



Personal & Small Business Electronic Banking Services  
Terms and Disclosures

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## *Welcome to Electronic Banking*

### **General Terms and Disclosures Applicable to All Services**

The following terms and disclosures govern the manner in which Texas Capital Bank® (“Us,” “We,” “Our”) will provide electronic banking (“Electronic Banking”) and also referred to as “Online Banking”) services (“Services”) to You, the customer (“You,” “Your”). By accepting these Electronic Banking Services Terms and Disclosures (“Terms”), accessing Your deposit accounts and making use of the Services, and/or authorizing others to do so on Your behalf, You agree to be bound by these Terms. We may amend these Terms from time to time without notice, except as may be required herein or by applicable law. These Terms are effective as of November 1, 2024, and supersede and replace the previous Electronic Banking and Bill Center Services – Terms and Disclosures.

### **Relation to Other Agreements**

These Terms are in addition to and cumulative of any other agreements You have with Us, as amended from time to time, that are applicable to the specific account(s) You have with Us, including, but not limited to, the Personal & Small Business Banking Terms & Disclosures (“Agreement”), any fee schedules (“Fee Schedules”), and agreements implementing any of the foregoing. In the event of a conflict between (a) these Terms and (b) any Agreement, the terms of these Terms will apply. You should review the Agreement for applicable fees, limitations on the number of transactions You can make, and for other restrictions that might impact Your use of the Services for a particular account.

In addition, You understand and agree You are still subject to the terms and conditions of any agreement You have with any third-party service providers, including, but not limited to, Your internet and mobile service provider (e.g., AT&T, Comcast, Verizon, Spectrum, Sprint, T-Mobile, etc.) and any third-party service provider of or marketplace for the Mobile Banking Services (e.g., Apple, Inc., or Google, Inc. [Android]). These Terms do not amend or supersede any of those separate third-party service provider agreements. You understand that the third-party providers may require You to pay fees or other charges and place limits and restrictions which might impact Your use of the Services (e.g., data use charges, etc.). You agree to be solely responsible for all such fees, charges, limitations and restrictions. You further agree that only Your internet or mobile service provider is responsible for the performance and operation of its products and services, including Your internet access, mobile device and the provider’s own network. You agree to resolve any problems with Your third-party service providers without involving Us; Apple, Inc.; or Google, Inc. (Android). You agree to comply with applicable third-party terms when using the Electronic Banking Services (e.g., You cannot be in violation of Your wireless provider agreement when using the Mobile Banking Services).

### **Business Days and Calendar Days**

For purposes of these Terms, (a) “Business Day” means any day on which a majority of Our offices are open to the public for conducting substantially all business functions; provided, however, that Saturdays, Sundays and federal holidays are not Business Days even if a majority of Our offices are; a majority of Our offices are not open to the public for conducting substantially all business functions.

### **Service Limitations and Enhanced/New Services**

Some of the activities described herein may not be available for certain accounts or customers. We reserve the right to modify the scope and type of Services and activities offered at any time in Our sole discretion. We also reserve the right to refuse to process any transaction You request through the Services for a variety of reasons as set forth herein.

We may, from time to time, introduce new Services or enhance the existing Services. We may notify You of the existence of these new or enhanced Services and provide You an opportunity to subscribe to such Services. Your subscription to these Services is subject to these Terms, any additional Terms applicable to the new or enhanced Services, and You having the necessary hardware and software. By using any new or enhanced Services when they become available, You agree (a) that such new and/or

enhanced Services will be subject to these Terms and included as “Services” under these Terms, and (b) to be bound by any additional Terms that may govern the new or enhanced Services.

### **Our Client Support Center Contact Information**

**Phone:** 1.877.839.2265

**Email:** [clientsupport@texascapitalbank.com](mailto:clientsupport@texascapitalbank.com)

**Hours:** Monday through Friday, 8:00 a.m. - 6:00 p.m. Central Time (“CT”)

### **Non-Business Schedule:**

The Client Support Center is closed on Saturdays, Sundays and the following holidays: New Year’s Day, Martin Luther King Jr.’s Birthday, Presidents Day, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day.

### **Mail may be addressed to:**

Texas Capital Bank

Attn: Consumer Operations

1001 E. Lookout Drive, Tower A, Suite 700

Richardson, Texas 75082

### **Contacting the Bank via Email**

Regular Electronic Mail (“email”) transmissions may not be secure. You should not send or request sensitive information such as account numbers, passwords, account information, etc., via any regular or public email system. All sensitive information should be sent only via Our secure email system, which is accessible via Our Online Banking website and the App. If You send Us an email message, You agree We may take a reasonable amount of time to act on Your email. If You need immediate assistance during the Client Support Center’s operating hours; for example, to report an unauthorized transaction; You should call the Client Support Center phone number listed in the “Our Client Support Center Contact Information” section of these Terms.

### **Account Ownership**

You represent that (a) You are the legal owner of any account linked to the Services; (b) all information You provide to Us in connection with such accounts and Services, including Your email address and contact information, is accurate, current and complete; and (c) You have the authority to provide such information to Us. You agree to keep Your account information (e.g., legal name, mailing address, phone number) up to date and accurate and not to misrepresent any information You provide to Us in connection with any of Your accounts or the Services, including Your identity or Your account information.

### **Charges and Fees**

Accounts are subject to normal account fees as provided for in the Agreement Fee Schedule. You agree to timely pay Us the fees and charges set forth in any Fee Schedule applicable to Your account.

### **Scheduled Maintenance**

At Texas Capital Bank, We strive to maintain continuous availability to Our Online Banking Services.

While We do not anticipate such occurrences happening frequently, and We will attempt to minimize any disruptions to Services, We reserve the right to perform maintenance on Our Online Banking systems at such other times as We deem necessary in Our sole discretion.

### **Computer Equipment**

To access the Services, You must own or have access to equipment and software (including web browser software) that allows You to access the internet (collectively, the “Computer”). The web browser You use must be current and support, at a minimum, Secure Socket Layer (“SSL”) technology and 256-

bit encryption. You must also have the current version of Adobe Acrobat Reader or another portable document format (“PDF”) reader that allows You to access PDF documents. You understand that if You use a web browser that does not support SSL and 256-bit encryption, the security of Your transactions related to the Services may be compromised and not in compliance with the security procedures required by Us. You further understand that You are responsible for the installation, maintenance and operation of the Computer, including, but not limit to, any viruses, internet-related problems or internet service provider fees that may be associated with Your access and use of the Services. We reserve the right as technology develops to impose further restrictions or requirements to maintain the appropriate level of security for the transactions contemplated hereunder. You agree to abide by such restrictions or requirements or to discontinue the Services. **THE RISK OF ERROR, FAILURE, OR NON-PERFORMANCE OF THE SERVICES IS YOUR RISK AND INCLUDES THE RISK THAT YOU DO NOT OPERATE THE COMPUTER PROPERLY.**

**WE SHALL NOT BE RESPONSIBLE FOR ANY DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGE ARISING IN ANY WAY OUT OF THE INSTALLATION, USE OR MAINTENANCE OF YOUR COMPUTER OR THE SERVICES, OR ANY ELECTRONIC VIRUS OR VIRUSES THAT YOU MAY ENCOUNTER, EXCEPT WHERE THE LAW REQUIRES A DIFFERENT STANDARD. WE MAKE NO WARRANTY TO YOU REGARDING YOUR COMPUTER, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE LIMITATIONS ON OUR LIABILITY AND DISCLAIMER OF WARRANTIES CONTAINED IN THIS SECTION ARE IN ADDITION TO THE OTHER LIMITATIONS ON OUR LIABILITY AND DISCLAIMER OF WARRANTIES PROVIDED FOR IN THESE TERMS, ANY OTHER AGREEMENT BETWEEN THE PARTIES OR PROVIDED BY APPLICABLE LAW.**

#### **Security Procedures; Care of Your Security Code, Username and Password**

The first time You access the Services, You will be asked to provide information to verify that You are an account holder and/or to otherwise identify Yourself. You will be assigned and/or asked to create a username and password or other security code (e.g., a Secure Access Code, a Security Question or a Security Word). You agree that the use of usernames, passwords and security codes is a reasonable method to authenticate Your transactions and other actions, and those transactions and other actions which You authorize others to conduct for You. **YOU UNDERSTAND AND AGREE THAT YOU WILL BE RESPONSIBLE FOR MAINTAINING SECURITY AND CONTROL OVER YOUR USERNAME AND PASSWORD AND ANY SECURITY CODE PROVIDED BY US OR CREATED BY YOU AND YOU SHALL USE THE SAME OR SIMILAR SECURITY AND CONTROL OVER SUCH ITEMS AS YOU WOULD USE FOR CASH, BUT IN NO EVENT LESS THAN THE AMOUNT OF SECURITY AND CONTROL THAT WOULD BE REASONABLE UNDER THE CIRCUMSTANCES.**

You agree that You will not give Your username, password or other security code, or make them available, to any other person. You are responsible for all transactions and other actions You initiate or authorize through the Services. If You disclose Your username, password or other security code to any person, allow any person to obtain Your username, password or other security code, or permit any person to use the Services, You will have authorized that person to access Your accounts and You agree to be responsible for all transactions and other actions that person initiates or authorizes from Your accounts. If You believe that Your username, password or other security code has been lost or stolen, or that someone has made payments, Transfers and/or taken other actions using Your username, password or other security code without Your permission, You agree to notify Us **IMMEDIATELY** by phone or email using the contact information below.

Texas Capital Bank — Client Support Center  
1.877.839.2265  
clientsupport@texascapitalbank.com

You understand that if You do not notify Us in a timely manner, the unauthorized use of Your username, password or other security code could cause You to lose all of the money in Your accounts, to the maximum extent permitted by applicable law, plus any amount available under Your overdraft protection, if any. You agree that We have the right (but not the obligation) to change Your username, password and any other security code at any time by giving oral or written notice to You. You agree that Your use of the new username, password and/or other security code after We provide notice of the change(s) constitutes Your acceptance of the new username, password and/or other security code. You acknowledge that the purpose of Your username, password and security code is to authenticate the identity of the person initiating the action and not to detect errors in any transmission or content. We are not agreeing to any procedure for the detecting of errors. You represent that You consider these security procedures to be commercially reasonable with respect to the size, type and frequency of deposits You anticipate submitting and other types of transactions and other actions You anticipate You may engage in via the Services, including those transactions that You anticipate making via the Mobile RDC Service.

Access to the Services requires that You receive and transmit data, information, orders and instructions (including, without limitation, instructions to Transfer, transmit, pay or remit funds) via connection or remote computers over telephone lines. You acknowledge that data including email, electronic communications, and confidential financial data and information may be accessed by unauthorized third parties when communicating to Us using the internet or other network or dial-up communications facilities, telephone or any other electronic means. By using the internet in connection with the Services or to otherwise communicate with Us, You are assuming the risk that viruses, Trojan horses, worms, or other harmful components may be transmitted to You, including those that may allow unauthorized third parties to communicate with Us and initiate transactions or take other actions using Your identity in such a way as to cause Us to believe such communications and transactions or other actions are made by You. You agree to install and utilize on Your system commercially reasonable anti-virus and/or similar software or use other appropriate protections as You deem necessary to protect against such risk. **WE DO NOT WARRANT THAT THE SERVICES, ANY REPORT GENERATED IN CONNECTION WITH THE SERVICES, OR THE SERVERS OR OTHER PROPERTY THAT IS USED TO PROVIDE THE SERVICES AND ANY REPORTS GENERATED WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.**

With respect to internet access to the Services, You agree to use “browser” software that supports a data security protocol compatible with the protocol used by Us. Until notified otherwise by Us, You agree to use software that supports the secure socket layer (SSL) protocol or other protocols accepted by Us and follow Our log-on procedures that support such protocols. You acknowledge that We are not responsible for: (i) notifying You of any upgrades, fixes or enhancements to any such software; or (ii) any compromise of data transmitted across computer networks or telecommunications facilities, including, but not limited to, the internet. With the exception of applications commonly known as web browser software, or other applications formally approved by Us in writing, You agree not to (a) use any software, program, application or any other device to access or log on to Our computer systems, website or proprietary software; or (b) automate the process of obtaining, downloading, transferring or transmitting any data or information to or from Our computer systems, web site or proprietary software. You understand and acknowledge that engaging in the practices described in (a) and (b) increase the risk of unauthorized access to Your Computer and accounts, which could result in fraudulent transactions or other harmful activity, and You agree to bear all liability for any losses sustained as a result of Your engaging in the practices described in (a) or (b).

We reserve the right at any time to change any or all of Our security procedures, and You agree to follow and comply with any such changes after being notified by Us of such change. You agree that Your use of any Services after We provide notice of a change constitutes Your acceptance of the new security procedures.

We also reserve the right to require that such other security requirements be met as We deem necessary, in Our sole discretion, before accepting any order or instruction or reinstating Your access to the Services. You understand and agree that the fact that We may not require additional security procedures in one case does not waive Our right to require such additional security procedures in other cases. In



addition, You understand and agree that the fact that We require additional security procedures in one case does not establish an expectation on Your part that We will require such additional security procedures in the future.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU HEREBY RELEASE AND AGREE NOT TO HOLD US LIABLE FOR ANY LOSS OR DAMAGE OF ANY KIND CAUSED BY OR RESULTING FROM (A) US FOLLOWING ANY ORDER OR INSTRUCTION OR THE TRANSMISSION OF DATA AND INFORMATION TO OR FROM US, INCLUDING, WITHOUT LIMITATION, ANY ORDER, INSTRUCTION, DATA AND INFORMATION TRANSMITTED TO OR FROM US USING THE SECURITY PROCEDURES DESCRIBED IN THIS SECTION, AND (B) YOUR DISCLOSURE OF YOUR USERNAME, PASSWORD, SECURITY CODE OR OTHER BANKING INFORMATION WHETHER OR NOT SUCH DISCLOSURE WAS INADVERTENT OR UNINTENTIONAL. You agree to be responsible for all orders and instructions (including, without limitation, instructions to Transfer, transmit, pay or remit funds) entered and data and information transmitted through and under Your username, password or other security code, and any orders or instructions (including, without limitation, instructions to Transfer, transmit, pay or remit funds) so received by Us will be deemed to have been received from You. All data, information, orders and instructions (including, without limitation, instructions to Transfer, transmit, pay or remit funds) shall be deemed to be made at the time received by Us and in the form received.

No Texas Capital Bank employee, nor any of Our third-party service providers or any of their affiliates, will contact You via email or phone requesting Your username, password or security code. If anyone contacts You requesting this information, **DO NOT GIVE OUT ANY OF YOUR INFORMATION**, and contact Us **IMMEDIATELY** to report the details of the incident.

We are committed to securing Our customers' accounts and account information, as described more fully in Our "Financial Privacy Policy and Your Rights" disclosure. However, You must also take every precaution to ensure the safety, security and integrity of Your accounts, account information, and transactions or other actions conducted through the Services. We may, from time to time, recommend security guidelines. You agree to follow such security guidelines or discontinue using the Services. Your failure to comply with such security guidelines shall result in You being responsible for any liability, loss or damage resulting from such failure.

#### **Unavailable, Delayed or Inaccurate Account Information**

We strive to provide You with complete, accurate and timely information regarding Your accounts and transactions through Our Online Banking Systems and Our mobile application ("App"). **However, except as required by law, We will not be liable to You for any losses You incur as a result of unavailable, delayed or inaccurate information involving Our Online Banking Systems or Our App.**

#### **Location-Based Information**

If You use any location-based feature of the Services, You agree that Your geographic location and other related personal information may be accessed and disclosed via the Services. If You wish to revoke geographic location information that may be accessible via the Services, You must cease using the location-based features of the Services.

#### **Our Liability for Failure to Complete a Funds Transfer**

We and Our third-party service providers, as applicable, are responsible for completing funds Transfers (including bill payments) from Your eligible account(s) according to Your properly entered and transmitted instructions. We and Our third-party service providers, however, are not responsible for confirming or monitoring such instructions or refusing to process duplicate payment instructions.

**WITHOUT LIMITING THE FOREGOING, IN THE EVENT THAT YOU SUFFER ANY DAMAGES OR LOSSES AS A RESULT OF OUR OR ANY OF OUR THIRD-PARTY SERVICE PROVIDERS FAILING TO COMPLETE A FUNDS TRANSFER ON TIME OR ACCORDING**

**TO YOUR INSTRUCTIONS, YOU AGREE THAT TO THE FULLEST EXTENT PERMITTED BY LAW NEITHER WE NOR ANY OF OUR THIRD-PARTY SERVICE PROVIDERS, AS APPLICABLE, SHALL BE LIABLE FOR ANY AMOUNT IN EXCESS OF THE AMOUNT OF ACTUAL DAMAGE OR LOSSES YOU INCUR UP TO THE AMOUNT OF THE TRANSFER WE FAILED TO COMPLETE ON TIME OR PER YOUR INSTRUCTIONS. YOU AGREE THAT IN NO EVENT SHALL WE OR ANY OF OUR THIRD-PARTY SERVICE PROVIDERS BE LIABLE FOR LATE CHARGES, INTEREST, PENALTIES OR OTHER AMOUNTS INCURRED BY YOU FOR YOUR FAILURE TO ALLOW SUFFICIENT TIME FOR PROCESSING AND DELIVERY OF ANY PAYMENTS OR TRANSFERS SO LONG AS WE HAVE COMPLIED WITH THE PROVISIONS OF THESE TERMS.**

Furthermore, without limiting the foregoing, there may be times or situations when We or Our third-party service providers do not or are unable to complete a Transfer per Your Instruction, and You agree We and Our third-party service providers will not be responsible for any losses or damages You incur, including in any of the following circumstances:

- You do not obtain a Confirmation Number at the time You initiate a payment and/or Transfer.
- The designated account does not contain sufficient funds to complete the payment and/or Transfer.
- The designated account is closed, frozen or otherwise inactive.
- We have identified You as a credit risk and have chosen to (i) make all payments and/or Transfers initiated by You via the Services utilizing a paper, as opposed to electronic, method, or (ii) to terminate Your subscription to the Services.
- The Services, or any communications link, is not working properly and You know or have been advised by Us about the malfunction before You execute the transaction.
- You have not provided Us with the correct instructions including, without limitation, the name, address, account number and payment amount for a bill payment.
- A payee mishandles or delays handling payments sent by Us.
- Circumstances beyond Our control prevent or delay the proper execution of the transaction. Such circumstances include, but are not limited to: telecommunication outages, power outages, equipment failures, postal strikes, delays caused by other financial institutions, fires and floods.
- The Transfer would result in Us exceeding any limitation of Our intraday net funds position established pursuant to present or future Federal Reserve guidelines.
- A court order, such as a garnishment or other legal process, prevents Us from making a Transfer.
- Any third party through whom any payment or Transfer is to be made fails to properly transmit the payment or Transfer.
- You or anyone You allow to use the Services commits fraud or violates any law or regulation.
- You do not use the Services properly.
- We have a reasonable basis for believing that unauthorized use of Your username, password, security code or deposit account(s) has occurred or may be occurring.
- You default under these Terms, the Agreement a credit agreement, or any other agreement with Us.
- We or You terminate these Terms.

The limitation on Our liability contained in this section shall be in addition other limitations on Our liability provided for in these Terms, in other agreements between the parties, or provided by applicable law.

#### **Statements**

All payments and/or Transfers made via the Services will be listed on Your monthly account statements ("Statement") that You receive from Us.

### **Error Resolution**

In case of an error or question involving Your Electronic Banking Services, including if You think Your Statement or receipt is wrong or if You need more information about a Transfer listed on a Statement or receipt, You should contact Us as soon as possible at the mailing address, phone number or email address provided in the “Our Client Support Center Contact Information” section of these Terms, and follow the procedure set out below in the Personal and Small Business and Other Non-Personal Accounts Error Resolution Process, as applicable.

For purposes of these Terms, “Personal Account” means a deposit account owned by one or more individuals and used for personal, family or household purposes. Other accounts, including small business and Trust Accounts, are considered “Non-Personal Accounts.” In addition to other limitations set forth in these Terms, in other agreements between the parties, or provided by applicable law, the error resolution and liability provisions applicable to consumers and Personal Accounts do not apply to Non-Personal Accounts, with the exception of debit card activity.

### **Personal Accounts Error Resolution Process**

In connection with Your Personal Account, if You discover any error, including any unauthorized electronic funds Transfers (as that term is defined under Regulation E) or errors or other problems with Your account, You must notify Us at the mailing address, phone number or email address provided in the “Our Client Support Center Contact Information” section of these Terms no later than sixty (60) days after We sent the FIRST Statement on which the error appeared, and You must:

1. Tell Us Your name and account number (if any);
2. Describe the error or the Transfer You are unsure about, and explain as clearly as You can why You believe it is an error or why You need more information; and
3. Tell Us the dollar amount of the suspected error.

If You notify Us orally of such error, such as via telephone, We may also require that You also notify Us of such error in writing within ten (10) Business Days after You initially inform Us. We may also require You to provide the details regarding the error in the form of a sworn statement/affidavit.

We will determine whether an error occurred within ten (10) Business Days after We hear from You and will correct any error promptly. If We need more time, however, We may take up to forty-five (45) days to investigate the error. If We decide to do this, We will credit Your account within ten (10) Business Days for the amount You think is in error, so that You will have the use of the money during the time it takes Us to complete Our investigation. If We ask You to submit details regarding the error in writing and We do not receive such writing from You within ten (10) Business Days, We may not credit Your account. We will notify You of the results of Our investigation within three (3) Business Days after We complete Our investigation. If We determine that an error did not occur, We will provide You a written explanation. You may ask for copies of the documents that We used in Our investigation. If We provisionally recredit Your account, We may take back the amount of any credit if We determine that an error did not occur.

Notwithstanding the foregoing:

- For errors involving new accounts, point-of-sale or foreign-initiated transactions, We may take up to ninety (90) days to investigate Your error or issues. For new accounts, We may take up to twenty (20) Business Days to credit Your account for the amount You think is in error.
- For errors involving a transaction processed through the VISA system, We will provide provisional credit within five (5) Business Days after You notify Us instead of the usual ten (10) or twenty (20) Business Days. We may, in Our sole discretion, withhold providing this accelerated provisional credit, to the extent allowed under applicable law, if We believe that the circumstances of account history warrant the delay.

You agree that We shall have no liability for any losses or damages You suffer as a result of unauthorized transactions if You do not notify Us within sixty (60) days after the first Statement showing the electronic funds Transfer has been sent to You. If You do not notify Us within sixty (60) days after the Statement was sent to You, You may not get back any money You lost after the sixty (60) days if We can prove that You could have stopped someone from taking the money if You had told Us in time.

### **Small Business and Other Non-Personal Accounts Error Resolution Process**

In connection with Your Non-Personal Account, if You discover any error, including any unauthorized transactions, You agree to notify Us **IMMEDIATELY**. We must receive notice of, and at Our request, an affidavit describing the error within a reasonable time, not to exceed fourteen (14) days from the date of discovery or Your receipt of the first Statement, report or notice reflecting the unauthorized transaction or error, whichever occurs first. You agree that We shall have no liability for any losses or damages You suffer as a result of unauthorized transactions if You do not notify Us within thirty (30) days after the earlier of discovery or the first Statement showing the electronic funds Transfer has been sent to You.

You also agree to (i) keep all usernames, passwords and other security codes strictly confidential, disclosing them only to trusted employees who have access to them in order to perform their employment duties; (ii) instruct those employees that they are not to disclose usernames, passwords or other security codes to any other person; and (iii) establish and maintain all procedures necessary to assure the access codes, passwords and other security codes will be maintained in strictest confidence. You agree to **IMMEDIATELY** notify Us if Your usernames, passwords or other security codes become known to an unauthorized person or You believe they may have become known to an unauthorized person. You understand and agree that the security procedures used by You and Us in connection with the Services are to be used to verify the authenticity and validity of communications, including requests for funds Transfers, received by Us in Your name, and are not intended to detect errors in such communications.

If You authorize persons to conduct transactions on any Non-Personal Account via the Services and then terminate such person's authority, You agree to notify Us **IMMEDIATELY**. You further agree that We shall not be liable for any losses or damages You suffer as a result of any transactions conducted by such person on a non-personal Account prior to the time You notify Us that such person no longer has authority and We have had a reasonable amount of time to act on such notice.

### **Your Liability for Unauthorized Transactions**

This section applies to unauthorized transactions involving Your username, password or security code, including unauthorized Bill Center transactions.

You agree to notify Us **IMMEDIATELY** if You believe that Your username, password or security code has been lost, stolen or has been learned by an unauthorized person. You agree that such notification must be initiated by calling Our Client Support Center at 1.877.839.2265 followed by written confirmation to the mailing address provided in the “Our Client Support Center Contact Information” section of these Terms. Furthermore, You agree that the written confirmation must be received by Us within ten (10) days from the date of Your oral notification. If You assert that an unauthorized Transfer may have occurred, or You believe Your username, password or other security code has become known to an unauthorized person, We may require You to sign a sworn statement/ affidavit to that effect.

### **Personal Accounts**

If You believe that an unauthorized electronic funds Transfer may have occurred, the risk to You in failing to notify Us is the potential loss of all funds in Your account. If You notify Us within two (2) Business Days after You learn of the loss, theft or compromise thereof by an unauthorized person, Your liability is up to \$50 for an unauthorized electronic funds Transfer or series of related unauthorized electronic funds Transfers should someone use Your username, password or security code without Your permission.

If You DO NOT notify Us within two (2) Business Days after You learn of the loss, theft or compromise of Your username, password or security code and We can prove that We could have stopped someone from using Your username, password or security code had You informed Us of the loss, theft or compromise thereof, Your liability could be as much as \$500.

Failure to notify Us of any unauthorized electronic funds Transfer as a result of unauthorized use of Your username, password or security code within sixty (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 up to 100 percent. We may in Our sole discretion extend the sixty (60) day timeframe when certain events prevent You from notifying Us promptly, such as extended travel or hospital stay. For Us to consider such an extension, You must notify Us of such an event, which We may verify.

#### **Small Business and Other Non-Personal Accounts**

If You believe that an unauthorized electronic funds Transfer may have occurred and Your account is a Non-Personal Account, You agree that any liability We may have shall be subject to reduction and offset on the basis of Your negligence or failure to use reasonable care on Your part, or the part of any other owner or signer on the account or that of any authorized user of the Services, or any of Your agents or any of Your employees which contributed to the loss, and to the extent to which damages could not be avoided by Our use of ordinary care.

**WITHOUT LIMITING THE FOREGOING, YOU FURTHER AGREE THAT TO THE FULLEST EXTENT PERMITTED BY LAW, OUR LIABILITY SHALL NOT EXCEED THE AMOUNT OF ACTUAL DAMAGE OR LOSSES YOU INCUR UP TO THE FACE VALUE OF AN ITEM OR TRANSACTION IMPROPERLY DISHONORED OR PAID OR THE ACTUAL VALUE OF ANY DEPOSITS NOT PROPERLY CREDITED OR WITHDRAWAL NOT PROPERLY DEBITED.**

If You have selected optional Mobile Banking Services, You understand that You are solely responsible for notifying Us IMMEDIATELY in the event that Your mobile device associated with the telephone number registered for Mobile Banking Services is lost, stolen, changed or destroyed. You understand that with regard to text messages, failure to promptly notify Us may result in Your failure to receive important text messages and/or the interception of such text messages by unauthorized third parties. You may also incur text messaging fees for such text messages even if You do not receive them. You agree that We are not responsible for any costs, expenses, losses, liabilities or damages that You incur as a result of Your failure to receive a text message, the interception of any text message by an unauthorized or other third party, or Your incurrence of text messaging fees for text messages You did not receive.

**YOU UNDERSTAND AND AGREE THAT IN ADDITION TO ANY DISCLAIMERS OR LIMITATIONS OF LIABILITY AS OTHERWISE STATED IN THESE TERMS, IN OTHER AGREEMENTS BETWEEN THE PARTIES, OR PROVIDED BY LAW, WE SHALL NOT BE LIABLE FOR LOSSES OR DAMAGES ARISING FROM: (i) NON-DELIVERY, DELAYED DELIVERY OR WRONG DELIVERY OF ANY EMAIL COMMUNICATION THAT YOU WOULD NORMALLY ACCESS VIA THE WEB BROWSER ON YOUR MOBILE DEVICE OR OF ANY TEXT MESSAGE NORMALLY SENT DIRECTLY TO YOUR MOBILE DEVICE; (ii) INACCURATE CONTENT IN ANY EMAIL COMMUNICATION THAT YOU ACCESS VIA THE WEB BROWSER ON YOUR MOBILE DEVICE OR IN ANY TEXT MESSAGE SENT DIRECTLY TO YOUR MOBILE DEVICE; (iii) ANY ACTIONS RESULTING FROM THE INTENTIONAL OR UNINTENTIONAL DISCLOSURE BY YOU TO ANY UNAUTHORIZED PERSON OF THE CONTENTS OF ANY EMAIL COMMUNICATION YOU ACCESS VIA THE WEB BROWSER ON YOUR MOBILE DEVICE OR ANY TEXT MESSAGE SENT DIRECTLY TO YOUR MOBILE DEVICE; OR (iv) YOUR USE OR RELIANCE ON THE CONTENTS OF ANY SUCH EMAIL OR TEXT MESSAGE FOR ANY PURPOSE.**

For any transactions processed through the VISA or MasterCard system, Your liability limits will differ from those set forth in this section. For certain transactions processed through the VISA or MasterCard system, You may have no liability if You report the unauthorized transactions to Us, in accordance with each network's respective "zero liability" policies for unauthorized transactions. We may, however, impose greater liability, up to the extent allowed by applicable law, if We reasonably determine that You were either grossly negligent (e.g., delay for an unreasonable time in reporting unauthorized transactions) or fraudulent in handling Your Services transactions processed through the VISA or MasterCard system.

#### **Children Using the Services**

The safety and privacy protection of children is very important to Us. Children should always ask their parent or guardian for permission before sending personal information to anyone online. You understand that for a child under the age of 13, only the child's parent or legal guardian has authority to access the Services, even if the account has been established on behalf of that child. If You permit a child under the age of 13 to use the Services, or give the child Your username or password or other security code, You agree that You are responsible for all activity the child initiates from or to any of Your accounts, even if he or she exceeds Your authorization. You understand that You can contact Us at the mailing address, phone number or email address provided in the "Our Client Support Center Contact Information" section of these Terms with any questions or concerns.

#### **Our Use of Third-Party Service Providers**

Our ability to provide certain Services, including Mobile Banking Services, depends on Our ability to provide access to third-party networks. You authorize Us to utilize third-party service providers We select, in Our sole discretion, to provide Services to You on Our behalf. For details regarding Our safeguarding of Your personal information, please refer to Our "Financial Privacy Policy and Your Rights" disclosure. In the event that We determine, in Our sole discretion, that We are unable to provide third-party network access, You agree that We may discontinue the related Service(s) or may provide the Service(s) through alternate third-party networks. You agree that We shall have no liability for the unavailability of access to the Services during any transition period and that We may discontinue any of the Services at any time, provided, however, that in the event We decide to discontinue any Service involving Transfers to or from Your account(s) We will provide You at least twenty-one (21) days advance notice of such discontinuance, unless such prior notice is otherwise excused by law.

#### **Disclosure of Account Information to Third Parties**

We will only disclose information to third parties about Your account or the transactions that You make (1) where it is necessary or helpful for completing a transaction; (2) in order to verify the existence and condition of Your account for a third party, such as a credit bureau or merchant; (3) in order to comply with reporting or other legal requirements; (4) if You give Us Your permission; (5) to otherwise conduct Our business; (6) as otherwise provided in Our "Financial Privacy Policy and Your Rights" disclosure; or (7) as otherwise permitted by law. Please refer to the "Financial Privacy Policy and Your Rights" disclosure for additional information on Our policies regarding information sharing.

#### **Legal Compliance**

You agree to abide by all applicable international, federal, state and local laws, rules, regulations and ordinances pertaining to the Services. You represent and warrant that (a) You are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country, and (b) that You are not listed on any U.S. Government list of prohibited or restricted parties, such as the OFAC Specially Designated Nationals List.

#### **Disclaimer of Warranties**

While We hope that the Services are useful and reliable, You understand that We and Our third-party service providers cannot and do not make any representation or warranty: (i) that You will have continuous or uninterrupted access to the Services or any of its information, content or functions; (ii) that the Services will operate on a continuous or uninterrupted basis; or (iii) that any information, content or functions will be error-free.



WE AND OUR THIRD-PARTY SERVICE PROVIDERS PROVIDE THE SERVICES AND ALL INFORMATION AND CONTENT DELIVERED BY OR THROUGH THE SERVICES TO YOU “AS IS” AND “AS AVAILABLE” WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. WE AND OUR THIRD-PARTY SERVICE PROVIDERS DISCLAIM ANY AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SECURITY, PERFORMANCE, ACCURACY, AVAILABILITY, CONTENT, FUNCTION, ACCESSIBILITY, NON-INTERRUPTION, NON-INFRINGEMENT, AND ANY IMPLIED WARRANTY ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. WE AND OUR THIRD-PARTY SERVICE PROVIDERS ALSO DISCLAIM ANY AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, RELATED TO ANY ADVERTISEMENTS OR WEBSITES IN CONNECTION WITH THE SERVICES. YOU UNDERSTAND THAT YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY FAILURE OR NON-PERFORMANCE OF ANY SERVICE (INCLUDING ANY SOFTWARE OR OTHER MATERIALS SUPPLIED IN CONNECTION WITH THE SERVICE) SHALL BE FOR US TO USE COMMERCIAL REASONABLE EFFORTS TO PERFORM AN ADJUSTMENT OR REPAIR OF THE SERVICE.

YOU UNDERSTAND AND AGREE THAT THE SERVICES ARE PROVIDED “AS IS” AND THAT NEITHER WE NOR ANY OF OUR THIRD-PARTY SERVICE PROVIDERS MAKE ANY WARRANTIES CONCERNING THE SERVICES INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT ALLOWED BY LAW.

SOME STATES DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SO SOME OR ALL OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU. YOU MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE. YOU SHOULD SEEK LEGAL COUNSEL IF YOU HAVE ANY QUESTIONS ABOUT THE APPLICATION OF THE ABOVE WARRANTY TO YOU OR YOUR LEGAL RIGHTS.

If You download Our App from Apple, Inc., via the Apple App Store or Google, Inc., via Google Play for Android, then in the event of any failure of Our App to conform to any warranty as described in these Terms, You may notify Apple, Google, or any other app store or marketplace, and Apple, Google or the operator of any other app store or marketplace will refund the purchase price for Our App to You and, to the maximum extent permitted by applicable law, Apple, Google, or the operator of any other app store or marketplace will have no other warranty obligation whatsoever with respect to Our App, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be Our sole responsibility. Additionally, Apple, Google, or the operator of any other app store or marketplace has no obligation whatsoever to furnish any maintenance and support services with respect to Our App. We, and not Apple, Google, or the operator of any other app store or marketplace, are responsible for addressing any of Your claims and any third-party claims relating to Our App.

#### **Exclusion of Damages; General Limitation of Liability; Release of Claims**

We and You acknowledge and agree that We, and not Apple, Inc., or Google, Inc. (Android), are responsible for addressing any claims (a) by You or any third party relating to the Electronic Banking Services and Mobile Banking Services, or (b) relating to Your possession and use of the Electronic Banking Services and Mobile Banking Services, including, but not limited to, product liability claims or any claim that the Electronic Banking Services or Mobile Banking Services fail to conform to any applicable law, including applicable consumer protection laws.

YOU FURTHER AGREE THAT TO THE FULLEST EXTENT PERMITTED BY LAW, OUR LIABILITY AND THAT OF OUR PARENT COMPANY, AFFILIATES AND SUBSIDIARIES AND OUR AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, CONTROLLING

PERSONS, STOCKHOLDERS, AGENTS, REPRESENTATIVES, LICENSORS, THIRD-PARTY SERVICE PROVIDERS AND SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE “BANK INDEMNIFIED PARTIES”) SHALL BE LIMITED TO THE ACTUAL DAMAGES ARISING DIRECTLY FROM THE INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE OF THE BANK INDEMNIFIED PARTIES, AS APPLICABLE, IN THE PERFORMANCE OR NON-PERFORMANCE AS REQUIRED BY THESE TERMS OR APPLICABLE LAW. YOU FURTHER AGREE THAT IN NO EVENT SHALL ANY OF THE BANK INDEMNIFIED PARTIES 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 ANY OF THE BANK INDEMNIFIED PARTIES 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 THESE TERMS;

(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 THE OTHER BANK INDEMNIFIED PARTIES 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 THESE TERMS 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 THESE TERMS; (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 THESE TERMS, 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 THESE TERMS, 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 THESE TERMS SHALL BE CUMULATIVE AND NOT EXCLUSIVE OF ANY OTHER LIMITATION ON OUR LIABILITY AND RIGHT TO INDEMNITY AND REIMBURSEMENT PROVIDED ELSEWHERE IN THESE TERMS.

#### **Indemnification and Release**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YOU AGREE TO RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS US AND OUR PARENTS, AFFILIATES, SUBSIDIARIES, AGENTS, LICENSORS AND THIRD-PARTY SERVICE PROVIDERS, AND EACH OF OUR AND THEIR AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, CONSULTANTS AND AGENTS, FROM AND AGAINST ALL DAMAGES, CLAIMS, LIABILITIES, COSTS, LOSSES AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES) ARISING FROM OR RELATING TO YOUR ACCESS AND USE OF THE SERVICES, INCLUDING, WITHOUT LIMITATION, ANY CLAIMS ALLEGING FACTS THAT IF TRUE WOULD: (I) CONSTITUTE A BREACH BY YOU OF THESE TERMS; (II) CONSTITUTE INFRINGEMENT, MISUSE OR MISAPPROPRIATION OF INFORMATION, DATA, FILES OR OTHER MATERIALS SUBMITTED BY YOU TO THE SERVICES; (III) CONSTITUTE FRAUD OR MALICIOUS CONDUCT BY YOU; (IV) CONSTITUTE A VIOLATION BY YOU OF ANY LAW OR RIGHTS OF A THIRD PARTY; (V) CONSTITUTE A CLAIM FOR WHICH YOU HAVE AGREED TO PROVIDE INDEMNIFICATION ELSEWHERE IN THESE TERMS; OR (VI) CONSTITUTE A CLAIM FOR DAMAGES FOR WHICH YOU HAVE AGREED ELSEWHERE IN THESE TERMS THAT WE ARE NOT RESPONSIBLE.

The indemnity and release contained in this section shall be in addition to the other indemnities and releases provided for in these Terms, in other agreements between the parties, or provided by applicable law.

#### **Equitable Relief**

You and We shall have the right to apply to a court to enjoin any breach of these Terms.

#### **Venue**

YOU AND WE AGREE THAT ANY LAWSUIT, ACTION OR PROCEEDING THAT IS BROUGHT (WHETHER IN CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING IN ANY WAY TO THESE TERMS, THE TRANSACTIONS CONTEMPLATED THEREBY, ANY SERVICE, OR THE ACTS, CONDUCT, OR OMISSIONS OF TEXAS CAPITAL BANK OR ANY OF ITS OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AFFILIATES, AGENTS, SUCCESSORS OR ASSIGNS SHALL BE BROUGHT IN A STATE OR FEDERAL COURT OF COMPETENT JURISDICTION LOCATED IN DALLAS COUNTY, TEXAS. YOU HEREBY IRREVOCABLY AND UNCONDITIONALLY: (A) SUBMIT TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS, (B) WAIVE ANY OBJECTION YOU MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH LAWSUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT, AND (C) FURTHER WAIVE ANY CLAIM THAT YOU MAY NOW OR HEREAFTER HAVE THAT ANY SUCH COURT IS AN INCONVENIENT FORUM.

#### **Jury Trial Waiver**

YOU ACKNOWLEDGE THAT THE RIGHT TO A TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT SUCH RIGHT MAY BE WAIVED. YOU HEREBY KNOWINGLY, VOLUNTARILY, IRREVOCABLY AND EXPRESSLY WAIVE (TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW) ALL RIGHT TO A TRIAL BY JURY IN ANY DISPUTE, ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) INVOLVING YOU AND TEXAS CAPITAL BANK OR ANY OF ITS OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS, AFFILIATES, SUCCESSORS OR ASSIGNS. You agree that: (a) neither Texas Capital Bank nor any of its agents has represented, expressly or otherwise, that it would not, in the event of litigation, seek to enforce the foregoing waiver, and (b) Texas Capital Bank has been induced to enter into these Terms with You by, among other things, the waiver and acknowledgments by You in this section.

#### **Class Action Waiver**

YOU VOLUNTARILY WAIVE AND GIVE UP YOUR RIGHT TO SERVE AS A CLASS REPRESENTATIVE FOR, OR PARTICIPATE AS A MEMBER OF, A CLASS ACTION IN CONNECTION WITH A DISPUTE INVOLVING US.

#### **Survival/Severability**

The following provisions shall survive the closure of Your account(s) with Us and the termination of all of Your business with Us: the jury trial waiver, the equitable relief and venue provisions, provisions providing for limitations on Our liability, provisions releasing Us of liability, and Your obligations to indemnify Us and pay any damages, claims, liabilities, costs, losses and expenses (including, without limitation, attorneys' fees).

#### **Assignment**

You may not assign all or any part of Your rights or obligations under these Terms without Our prior express written consent, which may be withheld in Our sole discretion. We may assign or delegate these Terms or all or any part of its rights under these Terms, including, without limitation, the performance of Services described herein. These Terms are binding on and shall inure to the benefit of the successors and permitted assigns of either party.

#### **Proprietary Rights and Other Intellectual Property: User Conduct**

The license granted to You for the Services is a nontransferable license to use the Services on products that You own or control and as permitted by the usage rules and terms of service governing such products, including the usage rules and terms of service of Apple, Inc.; Google, Inc.; and the Apple and Android App Store, as applicable.

You understand that other than Your materials and account information and except where otherwise

expressly provided for herein, all content (“Content”) of or received through the Services (including the Mobile Banking Services) including the graphics, icons and overall appearance of the Services is the exclusive property of Us, Our subsidiaries, affiliates, licensors and/or other third parties whom We utilize to provide any portion of the Services and is protected by copyright and other intellectual property rights. The trademarks, logos and service marks displayed through the Services (including Mobile Banking Services) are the registered and unregistered trademarks of Us, Our subsidiaries, affiliates, licensors and/ or other third parties with whom We have entered into licensing or other agreements.

You agree that under no circumstances will You use, copy, alter, modify, change or delete these copyright trademarks, logos and service marks. Neither Our allowing You access to the Content as part of the Services nor anything contained in these Terms should be construed as (a) granting by implication or otherwise any license or right to use any trademarks, logos and service marks without the express written permission of Us, or the third party which has the rights to such trademarks, logos and service marks, as appropriate; and (b) a waiver of any of Our proprietary rights nor any other party's proprietary rights, including, but not limited to, copyrights, trademarks, service marks, patents and other intellectual property, nor a Transfer by implication, estoppel or otherwise of any such rights or of any license to the Mobile Banking Services user or to any third party. The Content of the Mobile Banking Services is protected by United States and international copyright laws, both as individual works and as a collection and by United States and international trademark laws.

The display of third-party trademarks within the Services does not grant You a license of any kind. Any downloading of the contents of the Services or any other service linked to the Services may be a violation of federal trademark and copyright laws.

In the event of any third-party claim that the App or Your possession and use of the App infringes a third party's intellectual property rights, We and Our third-party service providers, not Apple, Google, or the operator of any other app store or marketplace, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim.

#### **Amendments and Notice**

These Terms and applicable Service fees and charges may only be changed, altered or amended by Us. You understand and agree that any informational materials or instruction guides, including the “Your Guide to Electronic Banking,” are provided merely for Your convenience and will not change, alter or impose any obligations or duties on Us unless such materials or instructional guides expressly state Our intent to change, alter or amend an agreement by such materials or instructional guides.

We will notify You of any change, alternation or amendment to these Terms thirty (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.

Unless a provision in these Terms specifically requires or permits a different type of notice be made, or We otherwise agree in writing to provide a different notification method, You acknowledge and agree that We may (a) provide notice to You of a change, alteration or amendment to these Terms or any Service (i) by mail or email at Your address as reflected on Our system of record; (ii) by delivery with any of Your account statements; (iii) by posting within Our Electronic Banking system; (iv) by sending You a message via Our secure email system, which is accessible via Our Online Banking website and the App; (v) by any other method permitted by law; or (vi) 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 applicable law or a provision in these Terms specifically requires that We provide You written notice by mail, We will use Your mailing address reflected on Our system of record. 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.

You agree to be bound by any change, modification or amendment to these Terms and any Service, and Your use of any Service following receipt of any notice of change, alteration or amendment (including any change in fees or charges) constitutes Your acceptance of such change, alteration or amendment.

#### **Cancellation/Termination of Services**

Notwithstanding any other provision of these Terms, We reserve the right to terminate Your use of any Service, in whole or in part, at any time without prior notice or reason, except as required by applicable law. Your Online Banking (including Bill Center Services) may be automatically deactivated if not used for a six (6) month consecutive period. You may cancel Your subscription to the Services, upon thirty (30) days prior written notice provided to the Client Support Center at Our address listed in the “Our Client Support Center Contact Information” section of these Terms. You will be responsible for all payments and/or Transfers You have requested prior to termination and for all other charges, fees and taxes incurred prior to the date upon which these Terms or the particular Service is terminated. Be sure to cancel all outstanding payment and/or Transfer orders within the thirty (30) day notification period. You agree that We will not be liable for payments and/or Transfers not canceled or made due to Your actions or omissions related to Service termination. All representations and warranties made by You and all indemnity, release, limitations on liability, venue, choice of law and jury trial provisions contained in these Terms (or incorporated herein by reference) shall survive notwithstanding termination of these Terms and any Service.

#### **Third-Party Beneficiaries**

You agree that Our third-party service providers may rely upon these Terms and any other agreements You have with Us and any warranties and representations You have made to Us. You further agree that Our third-party service providers are intended third-party beneficiaries to these Terms with the power to enforce these Terms against You. We and You acknowledge and agree that Apple, Inc., and all of its subsidiaries, and Google, Inc. (Android), and all of its subsidiaries, are intended third-party beneficiaries of these Terms and that, upon Your acceptance of these Terms, Apple, Inc.; Google, Inc.; and their subsidiaries, as applicable, will have the right (and will be deemed to have accepted the right) to enforce these Terms against You as a third-party beneficiary thereof.

#### **Entire Agreement**

These Terms, as they may be amended from time to time, together with any other disclosures or other documents which have been incorporated herein by reference (including, but not limited to, the Agreement, Fee Schedules and/or Treasury Terms) contain the entire Agreement between You and Us and supersede all oral conversations, other communications and previous Agreements, if any, with regard to the Services.

## Optional Mobile Banking Services

This section of these Terms governs Your election to use the optional Mobile Banking Services that are offered by Us as part of the Services. Our Mobile Banking Services allow You to conduct certain of the Services (e.g., personal financial information management Services and check deposit via remote deposit capture) through Our App which You may download to Your compatible mobile device.

We reserve the right to approve or deny Your use of any of the Mobile Banking Services, including the Mobile RDC Service (as defined below), at any time in Our sole discretion. If We approve Your use of any of the Mobile Banking Services, then by using such Services, You agree (a) to the applicable provisions set forth in these Terms and any documentation made available to You by Us for use with the Mobile Banking Services; and (b) to pay any fees that We may charge in conjunction with such Services (as set forth in Our current Fee Schedule, as may be amended) and any applicable fees imposed by Us as set forth in other agreements You may have with Us.

While the Mobile Banking Services are currently offered at no charge by Us, We reserve the right to assess fees or otherwise charge for Mobile Banking Services in the future and will provide You notice of such fees or charges, as required by these Terms or applicable law. Further, You understand that transactions You conduct via Mobile Banking Services may also be subject to fees imposed by third-party service providers with whom You have entered into other agreements. You understand that if You decide to activate the Mobile Banking Services, You are responsible for all costs and expenses associated with such Services, including, without limitation, all fees You incur for data Transfers and as a result of sending and receiving text messages ("text messages") through Your mobile device service. You understand that to enroll in the Mobile Banking Service You must complete the entire registration process. You represent that You are an authorized user of any mobile device You use to access the Services. As part of Your registration, You must certify that You are Our customer and provide a valid U.S. telephone number, including the area code, for Your mobile device that will be used for the Mobile Banking Services. You must also certify that Your mobile device meets Our minimum system requirements.

You understand that it is Your responsibility to provide true, accurate, current and complete information about Yourself when registering for the Mobile Banking Services and to maintain and promptly update the registration information to keep it true, accurate, current and complete. Without limiting the foregoing, You agree to notify Us **IMMEDIATELY** by the notification methods listed in the "Our Client Support Contact Center" section of these Terms to ensure that Your Mobile Banking Services and Our communications are not interrupted or inadvertently delivered to another recipient who may be assigned Your prior telephone number.

You understand that You are responsible for meeting all mobile device system requirements set forth in these Terms. You further understand that You will need to meet all of the equipment, access and system requirements set forth in these Terms to access Mobile Banking Services, and to view and print any email statements, notices and disclosures for Mobile Banking Services.

By deciding to enroll in the optional Mobile Banking Services, You agree that We may contact You for account alerts, fraud prevention purposes, alerts related to Your use of Zelle<sup>®</sup> Services and for any other purposes as provided in these Terms or in other applicable agreements You have with Us or as otherwise allowed by applicable law. By deciding to enroll in the optional Mobile Banking Services, You further agree that We may transmit email communications that You access via the web browser on Your specified mobile device and/or text messages directly to Your specified mobile device that contain certain information and alerts about the accounts You select. Text messages may be sent in response to text messages We receive from Your specified mobile device or, in some cases, upon the occurrence of a predefined condition related to Your account (e.g., low balance, overdraft or receipt of deposit alerts). You understand and agree that account alerts sent via email communications accessed via the web browser on a mobile device and/or via text messages may be sent to any and all signers on the account who have registered for Mobile Banking Services, provided they have given Us a valid telephone number for a mobile device and have subscribed to the applicable alert. You understand that

You are solely responsible for all costs assessed by Your mobile device service provider for receiving text messages or other data on Your mobile device. You understand and agree that if You elect to use the Mobile Banking Services, there are risks associated with using Your mobile device, and that in the event of theft or loss, Your confidential and personally identifiable information may become compromised. You further understand and agree that all communications and text messages transmitted to Us using the Mobile Banking Services are not confidential and are deemed to be Our property. You acknowledge that the privacy policies of other third-party service providers providing any information, services or products in relation to or through the Mobile Banking Services may be different from Our policies as described in the "Financial Privacy Policy and Your Rights" disclosure. You should review those policies before engaging in a transaction or providing any personally identifiable information to such third-party service providers.

If You elect to use the Mobile Banking Services and You permit other persons to use Your mobile device to access the Mobile Banking Services, You are responsible for any transactions they authorize. If You access the Mobile Banking Services on Your mobile device, You understand that You will be required to enter Your username and password. The Mobile Banking Services may include Your name and certain information about Your account, such as the last four (4) digits of Your account number or specific account transaction information. **You understand and acknowledge that transmission of Your masked account number and specific information, including dollar amounts or individual payees and payors, does not constitute transmission of personal or private information, and You hereby authorize Us to send such information via the Mobile Banking Services to Your mobile device. You agree that Our obligation to exercise commercially reasonable due care in maintaining the confidentiality and security of information is fulfilled by Our use of normal security procedures.**

### Use of Mobile Banking Services

You agree to learn how to use the Mobile Banking Services from the instructions contained within the Mobile Banking Services and any documentation made available to You by Us for use with the Mobile Banking Services, including the "Online Banking Experience Guide" available on Our website. You further agree that You will contact Us at the mailing address, phone number or email address provided in the "Our Client Support Center Contact Information" section of these Terms if You have any questions about or problems with the Mobile Banking Services. If the Mobile Banking Services are modified, You are responsible for understanding how to use any modifications. You may not copy (other than a copy for personal or business use), modify, distribute, transmit, display, perform, reproduce, Transfer, resell, lease, rent, distribute access to or republish any of the contents of the Mobile Banking Services without Our prior written consent, which may be withheld in Our sole discretion. **Unless otherwise subject to the provisions of the federal Electronic Funds Transfer Act ("EFTA") (15 U.S.C. 1693 et seq.) and Regulation E (12. CFR Part 1005 et seq.) promulgated and issued by the Consumer Financial Protection Bureau pursuant to the EFTA, We will not be liable to You for any losses caused by Your failure to properly use the Mobile Banking Services or Your mobile device. Additional information regarding Regulation E is contained in the "Error Resolution" section of these Terms.**

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



### **Mobile Banking Processing Equipment and Software**

You must obtain Our App in the Apple or Google (Android) app stores and install it on Your mobile device in order to become approved and use the Services. You must comply with the mobile device hardware, software and other requirements, as well as applicable security procedures, as set forth in these Terms and in any related documentation or any supplemental information and/or instructions provided by Us. We do not guarantee that all mobile devices are compatible with Our App. For the Mobile RDC Services in particular, You understand that failure to comply with mobile device hardware, software and other requirements regarding the Services may result in You being unable to generate a Sufficient Image Copy in order to create an electronic image to complete a Mobile RDC deposit.

You are responsible for the security of Your mobile device and for allowing its use only by individuals authorized by You. You are strongly encouraged to mitigate the risks that mobile devices present by ensuring that Your mobile device is password protected. We reserve the right as technology develops to impose further reasonable requirements to maintain the appropriate level of security for the Mobile Banking Services and transactions contemplated hereunder, and You agree to abide by such requirements. Furthermore, You understand and acknowledge that if You do not implement Your own commercially reasonable hardware, software, physical access and physical storage security procedures regarding any of the data owned by You, which may include data containing sensitive and personally identifiable information ("PII"), and follow such procedures, the security of the Services and Your data may be compromised. You understand and agree that You are solely responsible for (a) installing, maintaining and operating Your mobile device (hardware and software); (b) securing, encrypting, protecting and otherwise safeguarding the data owned by You; and (c) for adopting and following related security procedures including, but not limited to, data security protection, firewalls and anti-virus software.

In addition to other limitations on Our liability contained elsewhere in these Terms, in other agreements between the parties, or provided by applicable law, You understand, acknowledge and agree that We are not responsible for any loss or damages resulting from any errors or failures of Your mobile device or data processing systems, including, but not limited to, any mobile device virus or malware attack (such as a keystroke logging program or similar malware), any attack by a person attempting or actually gaining unauthorized access to the data owned by You, or any mobile device network problems that may be associated with Your access and use of Our Mobile Banking Services.

For avoidance of doubt, You understand, acknowledge and agree that all data provided by You to Us (including, but not limited to, electronic images or Substitute Checks retained on any processing equipment or processing software [including Your mobile device] used by You in conjunction with the Services) remains Your data even though provided to Us. Further, the data You provide to Us remains Your data even if produced, compiled or otherwise provided by Us to You, in any form or format. We will make available to You upon written request and to the extent required by applicable law, any information in the control or possession of Us concerning any financial product or service You obtain from Us, including information relating to any transaction, series of transactions, or any of Your accounts including costs, charges and usage data. We reserve the right to charge reasonable fees for providing such information, and You agree to reimburse Us for any expenses We incur in providing such information to You. Once Your data is delivered by Us to You, retrieved by You from

Us, or otherwise created as a by-product of a transaction between You and Us and retained by You, such data is solely within Your possession and control.

### **Information Regarding Mobile RDC Transactions**

By electing to use the Mobile Banking Services You subscribe to, and We agree to provide, the Mobile Remote Deposit Capture ("Mobile RDC") Service to be used by You in accordance and in compliance with the Check Clearing for the 21st Century Act, codified at 12 U.S.C. § 5001–5008 ("Check 21 Act") and subject to these Terms and any documentation made available to You by Us related to the Mobile RDC Service. For purposes of this section and the other provisions of these Terms relating to the Mobile RDC Service, any capitalized term not otherwise defined herein shall have the definition

ascribed to such term under the Check 21 Act. The Mobile RDC Service is a Mobile Banking Service that enables You to create and submit electronic check images (also known as "Image Replacement Documents") to Us, for deposit to Your personal or small business deposit account(s), as applicable, in lieu of the original paper checks ("Original Checks") from which such check images were obtained.

We may establish in Our sole discretion conditions that must be met for using the Mobile RDC Services. If We determine, in Our sole discretion, that You have met the conditions We have established, We will provide for acceptance for deposit to Your account(s) the electronic images of Original Checks for collection as allowed under these Terms and any documentation related to the Mobile RDC Service. We may also establish in Our sole discretion dollar amount limits and daily number of transaction limits for Mobile RDC. You should talk to Your Texas Capital Bank banker for information regarding any dollar limits and daily number of transactions restrictions applicable to Your account(s). Any item that exceeds Your daily limits must be delivered to Us for processing or held until the next Business Day for transmittal.

By depositing electronic images with Us via the Mobile RDC Services, You give Us the same warranties and indemnities that We, as a reconverting bank, would give under applicable law or regulation. You understand and agree that all of the warranties deemed given by a depositor of a check to a bank under the Uniform Commercial Code, as applicable from time to time in the State of Texas ("Texas UCC"), shall also apply to any electronic image of an Original Check the same as if such electronic image or Substitute Check were a paper check within the meaning of the Texas UCC. Accordingly, except to the extent that any warranties deemed given under the Texas UCC are expressly superseded by the Check 21 Act or its associated regulations ("Check 21 Regulations"), You understand that You are deemed to give Us all the same warranties You would have given under the Texas UCC for the deposit of an Original Check by transferring to Us: (a) any Substitute Check; (b) an IRD or other item purporting to be a Substitute Check; or (c) any electronic image that purports to contain a Sufficient Image Copy of an Original Check or a Substitute Check. Such warranties include the following two (2) specific warranties regarding Transfer and presentment:

- (1) You warrant that the electronic image We convert to a Substitute Check meets the requirements described in the Check 21 Regulations (found at 12 CFR §229.51(a)(1)–(2) and as amended from time to time) for legal equivalence, and
- (2) Your warranty given above is deemed given to Us and any other person, company or bank to which We Transfer, present or return any of the Images included in such electronic file as a Sufficient Image Copy or that purports to be a Sufficient Image Copy created by Us or any subsequent bank receiving a copy of such image.

### **Prohibited Transactions; Procedures; Retention of Original Checks**

**Prohibited Transactions.** You agree not to use the Mobile RDC Service to deposit or otherwise process: (i) non-cash items; (ii) items drawn on foreign banks or payable in other than U.S. money; (iii) items without preprinted magnetic ink routing numbers; (iv) items for which You are not a holder in due course; (v) Substitute Checks, except those which have been returned to You for any reason; (vi) items payable to any person or entity other than You (i.e., no third-party deposits); (vii) items containing apparent alterations to any of the information on the front of the check or item, or which You know or suspect (or should know or suspect) are fraudulent or otherwise not authorized by the owner of the account on which the check or item is drawn; (viii) items dated more than six (6) months prior to the date of deposit; (ix) items prohibited by Our procedures relating to the Services or which are not acceptable under these Terms; (x) Original Checks or other items previously converted to a Substitute Check; (xi) checks or items that are Remotely Created Checks (as defined in Regulation CC, 12 CFR Part 229 ["Reg. CC"]); (xii) checks or items prohibited by these Terms or any documentation related to the Mobile RDC Service, or any other agreement between the parties or applicable law; or (xiii) checks or items which are otherwise not acceptable under the Terms of Your account(s). You further agree that You will not permit any third party to use the Mobile RDC Service to deposit Original Checks to Your account.



**Processing of Mobile RDC Deposits.** You shall submit check images to Us in such format, and with such associated check information, as We may require periodically, utilizing Accredited Standards Committee X9's Specifications for Electronic Exchange of Check and Image Data (DSTU X9.37-2003) and in conformance with the requirements of Our App. We reserve the right to reject any single check image or group of check images for any reason in Our sole discretion, before or after it/they appear on Our system.

Prior to transmittal, all checks submitted using the Mobile RDC Service must be properly endorsed payable to the order of "Electronically Deposited to Texas Capital Bank," followed by Your signature and account number. All endorsements must appear on the back of the check or other item within the first 1½ inches from the left side of the item when looking at it from the front. Items transmitted without being properly endorsed are subject to rejection by Us. While We may accept nonconforming endorsements, You agree to be responsible for any loss, damage, cost or expense (including attorneys' fees) We incur due to the delay in processing or returning the item for payment.

You agree to inspect and verify the quality of the check images, ensuring that the check images of the front and back of the Original Check are legible for all posting and clearing purposes by Us. Specifically, You warrant the following: (i) the check image is an accurate representation of the information contained in the Original Check, and the check image includes all endorsements from the Original Check; (ii) each check image contains a record of all MICR line information required for a Substitute Check, and the check image satisfies all of the requirements of the Check 21 Act and Regulation CC; (iii) the Original Check, a duplicate check image, or any copy of the Original Check or check image will not be deposited by You with Us; and (iv) the Original Check, a duplicate check image, or any copy of the Original Check or check image will not be presented, transferred or returned such that We or any other person will be asked to make a payment based on a check or check image that has already been paid. **You agree that We shall have no responsibility or liability for any fees incurred due to the rejection of transmitted items for missing/incomplete endorsements.**

Electronic images shall be deemed received by Us for deposit based upon time of receipt as well as successful receipt of electronic images that are complete, usable and adhere to the standards discussed above. If any electronic image is not complete, is not usable, or does not adhere to the standards, the electronic image may not be processed by Us, in which event Your deposit will be adjusted and notification provided. You understand We will process only Your electronic images that comply with the standards discussed above and are Sufficient Image Copies, and We will use commercially reasonable efforts to present these Sufficient Image Copies for collection under the Check 21 Act framework. The daily cutoff time for Mobile RDC deposits is 8:30 p.m. CT. Such daily cutoff times may be adjusted by Us in Our sole discretion from time to time upon notice to You. If the deposits are not received by the end-of-day cutoff time, We do not guarantee that deposits will be processed that day. We may accept these deposits and they will be processed on Our next Business Day. We shall give provisional credit for deposits subject to revocation of credit for deposits as provided in Reg. CC and the Texas UCC. Unless We notify You otherwise, We provide same-day credit to the applicable account for all items transmitted by You and received by Us within the timelines We have established. You should review the "Funds Availability Regarding Mobile RDC Deposits" section of these Terms for details regarding the availability of funds deposited via Mobile RDC Services.

Should a Drawee Financial Institution return an item to Us unpaid, We will charge Your respective account for such returned item and may either (i) return the item to You, or (ii) re-present it to the Drawee Financial Institution before returning it to You. Items may be returned as Image Exchange Items, rather than Substitute Checks. Should a Drawee Financial Institution or other third party make a claim against Us or seek re-credit with respect to any electronic image, We may provisionally freeze or hold aside a like amount in Your account pending investigation and resolution of the claim. We may reject any entry which We determine in Our sole discretion would result in a breach of these Terms or any other agreement between the parties, including, but not limited to, the Agreement and any account balance obligations applicable to Your account(s) or any security procedures. We will notify You by phone or electronic transmission, including email or fax, of such rejection no later than

the Business Day such deposit would otherwise have been transmitted by Us to the Federal Reserve. Notices of rejection shall be effective when given. **You agree that We will have no liability to You by reason of the rejection of any such deposit or the fact that such notice is not given at an earlier time than that provided for herein.**

You shall have no right to cancel or amend any deposit after its receipt by Us. However, if You make a request to cancel a deposit We may attempt to cancel Your request prior to transmitting the deposit to the Federal Reserve, but will have no liability if such cancellation is not implemented. You agree to reimburse Us for any costs, losses, damages or expenses (including attorney's fees) We may incur in implementing or attempting to implement Your request for the reversal of a deposit.

You understand and agree that We are relying on the truth and veracity of all electronic images submitted for deposit via the Mobile RDC Services by You to Us, and You warrant that such electronic images accurately reflect Original Checks that are, or at the time of the creation of the Substitute Checks, were, in Your possession. You also understand and agree that issues regarding returned item collection, returned deposit and other issues regarding deposit of items not specifically addressed in these Terms shall be governed by the terms and conditions of the Agreement.

**Retention and Security of Original Checks.** You agree to retain any Original Check that is deposited via the Mobile RDC Services in a secure location for an appropriate length of time to permit research if items are questioned by parties involved in the processing and clearing of a transaction or become the subject of any other legal inquiry. We make no representation or warranty as to the appropriate length of time that Original Checks should be retained or the appropriate method(s) of destruction after such period of time has elapsed. You should consult legal counsel regarding the appropriate length of time Original Checks should be retained based on Your needs.

#### **Funds Availability Regarding Mobile RDC Deposits**

**Your Ability to Withdraw Funds.** The provisions in this section of these Terms apply to personal accounts where deposits are made via Your Mobile RDC Services. You agree that electronic images submitted via Mobile RDC Services from Your mobile device are not subject to the funds availability requirements of Reg. CC.. Funds that are deposited using Mobile RDC Services will not be deemed "received" by Us until We have received an electronic image that meets all of the requirements for deposits (including all requirements to create a Substitute Check) stated in these Terms and any additional documentation related to the Mobile RDC Service. Funds from your Mobile RDC Services will be available to you no later than nine (9) Business Days after the day we receive Your deposit. Once the funds are available, You can withdraw the funds and We will use the funds to pay items and transactions drawn on Your account. If You make a deposit via the Mobile RDC Service by the cutoff time of 8:30 p.m. CT on a day that is not a Business Day, We will consider such deposit made on the next Business Day We are open.

In some cases the funds You deposit via the Mobile RDC Service may be delayed for a longer period. We may determine in Our sole discretion that a longer delay is warranted for a variety of reasons, including, but not limited to, the following:

- We believe a check You deposit will not be paid;
- We believe a check You deposit is a duplicate image;
- You deposit checks totaling more than any applicable per item limit, daily dollar amount limit, monthly item limit or any other limitations on Your Mobile Banking Services that We may impose;
- You redeposit a check that has been returned unpaid;
- You have overdrawn Your account multiple times in the last six (6) months;
- There is an emergency, such as failure of computer or communications equipment; and/or
- We need more time to investigate the Mobile RDC transaction or item for unusual or suspicious activity.

**Inability to Make Deposits Via the Mobile RDC Service.** In the event that You are unable to make a deposit via the Mobile RDC Service (as a result of unforeseen issues, technical reasons or for any other reason), You may make Your deposits in person at any of Our branches or by mailing deposits to:

Texas Capital Bank  
Attn: Financial Center  
5800 Granite Parkway, Suite 150  
Plano, Texas 75024

**Small Business Account Funds Availability Regarding Mobile RDC Deposits**

Your Ability to Withdraw Funds. The provisions in this section of these Terms apply only to demand deposit checking accounts where deposits are made via Mobile RDC Services. You agree that electronic images submitted via Mobile RDC Services from Your mobile device are not subject to the funds availability requirements of Reg. CC. Our policy is to generally make funds from Mobile RDC Services available to You on the first Business Day after the day We receive Your deposit. Funds that are deposited using Mobile RDC Services will not be deemed “received” by Us until We have received an electronic image that meets all of the requirements for deposits (including all requirements to create a Substitute Check) stated in these Terms and any additional documentation related to the Mobile RDC Service. Once the funds are available, You can withdraw the funds in cash and We will use the funds to pay items and transactions drawn on Your account. If You make a deposit via the Mobile RDC Service by the cutoff time of 8:30 p.m. CT on a day that is not a Business Day, We will consider such deposit made on the next Business Day We are open. Longer Delays May Apply. Notwithstanding the foregoing, in some cases We may not make all of the funds that You deposit via the Mobile RDC Service available to You on the first Business Day after the day of Your deposit. Depending on the type of check You deposit, funds may not be available until the second Business Day after the day of Your deposit. The first \$225 of Your Mobile RDC Service. deposits, however, will be available on the first Business Day. If We are not going to make all of the funds from Your deposit available on the first Business Day, We will generally notify You at the time You make Your deposit. We will also attempt to tell You when the funds will be available. If Your deposit is not made directly to one of Our employees, or if We decide to take this action after You have left the premises, We will mail You the notice by the Business Day after We receive Your deposit. If You will need the funds from a deposit via the Mobile RDC Services, You should contact Us to inquire when the funds will be available.

In some cases the funds You deposit via the Mobile RDC Service may be delayed for a longer period. We may determine in Our sole discretion that a longer delay is warranted for a variety of reasons, including, but not limited to, the following:

- We believe a check You deposit will not be paid;
- We believe a check You deposit is a duplicate image;
- You deposit checks totaling more than any applicable per item limit, daily dollar amount limit, monthly item limit or any other limitations on Your Mobile Banking Services that We may impose;
- You redeposit a check that has been returned unpaid;
- You have overdrawn Your account multiple times in the last six (6) months;
- There is an emergency, such as failure of computer or communications equipment; and/or
- We need more time to investigate the Mobile RDC transaction or item for unusual or suspicious activity.

**Inability to Make Deposits Via the Mobile RDC Service.** In the event that You are unable to make a deposit via the Mobile RDC Service (as a result of unforeseen issues, technical reasons or for any other reason), You may make Your deposits in person at any of Our branches or by mailing deposits to:

Texas Capital Bank  
Attn: Financial Center  
5800 Granite Parkway, Suite 150  
Plano, Texas 75024

**Your Representation and Other Agreements; Indemnity**

With respect to each and every deposit initiated by You, You represent and warrant to Us and agree that to the best of Your knowledge (a) each deposit is made payable to You; (b) any necessary authorization is operative at the time of transmittal or crediting/debiting by Us as provided herein; and (c) You shall perform Your obligations under these Terms in accordance with all applicable laws and regulations, including the sanctions laws administered by the Office of Foreign Assets Control (“OFAC”) and the Bank Secrecy Act. You further represent that You shall permit no third parties to use the Mobile RDC Service to deposit Original Checks to Your account. In addition to other indemnification under these Terms, in other agreements between the parties, or provided by applicable law, You also shall indemnify Us against any damages, claims, liabilities, costs, losses and expenses (including, without limitation, attorneys’ fees) resulting from or arising out of any breach of any of the foregoing representations or agreements.

**Limitation on Liability for Mobile RDC Services**

Our liability with respect to Mobile RDC Services shall not exceed the sum of the amount of any actual loss suffered by You as a result of a breach of warranties under Reg. CC up to the amount of any Substitute Check, plus interest, costs and expenses (including reasonable attorney fees and other expenses of presentation) related to the Substitute Check, reduced by any amount You receive and retain as a re-credit and the amount of any damage incurred as a result of Your negligence or bad faith. Without limiting the generality of the foregoing, We shall be excused (a) from any liability for failing to act or delay in acting if such failure or delay is caused by legal constraint, interruption of transmission of communication facilities, equipment failure, war, emergency conditions, or other circumstances beyond Our control; and (b) from any liability for failing to transmit or delay in transmitting a deposit if such transmittal would result in Our having exceeded any limitation upon Our intraday net funds position established pursuant to present or future Federal Reserve guidelines or, in Our reasonable judgment, would otherwise violate any provision of any present or future risk control program of the Federal Reserve or any rule or regulation of any other U.S. governmental regulatory authority. You agree You will have a contingency plan in place should any of the foregoing events occur, including temporarily depositing original, paper items at any of Our branch facilities.

Subject to the foregoing limitations, Our liability for loss of interest resulting from Our error or delay shall be calculated by using a rate equal to the average Federal Funds rate at the Federal Reserve Bank of Dallas for the period involved.

The limitations on Our liability contained in this section shall be in addition to all other limitations on Our liability provided for in these Terms, in other agreements between the parties, or provided by applicable law.

**Your Other Responsibilities**

You agree to (a) maintain at least one (1) account at Texas Capital Bank eligible for Mobile Banking Services, including the Mobile RDC Service and agree that Your applicable account may be charged for any deposited check that is later returned to Us owing to an actual or alleged breach of any warranty made in these Terms; (b) assist in the installation and implementation of any changes and upgrades to the Mobile RDC Services as required by Us to ensure compliance with regulatory changes and developments or as We deem necessary to protect the integrity and security of such Services; (c) use the Mobile RDC Service to enter, process and transmit Original Checks in accordance with procedures and transmission deadlines outlined in these Terms and other documentation relating to the Mobile RDC Service; (d) verify Our receipt of Your Mobile RDC deposits by reviewing deposits that have been posted to the designated accounts; (e) cooperate with Us in investigating and resolving

any unsuccessful, mistaken, incomplete, or lost transactions or unusable electronic images, or in the event of claims of fraud, alteration, counterfeit or otherwise in connection with the Services, including provide information regarding, and access to, Your accounts and records in connection with any such investigation; (f ) comply with all security procedures outlined in these Terms, other agreement between the parties, and any documentation relating to the Mobile RDC Service and not to bypass, override or disable any security mechanisms in the processing software or processing equipment; and (g) not perform the Mobile RDC Service for any third party, and any attempt to do so may result in Us terminating these Terms, at Our sole discretion, except for any provisions of these Terms that are expressly to survive such termination.

#### **Maintenance and Support for Mobile Banking Services**

We will provide access to the processing equipment and software for the Mobile Banking Services through Our App. We will also provide maintenance and support for the Mobile Banking Services to ensure the accurate delivery of the Mobile Banking Services, including, but not limited to:

- Corrections, contingent or alternate work methods, and repairs to any known system bugs or errors.
- Modifications, enhancements or updates that We elect to make generally available to You.
- Telephone and email support during Our normal business hours of Our Customer Support Center.

We will also provide You the required username and password or other security code in order for You to engage in the Mobile Banking Services and provide You documentation and support reasonably required for Your use of the Mobile Banking Services.

You agree that We are solely responsible for providing maintenance and support for the Mobile Banking Services that are required by Us under these Terms and applicable law. We and You acknowledge that neither Apple, Inc., nor Google, Inc. (Android), has any obligation whatsoever to furnish any maintenance and support services with respect to the Mobile Banking Services.

### *Your Guide to Electronic Banking*

Texas Capital Bank is leveraging the power of the internet to create convenient, competitive banking products and responsive service. Texas Capital Bank empowers Our customers and provides real value —with products that truly affect Your bottom line, service that exceeds Your expectations, and a single location You can visit from Your location any time of the day or night.

And as an FDIC-insured financial institution that uses the latest technology, Texas Capital Bank provides Our customers with reliable, secure banking.

You understand and agree that any informational materials or instructional guides We may provide You — including this “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 an agreement by such materials or instructional guides. “Your Guide to Electronic Banking” does not change any duties or obligations on Us as set out in the Electronic Banking Services Terms and Disclosures.

#### **Online Banking Benefits**

With Texas Capital Bank’s Online Banking system, You can review Your account information and transactions, pay Your bills, manage Your account, send and receive secure email messages, change Your password and even communicate with Our experienced Client Support staff all quickly and easily from the comfort of Your home — or wherever You happen to be. These Services provide secure access at any hour of the day or night, keeping You in control of Your transactions.

#### **Client Support**

When You have questions or need assistance, in addition to “Your Guide to Electronic Banking”, You have several resources at Your fingertips: The Online Help section of the Online Banking system, Client Support through Online Banking, and Client Support via email or telephone.

**It’s a Simple Start and It’s Secure:** just go to [www.texascapitalbank.com](http://www.texascapitalbank.com) and click on Account Log In.

The first time You enter the Online Banking system You will be prompted to create a unique password. You will also be prompted to request and receive a Secure Access Code, which adds a layer of authentication to the login process for added customer security.

#### **Your Password Must Be:**

- Minimum of 8 characters
- Case-sensitive
- Alphanumeric

Remember to protect Your password just as You do Your ATM PIN, and change it often. If You forget Your username and/or password, call Client Support. You will be asked questions based on the personal information You provided when You opened Your account. If Your answers confirm this information, Your Online Banking username and/or password will be reset.

**Important Note:** For Your added protection, the username/password to log in to Online Banking is not automatically synchronized. The usernames and passwords are separate, and the password can be changed by You at any time through the appropriate section(s).



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## **Here Are the Activities You Can Complete with Texas Capital Bank's Online Banking System:**

### **Online Banking Services Accounts**

View a listing of Your accounts that are tied to Online Banking. Simply click on one of Your accounts to receive activity, balance and interest information. As a security feature, the account link alerts You to the last time the system was accessed.

### **Account Balances**

You can use the Online Banking Service to view the balances in the deposit accounts that You have enrolled in the Service. Your account balances will generally be current as of the time of Your inquiry. However, please be aware that pending transactions may impact Your account balances and funds availability. The online information provided to You may not include all pending account transactions (e.g., outstanding checks) and may include funds that are not available for immediate withdrawal. Balances and account activity are updated by the next Business Day.

### **Viewing Account History**

The Online Banking Service allows You to review transaction information for deposit accounts enrolled in the Service. If the account is a checking account, You may view a minimum of three (3) months (including the current month) of transaction information through the current date; for other accounts, You may review all available information, including Certificate of Deposit maturity dates and dividends. Account activity is updated every Business Day.

### **Funds Transfers Between Your Accounts**

You may Transfer funds between eligible deposit accounts at Texas Capital Bank which You own or control (either individually or jointly with others), and from which You have an unrestricted right to withdraw funds ("Transfer"). Online Banking Transfer requests post same Business Day if completed prior to **11:00 p.m. Central Time (CT)**. Online Banking Transfer requests received by Us after the cutoff time or on a day that is not a Business Day will be processed on the next Business Day. We reserve the right to change Our Transfer cutoff time.

You may also schedule Transfers to be initiated on a future date, or on a recurring basis. You may schedule Transfers to recur at regular weekly, monthly, quarterly, semiannual or annual intervals or other intervals We may make available for up to ten (10) years ("Recurring Transfer"). If a Recurring Transfer falls on a non-Business Day, the Transfer will be executed on Our next Business Day. If You cancel a Recurring Transfer on one occasion, all future Recurring Transfers will also be canceled.

Except for the Online Banking Express Transfers which are completed immediately, You may cancel or modify a pending Online Banking Transfer up to **11:00 p.m. Central Time (CT)** on the same Business Day You schedule the Transfer(s).

You must receive a Confirmation Number for any Transfer request. If You do not receive a Confirmation Number, the Transfer will not be processed, and We will not be liable for any failure to make the Transfer.

Except for Zelle® Transfers the maximum dollar limit of any Transfer is equal to the available balance in the account from which the Transfer is to be made. You acknowledge and agree that You must have sufficient funds in the selected account to cover the amount of any Transfer. Zelle® Transfer limits are available as set forth in Section 15 of the Zelle® Terms of Service Addendum to these Terms. If Your account does not have sufficient funds to complete a Transfer, or if You attempt to complete a Zelle® Transfer in excess of the applicable limits, We may refuse to conduct the Transfer. If We do complete the Transfer, You are responsible for any Overdrafts or fees that are generated.. If We do, You agree to immediately pay the overdraft and any fees incurred. We may discontinue permitting overdrafts at any time, without prior notice. The amount of applicable fees is set forth in the Fee Schedule applicable to Your account. We are under no obligation to notify You if We do not complete a Transfer because there are insufficient funds in Your account to process a Transfer request.

### **In-Bank Funds Transfers**

In-Bank Funds Transfers ("In-Bank Funds Transfers") is a service within Online Banking that enables You to move money between eligible accounts at Texas Capital Bank.

To Transfer funds from one account at the Bank to another, You must log in to Online Banking, navigate to the Move Money > In-Bank Funds Transfer page, and enter the recipient and transaction details. You must enter the account the Transfer is to be made from and the amount. You will also have the option to enter a description for the Transfer. For the recipient, You must enter the recipient's email address (associated with the recipient's Texas Capital Bank Online Banking username) and the last four (4) digits of the recipient's account number at the Bank. When the Transfer is complete, You will receive a confirmation with a Tracking ID. If You do not receive a Tracking ID, the In-Bank Funds Transfer will not be processed, and We will not be liable for any failure to make the In-Bank Funds Transfer.

You can choose to make a single Transfer to another account holder at the Bank or link another account holder's account (for deposit purposes only) to Your Online Banking username. If You plan to make more than one Transfer to the other account holder, or if You need to create a Recurring or future-dated Transfer, linking the account is required. To link another customer's account to Your Online Banking username, You must enter the recipient's email address (associated with the recipient's Texas Capital Bank Online Banking username) and the last four (4) digits of the recipient's account number at the Bank. Once the accounts are linked, when You next log in to Online Banking, the other customer's account will be in the "To" account list on Your Funds Transfer page. You will not have to re-enter the recipient's information for each In-Bank Funds Transfer; You can simply select the recipient from a drop-down list.

In-Bank Funds Transfer requests post same Business Day if completed prior to 11:00 p.m. Central Time (CT). In-Bank Funds Transfer requests received by Us after the cutoff time or on a day that is not a Business Day will be processed on the next Business Day. We reserve the right to change Our In-Bank Funds Transfer cutoff time.

You acknowledge and agree that You may not amend or cancel an In-Bank Funds Transfer after Bank has received it. In the event You request for Bank to amend or cancel an In-Bank Funds Transfer that has been received, Bank may, in its sole and unfettered discretion, make a reasonable effort to act upon Your request. Under such circumstances, You acknowledge and agree that Bank is not liable to You in the event the In-Bank Funds Transfer cannot be amended or canceled, for any reason. Furthermore, You acknowledge and agree to indemnify and reimburse Bank for any losses We incur which may result from Your request to amend or cancel an In-Bank Funds Transfer.

### **Optional Zelle® Service**

If You elect to use the optional Zelle® Service that is offered by Us as part of the Online, You understand that Your use of the Zelle Service (as that term is defined below) is subject to the separate "Zelle Terms of Service" that We shall provide to You when You register for the Zelle Service. Proceeding with using the Zelle Service constitutes Your agreement to the Zelle Terms of Service

We have partnered with the Zelle Network ("Zelle") to enable a convenient way to transfer money between You and others who are enrolled directly with Zelle or enrolled with another financial institution that partners with Zelle (each, a "User") using aliases, such as email addresses or mobile phone numbers (the "Zelle Service" or "Zelle Services"). Financial institutions that have partnered with Zelle are referred to as "Network Banks." Zelle provides no Deposit Account or other financial services. Zelle neither transfers, nor moves money. You may not establish a financial account with Zelle of any kind. All money will be transmitted by a Network Bank.

### **How to Manage Your Account**

The Account Services section of the Online Banking website is available for customers to perform administrative functions at Texas Capital Bank such as reordering checks and deposit slips, request a debit card, request a cashier's check, etc.



The following is a partial list of functions currently available through Online Banking. As options are frequently altered and added, please see the website for the most current functionality.

- Send/receive secure emails
- Apply for a Visa® Debit Card
- Reorder checks
- Reorder deposit slips
- Request a wire Transfer
- Update Your account information
- View Statements
- Request a domestic or international wire
- Transfer funds

The first time You enter the Online Banking system You will be prompted to change the temporary password to one only You know. Your password must be:

- Minimum of 8 characters
- Case-sensitive
- Alphanumeric

Remember to protect Your password just as You do Your ATM PIN, and change it often. If You forget Your username and/or password, call Client Support. You will be asked questions based on the personal information You provided when You opened Your account. If Your answers confirm this information, Your Online Banking username and/or password will be reset.

#### **Use of Texas Capital Bank Bill Center Service**

The Texas Capital Bank Bill Center Service permits you to send funds: (a) to a person or entity to which you wish a payment to be directed or the entity from which you receive electronic bills (each person or entity, a “Payee”); (b) to other persons with accounts outside of Texas Capital Bank; and (c) to your other accounts (persons described in (b) and (c), each a “Non-Biller Payee(s)”). The Bill Center Service reserves the right to select the method in which to remit funds on your behalf to your Payee or Non-Biller Payee. These payment methods may include, but may not be limited to, an electronic payment, an electronic to check payment, or a laser draft payment.

#### **Payment Scheduling**

To schedule a payment, you must select a date your payment will be sent (such date, the “Send Date”) or delivered (such date, the “Delivery Date”) for each Payee. This will determine the date for your Payee to receive the payment (the “Deliver By Date”). When scheduling such payments, you must select a Send Date or Delivery Date that results in a Deliver By Date which is no later than the date reflected on your Payee statement/bill/invoice/etc. for which the payment is due (the “Due Date”) unless the Due Date falls on a weekend or holiday, (“Non-Business Day”). If the actual Due Date falls on a Non-Business Day, the Deliver By Date will be the next Business Day. All Deliver by Dates must be prior to any late date or grace period permitted by the Payee.

The necessary funds must be made available in the checking account from which bill payments will be debited (your “Payment Account”) on the business day before the Deliver By Date.

The earliest possible Deliver By Date for each Payee (typically one (1) to four (4) Business Days from the current date if the Payee is capable of receiving the payment electronically or up to ten (10) Business Days if the Payee is not capable of receiving the payment electronically) will be designated within the Bill Center Service when you are scheduling the payment. Therefore, the Bill Center Service

will not permit you to select a Deliver By Date prior to the earliest possible Deliver By Date designed for the Payee.

You may choose to schedule payments to recur in the same amount at regular weekly, every other week, every four (4) weeks, monthly, twice monthly, semi-monthly, every three (3) months, every six (6) months, or annual intervals. When you create a new Payee in the Bill Center Service, it may take two (2) Business Days to set up the Payee to receive payments. You should schedule a payment to a new Payee at least fourteen (14) Business Days before any payment Due Date, to allow the Bill Center Service time to set up the Payee and verify information about your account with the Payee. For all subsequent payments, you agree to allow at least four (4) to fourteen (14) days between the Send Date or Delivery Date and the payment Due Date.

If you schedule a payment or transfer after 4:00 pm Central Standard Time (CT) on a Business Day (the “Cut Off Time”), the Bill Center Service will be considered to have received it on that day. Otherwise, it will be considered received on the next Business Day.

#### **Bill Center Service Guarantee**

Due to circumstances beyond the control of the Bill Center Service, particularly delays in handling and posting payments by the Payee, Non-Biller Payee, or financial institutions, some payments may take longer to be credited to your Payee’s or Non-Biller Payee’s account. We and our third party service providers assume no liability for the late posting or misapplication of a payment once funds are received by the Payees or Non-Biller Payees. However, if the payment to a Payee is not executed on time or in the correct amount as you properly instructed in the Payment Instruction, then any late fees or finance charges, up to a maximum of \$50, you incur as a result will be reimbursed to your checking account upon a showing of reasonable proof, and provided that your Accounts are in good standing with us and the Payee prior to the incident.

#### **Payment Authorization and Payment Remittance**

By providing the Bill Center Service with names, contact information, and/or account information of Payees and Non-Biller Payees to whom you wish to direct payments, you authorize the Bill Center Service to follow the payment information provided by you for a payment to be made to a Payee or Non-Biller Payee (such as, but not limited to, Payee/Non-Biller Payee name, Payee/Non-Biller Payee contact information, Payee/Non-Biller Payee account number, and Send Date or Delivery Date) (such information, “Payment Instructions”) that it receives through the payment system. In order to process payments more efficiently and effectively, the Bill Pay Service may edit or alter payment data or data formats in accordance with Payee or Non-Biller Payee directives. When any payment or other online service generates Items to be charged to your Checking Account, you agree that the Bill Center Service may debit your Checking Account without requiring your signature on the Item and without prior notice to you. When the Bill Center Service receives a Payment Instruction, you authorize the Bill Center Service to debit your Checking Account and remit funds on your behalf so that the funds arrive as close as reasonably possible to the Delivery Date designated by you. You also authorize the Bill Center Service to credit your Checking Account for payments returned to the Bill Pay Service by the U.S. Postal Service Non-Biller Payee, or Payee, or payments remitted to you on behalf of another authorized user of the Bill Center Service.

The Bill Center Service will use its best efforts to make all your payments properly. However, we and our third-party service provider shall incur no liability, and any Bill Center Guarantee shall be void, if the Bill Center Service is unable to complete any payments initiated by you because of the existence of any one or more of the following circumstances:

1. If your Checking Account does not contain sufficient funds to complete the transaction or the transaction would exceed the available funds or credit limit(s) of your Checking Account;
2. The payment processing center and/or Bill Center Service is not working properly and you know or, to the extent reasonably practicable, have been advised by us or our third-party service provider about the malfunction before you execute the transaction;

3. You have not provided the Bill Center Service with the correct payment Payment Instruction or account information, or the correct name, address, phone number, email address, or account information for the Payee or Non-Biller Payee; and/or,
4. Circumstances beyond control of the Bill Center Service (such as, but not limited to, fire, flood, or interference from an outside force) prevent the proper execution of the transaction.

Provided none of the foregoing exceptions are applicable and you have a Checking Account, if the Bill Center Service causes an incorrect amount of funds to be removed from your Checking Account or causes funds from your Checking Account to be directed to a Payee which does not comply with your Payment Instructions, the Bill Center Service shall be responsible for returning the improperly transferred funds to your Checking Account, and for directing to the proper Payee any previously misdirected transactions, and, if applicable, for any late payment related charges.

#### **Prohibited Transactions**

You agree not to use or attempt to use the Bill Center Service: (a) to engage in any illegal purpose or activity or to violate any applicable law, rule or regulation, (b) to breach any contract or agreement by which you are bound, (c) to engage in any internet or online gambling transaction, whether or not gambling is legal in any applicable jurisdiction, (d) to engage in any activity or business that would result in you being or becoming a “money service business” as defined in Bank Secrecy Act and its implementing regulations, or (e) to engage in any transaction or activity that is not specifically authorized and permitted by this Agreement. You acknowledge and agree that Texas Capital Bank has no obligation to monitor your use of the Bill Center Service for transactions and activity that are impermissible or prohibited under the terms of this Agreement; provided, however, that Texas Capital Bank reserves the right to decline or refuse to execute any transaction you submit. **PAYMENTS TO PAYEES AND NON-BILLER PAYEES OUTSIDE OF THE UNITED STATES OR ITS TERRITORIES ARE PROHIBITED THROUGH THE BILL CENTER SERVICE.**

#### **Payment Changes and Cancellations**

You may cancel or edit any scheduled payment (including recurring payments) by following the directions within the Bill Center Service. There is no charge for canceling or editing a scheduled payment. Cancellations or changes to a scheduled payment received prior to the Cut-Off Time on or prior to the date the money is debited from your checking account, will be processed on the day received (or on such other later date as you may select). Cancellations or changes received after the Cut Off Time on any day prior to the date the money is debited from your Account (or on a day which is not a Business Day), will be processed the following Business Day (or on such other late date as you may select). Once the Bill Center Service has begun processing a payment it cannot be canceled or edited, therefore, a stop payment request must be submitted. The Bill Center Service's ability to process a stop payment request will depend on the payment method and whether or not a check has cleared. Notwithstanding, the Bill Center Service may not have a reasonable opportunity to act on any stop payment request after a payment has been processed. If you desire to stop any payment that has already been processed, you must contact Client Support. Although we will make every effort to accommodate your request, neither we or our third party service providers will have any liability for failing to do so. We may also require you to present your request in writing within fourteen (14) days. The charge for each stop payment request will be the current charge set out in the Fee Schedule.

#### **Exception Payments**

Tax payments, alimony, child support, and any other court-ordered, court directed, or government payments, fines, or penalties may be scheduled through the Bill Center Service; however, such payments are discouraged and must be scheduled at your own risk. Notwithstanding anything contained herein, in no event shall we or our third party service provider be liable for any claims or damages resulting from your scheduling of these types of payments and the Bill Center Service Guarantee as it applies to any late payment-related charges to a Payee is void when these types of payments are scheduled and/or processed by the Bill Center Service. The Bill Center Service has no obligation to research or resolve any claim resulting from an exception payment described herein. All research and resolution for any

misapplied, misposted, misdirected payments will be the sole responsibility of you and not of us or our third party service providers.

#### **Failed or Returned Payments**

In using the Bill Center Service, you are requesting the Bill Center Service to make payments for you from your Checking Account. If we are unable to complete the transaction for any reason associated with your Checking Account (for example, there are insufficient funds in your Checking Account to cover the transaction), the transaction will not be completed. In some instances, you will receive a return notice from the Bill Center Service. In such case, you agree that:

1. You will reimburse the Bill Center Service immediately upon demand the transaction amount that has been returned to the Bill Center Service;
2. You will reimburse the Bill Center Service for any fees imposed by us as a result of the return;
3. You will reimburse the Bill Center Service for any fees it incurs in attempting to collect the amount of the return from you; and,
4. The Bill Center Service is authorized to report the facts concerning the return to any credit reporting agency.

In using the Bill Center Service, you understand that Payees/Non-Biller Payees and/or the U.S. Postal Service may return payments to the Bill Center Service for various reasons such as, but not limited to, Payee's/Non-Biller Payee's forwarding address expired; Payee/Non-Biller Payee account number is not valid; Payee/Non-Biller Payee is unable to locate account; or Payee/Non-Biller Payee account is paid in full. The Bill Center Service will use its best efforts to research and correct the returned payment and return it to your Payee/Non-Biller Payee, or void the payment and credit your Account. You may receive communication from the Bill Center Service.

#### **Bill Center Service Fees**

Any fees associated with the Bill Center Service are disclosed in Texas Capital Bank's Fee Schedules. Any applicable fees will be charged regardless of whether the Bill Center Service was used during the billing cycle. You agree to pay such charges and authorize the Bill Center Service to deduct the calculated amount from your Account for these amounts and any additional charges that may be incurred by you. Any financial fees associated with your Accounts will continue to apply. You are responsible for any and all telephone access fees and/or internet service fees that may be assessed by your telephone and/or internet service provider.

#### **Bill Delivery and Presentment**

This feature is for the presentment of electronic bills only and it is your sole responsibility to contact your Payees directly if you do not receive your statements. In addition, if you elect to activate one of the Bill Center Service's electronic bill options, you also agree to the following:

1. Information Provided to the Payee. The Bill Center Service is unable to update or change your personal information such as, but not limited to, name, address, phone numbers and e-mail addresses, with the electronic Payee. Any changes will need to be made by contacting the Payee directly. Additionally it is your responsibility to maintain all usernames and passwords for all electronic Payee sites. You also agree not to use someone else's information to gain unauthorized access to another person's bill. The Bill Center Service may, at the request of the Payee, provide to the Payee your e-mail address, service address, or other data specifically requested by the Payee at the time of activating the electronic bill for that Payee, for purposes of the Payee informing you about bill information.

2. Activation. Upon activation of the electronic bill feature the Bill Center Service may notify the Payee of your request to receive electronic billing information. The presentment of your first electronic bill may vary from Payee to Payee and may take up to sixty (60) days, depending on the billing cycle of each Payee. Additionally, the ability to receive a paper copy of your statement(s) is at the sole discretion of the Payee. While your electronic bill feature is being activated it is your responsibility to keep your accounts current. Each electronic Payee reserves the right to accept or deny your request to receive electronic bills.
3. Authorization to Obtain Bill Data. Your activation of the electronic bill feature for a Payee shall be deemed by us to be your authorization for us to obtain bill data from the Payee on your behalf. For some Payees, you will be asked to provide the Bank with your user name and password for that Payee. By providing us with such information, you authorize the us to use the information to obtain your bill data.
4. Notification. The Bill Center Service will use its best efforts to present all of your electronic bills promptly. In addition to notification within the Bill Center Service, the Bill Center Service may send an e-mail notification to the e-mail address listed for your Checking Account. It is your sole responsibility to ensure that this information is accurate. In the event you do not receive notification, it is your responsibility to periodically logon to the Bill Center Service and check on the delivery of new electronic bills. The time for notification may vary from Payee to Payee. You are responsible for ensuring timely payment of all bills.
5. Cancellation of Electronic Bill Notification. The electronic Payee reserves the right to cancel the presentment of electronic bills at any time. You may cancel electronic bill presentment at any time. The timeframe for cancellation of your electronic bill presentment may vary from Payee to Payee. It may take up to sixty (60) days, depending on the billing cycle of each Payee. The Bill Center Service will notify your electronic Payee(s) as to the change in status of your Checking Account and it is your sole responsibility to make arrangements for an alternative form of bill delivery. The Service will not be responsible for presenting any electronic bills that are already in process at the time of cancellation.
6. Non-Delivery of Electronic Bill(s). You agree to hold us and our third party service providers harmless should the Payee fail to deliver your statement(s). You are responsible for ensuring timely payment of all bills. Copies of previously delivered bills must be requested from the Payee directly.
7. Liability to Payees. This Agreement does not alter your liability or obligations that currently exist between you and your Payees.

#### **Disclaimer of Warranties**

YOU ACKNOWLEDGE AND AGREE THAT THE BILL CENTER SERVICE, ANY THIRD PARTY SOFTWARE MADE AVAILABLE TO YOU THROUGH TEXAS CAPITAL BANK, AND ANY RELATED UPDATES OR UPGRADES, ARE MADE AVAILABLE TO YOU THROUGH TEXAS CAPITAL BANK ON AN "AS IS" AND "AS AVAILABLE" BASIS. TEXAS CAPITAL BANK MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND TO YOU, WHETHER EXPRESS OR IMPLIED, REGARDING THE SERVICE OR ANY THIRD PARTY SOFTWARE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ACCURACY OR COMPLETENESS, OR FREEDOM FROM INFRINGEMENT OR MALICIOUS SOFTWARE OR CODE, COMPUTER VIRUS OR WORM, OR OTHER DISABLING ROUTINE, AND TEXAS CAPITAL BANK HEREBY DISCLAIMS ALL SUCH WARRANTIES. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, TEXAS CAPITAL BANK DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES THAT THE BILL CENTER SERVICE OR ANY THIRD PARTY SOFTWARE WILL OPERATE ON AN UNINTERRUPTED OR ERROR-FREE BASIS. TEXAS CAPITAL BANK SHALL NOT HAVE ANY LIABILITY TO YOU OF ANY KIND ARISING OUT OF YOUR

SELECTION OR USE OR NON-USE OF THE THIRD PARTY SOFTWARE OR ANY OTHER ALTERNATIVE PRODUCTS OR SERVICES, AND IN NO EVENT SHALL YOU BE ENTITLED TO RECOVER ANY DAMAGES AGAINST TEXAS CAPITAL BANK OF ANY KIND ARISING OUT OF YOUR USE OF THE SERVICE OR YOUR SELECTION OR USE OR NON-USE OF THE THIRD PARTY SOFTWARE OR ANY OTHER ALTERNATIVE PRODUCTS OR SERVICES, INCLUDING DIRECT, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR SPECIAL DAMAGES (WHETHER IN CONTRACT, TORT OR OTHERWISE), EVEN IF YOU HAVE ADVISED THE BANK OF THE POSSIBILITY OF SUCH DAMAGES. NOTHING IN THE FOREGOING IS INTENDED TO ALTER ANY RIGHT OR REMEDY YOU MAY BE ENTITLED TO PURSUANT TO ANY WRITTEN AGREEMENT BETWEEN YOU AND THE APPLICABLE THIRD PARTY SERVICE PROVIDER OF ANY APPLICABLE THIRD PARTY TOOL.

IN NO EVENT SHALL WE OR OUR AFFILIATES OR THIRD PARTY SERVICE PROVIDERS OR THE EMPLOYEES OR CONTRACTORS OF ANY OF THESE BE LIABLE FOR ANY CLAIM ARISING FROM OR RELATED TO THE BILL CENTER SERVICE THAT YOU DO NOT BRING WITHIN TWO (2) YEARS OF THE DATE THAT THE EVENT GIVING RISE TO THE CLAIM OCCURRED. THESE LIMITATIONS WILL APPLY TO ALL CAUSES OF ACTION, WHETHER ARISING FROM BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY. THE FOREGOING TERMS SHALL CONSTITUTE THE THIRD PARTY SERVICE PROVIDERS AND THE TEXAS CAPITAL BANK'S ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY. IN NO EVENT SHALL THE THIRD PARTY SERVICE PROVIDER OR TEXAS CAPITAL BANK BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING LOST PROFITS (EVEN IF ADVISED OF THE POSSIBILITY THEREOF) ARISING IN ANY WAY OUT OF THE INSTALLATION, USE, OR MAINTENANCE OF THE EQUIPMENT, SOFTWARE, AND/OR THE BILL CENTER SERVICE.

#### **Address or Banking Changed**

It is your sole responsibility to ensure that the contact information in your user profile is current and accurate. This includes, but is not limited to, name, address, phone numbers and email addresses. All changes made are effective immediately for scheduled and future payments paid from the updated Checking Account information. The Bill Center Service is not responsible for any payment processing errors or fees incurred if you do not provide accurate Checking Account or contact information.

#### **Payee/Non-Biller Payee Limitation**

The Bill Center Service reserves the right to refuse to pay any Payee or Non-Biller Payee to whom you may direct a payment. The Bill Center Service will notify you promptly if it decides to refuse to pay a Payee or Non-Biller Payee designated by you. This notification is not required if you attempt to make a prohibited payment or an exception payment under this Agreement.

#### **Availability of the Bill Center Service**

Access to the Bill Center Service is generally available twenty-four (24) hours a day, seven (7) days a week, except during maintenance periods and during periods when access to the Bill Center Service is temporarily interrupted as a result of power outages, equipment and/or software malfunctions or failures. Texas Capital Bank will not be liable under this Agreement for failure to provide access. Subject to applicable law, we reserve the right to modify, suspend, or terminate access to all or any part of the Bill Center Service at any time and for any reason without notice or refund of previously incurred fees. To the extent reasonably practicable, Texas Capital Bank will attempt to notify you by posting a notice on our website in the event of any technical difficulties or other occurrence that may impede access to the Services for a prolonged period of time.



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