; for Consumers, refers to either a Convenience Signer or other legal agent appointed by the Consumer and as documented to us in the Personal Deposit Account Agreement or other form as required by us.

**Settlement Date:** Refers to the date on which an ACH Entry posts to your Account.

**Small Business Account:** Refers to any Deposit Account held by us, in an account type designed by and/or designated by us for small businesses, which is established primarily for business use to conduct commerce. A Small BusinessAccount is one and the same as a Non-Personal Account.

**Substitute Check:** Refers to a legally reproduced paper replica of the original Check that contains an image of the front and back of the original Check.

**Texas Capital Bank, Bank, we, our and us** and its subsidiaries and their affiliates together with any bank

or other financial services entity that is acquired (in whole or in part) by merger or other acquisition which operates under an existing name until integrated into Texas Capital Bank. Furthermore, you acknowledge and agree that the terms “bank,” “we,” “our,” and “us” are used throughout this Agreement without regard to case.

**Third Party:** Refers to an individual or entity other than the Deposit Account, Texas Capital Bank, and our affiliates to which you may have an obligation or commitment.

**UCC:** Refers to the Uniform Commercial Code as enacted by the State of Texas and as may be amended from time to time.

**Uncollected Funds:** Refers to a deposit by Check which has not yet been collected by us. Items which present against Uncollected Funds may be returned by us as an Insufficient Funds Item.

**Wire Transfer:** Refers to an electronic transfer of funds through the Federal Reserve Bank’s Fedwire®. Although a Wire Transfer is an electronic payment, it does not process as an Automated Clearing House Item or an Electronic Funds Transfer Item.

**You and Your:** Refers to the person(s) and/or entity who/that established the Account with us or in whose name the Account was opened, together with any person who is an Authorized Signer or the Representative and anyone with the authority to deposit, withdraw, or exercise control over the funds in the Account. You acknowledge and agree that the terms “you” and “your” are applicable to joint owners, collectively and individually. Furthermore, you acknowledge and agree that the terms “you” and “your” are used throughout this Agreement without regard to case.

#### **Concerning Use of Singular/Plural Phrases and Words**

The captions used within this Agreement are for your convenience and reference purposes only and shall not govern the interpretation of the provisions. Unless it would be inconsistent to do so, words the singular includes the plural and this Agreement, and your use of the Account, conducting a transaction, or receipt of any of our products or services following notice of any change, alteration, or amendment constitute your acceptance of such change, alteration, plural includes the singular.

#### **Governing Laws, Rules and Regulations**

Your Account, this Agreement, and all disputes arising from or related to your Account or this Agreement is governed by the laws of the State of Texas (without regard to its conflict of law principles) and all applicable federal laws, rules, and regulations. We reserve all of our rights with respect to the preemptive effect of any applicable federal laws, rules, or regulations. All rights we have under the Agreement and applicable laws are cumulative and not exclusive. All Items of deposit and collection that concern your Account are also subject to applicable federal laws and regulations as well as the National Automated Clearing House Association (“NACHA”) Operating Rules.

#### **Alternative Dispute Resolution (ADR)**

**NOTICE OF SETTLEMENT CONFERENCE, MEDIATION, ARBITRATION, WAIVER OF JURY TRIAL, AND WAIVER OF CLASS ACTION: THIS AGREEMENT CONTAINS PROVISIONS FOR SETTLEMENT CONFERENCE, MEDIATION, ARBITRATION, WAIVER OF JURY TRIAL, AND WAIVER OF CLASS ACTION (SEE SECTION BELOW). BY OPENING YOUR ACCOUNT OR OTHERWISE CONTINUING TO USE YOUR ACCOUNT FOLLOWING RECEIPT OF THESE TERMS AND CONDITIONS, YOU AGREE TO SUCH TERMS. FOR CLAIMS SUBJECT TO BINDING ARBITRATION, NEITHER YOU NOR WE WILL HAVE THE RIGHT TO PURSUE SUCH CLAIMS IN COURT OR HAVE A JURY DECIDE SUCH CLAIMS. ADDITIONALLY, YOU WILL NOT HAVE THE RIGHT TO BRING OR OTHERWISE PARTICIPATE IN ANY CLASS ACTION OR SIMILAR PROCEEDING EITHER IN COURT OR IN ARBITRATION.**

While the Bank would prefer to resolve all possible disputes between us through its regular customer service channels, there may come a time where you have a dispute with the Bank. You agree to try to resolve any possible dispute you have with the Bank prior to initiating arbitration or prior to filing any litigation by agreeing to attend an “in-person” settlement conference at a mutually agreed time and place,

and if that does not resolve the dispute, to non-binding mediation. Such a settlement conference generally contemplates an in-person meeting where both sides try to meet to resolve the applicable issues and exchange documents and information in an effort to try to resolve the dispute. The Bank wants to learn the reasons and underlying facts regarding the dispute prior to incurring fees and costs in mediation, arbitration, or litigation proceeding. If you do not go to an in-person meeting, you agree you will not seek to recover future attorneys’ fees and costs from the Bank. Such a meeting contemplates that both parties will act in good faith and negotiations shall remain confidential and all costs and expenses associated with the settlement conference shall be paid by the party incurring such costs or expense.

**Mediation.** If the parties are unable to reach a resolution at a settlement conference, before you file a claim in an arbitration process or before you file a lawsuit, you also agree to make a second effort to try to resolve the dispute by attending a non-binding mediation in the county seat of the Texas county of your permanent residence, or if your permanent residence is outside the state of Texas or the US, then in Dallas County. Either you or the Bank may request a mediation upon written notice to the other party, and the parties agree to work together to schedule a mediation with a neutral mediator within forty-five (45) days of such a request being given. The Bank hereby generally agrees that you may select a mediator of your choice, but the mediator must be qualified to serve as a mediator and not be biased. Both sides will each equally pay one-half (1/2) of the mediation costs to the mediator. Each side will pay for their own attorney’s fees, costs, and expenses. If you do not attend this mediation, you agree you will have waived any claim to seek recovery of attorneys’ fees and costs from the Bank.

**Binding Arbitration.** If a settlement conference or mediation is unsuccessful, you agree that any dispute, claim, or controversy of any kind between you and the Bank (whether it arises out of or relates to this Agreement, or to your Account, or any transactions involving your Account, or any service or product related to your Account or the business dealings between us and you) either you or the Bank can choose to have that dispute resolved by binding arbitration in Dallas County. This arbitration provision limits your ability to litigate claims in court and waives your right to a jury trial. You should review this section carefully. You will not have the right to participate in a class action lawsuit, either as a class representative or member of any class of claimants for any claim you may believe you have against the Bank. Arbitration is a proceeding in which disputes are decided by one or more neutral arbitrators who issue a binding ruling in the form of an award. That award can then become a judgment entered by a court of competent jurisdiction. You and we understand that discovery and other procedures in arbitration may be more limited than discovery in court proceedings and that the ability to modify, vacate, or appeal an award by an arbitrator(s) is strictly limited.

You and we agree, upon written demand made by you or us, to submit to binding arbitration all disputes, controversies, and claims, whether based on contract, fraud, tort, intentional tort, statute, regulation, constitution, common law, equity, or any other legal basis or theory, and whether pre-existing, present, or future, that arise out of or relate to: (a) this Agreement, your Account, any transaction involving your Account, any service or product related to your Account, or any advertisements, promotions, representations or oral or written statements related to this Agreement or your Account; (b) the relationships that result from this Agreement (including, to the fullest extent permitted by applicable law, relationships with third parties who are not parties to this Agreement or this arbitration provision); (c) your relationship with us that relates to this Agreement or any other agreement or relationship or dealings that you have with us that is not also subject to a different agreement to arbitrate; (d) the dealings between the parties; or (e) the validity, interpretation, scope or enforceability of this Agreement or the interpretation or scope of the Arbitration Clause (collectively, a “Claim”). All parties retain the right to seek relief in a small claims court for disputes or claims within the jurisdictional limits of the small claims court.

At the option of the first to commence arbitration, you or we may choose to have the arbitration conducted by JAMS ADR (“JAMS”) or the American Arbitration Association (“AAA”), or you and we may agree upon a different arbitrator. In any event any arbitration under this Agreement shall be conducted in writing in accordance with the AAA Rules (the “Rules”). You agree that this arbitration provision is made pursuant to a transaction involving interstate commerce, and the Federal Arbitration Act 9 USC, §§1-16 (the “FAA”) shall apply to the construction, interpretation, and enforceability of this Agreement notwithstanding any other choice of law provision contained in this Agreement.

Either you or we may initiate arbitration by giving written notice of the intention to arbitrate to the other party and by filing notice with JAMS or the AAA in accordance with the Rules in effect at the time the notice is filed. The notice shall set forth the subject of the dispute and the relief requested at a minimum. The demand for arbitration may be made before or after commencement of any litigation. You should contact the AAA at 800-778-7879 or www.adr.org or JAMS at 800-352-5267 or www.jamsadr.com for more information about arbitration. If for any reason the AAA or JAMS is unable or unwilling to serve as arbitration administrator, or you and we are unable to agree on another arbitrator, we will substitute another national or regional arbitration organization. Demand for arbitration under this Agreement must be made before the date when any judicial action upon the same Claim would be barred under any applicable statute of limitations; otherwise, the Claim also is barred in arbitration. Any dispute as to whether any statute of limitations, estoppel, waiver, laches, or similar other doctrine bars the arbitration of any Claim shall be decided by arbitration in accordance with the provisions of this Agreement.

You cannot join together in a dispute with anyone other than persons who use your Account, although this limitation does not affect the ability of a purely governmental entity to institute any enforcement action. Even if other people have disputes similar to a dispute that you and we have, those people and their disputes cannot be part of any arbitration between you and us. A Claim by, or on behalf of, other persons will not be considered in, joined with, or consolidated with, the arbitration proceedings between you and us, and a Claim may not be arbitrated on a class action, private attorney general, shareholder derivative suit, or other representative basis. Notwithstanding anything to the contrary in this Agreement, any dispute regarding the prohibitions in this paragraph or about the enforceability of the arbitration clause shall be resolved by a court and not by the arbitrator(s). Where the aggregate of all Claims by both you and us does not exceed \$250,000, any expedited procedures provided in the Rules ("Expedited Procedures") shall apply and a single arbitrator shall decide the Claims. Where the aggregate of all Claims by both you and us exceeds \$250,000, a panel of three (3) arbitrators shall decide all Claims. Each arbitrator, whether or not acting under Expedited Procedures, shall be an active member in good standing of the bar for any state in the continental United States, have ten (10) years or more practical experience in the banking industry, and shall be either: (a) actively engaged in the practice of law for at least 10 years; or (b) a retired judge. You and we agree that the arbitrator(s): (a) shall limit discovery to non-privileged matters directly relevant to the arbitrated Claim; (b) shall grant only relief that is based upon and consistent with substantial evidence and applicable substantive law; (c) shall have authority to grant relief only with respect to Claims asserted by or against you individually; and (d) shall provide a brief written explanation of the basis for the award upon the request of either party, and shall make specific findings of fact and conclusions of law to support any arbitration award that exceeds \$25,000.

Upon written request by you, for claims up to \$50,000, we will pay to the AAA or JAMS the portion of the arbitration filing fee that exceeds the cost of filing a lawsuit in the federal court where you live. Upon written request by you, we may elect, at our sole discretion, to pay or advance some or all of any remaining arbitration fees and other costs. The arbitrator will decide whether we or you ultimately will be responsible for paying any filing, administrative or other fees in connection with the arbitration. If you are the prevailing party in the arbitration, the arbitrator(s) may order us to pay your reasonable and necessary attorney, expert or witness fees (provided you did not waive this right and provided you attended the initial settlement conference and mediation). If the Bank prevails, the arbitrator will order you to pay the Bank's reasonable and necessary attorney, expert or witness fees. Judgment upon any award rendered in arbitration may be entered in any court having jurisdiction.

**Waiver of Jury Trial: Venue. THIS PROVISION LIMITS YOUR RIGHTS TO A JURY TRIAL. YOU SHOULD REVIEW THIS SECTION CAREFULLY. IF: (A) NEITHER YOU NOR WE SEEK TO COMPEL ARBITRATION OF ANY DISPUTE WE HAVE RELATED THIS AGREEMENT, YOUR ACCOUNT, OR ANY TRANSACTIONS INVOLVING YOUR ACCOUNT; OR (B) SOME OR ALL OF THE ARBITRATION CLAUSE IS UNENFORCEABLE AND WE ARE IN A DISPUTE IN A COURT OF LAW, THEN EACH OF US AGREES TO WAIVE ANY RIGHT WE MAY HAVE TO A JURY TRIAL TO THE EXTENT ALLOWABLE UNDER THE LAWS OF THE STATE THAT GOVERN THIS AGREEMENT. IN OTHER WORDS, YOU HEREBY AGREE**

**NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS ACCOUNT OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY YOU, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. THE BANK IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY YOU. IF LITIGATION COMMENCES, YOU MUST FILE A LAWSUIT IN DALLAS COUNTY, TEXAS.**

**Class Action Waiver. TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOU HEREBY AGREE THAT ANY CLAIM, LITIGATION OR ARBITRATION ARISING OUT OF ISSUES RELATING TO YOUR ACCOUNT OR ANY OTHER DISPUTE OR CONTROVERSY BETWEEN YOU AND US REGARDING YOUR ACCOUNT WILL NOT PROCEED AS PART OF A CLASS ACTION AND YOU AND THE BANK HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVE ANY RIGHT TO PROCEED IN ANY CLASS ACTION OR SERVE AS A CLASS REPRESENTATIVE.**

**Attorneys' Fees and Other Legal Fees.** In any action between you and us regardless of whether it is proceeding in court or in arbitration, the prevailing party shall recover their attorneys' fees, costs and expenses (provided you did not waive this right and provided you attended the initial settlement conference and mediation).

**Agreed Statute of Limitation.** Except as otherwise prohibited under applicable law, you agree to bring a Claim against the Bank regarding your Account within the lesser of two (2) years of when a potential cause of action accrues or the minimal amount as allowed in your state if your state limits shortening a statute of limitations in a contract. This provision is intended to contractually limit a possible longer statute of limitation that may apply on a claim you may have against the Bank.

#### **Manner of Notifying You**

We inform you of changes that affect your rights and responsibilities as well as any changes, alterations, or amendments to this Agreement by way of written or electronic notices.

You acknowledge and agree that notice from us (a) to any person signing the Deposit Account Agreement; (b) to any Party on a Multiple-Party Account; or (c) to any Authorized Signer or other person authorized on your Account will be effective and considered notice to you and all such persons.

Unless a provision in this Agreement specifically requires or permits a different type of notice be made, or we otherwise agree in writing to accept a different notification method, you acknowledge and agree that we may (a) provide notice to you of a change, alteration, or amendment to this Agreement (i) by mail or email if you agreed to receive such notices electronically, at your address as reflected on our system of record; (ii) by delivery with your Periodic Statement; (iii) by posting within our Electronic Banking system; (iv) by any other method permitted by law; or (v) by any combination of the foregoing notification methods, and (b) provide any other type of notice to you by posting a notice in our banking centers and/or on our website or by any of the other methods described in (a).

In the event a provision in this Agreement specifically requires that we provide you written notice by mail, we will use your last known mailing address reflected on our system of record. You agree that it is your responsibility to review the Electronic Banking system periodically for any amendments or a subsequent version.

If there is more than one Account owner, we may send the notice of amendment to only one of you. In the event one or more notices we mailed to you is returned to us as undeliverable. Furthermore, we may stop mailing future notices to you until you provide us with a new mailing address. You acknowledge and agree that such undeliverable notices and the subject matter thereof are effective and binding on you.

All notices shall be deemed to have been given when delivered by hand; when mailed by United States mail, registered mail, or certified mail; via confirmed telecopy; or via confirmed email.

### **Affirming Our Right to Amend this Agreement and Change Account Terms**

You understand and agree that any informational materials or instructional guides we may provide you, including the “Your Guide to Electronic Banking,” are provided merely for your convenience and will not change, alter, or impose any additional obligations or duties on us unless such materials or instructional guides expressly state our intent to change, alter, or amend this Agreement by such materials or instructional guides.

We will notify you of any change, alteration, or amendment to this Agreement and the terms of your Account 30 days prior to any change, alteration, or amendment taking effect except that we shall not be required to notify you if we determine in our sole discretion that an immediate change is necessary to maintain or restore the security of a system (including the Funds Transfer system) or an Account or is necessary to comply with any applicable law or regulation. However, if we make such change, alteration, or amendment permanent, we will notify you as soon as reasonably possible thereafter unless we determine in our sole discretion that (a) disclosure would jeopardize the security of a system or an Account, or (b) such change, alteration, or amendment is not adverse to you in which case [(a) or (b)] we shall not be required to provide any notice to you at all. You and your Representative(s) agree to be bound by any change, modification, or amendment to constitute your acceptance of such change, alteration, or amendment.

### **Changing Your Address or Other Contact Information**

In the event you change your mailing or email address from what we have on file for you, or you change any information we have on file for you, you agree to notify us in writing immediately at the following address: Texas Capital Bank, 2350 Lakeside Blvd., Ste. 800, Attn: Client Support, Richardson, TX 75082.

Notwithstanding the foregoing, you acknowledge and agree that we may (a) change your mailing address in our records if we receive an address change notice from the U.S. Postal Service or from another entity in the business of providing correct address information that the address we have on file for you no longer corresponds to the address on file with the U.S. Postal Service, and (b) accept a change of mailing or email address provided by any person signing the Deposit Account Agreement, or any Authorized Signer or other person as otherwise authorized, on your Account. Furthermore, you acknowledge and agree that we may send your Periodic Statement and any other Account information and notices to the new address.

### **Severability and Waiver**

If any provision of this Agreement is found to be illegal, invalid or unenforceable for any reason, in whole or in part, you acknowledge and agree that such finding shall not impair, invalidate, render unenforceable, or affect the remainder of this Agreement and all remaining provisions shall continue in full force and effect. To the extent permitted by applicable law, the parties here to waive any provision of law which prohibits or renders unenforceable any provision hereof and to the extent that such waiver is not permitted by applicable law, the parties intend that such provision be interpreted as modified to the minimum extent necessary to render such provision enforceable. No amendment of this Agreement is enforceable against us unless it is signed by the Bank's Chief Legal Officer. No practice or course of dealing in connection with the Account which is at variance with this Agreement shall constitute a waiver, modification, or amendment of this Agreement.

### **No Oral Agreements**

This Agreement and the other written Agreements you have with us concerning your Account (for example, terms pertaining to Zelle® Services, or our Electronic Banking Services) represent the final Agreement between the Parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral Agreements of the Parties. You acknowledge and agree that there are no unwritten oral Agreements between the Parties.

### **Obtaining Personal and Non-Personal Information**

To help the government fight the funding of terrorism and money laundering activities, and in accordance with Section 326 of the USA Patriot Act, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. What this

means for you: When you open an account, we will ask for your legal name, address, date of birth (for individuals), and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents. When you apply for a business account, we will ask for your business name, address, and Tax Identification Number (TIN). We will also ask for your name, date of birth and social security number, which will allow us to verify your identity. We may validate the information you provide to us to ensure we have a reasonable belief of your identity and your business. When you apply for a Sole Proprietor account, we will ask you and any authorized signer for your legal name, residential address, date of birth and Social Security Number (SSN). We will require one or more forms of unexpired photo identification.

To help the government fight financial crime, federal regulation requires certain financial institutions to obtain, verify, and record information about the beneficial owners of Non-Consumers. If you are a Non-Consumer, a legal entity customer, or if you are a Representative of a legal entity customer, you will immediately provide us with information and documentation that we request about both your beneficial owners and any other person or entity having any direct or indirect equity interest in you. You agree that you will notify us immediately upon any changes to your beneficial owners or any other person or entity having any direct or indirect equity interest in you. You also agree to update such information upon request or otherwise confirm the accuracy of information previously provided to us. Until such updates are provided, the beneficial owner and other ownership information previously provided shall be deemed complete, accurate and current. As used in this section, the terms “beneficial owner” and “legal entity customer” have the meanings given to them in 31 C.F.R. § 1010.230(d) and (e), respectively, as the same may be amended from time.

We may make any inquiry that we consider in our sole discretion appropriate to help us determine if we should open, maintain, or close your Account. Such inquiry may include verification of employment, previous banking relationships and/or credit, and/or obtaining credit reports or other reports from consumer or other types of reporting agencies. Without limiting the foregoing, you acknowledge and agree that we have the right to refuse to open an Account for you. You further acknowledge and agree that we may exchange with or provide to or receive from others, such as merchants and consumer reporting agencies, information about you or which concerns your Account. In the event we request your credit report, and you inquire about such event, we will provide you with the name, address, and telephone number of the reporting agency. Please see the Privacy Notices for information about our information sharing practices for personal accounts.

### **Recording and Monitoring Phone Calls for Personal Accounts**

We may record or monitor telephone calls between you and us. You acknowledge and agree that we are not required to inform you that we are recording a call or of our policy to record and monitor before each call unless required by law. You agree and are aware that the Bank and any of its current and former parent(s), subsidiaries, affiliates, employees, officers, directors, agents, controlling persons and representatives, as well as any other person or company who provides any services, and for various other reasons in connection with an Account (each a “Communicator”) may monitor and record telephone calls regarding your Account to assure the quality of service or for various other reasons. You also agree that we may record any online sessions you have conducted on our IT systems.

### **Securing Our Website**

Our website has security measures in place to protect against the loss, misuse, and alteration of information under our control. Such security measures are accomplished with the implementation of multiple layers based on proven industry standards. Please go to [www.texascapitalbank.com](http://www.texascapitalbank.com) for information on our security measures.

In the event you have any questions as to the practices of, or your dealings with, our website, you may inquire about such practices or dealings. Please see the “Contacting Texas Capital Bank” section of this Agreement for our contact information.

### **Notifying Us of Your Opt-Out Option**

When you give a telephone number to us, or place a telephone call to us, you authorize us to communicate with you at that number. You understand that a “telephone number” includes a cell phone number and



“communicate” can include both telephone calls and text messages to your telephone number. You agree that we may communicate with you using an automatic telephone dialing system and through delivery of artificial and/or prerecorded voice messages. These communications may include calls and text messages related to upcoming due dates, missed or returned payments, other matters relating to the servicing or collection of amounts due under this Agreement or any other agreement with us, and your relationship with us more generally. You agree that we may make these communications to any telephone number (including any wireless, landline, and voice over IP number) that you have given or give to us and any telephone number at which we believe we can reach you and that you confirm is one at which we may communicate with you. In addition, you understand and agree that we may always communicate with you in any manner permissible by law that does not require your prior consent. In the event you no longer wish to receive communication and/or a product or service from us, you may elect to opt out of the receipt of such communication and/or product or service. Please see the “Contacting Texas Capital Bank” section of this Agreement for our contact information. Please be aware that in the event you inform us of such election orally, such as via telephone, we reserve the right to also require that you notify us of such election in writing.

### **Electronic Signatures and Electronic Delivery of Documents and Agreements**

From time to time, we may deliver Agreements, notices, or other documents to you electronically or use electronic signature (“e-signature”) services to facilitate the signing of documents if you agreed to receive such notices electronically. We do not require the use of e-signature, and you may obtain a paper copy of any Agreement, notice, or other document by contacting us. Please see the “Contacting Texas Capital Bank” section of this Agreement for our contact information.

However, should you decide to use an e-signature or deliver an Agreement or other document to us electronically, we may treat such e-signature and/or electronically transmitted Agreement or document as effective for all purposes as if you manually executed and/or delivered an original. You acknowledge and agree that (a) we may rely on an e-signed and/or electronically delivered Agreement and/or document in the same way that we would rely on an Agreement or document containing a written signature manually affixed to a paper version of the document and/or a written document manually delivered, and (b) an e-signed and/or electronically delivered Agreement and/or document shall have the same legal effect as a written signature manually affixed to a paper version of the document and/or a written version of the document manually delivered. The Agreements for the use of e-signature provided for in this section shall be in addition to (and not replace) any other Agreements between you and Texas Capital Bank regarding the use of electronic documents, Agreements, notices, disclosures, electronic records, or e-signatures.

### **Certain Provisions Concerning Your Liability**

You acknowledge and agree that we may deduct applicable fees and charges directly from your Account balance as accrued. Furthermore, you acknowledge and agree to pay reasonable charges for additional services you request that are not covered by this Agreement. In the event the Account is a Multiple-Party Account, each of you acknowledges and agrees to be jointly and severally liable for any Account shortage whether caused by you or another with access to the Account.

Without limiting the foregoing, for a Small Business Account, if you do not execute the Deposit Account Agreement in a Representative capacity of such business (for example, as an officer of such business), you expressly acknowledge and agree to be individually liable for any debts or obligations incurred on the Account. Such liability is due immediately and can be deducted directly from your Account balance whenever sufficient funds are available. You acknowledge and agree that you have no right to defer payment of such liability, and you are liable regardless of whether you signed the Negotiable Instrument, or benefited from the payment or overdraft, causing the shortage.

You further agree to be liable and reimburse us for all costs and expenses (including our reasonable attorneys’ fees) we incur, to the fullest extent permitted by law, in connection with any dispute involving your Account including, but not limited to, collection disputes; disputes between you and any joint owner, Authorized Signer or similar Party of your Account; or disputes involving any Third Party claiming an interest in your Account.

### **Concerning Fees and Service Charges**

You acknowledge and agree to pay the monthly service fee; transaction fees; fees for or overdrafts, and stop payment requests; and all other fees and service charges as applicable to your Account or as otherwise agreed upon by you and us. You have no right to defer payment of applicable fees and service charges and authorize us to debit your Account at any time whether or not such fees or service charges will result in an overdraft of your Account. In the event that your Account does not have sufficient funds to cover applicable fees or service charges, you acknowledge and agree that we may charge you separately for the overdraft amount. In the event of joint ownership of your Account, each and every owner of, or Party to, the Account acknowledges and agrees that such obligation shall extend to each and every owner of, or Party to, the Account whether or not such owner, or Party, caused or benefited from the overdraft and such obligation shall include all costs and expenses (including our reasonable attorneys’ fees) we incur, to the fullest extent permitted by law, to collect the deficit.

### **Affirming Our Right to Close Your Account**

You acknowledge and agree that we have the right to close your Account at any time including, but not limited to, when your Account is inactive or dormant or as otherwise permitted by law. Additionally, if your account (Checking, Savings or Money Market) remains at a current balance of \$0 for 25 consecutive business days, your account may be closed. In the event we close your Account, we will tender the Account balance, if any, to you in person or by mail at the address we have on file for you. If we close your Account, we may, but are not required to, provide advance notice in writing of our intention to close your Account. Notice from us to any person signing the Deposit Account Agreement, to any Party on a Multiple-Party Account, or any Authorized Signer or other person authorized on your Account, is considered notice to each of you. Termination of the Account, whether by us or by you, does not relieve you of any obligation you may then owe us. We may accept deposits to the Account after it has been closed in order to collect any deficit balance, and such acceptance will not constitute reinstatement of the Account. Once we have closed your Account, you agree that we can: (a) refuse to honor any Checks you have written or any other items which are presented to us for payment after have closed your Account; (b) refuse to act as your agent to try to collect any Check you have deposited in your Account or otherwise honor or pay any Check you have deposited to your closed Account; or (c) to accept any automated deposit to your Account, or assess any service charge otherwise applicable against any remaining balance in your Account. We are not responsible to you for any damages you may suffer as a result of your Account being closed. If you attempt to make a deposit to an Account, we closed due to non-payment of an overdraft or otherwise, we may collect the deposit and setoff your indebtedness to us and collect a service charge from the amount you deposited. Any funds in excess of \$1.00 will be returned to you.

We also reserve the right to refuse your request to close your Account, for various reasons, including, for example, if your Account is not in good standing. If you intend to close your Account, you should notify us. Simply reducing your Account balance to \$0.00 is insufficient notice and may result in additional fees charged to your Account. If you close your Account, you are responsible for transactions you initiated or authorized, including those that we receive after the Account is closed.

### **Concerning Grandfathered Accounts**

From time to time, we may elect to discontinue offering a product or service to new customers. Under such circumstances, you acknowledge and agree that we may continue to offer such product or service to our current customer base, in our sole discretion. Furthermore, you acknowledge and agree that we may modify the features of any grandfathered product or service, including, but not limited to, applicable service charges and fees.

### **Concerning Taxpayer Identification Numbers**

As a provision of opening any Account with us, we require you to provide us with your Taxpayer Identification Number (Social Security Number or Employer Identification Number). Furthermore, your Taxpayer Identification Number must be certified as required by federal law and regulation. In the event your Taxpayer Identification Number is not certified, but you certify to us that you are applying to the Social Security Administration (for a Social Security Number) or to the Internal Revenue Service

(for an Employer Identification Number), we may, in our sole discretion, permit the opening of the Account if you provide us with satisfactory documentation of such application.

In the event we do not receive your Taxpayer Identification Number, we may withhold funds from any interest payments due to you to satisfy your tax liability as required by federal law or regulation. We may also elect to close your Account if the appropriate Taxpayer Identification Number is not received by and certified to us within 30 days from the date your Account is opened. The provisions of this paragraph shall not be applicable to certain foreign persons who certify their foreign status and provide satisfactory documentation to us as required by federal law or regulation.

We comply with the Foreign Account Tax Compliance Act (“FATCA”) as mandated by U.S. Federal Tax Law. U.S. Citizens and Resident Aliens are required to certify their Taxpayer Identification Number by signing the Substitute W-9 section of the Deposit Agreement at the time of Account opening. Non-U.S. Citizens and Non-Resident Aliens are required to certify their foreign status by submitting a W-8 BEN. Upon our validation of the document, you may be required to provide additional documentation to certify your status. If the documentation requirements are not met, we will withhold on certain payments when required by law. For more information or to determine how this information applies to you, consult your U.S. tax advisor or attorney.

#### **Provisioning for Small Business and Non-Personal Accounts**

When the legal entity opening an Account is a corporation, unincorporated association, trust, partnership, or sole proprietorship, each person signing the Deposit Account Agreement or other Account documents represents, warrants, and agrees that (1) such person is fully authorized to execute the Deposit Account Agreement and all other Account documents in the capacity stated therein; (2) such person has furnished all documents necessary to evidence such authority; and (3) the governing body of the legal entity will furnish any other documents in such form as we may request from time to time. We may honor such authorization evidenced by the documents we receive until such time as we actually receive written notice of a change in such authority from the governing body of the legal entity. Earnings in the form of interest, dividends, or credits will be paid only on collected funds, unless otherwise required by law or our written Agreement with you.

We are not required to recognize any resolution that is not provided on our forms or forms acceptable to us. When the legal entity is a corporation, unincorporated association, partnership, or trust, we may rely on and act upon such resolutions, partnership Agreement, trust Agreement, trust instruments, or other documents we receive and recognize which evidence the authority granted by the governing body of the legal entity. The governing body of the legal entity agrees to promptly notify us in writing of any change in authority granted by such documents, and the written notice shall become effective only upon actual receipt by us. **You acknowledge and agree that in no event shall we have any liability for any losses that the legal entity incurs if it fails to notify us of any change in authority.**

Without limiting the foregoing, in accordance with Chapter 277 of the Texas Finance Code, if the legal entity is a corporation, unincorporated association, trust, partnership, or sole proprietorship, the governing body of such legal entity agrees to notify us at least annually of changes involving the legal entity including, but not limited to, changes in the legal entity’s business name, physical address of business, changes in ownership or control, and modification of information filed with the county clerk or the Secretary of State.

#### **Provisioning for Related Entities (Small Business and Non-Personal Accounts)**

When the legal entity is a corporation, unincorporated association, trust, partnership, sole proprietorship, or any other entity, the governing body of the legal entity acknowledges and agrees that it is responsible for, and will pay for, any of the following fees or charges, where applicable:

- Fees or charges agreed upon in any applicable fee schedule or other disclosure
- Charges by us in accordance with our standard practices and procedures
- Charges which result from any services requested by the governing body of the legal entity
- Charges which result from any Account deficit, such as overdrafts or Account activity

The foregoing is referred to herein as the “Obligations.” The governing body of the legal entity acknowledges and agrees that it is liable for the Obligations with respect to any Account with us opened by the governing body of the legal entity or by any affiliated person or entity controlling, controlled by, or under common control of the governing body of the legal entity, including, but not limited to, these entities: parents, subsidiaries, partnerships, joint ventures, brothers/sisters, shareholders, partners, ventures, officers, directors, agents, and authorized Representatives (each an “Affiliated Entity”).

Furthermore, and without limitation, such liability specifically includes management and fiduciary Accounts established by the governing body of the legal entity or any affiliated person or entity with funds held for or beneficially owned by a Third Party. The governing body of the legal entity acknowledges and agrees that the Obligations may be deducted by us from any Account of the legal entity or an Affiliated Entity, in our sole discretion.

#### **Protecting Your Account**

Your role is extremely important in the prevention of unauthorized activity on your Account. In the event you discover that your Account records disagree with ours, please contact us AT ONCE at 877.839.2265 (Client Support) or notifying us via Online Banking or email, followed by written confirmation. In the event you fail to notify us in a timely and expeditious manner, you acknowledge and agree that your rights may be limited.

Notwithstanding the foregoing, you acknowledge that the risk of fraudulent Check transactions is significant. We offer various products and services designed to minimize this risk. To learn more about these products and services, including any qualification requirements, you may contact your Texas Capital Bank Representative.

We strongly recommend that you do not use your mobile (cellular) or cordless phone to verbally conduct transactions with us. In doing so, confidential information can be intercepted by fraudsters over the airwaves without your authorization or knowledge. Notwithstanding, we strongly recommend that you pay careful attention to the individual/entity to whom/which you provide your Account information in an effort to help minimize fraudulent activity on your Account.

#### **Protecting Yourself Against Identity Theft**

We are committed to protecting your confidential information, but you can help by proactively protecting yourself against identity theft. Identity theft and Account fraud are crimes committed when someone steals your personal information and uses that information to take funds from your Account or to accrue debt in your name. Please go to [www.texascapitalbank.com](http://www.texascapitalbank.com) for more information on how to better protect yourself against identity theft.

#### **Transferring or Pledging Your Account**

You acknowledge and agree that your Account may not be transferred or assigned or pledged as collateral to secure any indebtedness without our prior written consent which we may withhold in our sole discretion. Any permitted assignment of your Account is subject to and superseded by our setoff rights and remains subject to any other right we have under the Agreement and applicable state and federal law. Not with standing, this Agreement shall be binding upon and inure to the benefit of you and us, and our respective successors, assigns, and legal Representatives.

#### **Notifying Us of Death or Incompetence**

If any person signing the Deposit Account Agreement, or any other documents that we provide to you or your Representative(s), passes away or is declared incompetent by a court, you must contact us promptly by calling 877.839.2265 (Client Support) or notifying us via Online Banking or email, followed by written confirmation. We will presume you or anyone acting on your behalf or acting on behalf of a co-owner or authorized agent for the Account is competent unless we receive notice of an adjudication of incompetency from a court, even if a Bank employee has personal knowledge of your possible incompetency and even if we receive documentation from a medical doctor. We may, but are not required, to continue to honor your Checks, items, and instructions until we receive such written notification or until ordered otherwise by a person claiming to have an interest in the Account, the Bank receives evidence satisfactory to it that such order or request is valid, and the Bank has a

reasonable opportunity to act on such order or requests. Notwithstanding the foregoing, we may pay Checks drawn on or before the date of death or adjudication of incompetence unless stop payment orders are placed by one with authority to place such order. We may place a hold on your Account and/or refuse to accept deposits or permit withdrawals under such circumstances. Furthermore, we may hold any funds in your Account until we verify the identity of the successor. To notify us of a death or incompetence, please see the “Contacting Texas Capital Bank” section of this Agreement.

### **Concerning Your Deposits**

Bank transaction posting is a key aspect of managing your checking, savings, or money market account. The order of when banks post transactions can affect your account balance and whether, or not, you are charged with fees such as an overdraft fee.

A bank transaction is any money that moves in or out of your bank account. Types of bank transactions include cash withdrawals or deposits, checks, online payments, debit card charges, wire transfers and loan payments.

#### **What is transaction posting order?**

Transaction posting order is the process of applying transactions—both debits and credits—to your account balance. Posting order is important if there is not enough money in your account to pay all the transactions you initiate. The order can affect the number of transactions that overdraw your account or that are returned unpaid, as well as the number of fees you may have to pay. Transactions can be posted to your account in “batch” (a number of transactions posted at the same time at the end of the business day) or in “real time” (transactions posted as they are made).

For each amount you are depositing into your Account, you represent to the Bank that you are the proper person to make the deposit and that you have a right to the funds. Checks deposited to your Account are subject to final collection or subsequent return. Similarly, Funds Transfers are subject to final collection or subsequent return.

We may charge your Account or any Account you have with us if we are informed that an Item is being returned, or has been returned, to us as unpaid without regard to the return being timely. This right shall extend to Checks drawn on other Accounts with us (“on-us” Checks) that are dishonored by us without regard to the dishonor being timely. No Item within a deposit shall be deemed finally paid because a portion thereof is withdrawn as Cash.

Without limiting the foregoing, if any Item deposited to your Account or Cashed is finally paid and subsequently returned because a claim is made that the Item was altered, forged, unauthorized, missing signature, or should not have been paid for any reason, we may charge your Account or any Account you have with us in the amount of the respective Item. In lieu of charging your Account, we may withhold an amount equal to the respective Item until final determination of such claim has been validated and resolved.

When an Item is returned to us as unpaid, it may create an overdraft of your Account. You acknowledge and agree to pay the amount of the overdraft and any overdraft fees immediately upon demand. In our sole discretion, and without notice to you, we may resubmit any returned Item for payment as permitted by law or regulation.

We may return or refuse to accept, except for collection only, all or any part of an Item for deposit to your Account at any time and will not be liable to you for doing so even if such action causes outstanding Items to be returned or dishonored. Checks refused for deposit will be returned to you. We may also accept an Item for deposit to your Account from anyone without questioning or verifying the authority of the person making the deposit.

We shall not be responsible for deposits sent by mail, courier, or placed in the outside depository until we have either received actual delivery from the U.S. Postal Service, courier, or have removed the deposits from the outside depository. In the event you place your deposits in the outside depository, you acknowledge and agree to exercise ordinary care in opening, closing, and properly securing the depository. Deposits that are received after our current Business Day’s cutoff time, weekend, or federal holiday will be treated as received on the next available Business Day and subject to the Funds

Availability Policy. Please see the “Funds Availability Policy” section of this Agreement for details on deposit availability.

You acknowledge and agree to prepare your deposit in accordance with our instructions, which may include the use of an approved deposit bag or envelope and deposit ticket. Deposits placed in the outside depository are subject to final verification and, upon review, may require an adjustment to your Account due to an error, including, but not limited to, an error that appears on your deposit ticket. You acknowledge and agree that we may adjust the balance in your Account due to any error as a result of your deposit. You will be entitled to credit only for the actual deposit as determined by us, regardless of what is stated on the itemized deposit slip. If you do not use your deposit slip or provide us with instructions indicating how or where the Check should be credited, we may apply it to any Account or any loan balance you have with us or we may return the Check to you. If any direct deposit is recalled, we are authorized to reverse the deposit without prior notice to you except as otherwise required by law. Your claim that an item was deposited, which is now missing, will not create a presumption that there is a missing item or that we failed to act with ordinary care. If you make a deposit and if you do not get a receipt or if your receipt for the item does not match the amount deposited, please immediately contact us.

We may not accept Checks for deposit drawn on a non-U.S. bank or Checks payable in foreign currency except on a collection-only basis even though we take possession of the physical Check(s) at the time of deposit or final verification. Actual credit for Checks payable in foreign currency will be at the exchange rate in effect on the date of final collection in U.S. dollars. You will be responsible for verification of any exchange rate information provided by us in advance of final collection. The “Funds Availability Policy” does not apply to Checks that are payable in foreign currency.

You shall not deposit any Substitute Check (also Image Replacement Document or “IRD”), other than those that are redeposited for return purposes, unless we specifically agree to accept such deposit. In the event we accept any Substitute Check for deposit, you agree that such acceptance shall not be deemed to be our Agreement to accept any other Substitute Check for deposit. Furthermore, you agree to reimburse us for any losses, costs, and expenses (including our reasonable attorneys’ fees) we sustain associated with warranty or indemnity claims in connection with your deposit of a Substitute Check, or in connection with an electronic representation you provide to us, including, but not limited to, the Substitute Check does not meet applicable standards or causes duplicate payments. Please see the “Substitute Checks and Your Rights” section of this Agreement for details about your rights with regard to Substitute Checks.

### **Deposit Corrections**

When we accept your deposits, we may provisionally credit your Account for the amount declared on the deposit slip, subject to later verification by us. We have no duty to compare for accuracy the items listed on your deposit slip with the items accompanying the slip when the deposit is received by us, as we rely upon the information that you provide on your deposit slip when we initially process your deposit. You have a duty to ensure that the amount declared on the deposit slip is correct even if you did not prepare the deposit slip. If later we determine that the amounts declared on the deposit slip are incorrect, we may adjust (debit or credit) your Account. We report adjustments on your Account statement. You and we waive any and all claims and demands against each other with respect to any error in your completion of your deposit slip that is inadvertent and is less than \$1.00 (a de minimis discrepancy), regardless of whether such de minimis discrepancy is in your favor or ours, and you agree that we need not adjust your Account.

### **Concerning Posting Order of Payments**

Bank transaction posting is a key aspect of managing your checking, savings, or money market account. The order of when banks post transactions can affect your account balance and whether, or not, you are charged with fees such as an overdraft fee.

A bank transaction is any money that moves in or out of your bank account. Types of bank transactions include cash withdrawals or deposits, checks, online payments, debit card charges, wire transfers and loan payments.

### What is transaction posting order?

Transaction posting order is the process of applying transactions—both debits and credits—to your account balance. Posting order is important if there is not enough money in your account to pay all the transactions you initiate. The order can affect the number of transactions that overdraw your account or that are returned unpaid, as well as the number of fees you may have to pay. Transactions can be posted to your account in “batch” (a number of transactions posted at the same time at the end of the business day) or in “real time” (transactions posted as they are made).

We may pay Checks and other Items drawn against your Account in any order as we decide in our sole discretion. You acknowledge and agree that we may do so even though such an event (1) prevents payment of other Checks or Items that would have otherwise been paid had we chosen a different order; (2) prevents payment of fewer Checks or Items; or (3) results in the imposition of additional fees. Generally, our policy is to post all credit items first. ATM and point of sale items are posted in the order they are received. All other debit items including but not limited to Teller Cash Withdrawals, Checks and ACH are posted lowest dollar amount to highest dollar amount. You acknowledge and agree that we may change any policy that we have regarding the order in which we pay Checks or Items presented for payment on your Account at any time without notice to you.

We encourage you to maintain careful records and to practice sound Account management to reduce possible fees, which may result from overdraft situations. The Bank’s payment of any Item or order in overdraft does not create any obligation for the Bank to pay any other Item or order in overdraft in the future, and the customer agrees that no course of dealing regarding the payment of items or orders in overdraft will be created between the Bank and you.

Certain real-time transactions, such as Zelle transactions and wire transfers, will post real-time by transaction date and time presented and are not reflected in the table below.

| Posting Order | Transaction Type   | How They Are Posted   |
|---------------|--|---|
| 1st           | Add Credits <ul style="list-style-type: none"> <li>• Deposits, including cash, check, ATM and Mobile Deposits</li> <li>• Transfers into your account by ACH or through an Electronic Banking Service</li> <li>• Refunds</li> </ul>   | Posted High to Low amount<br><br>Note: Please see our Funds Availability Policy for information on deposit posting  |
| 2nd           | Subtract Cash and cash equivalent debits which are not returnable and include <ul style="list-style-type: none"> <li>• Teller transactions and cash withdrawals including checks cashed at the teller</li> <li>• Wire Transfers</li> <li>• Online Banking Transfers</li> </ul>   | These are transactions that cannot be returned and are posted Low to High amount  |
| 3rd           | Subtract ATM and POS (point of sale) debit card transactions including <ul style="list-style-type: none"> <li>• ATM Withdrawals</li> <li>• ATM Transfers</li> <li>• Everyday Debit Card Purchases/ Transactions (non-recurring)</li> <li>• Recurring Debit Card purchases (such as subscriptions and gym memberships)</li> </ul> | These are transactions that cannot be returned and are Posted as based on the date/time stamp of occurrence, when received.<br><br>Note: see description above on temporary holds for debit card transactions |

|     |  |                           |
|-----|--|---------------------------|
| 4th | Subtract ACH and Check transactions including <ul style="list-style-type: none"> <li>• Checks (other than those cashed at the teller line)</li> <li>• ACH debits</li> <li>• Bill-pay debits</li> </ul> | Posted Low to High amount |
|-----|--|---------------------------|

Any applicable Overdraft Fees are deducted from the available balance next business day and will post before other transactions are presented the next business day. Other fees and charges that we charge, other than fees and charges associated with transactions such as ATM and wire transfer transactions which post immediately following the transaction, are deducted from your balance last.

### Endorsing Your Checks

You acknowledge and agree to endorse all Checks deposited to your Account in accordance with applicable law and regulation. Furthermore, you acknowledge and agree that each person signing the Deposit Account Agreement is authorized, or any other person as otherwise authorized, may endorse any Negotiable Instrument payable to you, or your order, for deposit to your Account. You further acknowledge and agree that such authorization may remain in place until we actually receive written notice of a change from you. In the event the account is for a Non-Personal Account (Small Business Banking Account), we will honor such authorization until we actually receive written notice of a change from the governing body of the legal entity. Notwithstanding, anyone can make a deposit to your Account. You acknowledge and agree that we have no obligation to question the authority of anyone making a deposit to your Account. **You agree to indemnify, hold harmless, and defend us, our parent companies, affiliates, subsidiaries, directors, officers, employees, trustees, agents, stockholders, Representatives, insurance carriers, and/or attorneys from and against any and all actions, claims, demands, liability, loss, damages, or expenses of any nature, including interest, costs, and attorneys’ fees at trial or appeal, which may arise out of or occur in connection with any action taken relating to our honoring any and all authorizations on your Account prior to us actually receiving written notice from you of any changes.**

Proper endorsement standards specify that you endorse each Check in the area that extends 1½ inches from the trailing edge on the back of the Check. The trailing edge is the left side of the Check when you look at it from the front side. If your endorsement obscures any area outside of the 1½ inches reserved for your endorsement or if your endorsement is illegible or incomplete, we may, in our sole option, accept such nonconforming endorsement and you agree to hold us harmless from any claim, loss, delay, liability, damage, cost, or expense which may arise as a result. Without limiting the foregoing, this provision shall extend to imprinting information on the back of your Check(s).

In the event you deposit a Check that lacks endorsement, you acknowledge and agree that we may deem the Check as endorsed or may endorse the Check on your behalf. With respect to such deposit, our rights and your liabilities shall be determined as though you actually endorsed and deposited the Check. Further, any item deposited to your Account that bears your stamped or facsimile endorsement shall be deemed to bear your actual endorsement whether such endorsement was affixed by you or by someone having no authority to supply your endorsement. If for any reason a deposit is later questioned, you may be responsible for same. Notwithstanding, if you deposit a Check that is later returned to us because a claim has been made that the endorsement is either incomplete or is not authentic, we may withhold the amount of such Check from your Account until either the claim is withdrawn or the Check is finally paid.

### Paying Stale and Postdated Checks

We are not required to pay any Check which presents against your Account for payment more than 6 (six) months after its written date. Nonetheless, we may pay such Check if we do so in good faith. You acknowledge and agree that we are acting in good faith provided there is not a valid stop Payment Order in effect when we pay such Check.

Furthermore, you acknowledge and agree that we may honor a postdated Check which presents against

your Account for payment prior to its written date unless you give notice to us of the postdating which notice must describe the Check with reasonable certainty. The notice is effective for 6 (six) months and must be received at such time and in such manner as to afford us a reasonable opportunity to place a stop payment on the Check. If notice is not received, we will charge the amount of such Check against your Account. Without limiting the foregoing, you acknowledge and agree that you may request a stop Payment Order on a postdated Check provided we have not accepted, certified, made final payment on, or otherwise become Accountable for such Check.

Please see the “Requesting Stop Payment Orders: Checks” section of this Agreement for further details on requesting a stop Payment Order.

### **Concerning Restrictive Legends**

You acknowledge and agree that we have no obligation to honor any restrictive legend on your Checks unless we have otherwise agreed in writing to honor such restriction. We shall not be liable to you for any claims, costs, losses, or damages which result from the placement of any restrictive legend on your Checks unless you and we have otherwise agreed in writing. Without limitation, examples of restrictive legends include “Not valid after 90 days,” “Not valid over \$1,000.00,” and “2 (two) Signatures Required.”

### **Selecting Check Stock and Ink**

You acknowledge and agree that an order of checks printed by an approved vendor will only be sent to you upon request. Checks you write may be converted into electronic images (truncated) during the Check collection and return process. You acknowledge and agree to bear the risk of loss in the event you elect to have Checks printed by a vendor that has not been approved by us, use Check stock or features (such as security features) that cause critical data to disappear or to become obscured upon truncation, or make Checks out in a way (such as use of a light-colored ink) that causes critical data to disappear upon truncation. Furthermore, you acknowledge and agree to bear the risk of loss in the event you use Check stock that contains printing inaccuracies, faulty magnetic ink, faulty encoding, or duplicate serial numbers. We strongly suggest that you do not preprint your driver's license number, Social Security Number, or Taxpayer Identification Number on your Checks for security purposes.

### **Converting Checks to Electronic Items**

Checks that do not contain a value in the on-us auxiliary field of the MICR line may be converted to an ACH Debit Entry by a merchant, in which case such entry will be collected electronically and charged against your Account much more quickly than if processed as a Check through Check processing channels. This means that you: (1) have a reduced right to stop payment; (2) must ensure that your Account has sufficient funds to cover the ACH Debit Entry processed through the ACH network; and (3) will not receive the cancelled Check(s) with your Periodic Statement. When a Check which qualifies for Check conversion to an ACH Debit Entry is presented for payment by way of:

- Point of Purchase: The merchant is required to provide notice of possible Check conversion prior to receipt of each Check. Usually such notice is posted at the point of purchase. The merchant is required to return the Check to you as voided after the transaction is complete. You should treat the voided Check with care to reduce the risk of someone obtaining the voided Check and initiating additional debit transactions against your Account.
- Mail via Lockbox: The merchant is required to provide notice of possible Check conversion prior to the receipt of each Check. Usually such notice is included with your billing statement. The merchant is required to have procedures in place for the destruction of the original Check.
- Back Office: The merchant is required to provide notice of possible Check conversion prior to the receipt of each Check. Usually such notice is posted at the point of purchase. The merchant is required to have procedures in place for the destruction of the original Check.
- In all cases, a Check which qualifies for Check conversion into an ACH Debit Entry (Point of Purchase, Lockbox, or Back Office) will have a description of the debit transaction on your Periodic Statement you receive from us.

### **Requesting Telephone Transfers**

You acknowledge and agree that funds in any of your Accounts with us can be transferred, if arranged for or permitted, by telephone upon the request of any person signing the Deposit Account Agreement, or any other person as otherwise authorized, to another Account you have with us. We shall not be held responsible for any loss you incur as a result of our acceptance and execution of such request, order, or instruction by telephone that we believe to be genuine.

Notwithstanding, we may refuse to accept and/or execute any request, order, or instruction we receive by telephone. Please see the “Restricting Withdrawals and Transfers” section of this Agreement for details about transfer request limitations. Other transfer restrictions may be described and provided under separate cover. For details on withdrawal and transfer guidelines, please see the “Requesting Withdrawals and Transfers” section of this Agreement.

### **Requesting Withdrawals and Transfers**

You acknowledge and agree that we may debit your Account for any withdrawal or transfer that you make, or authorize another to make, in accordance with the provisions of your Account. You further acknowledge and agree that unless you otherwise indicated clearly and conspicuously in the Deposit Account Agreement, each person signing the Deposit Account Agreement, or any other person as otherwise authorized, may withdraw or transfer all or any part of the Account balance regardless of who deposited the funds into the Account. We accept no responsibility or obligation, except as required by law, to supervise or review the use of your Account. Please remember that if you withdraw funds that have been credited to you based on a deposit, that credit could subsequently be reversed or charged back causing your Account to be overdrawn.

As a condition of withdrawal, we may, in our sole discretion, require you to provide us with your signature on certain withdrawal documents signed in the presence of our personnel, or require other identification or information acceptable to us. You acknowledge and agree that we may refuse any withdrawal or transfer request which is provided on forms not approved by us, received by any method we do not specifically permit, received in excess of the number of withdrawals or transfers permitted, or received for an amount greater than, or less than, any withdrawal or transfer limitation. In the event we honor such nonconforming request, we may treat continued abuse of the stated limitations herein, if any, as your act of closing the Account.

Without limiting the foregoing, the date that the withdrawal or transfer request is completed by us is the date to which the frequency limitation is applied (as opposed to the date you initiate it).

Notwithstanding, you acknowledge and agree that in the event we honor a withdrawal or transfer request which overdraws the available balance in your Account does not obligate us to do so in the future. Please see the “Funds Availability Policy” section of this Agreement for details on the availability of funds for deposits you make by Cash or Check. For deposits other than Cash or Check, you may ask us at the time of deposit when funds will become available for withdrawal or transfer.

### **Restricting Withdrawals and Transfers**

We reserve the right to limit the frequency of transactions and/or dollar limit of transfers between your Account and certain accounts. These transfer limits may be changed at any time without notice, unless required by applicable law. We may refuse any withdrawal or transfer request which is greater in number than the frequency permitted, or which is for an amount greater or less than any withdrawal limitations. We will use the date the transaction is completed by us (as opposed to the date you initiate it) to apply the frequency limitations. In addition, we may place limitations on the Account until your identity is verified. Even if we honor a nonconforming request, we are not required to do so later. If you violate the stated transaction limitations (if any), in our discretion we may close your Account or reclassify it as a transaction Account. If we reclassify your Account, your Account will be subject to the fees and earnings rules of the new Account classification.

### **Requesting Notice of Withdrawal**

We reserve the right under federal law and regulation to require not less than 7 (seven) days prior

written notice from you of your intent to withdraw funds from an interest-bearing Account other than a certificate of deposit, or from any other savings Account as defined by Regulation D.

#### **Provisioning for Multiple Signatures**

You acknowledge and agree that we may act upon any oral or written instruction by any person who signed the Deposit Account Agreement, or any other person as otherwise authorized, to transfer funds between your Accounts and/or to take other actions. Under certain circumstances, we may require written authorization.

Notwithstanding, you acknowledge and agree that we do not offer an Account on which 2 (two) or more signatures are required for withdrawal. The Bank will not monitor or enforce a purported multiple signature requirement. In the event you indicate on your Checks, Deposit Account Agreement, or other document that more than one signature is required for withdrawal, you acknowledge and agree that such indication is for your internal purposes only and is not binding to us. We do not assume a duty to enforce multiple signature requirements. As such, we assume no duty to confirm that two or more (or any combination) of authorized users have approved any transaction. We expressly disclaim a duty to enforce multiple signature requirements. As such, we expressly disclaim a duty to confirm that two or more (or any combination) of authorized users have approved any transaction. We are not responsible for any losses, claims, damages, or expenses that result from your placement of these or other special instructions on your Checks. Without limiting the foregoing, you acknowledge and agree that we are not liable to you when we honor a Check, item, or other instruction which presents against your Account that is signed, or approved, by any person who signed the Deposit Account Agreement or any other person as otherwise authorized.

#### **Provisioning for Returned Deposits: Checks**

In the event you deposit a Check to your Account that is later returned to us by the collecting bank, or we receive a notice in lieu of the return or a notice of the intent to return, we may accept the return, or the notice of return. Under such circumstances, you acknowledge and agree that we may debit your Account in the amount of the returned Check and any applicable fees without prior notice to you and without regard to the Check being returned to us in a timely manner by the returning bank.

Without limiting the foregoing, in the event you deposit a Check to your Account that has been previously paid by the paying bank but is later returned to us with the claim that the Check had been altered, forged, or unauthorized or should not have been paid for any reason, in our sole discretion and without prior notice to you, we may debit your Account in the amount of the respective Check and any applicable fees, or we may withhold an amount equal to the respective Check, until the claim is withdrawn or the Check is finally paid.

The foregoing provision shall extend to a Check that is later returned to us because a claim has been made that the endorsement was either incomplete or not authentic. For information on return provisions for ACH Items, please see the “Returning Unauthorized ACH Entries: Small Business” and “Returning Revoked/Unauthorized ACH Entries: Personal” section of this Agreement, as applicable.

#### **Provisioning for Insufficient Funds — Overdrafts and Returned Items**

Your account’s available balance is our most current record of the amount of money in your account available for your use or withdrawal. We use the available balance to authorize your transactions during the day (for example, debit card purchases (POS) and ATM withdrawals). We also use the available balance to pay your transactions during our nightly processing. Your available balance is calculated as follows:

- Ending Daily Balance** Ending daily balance from prior business day’s nightly processing
- **Holds** Subtract funds that have been placed on hold (includes uncollected funds)
- + **Deposits** Add pending deposits that are immediately available (see “Availability of Funds Policy” in previous section)
- **Withdrawals** Subtract pending withdrawals that we have either authorized or we know about but have not yet processed

#### **= Available Balance**

The available balance may not include every transaction you have initiated or that we previously authorized. For example, your available balance may not include the following:

- Outstanding checks and authorized withdrawals we have not received for payment (such as recurring debit card transactions and ACH transactions);
- The final amount of a debit card (POS) purchase. For example, we may authorize a purchase amount prior to a tip that you add;
- Debit card (POS) transactions that have been previously authorized but not sent to us for payment. In most cases, a transaction authorization hold must be released after three business days even though the transaction may be sent to us for payment from your account at a later date, which we must honor. The authorization hold may be up to 30 business days for certain transactions, including car rental, cash, and international transactions.

We process transactions each business day (not Saturdays, Sundays, or federal holidays) during a late night process. Once the transactions are processed, the results are posted to your account. Refer to page 21 Concerning Order of Payments.

We calculate the available balance in your account that can be used to pay your transactions as described above. Certain pending transactions can impact your available balance for purposes of determining whether we will pay other transactions during our nightly processing, including:

- Cash deposits or transfers from another Texas Capital Bank account made AFTER the applicable cutoff time will be added to your available balance only if they are made before we start our nightly processing; and
- Pending withdrawals that reduce your available balance, such as debit card transactions we have authorized. If the available balance is not enough to pay all of your transactions, we:
- Use Overdraft Protection (if you have it) by transferring available funds from a linked account.
- Then, decide whether to pay your transactions presented to us for payment into overdraft, or return them unpaid. Paying an item into overdraft means that we pay an item even though your available balance is not sufficient to cover that item, resulting in your account having a negative balance.

Pending transactions can result in overdrafts. If your available balance during the nightly processing is insufficient, the Bank may assess applicable overdraft fees on transactions we pay into overdraft. Even if a pending transaction has been dropped from your account, we must pay it when we receive it for payment. Sometimes, previously authorized transactions may be paid into overdraft if other transactions have reduced your available balance before the pending transactions are sent to us for payment.

We will not authorize ATM and everyday (one-time) debit card transactions into overdraft. Whether we pay transactions into overdraft is at our discretion and we reserve the right not to pay into overdraft.

You understand that the classification of a debit card transaction (except ATM transactions) as recurring or non-recurring (i.e., one-time) is determined by merchants, other institutions, or other third parties before the transaction is presented to us for authorization or payment. We will treat and process such debit card transactions in the manner they are presented to us, which may result in a one-time debit card transaction presented as recurring preauthorized transactions and vice versa.

**Personal Accounts:** Texas Capital Bank will not charge personal accounts if an item is returned for insufficient funds. We have elected to implement a cushion of \$50 whereby we will not charge overdraft fees for transactions of any amount that overdraw an account by \$50 or less. If, at our discretion, we pay the insufficient funds item and overdraw your account more than the \$50 cushion, we will charge a fee of \$15 per item up to 3 fees per day.

You understand and acknowledge that we may, at our discretion pay an insufficient funds item over the cushion amount and overdraw your account (an overdraft item) or we may return the insufficient funds item without payment (a returned item). We do not guarantee that we will always, or ever,

authorize or pay overdrafts. The fact that we may pay an overdraft in excess of the cushion does not obligate us to do so later. You can NOT rely on us to pay overdrafts on your account regardless of how frequently or under what circumstances we have paid overdrafts on your account in the past. We can change our practice of paying overdrafts on your account without notice to you. We encourage you to keep track of your available balance. This will help you to avoid creating items without sufficient funds and potentially incurring any resulting fees. However, you cannot rely only on your available balance to determine whether you have sufficient funds in your account to cover your withdrawals, debits and fees because your available balance can change throughout the day and does not reflect other transactions that you have initiated that have not been presented to us.

In the event, we honor an insufficient funds item, you acknowledge and agree to pay the amount of the overdraft within one Business Day, whether or not you signed and/or initiated the Item, withdrawal or transfer request causing the overdraft. You acknowledge and agree we may use subsequent deposits, including direct deposits of social security or other government benefits, to cover such overdrafts. Furthermore, you acknowledge and agree to pay all costs and expenses we incur in the collection of any overdraft on your Account, including our reasonable attorneys' fees, to the fullest extent permitted by law.

Once an item is returned unpaid, some merchants may represent the item for payment more than once. There is not a limit on the number of times a merchant can represent a returned item for payment.

#### **Requesting Stop Payment Orders: Checks**

You may request a stop Payment Order on a Check drawn against your Account if we have not accepted, certified, made final payment on, or otherwise become Accountable for the Check. Furthermore, you acknowledge and agree that each person signing the Deposit Account Agreement is authorized, or any other person as otherwise authorized, to request a stop Payment Order on any Check drawn against your Account. Stop Payment Orders may be requested electronically through our Online Banking service, initiated by way of telephone, secured email, facsimile, or in person at one of our banking centers. Please see the "Contacting Texas Capital Bank" section of this Agreement for our contact information.

You acknowledge and agree that we will not be liable for the nonpayment of any Check on which you (or anyone else having authority) have requested a stop Payment Order. Furthermore, in the event your stop Payment Order is successful, you may still be liable to the Payee or Third Party in the amount of the respective Check. **You acknowledge and agree to indemnify us for and hold us harmless from any claim, losses, damages, judgments, costs, and expenses (including reasonable attorneys' fees) that results from the nonpayment of any Check drawn against your Account for which a stop Payment Order is requested.**

Although we will act upon your oral stop payment request, we must receive a written confirmation from you within 14 days from the date of your oral request. Written confirmation must be delivered or mailed to us at the following address: 2350 Lakeside Blvd., Ste.800,Attn: Client Support, Richardson, Texas 75082. In the event you fail to provide us with your written confirmation within the 14-day timeframe, you acknowledge and agree that your stop payment request ceases to be binding and we have no obligation to maintain your oral stop payment request beyond the timeframe set forth herein. Upon receipt of your written confirmation, a stop Payment Order remains in effect for 6 (six) months, unless renewed in writing.

To request a stop Payment Order, we will need the Account number, Check number, and exact amount to allow us to identify the Check based upon our computer retrieval system standards. We may also require the written date of the Check and the name of the Payee to whom the Check was made payable. The information must also be accurately reflected on the magnetic ink character recognition (MICR) line of the Check, and you agree that we cannot stop payment on the Check if the information on the MICR line is incomplete or incorrect. Notwithstanding, we must receive the stop Payment Order at such a time and in such a manner as to afford us the reasonable opportunity to act upon the stop Payment Order. You acknowledge and agree that 1½ Business Days to act upon such request is a reasonable amount of time.

We will charge your Account a fee for each stop Payment Order. A request for a continuation on a stop Payment Order is considered a new stop Payment Order which results in an additional stop payment fee. If a Check is presented for payment after any stop Payment Order has expired, we may pay the Check accordingly.

Stop Payment Orders on official Checks, Cashier's Checks, or certified Checks are not permitted. If an official Check, Cashier's Check, or certified Check has been lost, stolen, or destroyed, you may provide a declaration of loss and affidavit and request the Check be reissued. We may require that you wait 90 days (or provide a bond where permitted by law) before honoring your claim, and we will not be liable to you if such Check is Cashed prior to the expiration of the 90 days from the issue date (or receipt of bond, where applicable) or in the case of a certified Check, from the acceptance date.

You acknowledge and agree that it is solely your responsibility to provide us the correct Account number, Check number, and Check amount and to verify that we have not paid or otherwise processed the Check for which you are requesting a stop Payment Order. You agree that we will not be liable to you if you provide us with an incorrect Account number, Check number, or amount, or if you request a stop payment on a Check we have already paid. If you issue a stop Payment Order on a Check that we have paid already, we will not be liable if you issue a new Check to that same Payee resulting in you paying the Payee twice. In the event you provide us with an incorrect Account number, Check number, or incorrect or inexact amount of the Check on which you requested a stop Payment Order, you acknowledge and agree that we may pay the Check accordingly.

In the event we inadvertently pay a Check for which a valid stop Payment Order should have been in effect, we will reimburse you for your actual losses caused by our actions, up to the amount of the Check, provided that you are able to prove to our satisfaction that you do not owe the Payee in the amount of the respective Check. Under such circumstances, we may attempt to recover the amount from the Payee to whom you wrote the Check and you agree to fully cooperate in such recovery effort including, but not limited to, executing any and all documents (including affidavits) required by us. We will not be liable to you for any other losses or damages. If you are unable to prove to our satisfaction that you do not owe the amount of the Check to the Payee to whom you wrote the Check, we will not be obligated to reimburse you for any of your losses. You acknowledge and agree that in no event shall our liability for paying a Check subject to a proper and timely stop Payment Order exceed the actual loss caused by our actions, up to the amount of the Check.

Without limiting the foregoing, you may request to release a stop Payment Order if we have not already acted upon such request by returning the respective Check as unpaid due to the stop Payment Order. In the event you wish to release a stop Payment Order, the Authorized Signer who requested the respective stop Payment Order, or any person as otherwise authorized, must request the release. Please see the "Contacting Texas Capital Bank" section of the Welcome to Texas Capital Bank document for contact information.

Notwithstanding the foregoing, please see the "Requesting Stop Payments: Small Business ACH" and "Requesting Stop Payments: Personal ACH" sections of this Agreement for details which pertain to requesting a stop Payment Order for ACH Items. The "Electronic Funds Transfer" section of this Agreement provides details which pertain to requesting a stop Payment Order for ATM and debit card transactions.

#### **Concerning Government Payments**

In the event we deposit a payment from the federal government to your Account which should have been returned to the federal government for any reason, you acknowledge and agree that we may debit your Account or any Account you have with us in the amount of our liability to the federal government, without prior notice and at any time, except where prohibited by law. Furthermore, you acknowledge and agree that we may use any other legal remedy to recover the amount from you in the event funds are not available in any Account you have with us to satisfy our liability with the federal government. Even if the government is incorrect or even if the person that provided the credit is incorrect in trying to reverse or revoke or reclaim the same, you agree to handle those issues by and between you and the person or entity that provided the credit and the Bank has your authority to pay back any amounts being demanded by such person or governmental entity. You acknowledge that a reclamation issue is truly an issue by and between you and the governmental entity and you agree to pay the Bank for any loss caused by same.

### **Concerning Certificates of Deposit (CDs)/Time Accounts**

**Primary Agreement:** You agree to keep your funds with us in this Account until the maturity date. (An automatically renewable Account matures at regular intervals.) This Account is void if the deposit is made by any method requiring collection (such as by Check) and the deposit is not immediately collected in full. If the deposit is made or payable in a foreign currency, the amount of the deposit will be adjusted to reflect final exchange into U.S. dollars. We may change any term of this Agreement.

**Rate Information:** The interest rate and annual percentage yield (APY) is a fixed rate. We will pay this rate and APY through your maturity date. The annual percentage yield (APY) assumes that interest remains on deposit until maturity.

**Interest:** Any interest accrued or paid to your Account during the term may be withdrawn at any time during the same term without penalty.

**Pledges:** Any pledge of this Account (to which we have agreed) must first be satisfied before the rights of any joint Account survivor, pay-on-death beneficiary, or trust Account beneficiary become effective. For example, if one joint tenant pledges the Account for payment of a debt and then dies, the surviving joint tenant's rights in this Account are subject first to the payment of the debt.

**Balance Computation Method:** We use the daily balance method to calculate the interest on this Account. This method applies a daily periodic rate to the principal in the Account each day.

**Transaction Limitations:** You cannot make additional deposits to this Account during a term (other than credited interest). You cannot withdraw principal from this Account without a penalty except on or after maturity. (For Accounts that automatically renew, there is a grace period of 10 days after each renewal date during which withdrawals are permitted without penalty.)

**For Accounts that Automatically Renew:** Each account will automatically renew on the maturity date. You must notify us in writing before, or within the 10-day grace period, after the maturity date, if you do not want the account to automatically renew. If you do not notify us, the renewal term will be the same as the original term, beginning on the maturity date (unless we notify you, in writing, before a maturity date, of a different term for renewal). Interest earned during 1 (one) term that is not withdrawn during or immediately after that term is added to principal for the renewal term. The rate for each renewal term will be determined by us on or just before the renewal date. You may call us on the maturity date, and we can tell you what the interest rate will be for the next renewal term. On Accounts with terms of longer than 1 (one) month, we will remind you in advance of the renewal and tell you when the rate will be known for the renewal period.

**Requesting Early Withdrawal of CDs:** Your Account will be subject to interest penalties when you withdraw funds from your certificate of deposit prior to the maturity date. If your accrued interest is less than the penalty's total amount, the difference will be taken from your principal. The interest penalties are as follows:

- Amounts withdrawn within the first 6 (six) days after deposit are subject to an early withdrawal penalty of at least 7 (seven) days' simple interest.
- CD Term of less than 91 days: Penalty will be 30 days of interest based on the principal amount withdrawn.
- CD Term of 91 days up to, and including, 1 (one) year: Penalty will be 90 days of interest based on the principal amount withdrawn.
- CD Term greater than 1 (one) year: Penalty will be 180 days of interest based on the principal amount withdrawn.

In certain circumstances, such as the death, disability or incompetence of an owner of a time Account, applicable law may, or even require, waiver of the early withdrawal penalty. Notwithstanding, all accrued or paid interest is available at any time without incurring an early withdrawal penalty.

### **Concerning Your Periodic Statement**

Since you are the person most familiar with your own banking activity, the Bank will be relying on you

to review the Periodic Statements and confirm whether there is possible unauthorized, erroneous or improper activity of any kind. In a situation where alleged unauthorized activity has occurred, the Bank is expecting you to be reviewing your monthly or periodic banking information to try to detect any possible alleged unauthorized or disputed activity as early as possible to stop such transactions and to prevent possible new alleged unauthorized or disputed activity from occurring. You are the best person to review your current banking records and confirm if transactions are possibly unauthorized. We will maintain records of your Account and will provide you with a Periodic Statement which reflects such records. Accounts on a quarterly statement cycle will receive a statement each month in the event you initiate one or more transactions. In the absence of such activity, you will receive the standard quarterly statement.

Your Periodic Statements will be mailed by way of the U.S. Postal Service unless you and we have otherwise agreed in writing upon a different delivery system. You agree to promptly notify us in writing at the address listed in the "Contacting Texas Capital Bank" section of this Agreement in the event you change your mailing address.

In the event your Periodic Statement is returned to us as undeliverable, we reserve the right to discontinue mailing your Periodic Statement until you provide us with a new mailing address. **You acknowledge and agree to indemnify us for and hold us harmless from any claim, losses, damages, judgments, costs, and expenses (including reasonable attorneys' fees) that arise as a result of your failure to notify us immediately of an address change.**

### **Reviewing Your Periodic Statement: Checks**

You agree to review your Periodic Statement and cancelled Checks promptly upon receipt or when made available by us. In the event you do not receive your scheduled Periodic Statement, notify us AT ONCE by calling 877.839.2265 (Client Support).

Upon receipt of your Periodic Statement, if you discover any unauthorized signature(s), missing signature(s), forged signature(s), or alteration(s) of which one or more Check deposits are reflected on your Periodic Statement, or there is any other type of error or discrepancy reflected on your Periodic Statement, you acknowledge and agree that you must notify us AT ONCE. We recommend that you notify us by calling 877.839.2265 (Client Support), although notification may also be provided by secured email, facsimile, or in person at one of our banking centers. Regardless of method, notification must be received (a) for Personal Banking Accounts within 60 days of the date the first Periodic Statement on which the unauthorized signature(s), missing signature(s), forged signature(s), or alteration(s) first appeared was mailed, transmitted or otherwise made available to you, whichever occurs first, and (b) for Small Business Banking Accounts within 24 hours from the time that the Periodic Statement on which the unauthorized signature(s), missing signature(s), forged signature(s), or alteration(s) first appeared was made available to you. For Personal Banking Accounts, we may require an affidavit signed by you on a form acceptable to us. We may require such affidavit to be signed and returned to us as soon as the day of notification. In any event, you agree to return such signed affidavit to us promptly upon receipt.

If you fail to properly notify us of any unauthorized signature(s), missing signature(s), forged signature(s), or alteration(s) of which one or more Check deposits are reflected on your Periodic Statement, or of any other type of error or discrepancy reflected on your Periodic Statement, you agree not to assert against us ANY the following claims:

1. Any unauthorized signature, missing signature, forgery, or alteration in the event we suffer a loss due to your failure to discover and promptly report the issue.
2. Any unauthorized signature, missing signature, forgery, or alteration by the same wrongdoer on Checks we paid in good faith after you have had a reasonable period of time to examine your Periodic Statement which contains or reflects such event but prior to notice from you. A reasonable period of time is not to exceed 30 days from when the first Periodic Statement was mailed, transmitted, or otherwise made available to you, whichever occurs first.

**In the event we pay a Check that contained an unauthorized signature, a missing signature, a forgery, or an alteration and you suffer a loss, you agree we shall only be liable for such loss if you prove that we**



failed to exercise reasonable care in paying such Check and that our failure substantially contributed to your loss. You further agree that any loss shall be allocated between you and us based on each Party's respective failure to exercise ordinary care that contributed to the loss. Notwithstanding the foregoing, you acknowledge and agree that we shall not be liable for any loss, and you shall lose any and all rights you may have to assert any loss against us, in the event you fail to discover and report any unauthorized signature(s), missing signature(s), forged signature(s), or alterations(s), or any other error or discrepancy that pertains to a Check to us by the deadlines set out herein (60 days for Personal Banking Accounts; 24 hours for Small Business Banking Accounts), regardless of the exercise or failure to exercise ordinary care by you or us.

You acknowledge that we process Checks by automated means and do not visually examine signatures on all Checks. You acknowledge and agree that we do not fail to exercise ordinary care because we process Checks by automated means. Furthermore, you acknowledge and agree that we do not fail to exercise ordinary care if a Check is forged or altered so cleverly (for example, unauthorized use of a facsimile machine, photocopy machine, or computer) that a reasonable person would not detect such forgery or alteration.

#### **Reviewing Your Periodic Statement: ACH**

ACH Items can consist of debit and credit transactions. Your rights and responsibilities under the NACHA Operating Rules depend on the Account type. A Personal Account is afforded the protections of the NACHA Operating Rules and of the Electronic Funds Transfer Act governed by Regulation E. A Small Business Account is afforded protections of the NACHA Operating Rules and Article 4A of the UCC. Such protections and provisions include, but are not limited to, return timeframes and provisional credit, respectively. You acknowledge and agree to be bound by the NACHA Operating Rules, as applicable. Please see the "Automated Clearing House Items" provisions of the Funds Transfer Services section of this Agreement for details about your rights and responsibilities with regard to ACH.

#### **Reviewing Your Periodic Statement: Debit Card (For Personal Accounts Only)**

Debit card activity consists of point-of-sale electronic debit/credit transactions to/from a Third Party initiated by you either in person, over the telephone, or through the Internet, with the use of your Access Device. Your rights and responsibilities as a Consumer are provided protection under the Electronic Funds Transfer Act and Regulation E. Such protection includes, but is not limited to, your rights and responsibilities in the event you encounter unauthorized debit card activity. Please see the "Electronic Funds Transfers" section of this Agreement for details about your rights and responsibilities as a Consumer with regard to your Visa® Debit Card.

#### **Reviewing Your Periodic Statement: Debit Card (For Small Business and Non-Personal Accounts Only)**

Debit card activity consists of point-of-sale electronic debit/credit transactions to/from a Third Party initiated by you either in person, over the telephone or through the Internet, with the use of your Access Device. You are solely responsible for notifying us immediately of unauthorized debit card activity.

#### **Reviewing Your Periodic Statement: Online Bill Pay**

Online Bill Pay activity consists of electronic credit transactions to a Third Party initiated by you, through the Internet. Your rights and responsibilities are dependent upon the Account type. Personal Account types are provided protection under the Electronic Funds Transfer Act and Regulation E. Such protection includes, but is not limited to, your rights and responsibilities in the event you encounter unauthorized online Bill Pay activity. Notwithstanding, Non-Personal Account types are provided some protection under the NACHA Operating Rules. Please refer to the "Terms and Disclosures" document provided to you at the time you subscribed to our online Bill Pay service for details on this subject matter.

#### **Provisioning for Inactive and Dormant Accounts**

An Account becomes dormant when there has been a lack of customer-generated activity and

customer-generated communication on the Account for one (1) year. In the event your Account becomes dormant, we reserve the right to hold your Periodic Statements. In the event your Account is inactive for the minimum state statutory dormant period, and you have failed to notify us of an address change, the Account may be presumed abandoned. Subject to applicable law, we may charge a dormant Account fee on the Account, and the Account will be presumed to be abandoned. Under such circumstances, you acknowledge and agree that we may deliver the remaining funds in your Account, if any, to the responsible state escheatment agency in the state in which the Account is maintained or in the state of your last known address. Once the funds are escheated to the state, we are no longer liable or responsible for the funds, and you must pursue recovery of such funds solely from the state to which they were escheated. You agree that the Bank is not liable to you for any funds that escheat to a state whether voluntarily or in response to an audit by or on behalf of state agency charged with enforcement of its escheatment laws. If you have any concerns as to the status of your Account, you may call us at 877.839.2265 (Client Support).

#### **Concerning IOLTAs and Fiduciary Accounts**

Subject to applicable law, an Attorney Client Trust Account (also referred to as an "Interest On Lawyer's Trust Account" or "IOLTA") is an Account set up by an attorney or law firm to hold client or third-Party funds in trust, separate from the attorney's or law firm's funds. Upon our request, the Authorized Signers for an IOLTA agree to provide such documentation as we determine in our sole discretion is required by applicable law or bar association (or similar entity) rules. You acknowledge and agree that in connection with any IOLTA, we act only as custodian of the trust funds and are not acting as a trustee, nor do we need to inquire as to the powers or duties of the attorney or law firm as trustee(s). **The attorney, law firm, and any authorized individual on the IOLTA agree to indemnify us for and hold us harmless against any and all loss, costs, damage, liability, expense, or exposure (including reasonable attorneys' fees) we may suffer or incur arising out of any action or claim by any beneficiary or Third Party with respect to the authority, actions, or inaction taken by the trustee(s) or authorized individuals in handling or dealing with the IOLTA.**

With respect to all fiduciary Accounts including, but not limited to, estate Accounts, guardianship Accounts, conservatorship Accounts, and any formal trust Account, Uniform Transfers to Minors Act Accounts, IOLTAs, and agency Accounts, we reserve the right at any time to require such documents and authorizations as we deem necessary or appropriate in our sole discretion to satisfy us that the person(s) requesting or directing any withdrawal of funds held in the Account or conducting any other Account activity has the requisite authority. This applies at the time of Account opening and at all times thereafter. You understand that by merely opening such an Account, we are not acting in the capacity of a fiduciary or trustee in connection with the fiduciary relationship nor do we undertake any obligation to monitor or enforce the terms of the fiduciary relationship. To the maximum extent permissible under applicable law, we have no responsibility or obligation to supervise or monitor the transactions within fiduciary accounts (including, but not limited to, custodial accounts, and accounts for estates, guardianships, trusts, and representative payees), or to inquire as to the powers or duties of the Account owners or signors. In the event of the appointment and qualification of any successor fiduciary the Bank may require such successor fiduciary to deliver to the Bank an affidavit of succession or such other document acceptable to the Bank certifying to the Bank that such person is the duly appointed, qualified, and serving successor fiduciary, and the Bank shall be entitled to rely thereon without further inquiry and shall be fully protected in relying on such. Notwithstanding the lack of any duty of the Bank so to further inquire, the Bank may nevertheless make such further inquiry as to the identity and qualification of a fiduciary or successor fiduciary as it deems appropriate in its sole discretion, and by further inquiring, the Bank shall not be deemed to have assumed any duty. Each fiduciary and successor fiduciary agrees to give prompt notice to the Bank in the event that any fiduciary or successor fiduciary resigns or is removed or if any additional fiduciary is appointed or becomes empowered to act as fiduciary. We have no duty to monitor the Account in any way.

**If the account is a fiduciary account (including, but not limited to, custodial accounts, and accounts for estates, conservatorships, guardianships, trusts, and representative payees), you, the fiduciary, agree in your individual capacity to indemnify us and hold us harmless from any loss, costs, damage, liability,**

or other expense we may suffer or incur arising out of or in any way related to the account or any claim by a beneficiary or other party related to the authority or actions taken by you in connection with the account, whether resulting from overdraft, error in your favor, reclamation by any governmental payor, any dispute within the scope of this agreement or any other reason. In the event of any such loss, we may enforce the foregoing indemnity by setting off the amount of such loss against (or by exercising any security interest we may have in) any other account with us in which you, the fiduciary, have an interest (unless your interest in such account is only as a fiduciary), and we will not be liable to you or to anyone else for the dishonor of any item or order on such other account which results from such setoff or exercise of our security interest.

#### **Affirming Our Right of Waiver**

You acknowledge and agree that we may, in our sole discretion, waive any of your obligations under this Agreement in a particular situation, without any obligation to treat future situations similarly, where permitted by law. Our waiver of any obligation shall not create any expectation by you that we may grant a similar waiver in the future even under similar circumstances.

#### **Affirming Our Right to Request Additional Documentation**

You acknowledge and agree that we may request, and you will provide to us, at any time such documentation or authorizations that we deem necessary or appropriate in our sole discretion to validate or confirm the authority of any person to conduct or perform any transaction or activity or to otherwise act with respect to your Account. This applies at the time of Account opening and at all times thereafter.

#### **Affirming Our Right of Set Off**

Subject to applicable law, we may exercise our right of setoff that we are entitled to exercise under common law, under this Agreement and under statute (see Texas Finance Code Section 34.307), or security interest to recover amounts you owe us from any and all Accounts you maintain with us or with our affiliates before we pay Checks or other items drawn on the Account(s), without notice to you, except that this provision does not apply to certain Trust Accounts (but excluding Totten Trust Accounts). We are not liable to you if these actions cause your Account to be overdrawn and Checks or other items are dishonored because of insufficient funds. As permitted by applicable law, we may exercise our right of setoff for any liability or debt of any of you, whether the Account is owned jointly or individually; whether the liability or debt is direct or contingent and whether now or hereafter existing; and whether the liability or debt arises from overdrafts, endorsements, guarantees, loans, attachments, garnishments, levies, attorneys' fees, or other obligations. However, under Article XVI, Section 50(a)(6)(H) of the Texas Constitution, we may not setoff against any of your Accounts for a liability arising from a home equity loan secured by Texas Homestead Property. If you are a sole proprietor, we may charge any of your Personal or Non-Personal Accounts. If you are a business partnership, we may also charge the Personal Accounts of any general partner. If the Account is a joint or any other type of multiple-party Account, each Party to the joint or multiple-party Account authorizes us to exercise our right of setoff against any and all Accounts of each Party to the Account. We may use funds held in multiple-party Accounts to repay the debts on which any one of you is liable, whether jointly with another or individually. We may charge any such debt against your Account at any time, without regard to the origin of deposits to the Account or beneficial ownership of the funds. In other words, we may (without prior notice and unless prohibited by law) setoff the funds in your Account against any due and payable debt any of you owe us now or that may arise in the future. If you have a multiple-party Account, we may setoff any funds in the Account against a due and payable debt for which any one of you are liable to us now or in the future, to the extent of your liability, including, but not limited to, partnership debts. If your debt arises from a promissory note or guaranty agreement, then the amount of the due and payable debt will be the full amount we have demanded, as entitled under the terms of the note or guaranty, and this amount may include any portion of the balance for which we have properly accelerated the due date, if required. In the event the debt arises from a loan, any "due and payable debt" includes the total amount of which we are entitled to demand payment under the terms of the loan at the time we set off, including any balance on the due date for which we properly accelerate under the terms of the loan.

We will not be liable for the dishonor of any item when the dishonor occurs because we set off a debt against this Account. You agree to indemnify us for and hold us harmless from any claim arising as a result of our exercise of our right of setoff. In addition to the rights of setoff which we have under this Agreement, you hereby grant to us a security interest in the Account or any time deposit account or certificate of deposit owned or controlled by the Account holder (or any Account holder if a multiple-party account) to secure payment of any obligation which you now owe us or which you may owe us at any time in the future, whether as a borrower, guarantor, or otherwise, including your obligation to pay our attorneys' fees and expenses and your obligation to indemnify us as provided elsewhere in this Agreement. When any such obligation is due and payable to us, we may pay such obligation, or any part thereof, from the Account without prior notice to you, and we will not be liable for the dishonor of any item or order which results from such exercise of our security interest. We can also setoff against your Account amounts which were credited into your Account that originated from an Account that became overdrawn or from an Account where we experienced a loss. If the Account has any Payable On Death beneficiary, the interests of such beneficiary shall be junior to our security interest and shall be subject to our right of setoff, even if we do not exercise our security interest or right of setoff until after your death.

The right of setoff does not apply to an Account if prohibited by law. For example, set off does not apply to: Individual Retirement Accounts, Coverdell Education Savings Accounts established pursuant to section 530 of the Internal Revenue Code, to a debt created under a Consumer credit card plan (provided, however, that in the case of consumer credit card debt this provision shall not affect our rights under any consensual security interest), if the debtor's right of withdrawal only arises in a representative capacity, or if setoff is prohibited by the Military Lending Act or its implementing regulations.

#### **Affirming Our Right to Rely on Authorization**

You expressly acknowledge and agree that we may rely on the authority of each person designated by you as an Authorized Signer on the Account or Deposit Account until we receive actual notice from you or the governing body of the legal entity that such authority no longer exists. You acknowledge and agree that we have no obligation to question the authority of anyone designated by you as an Authorized Signer. **You agree to indemnify and hold harmless and defend us, our parent companies, affiliates, subsidiaries, directors, officers, employees, trustees, agents, stockholders, Representatives, insurance carriers, and/or attorneys, from and against any and all actions, claims, demands, liability, loss, damages, or expenses of any nature including interest, costs and attorneys' fees at trial or appeal, which may arise out of or occur in connection with any action taken relating to our honoring of any and all authorizations on your Account until we receive written notice from you of any changes.**

#### **Grant of Security Interest**

You grant us, to the extent allowed by law, a continuing security interest in your Account and its proceeds, and any of your funds or property in our possession, to secure any and all present and future indebtedness you or anyone with an interest in your Account owe us.

#### **Duty of Care**

You agree that no special relationship exists between you and the Bank and that the Bank owes you no fiduciary duty or heightened duty of care.

#### **Legal Proceedings**

We may restrict the use of an Account if the Account is involved in any legal proceeding. If we are required to initiate any legal proceeding to recover losses caused by transactions occurring on your Account, you agree that we are also entitled to recover our actual costs and expenses (including attorneys' fees) associated with bringing the legal proceeding to the maximum extent allowed by law.

#### **Legal Process**

We will comply with any writ of attachment, execution, garnishment, tax levy, restraining order, subpoena, warrant, or other legal process which we believe (correctly or incorrectly) to be valid. You agree that we may honor legal process, which is served by mail or facsimile transmission, or at any of our offices, even if the law requires personal delivery at a specific office. **You agree to indemnify us for**

and hold us harmless from any and all losses, claims, liability, damages, costs, and expense (including attorneys' fees) we incur in complying with such process. We may not pay interest on any funds we hold or set aside in response to legal process. If we are not fully reimbursed for our record research, photocopying, and handling costs by the Party that served the process, we may charge such amounts to your Account in addition to our minimum legal process fee.

#### **Freezing Your Accounts, Conflicting Demands/Disputes**

If we determine that a dispute has arisen or there is uncertainty regarding the ownership or control of or authority over an Account or its funds, or we believe a transaction affecting the Account may be fraudulent or may violate any law or regulation, or are subject to a court order requiring us to hold the funds, or we are requested by any federal, state, or local agency to freeze the Account or reject a transaction, you authorize us, in our sole discretion to: (1) freeze the Account and refuse transactions until we receive written proof (in form and substance satisfactory to us) of each person's right and authority over the Account and its funds or a court order authorizing us to release the funds; (2) refuse transactions and return Checks, marked "Refer to Maker" (or similar language); (3) require the signatures of all Authorized Signers for the withdrawal of funds, the closing of an Account, or any change in the Account regardless of the number of Authorized Signers on the Account; (4) request instructions from a court of competent jurisdiction at your expense regarding the Account or transaction; and/or (5) continue to honor Checks and other instructions given to us by persons who appear as Authorized Signers according to our records. The existence of the rights set forth above shall not impose an obligation on us to assert such rights or to deny a transaction.

#### **Bank's Failure or Refusal to Act**

In the event of any disagreement hereunder, or if conflicting demands or notices are made upon us relating to this Agreement or any Item or amount received by us hereunder, we may, in our sole discretion, refuse to comply with any such claims or demands on it or refuse to take any other action hereunder with regard to the subject matter of the dispute, so long as such dispute continues; and in any such event, we shall not be or become liable to any person for its failure or refusal to act. We shall be entitled to continue to refrain from acting until (a) the rights of all Parties shall have been fully and finally adjudicated by a court of competent jurisdiction, or (b) all differences shall have been adjusted and all doubt resolved by written Agreement among all of the interested Parties in a form satisfactory to us. Our rights under this paragraph are cumulative of all other rights which it may have by law or otherwise.

#### **Affirming Limits of Our Liability**

TO THE FULLEST EXTENT PERMITTED BY LAW, YOU AGREE THAT IN NO EVENT SHALL WE, NOR ANY OF OUR PARENT, AFFILIATES, SUBSIDIARIES, AGENTS, LICENSORS, OR THIRD-PARTY SERVICE PROVIDERS, OR ANY OF OUR OR THEIR RESPECTIVE AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, CONSULTANTS, AND AGENTS, SHALL NOT BE LIABLE TO YOU OR TO ANY OTHERS FOR:

(A) ANY AMOUNT IN EXCESS OF ANY ACTUAL LOSSES OR DAMAGES INCURRED BY YOU, OR (B) ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL LOSSES OR DAMAGES (INCLUDING, BUT NOT LIMITED TO, ANY CLAIM FOR LOSS OF PROFITS, REVENUE, BUSINESS, DATA, FILES, GOODWILL OR THE COSTS OF SUBSTITUTE GOODS OR SERVICES), HOWEVER CAUSED AND BASED ON ANY THEORY OF LIABILITY (TORT, CONTRACT OR OTHERWISE). YOU HEREBY WAIVE, RELEASE, AND AGREE NOT TO SUE US OR ANY OF OUR OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AFFILIATES, AGENTS, SUCCESSORS OR ASSIGNS FOR ANY PUNITIVE, SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL LOSSES OR DAMAGES (INCLUDING, BUT NOT LIMITED TO, ANY CLAIM FOR LOSS OF PROFITS, REVENUE, BUSINESS, DATA, FILES, GOODWILL OR THE COSTS OF SUBSTITUTE GOODS OR SERVICES), HOWEVER CAUSED AND BASED ON ANY THEORY OF LIABILITY (CONTRACT, TORT, OR OTHERWISE) EVEN IF WE HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES.

WITHOUT LIMITING THE ABOVE, YOU FURTHER AGREE THAT, TO THE FULLEST EXTENT PERMITTED BY LAW:

- (1) WE SHALL NOT BE RESPONSIBLE FOR ANY LOSS, CLAIM, LIABILITY, DAMAGE, COST, EXPENSE, OR OTHER AMOUNT ARISING IN ANY WAY OUT OF, DIRECTLY OR INDIRECTLY, FROM YOUR FAILURE TO COMPLY WITH ANY TERM OR CONDITION CONTAINED IN THIS AGREEMENT;
- (2) THE AMOUNT OF ANY CLAIM YOU HAVE AGAINST US SHALL BE SUBJECT TO REDUCTION ON THE BASIS OF THE FAILURE TO USE REASONABLE CARE ON YOUR PART, THE PART OF ANY OTHER OWNER OR AUTHORIZED SIGNER ON YOUR ACCOUNT, THE PART OF ANY PERSON WHO SIGNED THE DEPOSIT ACCOUNT AGREEMENT APPLICABLE TO YOUR ACCOUNT, OR THE PART OF ANY OF YOUR AGENTS OR EMPLOYEES WHO CONTRIBUTED TO THE LOSS WHICH IS THE BASIS OF YOUR CLAIM;
- (3) OUR LIABILITY WITH RESPECT TO ANY CLAIM WILL BE LIMITED TO THE FACE VALUE OF ANY ITEM OR TRANSACTION IMPROPERLY DISHONORED OR PAID OR THE ACTUAL VALUE OF ANY DEPOSITS NOT PROPERLY CREDITED OR WITHDRAWALS NOT PROPERLY DEBITED;
- (4) YOU WILL HOLD US AND OUR OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AFFILIATES, AGENTS, SUCCESSORS, AND ASSIGNS HARMLESS FROM AND WE AND THEY SHALL NOT BE RESPONSIBLE FOR ANY LOSS, CLAIM, LIABILITY, DAMAGE, COST, EXPENSE (INCLUDING REASONABLE ATTORNEYS' FEES), OR OTHER AMOUNT THAT ARISES IN ANY WAY, DIRECTLY OR INDIRECTLY, BECAUSE OF (A) THE ACTS, OMISSIONS, OR POLICIES OF ANY GOVERNMENTAL AGENCY, FINANCIAL INSTITUTION, OR OTHER PARTY THROUGH WHICH A FUNDS TRANSFER SUBJECT TO THIS AGREEMENT IS EFFECTED, INCLUDING THE FAILURE OF ANY SUCH INSTITUTION OR AGENCY OR PARTY TO ACCOUNT FOR OR PAY OVER ANY FUNDS TRANSFERRED; (B) LEGAL CONSTRAINTS, NATURAL DISASTER, FIRE, WAR, STRIKE, CIVIL UNREST, ACTS OF GOD, ERROR IN OR MALFUNCTIONING OR INTERRUPTION OF COMMUNICATION OR TRANSMISSION EQUIPMENT OR LINES, OR ANY OTHER CIRCUMSTANCE BEYOND OUR REASONABLE CONTROL; (C) YOUR FAILURE TO COMPLY WITH ANY OF THE PROVISIONS OF THIS AGREEMENT; (D) ANY DISPUTE BETWEEN YOU AND ANY OTHER OWNER OR AUTHORIZED SIGNER ON YOUR ACCOUNT OR ANY PERSON WHO SIGNED THE DEPOSIT ACCOUNT AGREEMENT APPLICABLE TO YOUR ACCOUNT; AND (E) ANY THIRD PARTY CLAIMING AN INTEREST IN YOUR ACCOUNT.

IN ADDITION, TO THE FULLEST EXTENT PERMITTED BY LAW, YOU AGREE TO INDEMNIFY AND REIMBURSE US FOR ANY LOSS, LIABILITY, DAMAGE, COST, AND EXPENSE (INCLUDING REASONABLE ATTORNEYS' FEES) WE MAY INCUR IN CONNECTION WITH YOUR ACCOUNT(S), THE SERVICES PROVIDED TO YOU UNDER THIS AGREEMENT, OR BY OUR FOLLOWING ANY OF YOUR INSTRUCTIONS, EXCEPT TO THE EXTENT THAT SUCH LOSS, LIABILITY, DAMAGE, COST, OR EXPENSE WAS CAUSED SOLELY BY OUR INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE.

THE LIMITATIONS ON OUR LIABILITY AND ENTITLEMENT TO BE INDEMNIFIED AND REIMBURSED CONTAINED IN THIS SECTION SHALL BE IN ADDITION TO ANY OTHER LIMITATIONS ON OUR LIABILITY AND ENTITLEMENT TO INDEMNITY AND REIMBURSEMENT PROVIDED FOR IN THIS AGREEMENT, ANY OTHER AGREEMENT BETWEEN YOU AND US, OR PROVIDED BY LAW.

FURTHERMORE, THE LIMITATIONS ON OUR LIABILITY AND ENTITLEMENT TO BE INDEMNIFIED AND REIMBURSED PROVIDED FOR IN ANY PROVISION OF

THIS AGREEMENT SHALL BE CUMULATIVE AND NOT EXCLUSIVE OF ANY OTHER LIMITATION ON OUR LIABILITY AND RIGHT TO INDEMNITY AND REIMBURSEMENT PROVIDED ELSEWHERE IN THIS AGREEMENT.

#### **Unlawful, Illegal, or High-Risk Transactions**

You agree that you will not use your Account for any transaction that is illegal in the jurisdiction where the Account is opened, the jurisdictions where you live, the jurisdiction where the transaction is consummated, or in any other jurisdiction affected by the transaction. You agree that it is your responsibility to determine the legality of each of your transactions in all applicable jurisdictions before entering into the transaction. You acknowledge and agree that we have no obligation to monitor, to review, or to evaluate the legality of transactions involving your Account. You also agree that you will not use your Account in connection with any Internet or online gambling transaction, or transactions involving cannabis products, whether or not gambling or cannabis are legal in any applicable jurisdiction. For example, you certify that you will not use your Account or do any banking transactions for any illegal purposes or activity including but not limited to those activities prohibited under the applicable federal or state law. You further represent and warrant that all transactions undertaken by you or on your behalf are legal and not in violation of any other laws. To the fullest extent permitted by law, you agree to pay for any item that you authorized, even if the transaction related to that term is determined to be illegal. We also reserve the right to refuse or return any item that we believe is related to an illegal transaction, an Internet or online gambling transaction, or a high-risk or otherwise illegal transaction, including, but not limited to, any transaction presented against your Account that we reasonably believe is related to the purchase, sale or exchange of any decentralized, non-fiat virtual currency, cryptocurrency, or any other digital currency or money that relies on distributed ledger or blockchain technology, and you agree that we shall have no liability to you whether we decline to pay or whether we pay any such item.

More specifically, except as otherwise disclosed in writing to us, you represent that you are not engaged in the production, manufacturing/refinement, distribution or sale of industrial hemp or industrial hemp-derived products (such as products containing CBD oil) that are not classified as Schedule I drugs under the federal Controlled Substances Act. You further represent that, except as otherwise disclosed in writing to us, you do not derive any of your income from entities that are engaged in the production, manufacturing/refinement, distribution or sale of industrial hemp or industrial hemp-derived products (such as products containing CBD oil) that are not classified as Schedule I drugs under the federal Controlled Substances Act, either directly or indirectly (including, but not limited to, rental property income). If you are engaged in any of the activities described above, you must disclose such fact prior to opening your Account with us, we reserve the right to request proof of current certifications or licensing for such activities, as well as any other diligence information that we may reasonably require, and we reserve the right to deny you an Account based on such activity. You also understand and agree that we may terminate your Account immediately if you become engaged in any of the activities described in this section during the course of your relationship with us.

#### **Provisioning for Powers of Attorney**

Unless required by applicable law, we reserve the right to not accept any power of attorney presented to us. If we accept a power of attorney, we may require evidence of the attorney-in-fact's authority to act under it as well as such affidavits, opinions of counsel, medical opinions or indemnifications we deem appropriate. If we accept a power of attorney in connection with a specific request, we still reserve the right to refuse to accept it for any subsequent request, subject to applicable law. If we accept a power of attorney, we may continue to honor the transactions of an agent under a power of attorney until: (a) we have received written notice or have actual knowledge of the termination of the authority granted under the power of attorney or the death of the principal; and (b) we have had a reasonable opportunity to act on that notice or knowledge. We are not required to monitor the action of your agent under a power of attorney or to determine whether the agent is acting within the scope of the power of attorney. All actions taken by your agent under a power of attorney are binding on you, and you agree not to hold us responsible for any loss or damage any Party to an Account may incur as a result of our following instructions given by a purported agent acting under any purported power of attorney we reasonably

determine is valid. To the fullest extent allowed by law, you agree to indemnify and hold harmless the Bank for any wrongful act or use of a power of attorney by an attorney-in-fact acting on your behalf. Except as required by the applicable law, we may require that a power of attorney be executed on a form acceptable to us, that the power of attorney contain language satisfactory to us or that the attorney-in-fact present the original power of attorney before we honor the orders or instructions of the attorney-in-fact. We may restrict the types and dollar amount of transactions an attorney-in-fact may conduct. We may terminate acceptance of a power of attorney at any time and for any reason and without notice to any Party to the Account or any other person. If we honor the orders and instructions of the attorney-in-fact, Account transactions conducted by the attorney-in-fact and the instructions and orders of the attorney-in-fact are binding on all Parties to the Account. We assume no duty to monitor the actions of your attorney-in-fact to ensure that (s)he acts for your benefit. We are not required to accept a durable power of attorney if the Bank would not otherwise be required to engage in a transaction with the principal under the same circumstances. This includes a circumstance in which the agent seeks to establish a customer relationship with the Bank under the power of attorney when the principal is not already a customer of the Bank or expand an existing customer relationship with the Bank under the power of attorney or acquire a product or service under the power of attorney that the Bank does not offer. We may also refuse to accept a durable power of attorney if engaging in the transaction with the agent or with the principal under the same circumstances would be inconsistent with another law of the state or a federal statute, rule or regulation, or be inconsistent with a request from a law enforcement agency, or be inconsistent with a policy adopted by the Bank in good faith as necessary to comply with another law of the state or a federal statute, rule, regulation, regulatory directive, guidance, or executive order applicable to the Bank. We are also not required to accept a durable power of attorney if the Bank would not engage in a similar transaction with the agent because the person or an affiliate of the Bank believes in good faith that the principal or agent has a prior criminal history involving financial crimes, or has had a previous, unsatisfactory business relationship with the agent due to or resulting in a material loss to the Bank, financial mismanagement by the agent, or is engaged in litigation between the Bank and agent or if multiple nuisance lawsuits have been filed by the agent. We may also refuse to accept a power of attorney if we have actual knowledge of the death of the principal or termination of the agent's authority or the power of attorney before the agent's exercise of authority under the power of attorney. We may also refuse to accept a power of attorney if we received information that leads the Bank to believe that the principal lacked the capacity to execute the power of attorney at the time of its execution. We may also refuse to allow use of a power of attorney if the agent refuses to comply with the request for certification, opinion of counsel, or translation, or if the agent complies with one or more of those requests, the Bank in good faith is unable to determine the validity of the power of attorney or the agent's authority to act under the power of attorney because the certification, opinion, or translation is incorrect, incomplete, unclear, limited, qualified, or otherwise deficient in a manner that makes the certification, opinion, or translation ineffective for its intended purpose, as determined in good faith by the Bank. We may also refuse to accept the power of attorney regardless of whether an agent's certification, opinion of counsel, or translation has been requested or received by us if we believe in good faith that the power of attorney is not valid, the agent does not have the authority to act as attempted, or the performance of the requested act would violate the terms of business entities governing documents or an agreement affecting the business entity including how the entity business is conducted.

We may also refuse to accept a power of attorney if a person has commenced, or the Bank has actual knowledge that another person commenced, a judicial proceeding to construe the power of attorney or review the agent's conduct and that proceeding is pending. We may also refuse to accept a power of attorney if we have knowledge that someone has commenced, or has actual knowledge that another person commenced, a judicial proceeding for which a final determination was made that found the power of attorney invalid with respect to a purpose for which the power of attorney is being presented for acceptance, or the agent lacked the authority to act in the same manner in which the agent is attempting to act under the power of attorney. We may also refuse a power of attorney if the Bank has made, or has actual knowledge that another person has made, a report to a law enforcement agency or other federal or state agency stating a good faith belief that the principal may be subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or a person acting with or on

behalf of the agent. We may also refuse to accept a power of attorney if the Bank receives conflicting instructions or communications with regard to a matter from co-agents acting under the same power of attorney or from agents acting under different powers of attorney signed by the same principal or another adult acting for the principal. We may also refuse to accept the durable power of attorney if per the law of the jurisdiction that applies in determining the power of attorney's meaning and effect, or the powers conferred under the durable power of attorney that the agent is attempting to exercise are not included within the scope of activities to which the law of that jurisdiction applies. We may also refuse to accept a springing power of attorney, especially if the Bank cannot determine to its satisfaction whether the contingency triggering the effectiveness of the power of attorney has occurred. We may also refuse to accept a power of attorney if it expires at some point in the future, particularly where the expiration is contingent on an event the occurrence of which the Bank would have no knowledge. If the Bank originally accepts a power of attorney and if facts or circumstances change, the Bank reserves the right to refuse to honor the power of attorney for future requests to conduct business under the power of attorney in the future without incurring liability to you, and the Bank has absolute discretion in making this decision. The Bank also may require additional information or documentation from you or the attorney-in-fact that we deem to be sufficient, again in the Bank's sole and absolute discretion. The Bank may require you or the attorney-in fact to satisfy any questions or concerns it may have regarding a power of attorney submitted to the Bank.

In the event you have an attorney-in-fact or other agent and such attorney-in-fact or other agent attempts to write Checks or withdraw or transfer funds from your Account, we reserve the right to refuse to pay any Checks or permit any withdrawals or transfers by your attorney-in-fact or other agent. We also reserve the right to restrict the types and sizes of transactions we will permit an attorney-in-fact or other agent to conduct, by general policy or on a case-by-case basis.

**If, in our sole discretion, we elect to accept a delegation of authority to another person to act upon your behalf or a Power of Attorney, you agree to indemnify us for and hold us harmless from any claim, losses, damages, costs, and expenses (including reasonable attorneys' fees) that we incur in connection with transactions conducted in reliance upon such delegation of authority or Power of Attorney.**

You acknowledge and agree that we may continue to recognize the authority of any delegation of authority to another person to act upon your behalf or Power of Attorney that we elect to accept until we receive actual written notice of revocation or termination, including revocation that results from death, and have had a reasonable amount of time to act upon such written notice. Regardless of the specific terms contained within the delegation of authority or Power of Attorney, you must notify us in writing if you decide to revoke the respective authority or Power of Attorney. We may require a certificate from you stating the delegation of authority or Power of Attorney has not been revoked.

### *III. FDIC Insurance – Ensuring Your Deposits Are Safe*

FDIC insurance covers all deposit Accounts, including Checking, savings Accounts, money markets and certificates of deposit. FDIC insurance does not cover other financial products and services that we may offer such as securities and other investment products. The standard insurance amount is \$250,000 per depositor, per insured bank, for each Account ownership. The FDIC provides separate coverage for deposits held in different Account ownership categories. Depositors may qualify for more.

The ownership categories are:

- (1) Single Accounts
- (2) Joint Accounts
- (3) Certain Retirement Accounts (includes IRAs)
- (4) Revocable Trust Accounts
- (5) Corporation, Partnership, and Unincorporated Association Accounts
- (6) Irrevocable Trust Accounts

- (7) Employee Benefits Plan Accounts
- (8) Government Accounts

All deposits that an Account holder has in the same ownership category at the same bank are added together and insured up to the standard insurance amount.

To calculate your deposit insurance coverage, use the FDIC's Electronic Deposit Insurance Estimator (EDIE) at [www.fdic.gov/edie](http://www.fdic.gov/edie). For more information on FDIC Deposit Insurance Coverage, go to [www.fdic.gov/deposit/deposits](http://www.fdic.gov/deposit/deposits).

### *IV. Personal and Small Business Banking Funds Availability Policy*

Our Funds Availability Policy applies to all deposit Accounts held with us. You may inquire as to the Account type of other Accounts you have with us by calling 877.839.2265 (Client Support).

#### **Concerning Your Ability to Withdraw Funds**

Our general policy is to make funds available to you from your Cash and Check deposits on the first Business Day after the day we receive your deposit. Without limiting the foregoing Electronic Transfers (Wire Transfers & ACH Deposits) will be made available to you on the Business Day we receive such deposit. For ACH Debit Entries originating from Texas Capital Bank through your linked external account, funds will be made no later than five (5) Business Days after the Settlement Date of such items. To determine the availability of your deposits, every day is a Business Day except for Saturday, Sunday, and federal holidays. On non-Business Days, we consider deposits made on the next available Business Day. An ACH Entry received after 5:30 p.m. Central Time may be treated as having been received on the next Business Day. Without limiting the foregoing, we will use the receipt of such deposits to pay Items that present against your Account. You acknowledge and agree that you are responsible for the management of your Account with us. In the event you withdraw all funds in your Account to which a deposit is made, you acknowledge and agree that you are responsible for all Items that present against your Account for payment and any Items that are returned as unpaid, including any fees that result due to such non-payment.

To determine the availability of your deposits, every day is a Business Day except for Saturday, Sunday, and federal holidays. On non-Business Days, we consider deposits made on the next available Business Day. If your deposit is made on a Business Day during the normal business hours of the banking center where your deposit is made, we consider that day to be the day of your deposit.

For information specific to the availability of funds deposited through Mobile Remote Deposit Capture refer to the TCB Personal and Small Business Electronic Banking Services Terms and Disclosures.

#### **Concerning Longer Delays**

Notwithstanding our general policy, in some cases, there may be a longer delay in making funds available to you.

Depending on the type of Check that you deposit, funds may not be available until the second Business Day after the day of your deposit. The first \$225 of your deposits, however, will be available on the first Business Day after the day of your deposit.

In some cases, funds you deposit by Check may be delayed up to 7 (seven) Business Days. Circumstances that may warrant such a delay include the following:

- We believe a Check you deposit will not be paid.
- You deposit Checks totaling more than \$5,525 on the same day.
- You redeposit a Check that has been previously returned unpaid.
- You have overdrawn your Account multiple times in the last 6 (six) months.

- We or others in the payment channel encounter an emergency, such as failure of computer or communications equipment.

If we are not going to make the total amount of your deposit available to you on the first Business Day after the day of deposit, we will notify you of the delay on the day of your deposit. Furthermore, we will provide you with the date of when the total funds will become available for withdrawal by you. In the event the deposit in question is not made in person to one of our employees or we decide to take such action after you have left our banking center, we will mail notice to you on the first Business Day after we have received your deposit. In any event, you may ask us when funds will become available prior to making a deposit by Check with us.

#### **Provisioning for New Accounts**

In the event your Account is a new Account, opened 30 days or less, special guidelines govern our processing of your deposits. These special guidelines include:

- ACH Deposits: Funds become available for ACH Entries originating through external banks no later than the Business Day after the Settlement Date of such items. For ACH Debit Entries originating from Texas Capital Bank through your linked external account, funds will be made available no later than five (5) Business Days after the Settlement Date of such items.
- Wire Transfer Deposits: Funds become available on the Business Day of the deposit.
- Cash Deposits: Funds become available on the first Business Day after the day of deposit.
- U.S. Postal Service Money Order, Cashier, Certified, Teller, and Traveler Check Deposits: Funds for the first \$5,525 become available on the first Business Day after the day of deposit. In the event your deposit was not made in person to one of our employees, funds for the first \$5,525 do not become available until the second Business Day after the day of deposit (other than a U.S. Treasury Check). In either case, the excess over \$5,525 of the deposit becomes available on the ninth Business Day after the day of deposit.
- Federal, State, and Government Deposits: Funds become available on the first Business Day after the day of deposit.
- Other Check Deposits: Funds become available on the ninth Business Day after the day of deposit.

#### **ATM Deposits**

Deposits received after 4:00 pm Central Time will be processed the following business day. Funds from deposits may not be available for immediate withdrawal. Please contact your local banking center for further details regarding funds availability of deposits.

#### **What Is a Substitute Check?**

In an effort to make Check processing more efficient, federal law and regulation permits banks to replace original Checks with “Substitute Checks.” A Substitute Check is similar in size to the original Check with a slightly reduced image of the front and back. The front of a Substitute Check states: “This is a legal copy of your Check. You can use it the same way you would use the original Check.” You may use a Substitute Check as proof of payment just as with the original Check.

Some or all of the Checks that you receive back from us may be Substitute Checks. The following sections describe rights you have when you receive Substitute Checks from us. The rights in the following sections do not apply to original Checks or to ACH Debit Entries that post to your Account; however, you have rights under other federal law and regulation with respect to such transaction types.

#### **What Are My Rights Regarding Substitute Checks?**

Under certain circumstances, federal law and regulation provides a special procedure that allows you to request a refund in the event a Substitute Check posts to your Account and you suffer a loss (for example, we withdrew the wrong amount from your Account or that we withdrew money from your Account more than once for the same Check). The losses you may attempt to recover under this procedure may include the amount that was withdrawn from your Account and applicable fees that

were charged as a result of the withdrawal.

The amount of your refund under this procedure is limited to the amount of your loss or the amount of the Substitute Check, whichever is less. You also are entitled to interest on the amount of your refund if your Account is an interest-bearing Account. If your loss exceeds the amount of the Substitute Check, you may be able to recover additional amounts under other law.

In the event you use this procedure, you may receive the lesser of the Substitute Check or \$2,500, plus interest if your Account is an interest-bearing Account, within 10 Business Days after we receive your claim and the remainder of your refund (plus interest if your Account is an interest-bearing Account) not later than 45 days after we receive your claim. We may reverse the refund (including any interest on the refund) if we later demonstrate that the Substitute Check was correctly posted to your Account.

#### **How Do I Make a Claim for a Refund?**

In the event you believe you have suffered a loss which pertains to a Substitute Check that you received and that has posted to your Account, please call us immediately at 877.839.2265 (Client Support). You must contact us within 40 days of the date that we mailed to you (or otherwise made available by an agreed-upon means) the Substitute Check in question or the Periodic Statement on which the Substitute Check is reflected, whichever is later. We will extend the 40-day timeframe in the event you were unable to make a timely claim due to extenuating circumstances.

Your claim for a refund must include:

- A description of why you believe you have suffered a loss (for example, you think the amount withdrawn was incorrect);
- An estimate of the amount of your loss;
- An explanation of why the Substitute Check you received is insufficient to confirm that you suffered a loss; and
- A copy of the Substitute Check and/or these details to help us identify the Substitute Check:
  - Account number
  - Check number
  - Payee (the name of the person to whom you wrote the Check)
  - Amount of the Check
  - Date you discovered the issue
  - Date the Check paid against your Account

## ***V. Personal and Small Business Banking Accounts: Funds Transfer Services***

The following provisions apply to our Funds Transfer services applicable to Personal and Small Business Banking Accounts. This Section VI is divided into 3 (three) distinct parts: (1) Wire Transfer Requests, (2) Automated Clearing House Items, and (3) Electronic Funds Transfers.

### **1. Wire Transfer Requests**

The following provisions cover your rights and responsibilities with regard to Wire Transfer requests you initiate or receive.

#### **Effect of this Agreement on Existing Wire Transfer Agreements**

If you have an existing Wire Transfer/Payment Order Agreement (“Wire Agreement”) with us, please read this section carefully and in its entirety. The terms of this Agreement shall supersede and replace the terms of the Wire Agreement in all respects except that those persons who you designated as Authorized Agents in the Wire Agreement shall continue to be Authorized Agents for purposes of this Agreement and we

may continue to rely on such Authorized Agents' authority as provided for in the Wire Agreement. Your use of any Account or acceptance of any service or product from us following receipt of this Agreement shall constitute your acceptance of all of the terms of this Agreement including the Wire Transfer provisions included in this section. If you have any questions, please see the "Contacting Texas Capital Bank" section of this Agreement for our contact information.

### **Payment Order**

Wire Transfer requests must be completed by you or other Authorized Agent. Any request by an Authorized Agent for a Wire Transfer of funds, or any amendment or modification to, or cancellation of, that request, or any related instruction, is referred to in this Agreement as a "Payment Order." As used herein, the term "Payment Order" shall be deemed to include a request to transfer funds by wire by means of the Federal Reserve Fedwire<sup>®</sup>, through a Correspondent Bank, the Society for Worldwide Interbank Financial Telecommunication ("SWIFT"), TELEX, computer terminal, or other means. The term shall be deemed not to include transfers made through ACH system within the United States, as defined by NACHA Operating Rules as those rules may be amended from time to time.

### **Authorized Accounts**

You agree that unless otherwise agreed to by you and us in writing, each Account you maintain with us is authorized to transfer and receive funds via wire (each an "Authorized Account").

### **Authorized Agents**

You, each Authorized Signer on your Authorized Accounts, and those persons who you or your Authorized Signers designate or otherwise authorize to give Payment Order instructions to us or otherwise authorize to give instructions to us for the transfer of funds and matters related thereto are referred to collectively herein as "Authorized Agents." You represent and warrant to us that each Authorized Agent is authorized by you and on your behalf to initiate and verify Payment Orders, without limitation and including through your Online Banking Administrator as applicable.

You agree to complete such documentation as we may require in our sole discretion to identify your Authorized Agents. You may change the Authorized Agents from time to time upon prior written notice to us and by completing such documentation as we may require. Any such notices must be expressly acknowledged by us in writing to be effective.

### **Funds Transfer Procedures**

Subject to our normal banking hours and other deadlines, whether legal, regulatory, or contractual, you hereby authorize and direct us to make transfers and to act upon any Payment Order upon receipt, whether transmitted in writing, via facsimile transmission, via electronic mail, via telephone, or by any other means. Unless you are otherwise notified in writing, we will receive Payment Orders and incoming Wire Transfers on Business Days between the hours of 8:00 a.m. and 5:00 p.m. Central Standard Time, and will send outgoing Wire Transfers on Business Days between the hours of 8:00 a.m. and 5:00 p.m. Central Standard Time. Any Payment Order received after 4:00 p.m. Central Standard Time may be treated as having been received on the next Business Day.

We will use reasonable efforts to execute all Payment Orders received in accordance with this Agreement and by the date designated by you, provided that such Payment Orders are received on the days and during the hours of our operations as set forth above. Notwithstanding the foregoing, you understand and agree that we may not execute a Payment Order immediately on receipt and that there may be some lapse in time between you initiating a Payment Order and us executing it. You agree that we shall have a reasonable amount of time to execute on any Payment Order, including such time as necessary for us to confirm to our satisfaction your compliance with this Agreement and the security procedures described herein.

We will not be deemed to have accepted a Payment Order until such Payment Order is actually executed. For purposes of this Agreement, a Payment Order is deemed executed once we issue an order intended to initiate your Payment Order through a Wire Transfer system. You acknowledge and agree that we may select any intermediary financial institution, system, or means of transmittal to transmit funds, including,

but not limited to, the Fedwire<sup>®</sup> Wire Transfer system for the transfer of domestic funds. Furthermore, you acknowledge and agree that our selection may differ from that indicated in your Payment Order. If you request, we will use reasonable efforts to notify you of incoming Wire Transfers, but you agree that we shall have no liability to you of any kind for failing to provide such notice.

You acknowledge and agree that we are not obligated to accept any Payment Order. We may, in our sole discretion, reject a Payment Order for any reason including, but not limited to, any of the following reasons: (i) you fail to submit the Payment Order in sufficient time to meet your requested execution date; (ii) there are Insufficient Funds in the Authorized Account(s) to cover the amount of the Payment Order; (iii) the Payment Order contains incomplete instructions; (iv) we are unable to verify to our satisfaction that the Payment Order has been submitted in accordance with all applicable security procedures, including those contained in this Agreement; or (v) you have failed to meet your obligation for payment of fees and charges owed to us under this Agreement or any other Agreement between the Parties. In the event a Payment Order is rejected, we will make reasonable efforts to notify you by telephone and, if unable to do so, will notify you in writing. If we do not receive your corrected Payment Order within five (5) Business Days from the date the original Payment Order was initiated, we will deem the Payment Order cancelled by you. Funds from incoming transfers will not be deemed collected or credited to the Authorized Accounts or other Accounts you maintain with us until such time as we receive final settlement through the Federal Reserve Bank Wire Transfer system, or otherwise receive payment as provided in the Article 4A of the UCC ("UCC, Article 4A") or other applicable law. You agree that the terms and conditions set forth herein constitute a commercially reasonable method of facilitating Wire Transfers by you.

### **Security Procedures**

YOU AGREE THAT YOU HAVE SOLE RESPONSIBILITY FOR EVALUATING AND APPROVING THE LEVEL OF SECURITY PROCEDURES FOR ISSUING PAYMENT ORDERS GIVEN THE SIZE AND TYPE OF ACCOUNTS YOU MAINTAIN WITH US AND THE SIZE, TYPE, AND FREQUENCY OF TRANSACTIONS YOU INTEND TO MAKE. YOU ALSO AGREE THAT YOU HAVE SOLE RESPONSIBILITY FOR MAINTAINING THE CONFIDENTIALITY, MAINTENANCE, USE OF, CONTROL OVER, AND ACCESS TO, YOUR PASSWORD(S), LOG-IN ID(S), SECURITY TOKENS, PERSONAL IDENTIFICATION NUMBER(S), PASSCODE(S), AND OTHER PERSONAL IDENTIFICATION NUMBER(S) AND/OR SECURITY DEVICES OR OTHER INFORMATION (SUCH AS "CHALLENGE QUESTIONS") INTENDED TO AUTHENTICATE PAYMENT ORDERS. You agree to: (1) limit use and access of all access number(s), password(s), log-in ID(s), security tokens, security token serial numbers, Personal Identification Number(s), passcode(s), and other information intended to authenticate Payment Orders to trusted persons who need such information; (2) instruct such persons that they are not to disclose any access number(s), password(s), log-in ID(s), security tokens, security token serial numbers, Personal Identification Number(s), passcode(s), or other information intended to authenticate Payment Orders to any other person; and (3) establish and maintain procedures to ensure that all access number(s), password(s), log-in ID(s), security tokens, security token serial numbers, Personal Identification Number(s), passcode(s), and other information intended to authenticate Payment Orders will be maintained in strictest confidence and to safeguard against unauthorized access thereto. You agree that each time you initiate a Payment Order, you represent and warrant that, in view of the size and type of your Accounts and your requirements, (a) the security procedure you have chosen for issuing Payment Orders is a satisfactory method of verifying the authenticity of any Payment Order, and (b) you have in place proper supervision and safeguards to maintain the confidentiality and security of your password(s), log-in ID(s), security tokens and other Personal Identification Number(s) and/or security devices or other information intended to authenticate Payment Orders. YOU AGREE THAT TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, WE WILL NOT BE LIABLE FOR ANY INSTRUCTION, PAYMENT ORDER, AMENDMENT, OR CANCELLATION, OR ANY LOSS ARISING THEREFROM, ERRONEOUSLY TRANSMITTED BY YOU OR ANYONE AUTHORIZED BY YOU HEREUNDER OR CONTAINING AN ERROR IN CONTENT AS PROVIDED BY YOU OR ANYONE AUTHORIZED BY YOU HEREUNDER, REGARDLESS OF WHETHER WE FOLLOWED THE SECURITY PROCEDURES AGREED

UPON HEREIN OR ANY APPLICATION HERETO.

WITHOUT LIMITING THE FOREGOING, WE MAY, BUT ARE NOT OBLIGATED TO, VERIFY THE AUTHENTICITY OF A PAYMENT ORDER. FOR PAYMENT ORDERS TRANSMITTED VIA FACSIMILE, VIA ELECTRONIC MAIL, AND/OR VIA TELEPHONE, PRIOR TO ACCEPTING ANY PAYMENT ORDER IN THE AMOUNT OF \$500,000 OR MORE, WE WILL REQUIRE THAT A CALL BE MADE TO YOU OR OTHER AUTHORIZED AGENT; PROVIDED, HOWEVER, IN THE CASE OF A "REOCCURRING" PAYMENT Order we may not require a callback. A Payment Order is "reoccurring" if it contains at least the same beneficiary name, beneficiary Account number, and receiving/beneficiary bank (or final receiving/beneficial bank if an international wire) as was included in a prior outgoing wire request. For Payment Orders transmitted via our Online Banking System, we will require the use of the following before accessing our system: (1) a secure access code we provide or a web browser previously activated through secure access code verification, and (2) a log-in ID and password. YOU REPRESENT AND WARRANT THAT, IN YOUR VIEW, THE SECURITY PROCEDURES DESCRIBED IN THIS PARAGRAPH ARE A SATISFACTORY AND COMMERCIALY REASONABLE METHOD FOR US TO VERIFY THE AUTHENTICITY OF A PAYMENT ORDER GIVEN THE SIZE AND TYPE OF ACCOUNTS YOU MAINTAIN WITH US AND THE SIZE, TYPE, AND FREQUENCY OF TRANSACTIONS YOU INTEND TO MAKE. YOU AGREE THAT WE SHALL BE CONCLUSIVELY DEEMED TO HAVE DISCHARGED OUR DUTY TO ACT IN GOOD FAITH IF WE HAVE FOLLOWED THE PROCEDURES DESCRIBED IN THIS PARAGRAPH (REGARDLESS OF WHETHER OR NOT OUR INTERNAL POLICIES OR PROCEDURES REQUIRE SOMETHING DIFFERENT) AND YOU ASSUME FULL RESPONSIBILITY FOR ALL PAYMENT ORDERS AUTHENTICATED BY US USING THE PROCEDURES DESCRIBED IN THIS PARAGRAPH.

You acknowledge and agree that we have made our Online Banking System with the above described security procedures available to you to transmit Payment Orders. You further acknowledge and agree that Payment Orders transmitted to us via facsimile, via electronic mail, and via telephone may pose a higher degree of risk than those transmitted to us via our Online Banking System. IF AT ANY TIME YOU OR ANY OF YOUR AUTHORIZED AGENTS ELECT TO TRANSMIT A PAYMENT ORDER VIA FACSIMILE, VIA ELECTRONIC MAIL, AND/OR VIA TELEPHONE: (A) YOU REPRESENT AND WARRANT THAT YOU UNDERSTAND THE RISK OF TRANSMITTING PAYMENT ORDERS IN SUCH MANNER AND WITHOUT THE SECURITY PROCEDURES WE MAKE AVAILABLE FOR TRANSMITTING PAYMENT ORDERS ELECTRONICALLY, AND YOU HAVE IN PLACE YOUR OWN SECURITY PROCEDURES THAT YOU DEEM ADEQUATE TO PROTECT YOURSELF AGAINST THE RISK OF LOSS THAT MAY BE ATTRIBUTABLE TO FRAUDULENT OR UNAUTHORIZED PAYMENT ORDERS TRANSMITTED VIA FACSIMILE, VIA ELECTRONIC MAIL, AND/OR VIA TELEPHONE (INCLUDING, BUT NOT LIMITED TO, SECURITY PROCEDURES THAT PREVENT OR REDUCE THE LIKELIHOOD OF ELECTRONIC MAIL COMPROMISE), AND (B) YOU ASSUME ALL RISK AND LIABILITY FOR, AND RELEASE AND HOLD US HARMLESS FROM, ANY AND ALL LOSSES, DAMAGES, COSTS, AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) INCURRED AS A RESULT OF OUR HAVING ACCEPTED IN GOOD FAITH ANY PAYMENT ORDER FROM (OR PURPORTING TO BE FROM) YOU TRANSMITTED VIA FACSIMILE, VIA ELECTRONIC MAIL, OR VIA TELEPHONE FROM (OR PURPORTING TO BE FROM) YOU OR ANY OF YOUR AUTHORIZED AGENTS.

Without limiting any of the foregoing, we reserve the right, in our sole discretion, to require any of the following additional methods of authentication before we accept or act on any Payment Order: (a) require that a Payment Order be submitted to us in writing, bearing the signature of you or other Authorized Agent, on a form to be provided by us; and/or (b) require that a return call may be made to an Authorized Agent to verify the authenticity of such Payment Order; and/or (c) require authenticating information including such authenticating information as PINs, passwords, or other information (such as "challenge questions") intended to authenticate instructions; and/or (d) require that such other security requirements be met as we deem necessary to authenticate a transaction. You understand and agree that your failure to submit a request to us on our form, to accept a return call,

or comply with any other security requirements that we require may result in us rejecting a Payment Order. You further understand and agree that we are not required to do any of the foregoing described in (a)–(d) and the fact that we do not take such action in one case shall not waive our right to take such action in another case, nor the fact that we took such action in one case establish an expectation on your part that we will take such action in the future. You further understand and agree that we may change our security procedures or add new requirements at any time, and, upon notice to you, you will comply with such changes.

Payment Orders may be subject to other Agreements between us and you (for example, our Personal and Small Business Electronic Banking Services Terms and Disclosures) and you agree to comply with such other Agreements. You agree that you have been advised of, and will comply with, all security procedures set forth in this Agreement and any other applicable Agreement between us and you. You agree that your failure to comply with our security procedures in this Agreement and any other applicable Agreement shall result in you being responsible for any liability, loss or damage resulting from such failure.

#### Customer Verification

You agree that we are authorized, but not obligated, to rely upon and act in accordance with any Payment Order or other instruction or communication by facsimile, phone, email, or other electronic transmission (including without limitation any transmission by use of our software or the Internet, if applicable) received by us without inquiry on our part as to its accuracy or correctness. You further agree that we may, but are not obligated to, verify the accuracy or correctness of any Payment Order or other instruction or communication you provide us. If we attempt to verify the accuracy or correctness of a Payment Order, or other instruction or communication, and are unable to do so, we may, in our sole discretion, either make the transfer or decline to make the transfer or follow the instructions or decline to follow the instructions. In such event, we shall not be liable to you for any actual loss of any kind or in any amount, provided we have acted in good faith, even if such Payment Order or other instruction or communication contains inaccurate or erroneous information. You acknowledge and agree that you should verify all Payment Orders and other instructions and communications sent to us.

#### Wire Transfer Options

You may initiate Payment Orders on an as-needed basis ("Standard Transfer") and/or may establish a predetermined, preauthorized schedule of Payment Orders ("Repetitive Transfer"). In the event you elect to utilize Repetitive Transfers, you may have two options. If you select "manual" Repetitive Transfers, then you may not vary any of the details of the Payment Orders and the date, amount, and beneficiary must remain the same. Or, if you select Repetitive Transfers within the Online Banking System using a "repetitive" template, then you may vary the date and amount of the Payment Order; however, Authorized Accounts designated to be debited and credited may not vary. Additionally, upon receipt of documentation deemed satisfactory to us in our sole discretion, you may permit Third Parties to initiate a reverse Wire Transfer with the effect of debiting your Account with us and crediting the Third Party's Account in accordance with the authorized Payment Order.

#### Account-to-Account Transfers

Your Account-to-Account transfers (i.e., book transfers) also constitute Payment Orders. All Payment Orders initiated by you must be initiated in compliance with our security procedures set forth in this and any other applicable Agreement between us and you.

#### Reporting Errors or Unauthorized Transfers

You agree that you are in the best position to protect against fraudulent and unauthorized transfers and to detect any such or any other error or discrepancy involving your Account or any Payment Order. **You must notify us of any error or discrepancy with respect to any Payment Order AT ONCE and, in any event, (a) for Consumer Accounts within 2 (two) Business Days from the earliest date any electronic message or confirmation is sent to you pertaining to the Payment Order, or within sixty (60) days from the date you receive your first Periodic Statement containing the Payment Order, and (b) for Small Business Accounts within 24 hours of any electronic message or confirmation is sent to you pertaining to the Payment Order.**



Such notice shall be made by calling 877.839.2265 (Client Support). In the event you fail to notify us within the timeframe set forth herein, you acknowledge and agree that we shall be relieved of any liability in connection with the Payment Order. Written notification can be delivered or mailed to us to the following address: 2350 Lakeside Blvd., Ste. 800, Attn: Client Support, Richardson, Texas 75082. If, upon you questioning a transaction within the timeframe set forth herein, it is determined we complied with this Agreement or that you did not comply with this Agreement, we shall be relieved of all liability in connection with the Payment Order.

#### **Certain Customer Responsibilities**

You agree that you have sole responsibility for ensuring the accuracy of any Payment Order. You understand that the numbers assigned to other financial institutions and to the financial Accounts of recipients of transfers (known as beneficiaries) with us and other financial institutions are critical to Payment Orders. **IF ANY PAYMENT ORDER BY YOU DESCRIBES THE INTENDED BENEFICIARY OF FUNDS INCONSISTENTLY BY NAME AND ACCOUNT NUMBER THAT PAYMENT BY THE RECEIVING FINANCIAL INSTITUTION (WHICH MAY BE US) MAY BE MADE ON THE BASIS OF ACCOUNT NUMBER ALONE EVEN IF THAT ACCOUNT IS NOT OWNED BY THE PERSON OR ENTITY NAMED IN THE PAYMENT ORDER. WE WILL NOT BE LIABLE FOR ANY ERRORS OR LOSSES RESULTING FROM ANY ERRORS IN OR CHANGES TO THE BENEFICIARY INFORMATION PROVIDED BY YOU. YOU HEREBY AGREE AND ACKNOWLEDGE THAT WE, THE BENEFICIARY'S FINANCIAL INSTITUTION, AND EVERY INTERMEDIARY FINANCIAL INSTITUTION ARE NOT RESPONSIBLE FOR DETECTING ANY CUSTOMER ERROR CONTAINED IN ANY INDIVIDUAL PAYMENT ORDER.**

If requested, you agree to provide an address of the beneficiary of each requested transaction. You represent and warrant to us that each transfer initiated by you is in compliance with the laws of the United States of America, including, without limitation, economic sanctions administered by OFAC and any other applicable laws.

#### **Certain Bank Responsibilities**

Our duties and responsibilities with respect to a Payment Order and any Funds Transfer service are limited to those described in this Section VI. Our liability for failure to execute a Payment Order, if any, shall be limited as set forth in this Section VI and otherwise in this Agreement.

We will use ordinary care in performing under this Agreement, but will be responsible for any loss sustained by you only to the extent such loss is incurred as a direct result of our gross negligence or willful misconduct. However, in such case, our liability will extend only to the resulting direct loss not to exceed the amount of the disputed transfer and any related fees. Notwithstanding the foregoing, you agree that we will not be responsible for any liability, loss, or damage resulting from: your failure to follow this Agreement or any procedures we require for transmitting Payment Orders, of which we have notified you; or any delay in the performance by us of, or failure to perform, the provisions of this Agreement; or the acts or omissions of any other person. You further agree that to the fullest extent permitted by law we shall not be liable for any special, indirect, exemplary, or consequential damages, including, but not limited to, lost profits, even if we have been informed of the possibility of such damages.

**IN THE EVENT THAT A PAYMENT ORDER IS UNAUTHORIZED BUT EFFECTIVE PURSUANT TO THE SECURITY PROCEDURES AND OTHER PROCEDURES AGREED TO HEREIN, WE ARE ENTITLED TO ENFORCE OR RETAIN PAYMENT FOR THE PAYMENT ORDER FROM YOU UNLESS YOU CAN PROVE THAT THE PAYMENT ORDER WAS NOT CAUSED, DIRECTLY OR INDIRECTLY, BY A PERSON EITHER (I) ENTRUSTED AT ANY TIME WITH DUTIES TO ACT ON YOUR BEHALF WITH RESPECT TO SUCH PAYMENT ORDER OR THE SECURITY PROCEDURES OR OTHER PROCEDURES HEREIN, OR (II) WHO OBTAINED ACCESS TO YOUR TRANSMITTING FACILITIES OR WHO OBTAINED, FROM A SOURCE CONTROLLED BY YOU AND WITHOUT AUTHORITY OF US, INFORMATION FACILITATING A BREACH OF THE PROCEDURES, REGARDLESS OF HOW THE INFORMATION WAS OBTAINED OR WHETHER YOU WERE AT FAULT.**

#### **Customer Amendment/Cancellation Requests**

You acknowledge and agree that you have no right to reverse, amend, adjust, cancel, or revoke a Wire Transfer request after we have executed the Wire Transfer. If you request the reversal, adjustment, amendment, cancellation, or revocation of a Wire Transfer request, we may (but shall not be obligated to) attempt to recover the funds from the transferee using whatever steps we may deem appropriate in our sole discretion. **YOU AGREE TO INDEMNIFY US AND HOLD US HARMLESS AGAINST ANY CLAIM, LOSSES, DAMAGES, COSTS, OR EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) WHICH WE MAY INCUR IN ATTEMPTING TO AFFECT SUCH RECOVERY OF FUNDS. WE MAKE NO REPRESENTATION OR WARRANTY AS TO OUR ABILITY TO REVOKE OR CANCEL A WIRE TRANSFER ONCE MADE.**

#### **Foreign Currencies**

You agree that if you request a transfer of funds in a currency other than United States dollars, we will convert the currency at our current exchange rate for the specified foreign currency. If any funds are returned to you in a currency other than United States dollars, we will convert the returned foreign currency into United States dollars at its current exchange rate for such currency at the time of the return. If we do not have current exchange rates for the particular foreign currency involved, we will use its best efforts to convert the currency promptly through reasonable commercial and/or banking channels, and you shall pay us a reasonable fee for such services. In no event shall we be liable to you for any losses arising from currency conversions effected by us in good faith within a reasonable time after receiving funds for conversion. Each foreign currency transfer may be executed through a selected correspondent bank of ours. The transfer will be assigned a value date, or date of final credit to beneficiary in accordance with the spot date generally used by the foreign exchange market or such other value date specified by the correspondent bank.

#### **Charges and Fees**

You agree to pay all charges which we may impose from time to time for following Payment Orders. You shall reimburse us for any out-of-pocket costs incurred by us in carrying out Payment Orders given by an Authorized Agent.

#### **Governing Law**

Fund transfers shall be governed by all applicable operating circulars of any Federal Reserve Bank which may handle any transaction that is the subject of this Agreement and by all applicable provisions of federal law and regulation. If any part of a Payment Order is carried out by Fedwire®, your rights and responsibilities are governed by Regulation J of the U.S. Federal Reserve Board, 12 C.F.R. part 210. To the extent allowed by federal law, this Agreement shall also be governed by the operating rules and other governing documents of SWIFT, or any other Wire Transfer or advice service or facilitator, and by the laws of any foreign nation having jurisdiction over the transfer (or any segment thereof, to the extent of that segment only). To the extent it is not governed by such laws, regulations, rules, and other governing documents, this Agreement shall be governed by the laws of the State of Texas. Without limiting the foregoing, certain provisions of UCC, Article 4A, may apply as well.

#### **2. Automated Clearing House Items**

This section covers your rights and responsibilities with regard to Automated Clearing House Items you initiate or receive. In connection with your Account type, personal or Non-personal, your rights and responsibilities will be governed accordingly by applicable laws, rules, and regulations. You acknowledge and agree to be bound by the NACHA Operating Rules. This section is divided into 3 (three) distinct parts: Laws, Rules, and Regulations; Small Business Accounts; and Personal Accounts. The subject matter that follows provides guidance as to your rights and responsibilities of managing your Account with us.

#### **A. Laws, Rules, and Regulations**

##### **Provisioning of UCC 4A**

UCC, Article 4A provides provisions for Small Business credit transactions that process through the

ACH not governed by Regulation E. Thus, with respect to the ACH network, UCC, Article 4A, is only applicable to Small Business credit transactions (Non-Personal).

### **Governing Body of NACHA**

As a whole, the governing body of the National Automated Clearing House Association (“NACHA”) provides protections for Personal ACH transactions. Furthermore, to some extent, NACHA provides protections for Non-personal ACH transactions. Nonetheless, these protections for a Non-Personal account are to a lesser extent, and ordinary care by the owner of a Small Business Banking Account is vital.

An example of NACHA’s Consumer protections can best be characterized by the return timeframe allowed a Consumers personal account in the event of an unauthorized transaction versus the same event for a Non-personal account. For example, if a Consumer discovers an unauthorized ACH Entry(s), the Consumer has up to 60 days from the Settlement Date of the respective ACH Entry(s) to return it as unauthorized. In contrast, a Small Business Banking Account is limited to the next Business Day from the Settlement Date to return an unauthorized ACH Entry. Thus, when you are the owner of a Small Business Banking Account, you must practice ordinary care with managing your Account activity on a daily basis. You may access your Account details by way of our Online Banking Service and/or Telephone Banking Service.

### **Governing Body of Regulation E (Personal Accounts Only)**

The role of Regulation E is to carry out the purposes of the Electronic Funds Transfer Act (“EFTA”), which establishes the basic rights, liabilities, and responsibilities of Consumers who use Electronic Fund Transfer services and of financial institutions that offer these services. The primary objective of the EFTA and Regulation E is the protection of Consumers engaging in Electronic Fund Transfers. The term Electronic Funds Transfer means any transfer of funds that is initiated through an electronic terminal, telephone, computer, or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit a Consumer’s Personal Account. Accordingly, Regulation E applies to any person-to-person (P2P) or mobile payment transactions that meet the definition of EFT, including debit card, ACH, prepaid account, and other electronic transfers to or from a consumer account. The term extends to these transaction types:

- Point-of-sale transfers
- Automated teller machine (“ATM”) transfers
- Direct deposit or withdrawals of funds
- Transfers initiated by telephone
- Transfers initiated by debit card (regardless if initiated through an electronic terminal)
- Person-to-Person (P2P) transactions

### **International ACH Transactions (“IATs”)**

IATs are ACH entries that are part of a payment transaction involving the office of a financial agency (an institution authorized by law to accept deposits, issue money orders, or transfer funds) that is not located in the territorial jurisdiction of the United States. Effective September 18, 2009, all international transactions made via the ACH Network are required to use the IAT SEC code. The IAT SEC code replaces the CBR and PBR SEC codes that previously were in use. The NACHA Operating Rules require the IAT code and format of all ACH payments entering or exiting the United States. This new rule applies to all ACH participants and will simplify the process of identifying international transactions by requiring that IAT entries include specific data elements defined by the Bank Secrecy Act (“BSA”) “Travel Rule.”

The Originator acknowledges and agrees that we may, from time to time, need to temporarily suspend the processing of an IAT for greater scrutiny or verification against the Specially Designated National (“SDN”) List and that this additional scrutiny or verification may affect or delay the settlement and/or availability of the funds that are the subject of the IAT. We shall not be liable to the Originator or any other person if there is a delay in settlement or in the availability of funds that are the subject of the

IAT caused by our temporary suspension of the processing of an IAT for greater scrutiny or verification against the SDN List.

### **B. For Small Business Accounts Only**

#### **Concerning Small Business ACH Credit Entries**

You acknowledge and agree that we may rely on the representations and warranties contained in the NACHA Operating Rules and may debit your Account in accordance with these Rules as instructed by the Originator of the ACH Debit Entry. Furthermore, we may accept an ACH Debit Entry on your behalf which is not subject to Regulation E, and your rights and responsibilities with respect to such ACH Debit Entry shall be construed in accordance with the NACHA Operating Rules and the laws of the State of Texas.

Without limiting the foregoing, you acknowledge and agree that upon receipt of an ACH Debit Entry, you have until the next Business Day to determine if such ACH Debit Entry is authentic. In the event you do not recognize an ACH Debit Entry (or ACH Credit Entry), notify us AT ONCE of the relevant facts by calling 877.839.2265 (Client Support). You may access your Account details by way of our Online Banking Service and/or Telephone Banking Service.

#### **Returning Unauthorized ACH Entries: Small Business**

Although all ACH Entries (both credit and debit) may be returned in accordance with the NACHA Operating Rules, those ACH Entries that are unauthorized may warrant the most concern. In the event you receive an ACH Entry that is unauthorized, you acknowledge and agree that you have until the next Business Day from the Settlement Date to return it. The Settlement Date is the date on which the ACH Entry posts to your Account.

In the event you determine that the ACH Entry is unauthorized, we will ask you to provide us with a written statement under the penalty of perjury and will return the ACH Entry accordingly. You acknowledge and agree that we must receive your written statement to return such ACH Entry by the next Business Day from the Settlement Date by our deadline at 12:00 p.m. CT. The Settlement Date is the date on which the ACH Entry posted to your Account. Notwithstanding, you acknowledge and agree that you lose your right to return under the NACHA Operating Rules in the event you fail to notify us of your intent to return an unauthorized ACH Entry by the next Business Day from the Settlement Date by our deadline at 12:00 p.m. CT. Under such circumstances, in accordance with NACHA Operating Rules, we may act on your behalf to request a “permissible return” from the financial institution that sent the ACH Entry, but such institution is not required to comply with our request. You agree to hold us harmless from any loss you incur as a result of the unauthorized ACH Entry that is not returned by the next Business Day and deadline set forth herein and in accordance with the NACHA Operating Rules.

We strongly recommend that you review your Account often and consider carefully those to who you provide your Account information to help minimize fraudulent activity on your Account. You may access your Account details by way of our Online Banking Service and/ or Telephone Banking Service.

#### **Concerning Small Business ACH Debit Block**

You acknowledge and agree that you may place an ACH Debit Block on your Account. Your options include placing an ACH Debit Block against all ACH Debit Entries that present against your Account or placing an ACH Debit Block against all ACH Debit Entries with exceptions that present against your Account. You may contact your Texas Capital Bank Representative for details on placing an ACH Debit Block. The ACH Debit Block Agreement will be provided to you upon request.

In the event you choose to place an ACH Debit Block on all ACH Debit Entries that present against your Account, arrangements with your business partners as to other payment methods will be necessary. Under such circumstances, you acknowledge and agree that any ACH Debit Entry which presents against your Account will be returned to the respective Originator as “Corporate Customer Advises Not Authorized.” In the event you select the option to place an ACH Debit Block on all ACH

Debit Entries with exceptions, arrangements with your business partners to obtain their respective “Customer ID” will be necessary so that we may add such “Customer ID” to our system. Under such circumstances, any ACH Debit Entry which presents against your Account that matches a “Customer ID” will automatically post to your Account. In contrast, any ACH Debit Entry which presents against your Account that does not match a “Customer ID” will be returned as “Corporate Customer Advises Not Authorized.”

Notwithstanding, knowledge of your business partners’ security procedures and business practices is vital. You acknowledge and agree to hold us harmless from any loss you incur as a result of placing, or not placing, an ACH Debit Block on your Account. An ACH Debit Block will remain in effect until we have received written notice from you informing us otherwise and have had a reasonable amount of time to act upon such written notice.

#### **Concerning Small Business Check Conversion**

Although the NACHA Operating Rules allow for Checks to be converted to an ACH Debit Entry, certain criteria must be met. When your Small Business Check contains a value in the auxiliary field, a merchant or depository bank is required to process such Check in accordance with federal law and regulation that govern Check processing. In the event your Small Business Check contains a value in the auxiliary field, but is converted to an ACH Debit Entry, notify us AT ONCE of the relevant facts by calling 877.839.2265 (Client Support).

In contrast, in the event your Small Business Check does not contain a value in the auxiliary field, it may be converted to an ACH Debit Entry in accordance with the NACHA Operating Rules. Under such circumstances, ACH Debit Entries that meet this criterion are afforded a 60-day return timeframe from the Settlement Date in accordance with the NACHA Operating Rules. You acknowledge and agree that this is the only exception to the next Business Day return timeframe for Non-personal ACH Entries set forth herein and in accordance with the NACHA Operating Rules.

#### **Requesting Stop Payments: Small Business ACH and Recurring Electronic Transfers**

You may request for us to place a stop payment on any ACH Debit Entry or Recurring Electronic Transfer initiated, or to be initiated. Your stop Payment Order must be received at such a time and in such a manner as to allow us a reasonable opportunity to act upon your stop Payment Order prior to acting upon the ACH Debit Entry or Recurring Electronic Transfer. For details on how to place a stop Payment Order, you may call us at 877.839.2265 (Client Support). Although we may act upon your oral stop payment request, we must receive a written confirmation from you within 14 days from the date of your oral request. Written confirmation must be delivered or mailed to us at the following address: 2350 Lakeside Blvd., Ste. 800, Attn: Client Support, Richardson, Texas 75082. In the event you fail to provide us with your written confirmation within the 14-day timeframe, you acknowledge and agree that your stop payment request ceases to be binding, and we have no obligation to maintain your oral or email stop payment request beyond the timeframe set forth herein. Upon receipt of your written confirmation, a stop Payment Order remains in effect 6 (six) months, unless renewed in writing.

You acknowledge and agree to hold us harmless from any loss or damage you incur which may arise as a result of your stop Payment Order. Furthermore, in the event your stop Payment Order is successful, you acknowledge and agree that you may still be liable to the Payee or Third Party in the amount of the respective ACH Debit Entry or Recurring Electronic Transfer. Notwithstanding, in the event we fail to execute your stop Payment Order in accordance to our Agreement with you, we will be liable for your direct losses or damages not to exceed, in the aggregate, the amount of the respective ACH Debit Entry or Recurring Electronic Transfer on which you requested the stop Payment Order, and the recovery of that amount is your sole and exclusive remedy. The fee to place a stop Payment Order is detailed in the applicable fee schedule provided to you accompanying this agreement.

#### **C. For Personal Accounts Only**

##### **Disclosing Your Account Information**

We will disclose information to a Third Party about your Account with respect to Electronic Funds

Transfer requests you have authorized. Such information is shared by us as deemed necessary to:

1. Complete a transfer
2. Conduct our business
3. Provide information as to the existence and condition of your Account to a Third Party, such as a credit bureau or merchant
4. Comply with a government agency or court order
5. Comply with your written permission
6. Comply with the terms of our Privacy Notices

Notwithstanding the foregoing, please see the Privacy Notices for additional details about your rights to financial privacy as a consumer.

##### **Concerning Personal ACH Credit Entries**

We may accept any ACH Credit Entry, such as payroll, on your behalf, which is subject to Regulation E and governed by the NACHA Operating Rules. Such ACH Credit Entry is arranged between you and the Originator (for example, merchant, place of business, or financial institution) by written authorization.

You acknowledge and agree that your rights and responsibilities with respect to such ACH Credit Entry shall be construed in accordance with the NACHA Operating Rules. Furthermore, you acknowledge and agree that we may rely on such representations and warranties contained in the NACHA Operating Rules and may credit your Account in accordance with these Rules as instructed by the Originator of the ACH Credit Entry.

Notwithstanding the foregoing, if you have made arrangements with an Originator to credit your Account at least once every 60 days from the same entity (person and/or place of business), you may inquire about such ACH Credit Entry by calling 877.839.2265 (Client Support). You generally may also access your Account with us through our Telephone Banking and Online Banking services 7 (seven) days a week, 24 hours a day, with the exception of regularly scheduled Online Banking maintenance performed by us.

##### **Concerning Personal ACH Debit Entries**

We may accept an ACH Debit Entry on your behalf which is subject to Regulation E and governed by the NACHA Operating Rules. Such ACH Debit Entry is arranged between you and the Originator (for example, merchant, place of business, or financial institution) by written authorization.

You acknowledge and agree that your rights and responsibilities with respect to such ACH Debit Entry shall be construed in accordance with the NACHA Operating Rules. Furthermore, you acknowledge and agree that we may rely on such representations and warranties contained in the NACHA Operating Rules and may debit your Account in accordance with these Rules as instructed by the Originator of the ACH Debit Entry.

Under certain rules afforded by the NACHA Operating Rules, you may have rights and responsibilities to return an ACH Debit Entry as revoked or unauthorized. Such rights and responsibilities include, but are not limited to, these events:

- Authorization Revoked by Customer: You have revoked the authorization previously granted to the Originator (for example, merchant, business relationship, or financial institution) for a particular repetitive ACH Debit Entry. The requirement of this rule is that you have requested that the Originator cease the repetitive ACH Debit Entry. We may request proof that the relationship has been ceased. You acknowledge and agree that this rule has a 60-day return timeframe from the Settlement Date of the respective ACH Debit Entry. Please see the “Returning Revoked/ Unauthorized ACH Entries” section of this Agreement for details on your rights and responsibilities to return an ACH Debit Entry that has been revoked.
- Customer Advises Not Authorized; Notice Not Provided; Improper Source Document; or Amount of Entry Not Accurately Obtained from Source Document: You notice an ACH Debit Entry to your Account that meets the criteria set forth herein. The requirements of this rule are that

you have no prior knowledge, on any level, with respect to the ACH Debit Entry or that the source document, or amount thereof, is improper or not accurately reflected. You acknowledge and agree that this rule has a 60-day return timeframe from the Settlement Date of the respective ACH Debit Entry. Please see the “Returning Revoked/Unauthorized ACH Entries” section of this Agreement for details on your rights and responsibilities to return an ACH Debit Entry that is unauthorized or involves the improper use of a source document and/or the amount thereof.

#### **Returning Revoked/Unauthorized ACH Entries: Personal**

Although all ACH Entries (both credit and debit) may be returned in accordance with the NACHA Operating Rules, those ACH Entries that may warrant the most concern include those that are revoked, unauthorized, or involve the improper use of a source document and/or the amount thereof. Under such circumstances, the NACHA Operating Rules provides certain guidelines to protect Consumers.

In the event you receive an ACH Debit Entry that has been previously revoked, is unauthorized, or involves the improper use of a source document and/or the amount thereof, notify us AT ONCE by calling 877.839.2265 (Client Support). You acknowledge and agree that you are afforded protection by the NACHA Operating Rules of up to 60 days from the Settlement Date of the respective ACH Debit Entry to return it.

Without limiting the foregoing, we require that you notify us AT ONCE as soon as you discover an ACH Debit Entry that has been previously revoked, is unauthorized, or involves the improper use of a source document and/or the amount thereof. You may request for us to return an ACH Debit Entry that is revoked, unauthorized, or involves the improper use of a source document and/or the amount thereof by calling 877.839.2265 (Client Support).

In the event it is determined that the ACH Debit Entry is revoked, unauthorized, or involves the improper use of a source document and/or the amount thereof, we will ask you to provide us with a written statement under the penalty of perjury and will return the ACH Debit Entry accordingly. You must notify us of your intent to return a revoked, an unauthorized or the improper use of a source document within the 60-day return timeframe set forth herein (from the Settlement Date) by our deadline at 12:00 p.m. CT.

#### **Concerning Personal Check Conversion**

Under certain circumstances afforded by the NACHA Operating Rules, personal Checks written by you may be converted to an ACH Debit Entry. Such circumstances include these transaction types:

- Personal Check presented in person and converted at the point of purchase (the Check with your signature acts as the written authorization; the Check is handed back to you marked “Voided”).
- Personal Check mailed to lockbox for payment (an “Opt-Out” notice is mailed by the place of business most likely as a statement stuffer; if the “Opt-Out” notice is not returned to the place of business, all future payments by Check may be converted to an ACH Debit Entry).
- Personal Check presented in person, but is later converted (an “Opt-Out” notice is required each time a personal Check is presented for payment; disclosure is usually by signage at the point of purchase).
- Personal Check returned for Insufficient Funds reasons (a notice of Check conversion is usually by signage at the point-of-purchase, which grants rights to convert the personal Check to an ACH Debit Entry for collection purposes).

The information which appears on the bottom of your personal Check (MICR line) will be used by the place of business to capture the Account number by placing your Check in an MICR reading device. In the event you believe your personal Check should not have been converted to an ACH Debit Entry, notify us AT ONCE by calling 877.839.2265 (Client Support).

#### **Requesting Stop Payments: Consumer ACH and Recurring Electronic Transfers**

You may request for us to place a stop payment on any ACH Debit Entry or Recurring Electronic Transfer initiated, or to be initiated. You acknowledge and agree that your stop payment request

must be received by us within 3 (three) Business Days from the scheduled date of the ACH Debit Entry or Recurring Electronic Transfer. You may notify us by calling 877.839.2265 (Client Support). Furthermore, you acknowledge and agree that the 3 (three) Business Day stop payment provision is only applicable to ACH Debit Entries or Recurring Electronic Transfers for this payment type: Prearranged Payments.

You acknowledge and agree that it is solely your responsibility to provide us with the information required to process your stop payment request to verify that we have not paid or otherwise processed the ACH Debit Entry or Recurring Electronic Transfer for which you are requesting a stop Payment Order. You agree that we will not be liable to you if you provide us with any incorrect information, or if you request a stop payment on an ACH Debit Entry or Recurring Electronic Transfer we have already paid. If you issue a stop Payment Order on an ACH Debit Entry or Recurring Electronic Transfer that we have paid already, we will not be liable if you initiate ACH Debit Entry or Recurring Electronic Transfer to the same Payee resulting in you paying the Payee twice. Additionally, you acknowledge and agree to indemnify us for and hold us harmless from any claim, losses, damages, judgments, costs, and expenses (including reasonable attorneys’ fees) that result from you providing us with incorrect information. Furthermore, in the event you provide us with any incorrect information what you requested a stop Payment Order, you acknowledge and agree that we may pay the ACH Debit Entry or Recurring Electronic Transfer accordingly, and we will not be liable to you.

Notwithstanding, stop payment requests that involve transactions, including, but not limited to, Checks converted at the point of purchase, lockbox, back office, or for Insufficient Funds reasons and ACH Debit Entries initiated over the telephone or Internet, you acknowledge and agree that your stop payment request must be received by us at such a time and in such a manner as to allow us a reasonable opportunity to act upon your stop payment request prior to acting on the ACH Debit Entry or Recurring Electronic Transfer.

Although we will act upon your oral stop payment request, we must receive a written confirmation from you within 14 days from the date of your oral request. Written confirmation must be delivered or mailed to us to the following address: 2350 Lakeside Blvd., Ste. 800, Attn: Client Support, Richardson, Texas 75082. In the event you fail to provide us with your written confirmation within the 14-day timeframe, you acknowledge and agree that your stop payment request ceases to be binding, and we have no obligation to maintain your oral stop payment request beyond the timeframe set forth herein. Upon receipt of your written confirmation, a stop Payment Order remains in effect until the earlier of: (a) the withdrawal of the stop Payment Order by the receiver; or (b) the return of the debit entry, or, where a stop Payment Order applies to more than 1 (one) debit entry relating to a specific authorization involving a specific Originator, the return of all such debit entries. Recurring Electronic Transfers remain in effect for 6 (six) months, unless renewed in writing.

You acknowledge and agree to hold us harmless from any loss or damage you incur which may arise as a result of your stop payment request. Furthermore, in the event your stop Payment Order is successful, you acknowledge and agree that you may still be liable to the Payee or Third Party in the amount of the respective ACH Debit Entry or Recurring Electronic Transfer.

Notwithstanding, in the event we fail to execute your stop payment request in accordance with our Agreement with you, we will be liable for your direct losses or damages not to exceed, in the aggregate, the amount of the respective ACH Debit Entry or Recurring Electronic Transfer on which you requested the stop Payment Order, and the recovery of that amount is your sole and exclusive remedy. The fee to place a stop Payment Order is detailed in the applicable fee schedule provided to you under separate cover.

#### **Concerning Changing Amount: Personal ACH**

In the event you have made arrangements with an Originator (for example, a merchant, place of business, or financial institution) to initiate an ACH Debit Entry to your Account on a recurring basis, the Originator must send notice to you when the ACH Debit Entry, which has been authorized by you in writing, will vary by amount. Such notice must be sent to you within 10 days from the date on which the ACH Debit Entry is scheduled to take place. Without limiting the foregoing, the Originator may opt, instead, to obtain your written authorization, agreeing to a range in lieu of a specific amount.

Under such circumstances, a written notice to you is not required in accordance to the NACHA Operating Rules as long as the ACH Debit Entry is within the agreed-upon range.

### **Concerning Changing Date: Personal ACH**

In the event you have made arrangements with an Originator (for example, merchant, place of business, or financial institution) to initiate an ACH Debit Entry to your Account on a recurring basis, the Originator must send notice to you in the event the date on which the ACH Debit Entry will take place changes (if it is to change). Such notice must be sent to you within 7 (seven) days from the date of the scheduled transfer.

### **3. Electronic Funds Transfers**

#### **Concerning ATM Transactions**

You may use your Visa® Debit Card to conduct these PIN-driven transactions (subject to certain daily withdrawal limits):

- Withdraw Cash from your Checking or savings Account. Limitations may apply. Contact Client Support for more details.
- Transfer funds between your Accounts, including Checking and savings. Limitations may apply. Contact Client Support for more details.
- Verify your Account activity, including balances, deposits, and withdrawals.
- In some cases, these services may not be available at all electronic terminals. Electronic terminals are subject to certain daily withdrawal limits.
- Person-to-Person (P2P) transactions

#### **Concerning Telephone Banking Transactions**

You may access your Account with us by telephone 24 hours a day, 7 (seven) days a week, by calling 877.839.2265 (Client Support). To access your Account, you'll need your PIN, Account number, and touch-tone phone. You may conduct these transactions:

- Transfer funds between your Accounts, including Checking and savings.
- Verify your Account activity, including balances, deposits, and withdrawals.
- Change the PIN of your Visa® Debit Card.

#### **Concerning Online Banking Transactions**

You may access your Account with us 24 hours a day, 7 (seven) days a week (with the exception of regularly scheduled bank online maintenance periods), by logging on to our website at [www.texascapitalbank.com](http://www.texascapitalbank.com). To access your Account, you'll need your User ID, password, and personal computer or mobile device. You may conduct these transactions:

- Transfer funds between your Accounts, including Checking and savings.
- Make payments from your Checking Account to a Third Party, using the Bill Pay feature.
- Verify your Account activity, including balances, deposits, and withdrawals.
- Export Bill Pay information and Account information to a financial package such as Microsoft® Money or Quicken®.

#### **Person-to-Person (P2P) Transactions**

Person-to-Person (P2P) transactions let you send money directly to another person via your mobile device through a linked bank account or card.

#### **Concerning Visa® Debit Card Transactions**

You acknowledge and agree that, unless you choose to decline at account opening, a debit card may

automatically be issued and sent to you upon account opening. You may use your Visa® Debit Card to conduct these PIN and signature-driven transactions:

- Purchase goods and services in person, by telephone, or over the Internet. You may not exceed your daily authorization limit. For security reasons, there may be times when we further limit this amount and/or the number of transactions.
- Conduct a PIN-driven transaction to receive Cash back at the point of purchase from a merchant or from a participating financial institution, where permitted.

Your Visa® Debit Card is accepted wherever you see the Visa® logo displayed.

Although your Visa® Debit Card is not utilized to conduct P2P electronic payment transfers, P2P electronic payment transfers appear as point of sale transactions on your Visa® Debit Card statements.

#### **Non-Visa® Debit Transaction Processing**

We have enabled non-Visa® debit transaction processing. This means you may use your Visa®-branded debit card on a PIN-Debit Network\* (a non-Visa® network) without using a PIN.

The non-Visa® debit network(s) for which such transactions are enabled are: Accel, PULSE, Cirrus, and NYCE Networks.

Examples of the types of actions that you may be required to make to initiate a Visa® transaction on your Visa®-branded debit card include signing a receipt, providing a card number over the phone or via the Internet, or swiping the card through a point-of-sale terminal.

Examples of the types of actions you may be required to make to initiate a transaction on a PIN-Debit Network include initiating a payment directly with the biller (possibly via telephone, Internet, or kiosk locations), responding to a logo displayed at a payment site and choosing to direct payment through that network, and having your identity verified using known information derived from an existing relationship with you instead of through use of a PIN.

\*Visa® Rules generally define PIN-Debit Network as a non-Visa® debit network that typically authenticates transactions by use of a Personal Identification Number (PIN) but that is not generally known for having a card program.

#### **Concerning Transaction Fees**

You acknowledge and agree that fees which pertain to your Visa® Debit Card and ACH services through us, where applicable, are detailed in the applicable fee schedule provided to you accompanying this agreement. Furthermore, you acknowledge and agree that we may update the applicable fee schedule from time to time.

#### **Concerning ATM Fees**

We do not assess a fee when you use a Texas Capital Bank-issued debit card at one of our ATM facilities. However, you may be assessed a usage fee when using an ATM facility not owned by us, including, but not limited to, a balance inquiry. You acknowledge and agree that you are responsible for all fees incurred when conducting a transaction or balance inquiry at an ATM facility not owned by us.

#### **Receiving Receipt at ATM**

You acknowledge and agree that you will receive a receipt at the time you initiate a transaction at one of our ATM facilities. However, if the transaction is \$15.00 or less, you may not receive a receipt. Such receipt will set forth the amount, date, and other identifiable information which pertains to the respective transaction.

#### **Reporting Lost or Stolen Card**

If you believe that your Visa® Debit Card has been lost or stolen, call us AT ONCE at 877.839.2265 (Client Support). Please see the "Provisioning for Error Resolution" section of this Agreement for details about your rights and responsibilities with regard to error resolution.

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### **Traveling Abroad**

In the event you plan to use your Visa® Debit Card while traveling abroad, please read these precautions before you begin your trip:

- Safeguard your card; keep your Visa® Debit Card in a safe place at all times.
- Protect your Personal Identification Number (PIN); do not write your PIN on your Visa® Debit Card.
- Know your daily Cash withdrawal limit.
- Minimize your transactions; fewer transactions will reduce your exposure to fraud and fees.
- Retain your receipts so that you can reconcile your Account when your statement arrives.

We work hard to protect your Account against fraudulent transactions. In the event we notice unusual card activity, you acknowledge and agree that we may temporarily freeze your Account until we are able to verify the transaction(s) in question with you. Please advise us of your travel plans so that you will have immediate access to your funds. To advise us of your travel plans or in the event you suspect unusual transactions on your Account, you must promptly notify us at 877.839.2265 (Client Support).

### **Exchanging Foreign Currency**

When you use your Visa® Debit Card at a merchant that settles in currency other than in U.S. currency, the transaction amount will be converted to U.S. dollars. The currency conversion rate used to determine the transaction amount in U.S. dollars includes one of these options:

- Notify us prior to your travel departure so that you will have immediate access to your funds while abroad.
- Rate selected by Visa® from a range of rates available in the wholesale currency markets for the applicable central processing date plus a .80 percent International Service Assessment (ISA) fee.
- Government-mandated rate in effect for the applicable central processing date plus a .80 percent ISA fee.

The currency conversion rate in effect on the processing date may differ from the rate in effect on the transaction date or the date the transaction posts to your Account.

### **Failing to Complete Transfers: Our Liability**

If we do not complete a transfer to or from your Account on time or in the correct amount in accordance to our Agreement with you, we will be liable to you for your direct losses or damages not to exceed, in the aggregate, the amount of the transfer, and the recovery of that amount is your sole and exclusive remedy. Notwithstanding the foregoing, there are exceptions to our liability to you. We will not be liable to you in the event:

- Through no fault of ours, your Account does not have sufficient funds to complete the transfer.
- The data from a Third Party is not received, incomplete, or erroneous.
- The recipient is deceased.
- The transfer would exceed either your credit limit or overdraft line of credit.
- The ATM from which you are conducting the transfer does not have enough Cash.
- The ATM or system is not working properly and you knew about the issue when you started the transfer.
- Circumstances beyond our control prevent the transfer, such as natural disasters, despite reasonable precautions we have taken.
- The funds in your Account are subject to legal process or other encumbrance restricting the transfer.
- The Account is dormant, in which case we may terminate your card and code access.
- The card or code has been revoked due to inactivity or at our sole discretion.

Other exceptions may be stated in other Agreements we have with you as permitted by law.

### **Placing a Stop Payment: Visa® Debit Card Non-Recurring Transactions**

Unless otherwise provided by separate Agreement between you and us, you acknowledge and agree that you may not request a stop Payment Order on Electronic Funds Transfers for non-recurring transactions you initiate with an Access Device. Thus, you should exert ordinary care at the point of purchase, whether in person, over the telephone or through the Internet, for the purchase of goods or services. Furthermore, unless you are confident that you will not need to request a stop Payment Order, you should use your judgment in completing the transaction.

### **Notifying Us of Unauthorized Transfers: Your Liability**

This section applies to unauthorized Electronic Funds Transfers involving an Access Device (Visa® Debit Card). For information which pertains to unauthorized ACH activity, please see the “Returning Revoked/Unauthorized ACH Entries: Consumer” section or the “Returning Unauthorized ACH Entries: Small Business” section, as applicable, of this Agreement.

Notify us promptly if you believe that your Visa® Debit Card has been lost or stolen or if you believe that your PIN or similar code has been learned by an unauthorized person. You acknowledge and agree that such notification must be initiated by calling 877.839.2265 (Client Support) or notifying us via Online Banking or email.

The risk to you in failing to notify us is the potential loss of all funds in your Account. If you notify us within 2 (two) Business Days after you learn of the loss or theft, your liability is up to \$50 for an unauthorized Electronic Funds Transfer or series of related unauthorized Electronic Funds Transfers should someone use your Visa® Debit Card, and/or PIN or similar code without your permission.

If you DO NOT notify us within 2 (two) Business Days after you discover the loss or theft of your Visa® Debit Card and/or PIN or similar code, and we can prove that we could have stopped someone from using your Visa® Debit Card, and/or PIN or similar code had you informed us of the loss or theft, your liability could be as much as \$500.

For Consumer Accounts only, failure to notify us of any unauthorized Electronic Funds Transfer should someone use your Visa® Debit Card and/or PIN or similar code within 60 days of when the first Periodic Statement which reflected such unauthorized activity was mailed or otherwise made available to you could result in additional losses by you of 100 percent. In our sole discretion, we may extend the 60-day timeframe when certain events prevent you from notifying us promptly, such as extended travel or hospital stay. Upon verification, we will extend the timeframe set forth herein to a timeframe deemed reasonable under such circumstances in accordance with Regulation E.

### **Provisioning for Error Resolution**

In the event you discover any error, including, but not limited to, an unauthorized transaction involving your Visa® Debit Card and/or PIN or similar code, or if you discover any error on your statement or receipt, notify us promptly by calling 877.839.2265 (Client Support), or notifying us via Online Banking or email. Written notification can be delivered or mailed to the following address: 2350 Lakeside Blvd, Ste 800, Attn: Client Support, Richardson Texas 75082. We will investigate whether an error occurred within 10 Business Days upon receipt of your dispute notification and will correct any error promptly. In the event we determine during our investigation that we need more time to complete our investigation, we may take up to 45 days to investigate your notice of an error. Furthermore, if we determine that the alleged error involves a transfer which results from a point-of-sale transaction, or a transaction initiated outside a state, territory, or possession of the U.S., we may take up to 90 days (instead of 45) to investigate.

Upon determination that we need 45 or 90 days to complete our investigation, we will provisionally credit your Account within 10 Business Days of your oral notice in the amount of the alleged error so that you will have use of such funds until our investigation is complete.

For errors involving new accounts, point-of-sale, or foreign-initiated transactions, we may take up to 90 days to investigate your complaint or question.

Upon determination that we need 90 days to complete our investigation of the error on your new Account, we will provisionally credit your Account within 20 Business Days of your oral notice in the amount of the alleged error so that you will have use of such funds until our investigation is complete.

Notwithstanding the foregoing, new, or existing Account, we will advise you as to the results of our investigation within 3 (three) Business Days of completion and, if applicable, that the provisional credit is final. Furthermore, if we determine that an error did occur, we will correct the error within 1 (one) Business Day after our discovery. In contrast, if we determine that an error did not occur, we will advise you as to the date we will debit your Account for the provisional credit.

We will honor all Items for 5 (five) Business Days after we have debited your Account in an amount up to the provisional credit. Thus, only Items that would have been paid had the provisional credit been in place will be honored. Furthermore, we will provide you with a written explanation detailing our decision that an error did not occur. You may request a copy of all documents used in our investigation.

All confirmation and requests for documentation required or provided for in this section shall be made in writing and mailed or sent by secure email to us:

Texas Capital Bank  
Attn: Client Support  
2350 Lakeside Blvd., Suite 800  
Richardson, Texas 75082  
Email: [clientsupport@texascapitalbank.com](mailto:clientsupport@texascapitalbank.com)

We require the following details in the event you are requesting documentation used during our research to determine whether an error occurred:

1. Your name and Account number, if applicable;
2. A description of the error or issue which pertains to the Electronic Funds Transfer about which you are inquiring that clearly details why you believe an error occurred or why you are requesting more information; and
3. The dollar amount of the suspected error or issue and the date it posted to your Account.

#### **Lending Your Visa® Debit Card**

In the event we determine through investigation that you loaned your Visa® Debit Card or your Personal Identification Number (PIN) or similar code to someone you know to conduct a transaction on your behalf, which in turn exceeds the authority granted by you, the protections of Regulation E do not apply. Under such circumstances, you acknowledge and agree that you bear full liability for such unauthorized activity.

#### **Concerning Illegal Use of Your Visa® Debit Card**

You acknowledge and agree not to use your Visa® Debit Card(s) for illegal gambling or other illegal purposes. Furthermore, the display of the Visa® logo on a merchant's website, for example, does not mean that transactions conducted from the merchant's website are lawful in all jurisdictions in which you may reside.

#### **Assessing Zero Liability: Your Liability**

When an Electronic Funds Transfer involves an Access Device which generates a debit to your Checking Account, your rights and responsibilities are governed by Regulation E. Under such circumstances, the provisions covered in the "Notifying Us of Unauthorized Transfers: Your Liability" section of this Agreement provide the guidelines of your rights and responsibilities in the event you encounter unauthorized activity generated by an Access Device.

Zero liability applies when the transaction involves a revolving line of credit utilizing either a consumer Visa® Debit Card or a business Visa® Debit Card (business with revenues less than \$25

million annually), accessing the Visa® network, which does not directly debit your Checking Account. Under such circumstances, zero liability provisioned by Visa® bylaws are afforded if you encounter unauthorized activity generated by your Visa® Debit Card. For purposes of business Visa® Debit Cards, an unauthorized transaction does not include any transaction conducted by: (1) a business co-owner; (2) the cardholder or person authorized by the cardholder; or (3) any other person with an interest in or authority to transact business on the Account. Zero liability will not apply if we determine that you or any authorized cardholder was grossly negligent or fraudulent in the handling of the Visa® Debit Card. In the event an Electronic Funds Transfer meets the criteria for zero liability, we will provisionally credit your Account within 5 (five) Business Days. Zero liability does not apply to Visa® Corporate Cards.

#### **Restricting/Prohibiting Transfers to Foreign Countries and Nationals**

In accordance with the Bank Secrecy Act and other applicable laws and regulations, we have the right to restrict or prohibit any transfers of funds to a foreign country, or national thereof, identified by the

U.S. Government, including the Office of Foreign Assets Control, as a country which may be engaged in activities involving money laundering, terrorism, or other criminal activities. Furthermore, in our sole discretion, we have the right to restrict or prohibit any withdrawal transactions (for example, debit transactions) originating from any foreign country.

## *VI. ATM and Other Safety Tips*

Your safety and the protection of your Account(s) is important to us. While we cannot anticipate every situation that may arise, we encourage you to read and follow the below ATM and Night Depository Safety, PIN and Card Safety, and Mail and Phone Safety tips.

#### **ATM and Night Depository Safety**

1. Observe your surroundings when using an ATM facility or night depository. In the event the ATM facility is poorly lit or is in a hidden area, use another ATM facility or night depository. Consider having someone accompany you, especially after sunset.
2. Prepare your transactions at home and have your Visa® Debit Card out, ready for use.
3. Protect your PIN while entering on the keypad so that no one can see you entering it. Do not accept assistance from anyone unknown when using an ATM facility or night depository.
4. Do not display your Cash; place your Cash in your pocket as soon as the ATM transaction is complete. You can count your Cash later when in the safety of your own car, home, or other secure area.
5. Lock the doors of your car and keep the windows rolled up (except for the front, driver-side window) when using a drive-through ATM facility or night depository. Keep the engine running and remain alert of your surroundings.
6. Turn off the engine, lock the doors, and keep the windows of your car rolled up when using a freestanding ATM facility or night depository. Keep the keys to your car handy and remain alert of your surroundings.
7. Cancel the ATM transaction in the event you observe suspicious activity, place your Visa® Debit Card in your pocket and leave immediately (confirm the cancellation later). Consider using another ATM facility at a different location.
8. Report any suspicious activity or crimes to the operator of the ATM facility or night depository and to local law enforcement officials immediately.
9. Avoid letting someone unknown enter behind you when using an ATM facility or night depository that requires the use of your Visa® Debit Card to open the door.

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10. Obtain the transaction receipt before leaving the ATM facility. Mark each transaction in your Account record later when you are in the safety of your own car, home, or other secure area.

#### **PIN and Card Safety**

1. Report your lost or stolen Visa® Debit Card immediately as set forth in this Agreement.
2. Sign your new Visa® Debit Card immediately upon receipt.
3. Protect your Visa® Debit Card as if it were Cash.
4. Keep your Visa® Debit Card on your person when going out (never leave it in the glove compartment of your car).
5. Keep your Visa® Debit Card and PIN separate.
6. Never write your PIN on your Visa® Debit Card or write your PIN on a piece of paper that you keep in your wallet or purse.
7. Refuse to lend your Visa® Debit Card to anyone.
8. Never disclose the PIN to your Visa® Debit Card to anyone, including personnel at financial institutions, police, or merchants.
9. Select a PIN that is not obvious (something other than name, telephone number, date of birth, or any simple combination thereof).
10. Verify on a regular basis that your Visa® Debit Card is in its allocated place.

#### **Mail and Phone Safety**

1. Be aware of high-pressure sales tactics. Record the name, address, and phone number of the soliciting organization. Ask for names of the solicitor's customers so that you may obtain references. Lastly, ask questions; the fewer questions that can be answered may be a sign that the solicitation is not legitimate.
2. Report suspicious telemarketing calls to the Attorney General within your state of residence, the National Fraud Information Center at [www.fraud.org](http://www.fraud.org), or the Better Business Bureau (local office).
3. Refuse to offer your personal information over the phone or through the Internet unless you initiated the call or online communication through the company's secure website. Texas Capital Bank will never email YOU and request Account information.
4. Consult the U.S. Postal Inspection Service with suspicious mail activity. Notify the Post Office immediately if you are no longer receiving mail; you can request that the Post Office trace any forwarding mail orders (remains in postal system for up to 14 days).
5. Notify the Post Office immediately when you are planning to move.
6. Ensure that your mailbox is secure and promptly remove your mail from the mailbox each day mail is delivered.





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