



Online Banking Agreement and Disclosure

This Online Banking Agreement and Disclosure ("Agreement") describes your rights and obligations as a user of the EB Online Banking service or the Bill Payment service ("Services"). It also describes the rights and obligations of Exchange Bank ("Bank"). Please read this Agreement carefully. By requesting and using one of these Services, you agree to comply with the terms and conditions of this Agreement.

I. Definitions

The following definitions apply in this Agreement:

1. "Authorized Representative" refers to a person with authority (with respect to the account);
2. "Bill Payment" is the online service that enables the scheduling of bill payments using a personal computer;
3. "ISP" refers to your Internet Service Provider;
4. "Online Banking" is the internet-based service providing access to your Bank account(s);
5. "Online Account" means the Bank account from which you will be conducting transactions using a Service;
6. "Password" is the customer-generated code selected by you for use during the initial sign-on, or the codes you select after the initial sign-on, that establishes your connection to the Service;
7. "PC" means your personal computer which enables you, with the Internet browser and ISP, to access your Online Account;
8. "Time of day" references are to Pacific Standard Time;
9. "User ID" is the Bank-generated identification code assigned to you for your connection to the Service;
10. "We", "us", or "Bank" refer to Bank Name which offers the Services and which holds the accounts accessed by the Services; and
11. "You" or "your" refers to the owner of the account or the authorized representative.

II. Access to Services

The Bank will provide instructions on how to use the Online Banking and Bill Payment Services.

You will gain access to your Online Accounts through the use of your Internet-enabled device, your ISP, your Password and your User ID. You may access your Online Accounts 24 hours a day, seven (7) days a week. However, availability of the Services may be suspended for brief periods of time for purposes of maintenance, updating and revising the software.

For purposes of transactions, the Bank's business days are Monday through Friday, excluding holidays and weekends. All Online Banking transaction requests received after 11:00 p.m. on business days and all transactions that are requested on Saturdays, Sundays, or holidays on which the Bank chooses to remain closed, will be processed on the Bank's next business day. The Bank's business day begins at 9:00 a.m.

III. Banking Transactions with Online Banking

- A. Account Access. You may access all of your personal accounts online, but one of these accounts must be a checking account in order to use the Bill Payment Service
- B. Transfer of Funds. In addition to viewing account information, you may use Online Banking to conduct the transfer of funds. You may make one-time transfers or schedule future or recurring transfers such as transfers to make loan payments. You may transfer funds among your checking accounts, savings accounts and money market accounts.

NOTE: Regulations require the Bank to limit preauthorized, automatic, on-line/mobile or telephone transfers, drafts, debit card or similar orders payable to third parties to six withdrawals on Savings and Money Market Accounts. Additional Services. New services may be introduced for Online Banking from time to time. The Bank will notify you of the existence of these new services. By using these services when they become available, you agree to be bound by the rules that will be made available to you concerning these services.

IV. Statements

You will continue to receive your regular account statement either monthly or quarterly, depending on the type of account.

V. Use of Your Security Password

You are responsible for keeping your password and Online Account information confidential. In order to protect yourself against fraud, you should adhere to the following guidelines:

- Do not give out your account information, Password, or User ID;
- Do not leave your PC unattended while you are in the Bank's Online Banking Site;
- Never leave your account information within range of others; and
- Do not send privileged account information (account number, Password, etc.) in any public or general e-mail system.

If you believe your password has been lost or stolen, or if you suspect any fraudulent activity on your account, call the Bank immediately at 707-524-3000 or 800-995-4066 between the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday. Telephoning the Bank is the best way of minimizing your losses and liability. (See: Section XII)

If you believe your Password has been lost or stolen, please use the Password change feature within the Online Banking section of the Web site to change your Password.

VI. **Electronic Mail (E-mail)**

If you send the Bank an e-mail message, the Bank will be deemed to have received it on the following business day. You should not rely on e-mail if you need to report an unauthorized transaction from one of your accounts or if you need to stop a payment that is scheduled to occur.

- **NOTE:** General e-mail transmissions are not secure. We advise you not to send us or ask for sensitive information such as account numbers, passwords, accounts information, etc. via e-mail. If you choose to contact us electronically, please use the secure E-Mail function available under “Messages” on our Online Banking site.

VII. **Bill Payment Services**

- **Description of Service.** The Bill Payment Service permits you to use your Internet-enabled device to direct payments from your designated online Bill Payment Account to third parties you wish to pay. Your Bill Payment Account must be a primary checking account. Through the Bill Payment Service, you can pay bills from your Bill Payment Account to businesses or individuals.

All payments you make will be deducted from the checking account that you designate as your Bill Payment Account for the Bill Payment Service. Any payments you wish to make through this Service must be payable in U.S. dollars to a payee located in the continental United States. We reserve the right to restrict types of payees to whom payments may be made using the Service from time to time. You should not use the Bill Payment Service to make payments to settle securities purchases, payments to interest bearing accounts, tax payments, or court ordered payments. Payments for these payees will be your sole responsibility if delayed or improperly processed or credited.

- A. **Scheduling Payments.** Funds must be available in your Bill Payment Account on the scheduled payment date. If the date you schedule a payment to be initiated falls on a non-business day (Saturday, Sunday, or holiday), funds must be available in your Bill Payment Account the following business day (e.g. Monday). After funds are withdrawn from your Bill Payment Account to make a payment, we may make the payment either by transferring funds electronically to the payee or by mailing the payee a check.

You may choose to schedule payments to recur in the same amount at regular weekly, monthly, or semi-monthly intervals. When you create a new payee in the Bill Payment Service, it takes two (2) business days to set up the payee to receive payments. You should schedule a payment to a new payee at least ten (10) business days before any payment due date, to allow us 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 ten (10) business days between the date you schedule a payment to be initiated and the payment due date (that is, the due date shown on your invoice or provided in your agreement with the payee, not taking into account any applicable grace period). If the payment is an Automatic Clearing House (ACH) electronic payment, it will take up to four (4) business days to reach the

payee. However, if the company or person that you are paying cannot accept an electronic payment, the Bill Payment Service will send a check that may take up to ten (10) business days. If you do not follow these time frames, you will be fully responsible for all late fees, finance charges or other actions taken by the payee. If you schedule your payment and follow all instructions provided, but the payment are not received by the payee in a timely manner, the Bank will work with the payee on your behalf to reverse any late fees or charges.

B. No Duty to Monitor Payments. The Bank is only responsible for exercising ordinary care in processing and sending payments upon your authorization in accordance with this Agreement. The Bank will not be liable in any way for damages you incur for any of the following reasons:

- insufficient funds in your Bill Payment Account to make the payment on the processing date;
- delays in mail delivery;
- changes to the payee's address or account number unless we've been advised of the change in advance
- the failure of any payee to correctly account for or credit the payment in a timely manner, or
- any other circumstances beyond the control of the Bank.

If the session during which you schedule a payment or transfer ends by 1:00 p.m., the Bank will be considered to have received it on that day. Otherwise, it will be considered received on the following business day. For all entries made using the Services, the time recorded by the Online Banking Service will be considered the official time of the transaction.

If your Bill Payment Account does not have sufficient funds to make a payment as of the date the payment is debited to your account, the Bill Payment Service will automatically block future Bill Payment Service until the account has sufficient funds to make the payment. The Bank will attempt to notify you by e-mail or U.S. Postal Mail, but the Bank shall have no obligation or liability if it does not complete a payment because there are insufficient funds in your account to process a payment. In all cases, you are responsible for either contacting the Service at 707-524-3000 or 800-995-4066 to either make alternate arrangements for the payment or reschedule the payment through the Service. In the case of fixed payments, only the payment currently scheduled will be impacted. Fixed payments scheduled for future dates will not be affected.

C. Cancel or Change Payment Instructions. Payments must be changed or canceled using the Service prior to 1:00 p.m. on the business day the transaction is scheduled to be initiated. If you ask us to cancel a payment after it is issued and we agree to do so, we may charge you a stop payment fee. Stop payment orders whether oral, written, or electronic, will be in effect for a period of six (6) months. If requested by the Bank, you will confirm any stop payment order in writing. After six (6) months, any stop payment will terminate and must be renewed in order to continue in effect. The Bank may pay any item that is presented following the lapse of any stop payment order.

D. No Signature Required. When any payment or other online Service generates items to be charged to your account, you agree that we may debit your Bill Payment account without requiring your signature on the item, and without prior notice to you.

- E. Multiple Person Bill Payment Accounts. If more than one person has access to a Bill Payment account, each person may individually enroll in the Bill Pay service. Each enrolled person needs a unique password but may choose to use the same payee list. Each individual may terminate her/his enrollment in the Bill Payment service without affecting the Service for any other person enrolled in that Bill Payment account. However, any enrolled person may terminate the Bill Payment service which will terminate the service for all enrolled persons on that Bill Payment account.

VIII. **Linked Accounts**

All accounts with the Bank that you enroll in a service will be linked by the tax identification numbers of the persons authorized to access the account. The linked accounts will appear together without regard to the ownership of the accounts. For example, if an authorized user of a linked account accesses the Service, that authorized user will be able to view and access at a single time the following accounts:

- the accounts of the business for which that person is an authorized user;
- the accounts of any other business for which that person is an authorized user; and
- any consumer accounts for which the person is a co-owner or authorized signer.

IX. **Business Accounts**

If you are a business, any authorized user of your business is authorized on such terms, conditions, and agreements as we may require to:

- enter into this Agreement, as amended from time to time;
- access each account of yours in any manner and for any purpose available through the Service, whether now available or available at some time in the future; and
- use any Online banking service in any manner and for any purpose available through the Service, whether now available or available at some time in the future.

X. **Term and Termination**

- Term. This Agreement will become effective on the Effective Date and shall remain in full force and effect until termination in accordance with the following provisions.
- A. Termination for Cause. We may immediately terminate your electronic banking privileges (including the Bill Payment Service) without notice to you under the following circumstances:
 1. you do not pay any fee required by this Agreement when due or
 2. you do not comply with the agreement governing your deposit or loan accounts or your accounts are not maintained in good standing.

We will promptly notify you if we terminate this Agreement or your use of the Services for any other reason.

B. Termination for Convenience. To terminate this Agreement, you must notify the Bank and provide your name, address, the Service(s) you are discontinuing, and the termination date of the Service(s). When Bill Payment is terminated, any prescheduled bill payments made through Online Banking will also be terminated. Your final charge for the Bill Payment service will be assessed at the end of your statement cycle. You may notify the Bank by one of the following methods:

- By sending an e-mail to support@exchangebank.com
- By calling 707-524-3000 or 800-995-4066
- By writing a letter and either sending it to the following address: Exchange Bank, P.O. Box 403, Santa Rosa, CA 95402, Attention: Electronic Banking Services Department 335 or giving it to a Customer Service Representative at any of the Bank's locations.

We may convert your account to inactive status if you do not sign on to the Service or have any transaction scheduled through the Service during any consecutive 180-day period. If your account is considered inactive, you must contact us to have the Service activated before you will be able to schedule any transaction through the Service. We reserve the right to terminate this Agreement and your use of the services in whole or in part at any time without cause and without prior notice; provided, however, that we will promptly notify you if we terminate this Agreement or your use of the services pursuant to this provision.

XI. **Electronic Fund Transfer Provisions For Consumers**

- Applicability. These provisions are only applicable to online electronic fund transfers that credit or debit a consumer's checking, savings or other asset account and are subject to the Federal Reserve Board's Regulation E (an "EFT"). When applicable, the Bank may rely on any exceptions to these provisions which are contained in Regulation E. All terms that are not defined in this Agreement but which are defined in Regulation E shall have the same meaning when used in this section.
- A. Your Liability. The following determines your liability for any unauthorized EFT or any series of related unauthorized EFTs:
1. If you notify the Bank within two (2) business days after your password was lost or stolen, your liability will not exceed \$50.00 or the amount of the unauthorized EFTs that occur before notification, whichever is less
 2. If you fail to notify the Bank within two (2) business days after your password was lost or stolen, your liability will not exceed the lesser of \$500.00 or the total of:
 - \$50.00 or the amount of unauthorized EFTs that occur within the two (2) business days; and
 - the total of authorized EFTs which occur during the two (2) days before notification to the Bank, provided the Bank establishes that these EFTs would not have occurred had the Bank been notified within that two-day period.
 3. You must report an unauthorized EFT which appears on your periodic statement, no later than 60 days of transmittal of the statement to avoid liability for subsequent transfers. Your liability will not exceed the amount of the unauthorized EFTs that occurred with the 60-day period. You may also be liable for the amounts as described in sections 1 and 2 above.

4. If the report is made orally, we may require that you send us your complaint or question in writing within 10 business days. We will notify you with the results of the investigation within 10 business days and will correct any error promptly. If more time is needed, however, we may take up to 45 days to investigate a complaint or question. If this occurs, we will credit your account within 10 business days for the amount you think is in error. This will allow you to use the money during the time it takes us to complete our investigation. If your complaint or question is not received in writing within 10 business days, we may not credit your account until the investigation is completed. If an alleged error involves an electronic fund transfer outside a state or territory or possession of the United States, the applicable time periods for action by us are 20 business days (instead of 10) and 90 calendar days (instead of 45). If we determine that no error occurred, we will send you a written explanation within three business days after the investigation is complete. You may request copies of the documents that were used in the investigation.
5. You may notify the Bank by telephone, writing, or in person. Notification by general e-mail to report an unauthorized transaction is not secure and therefore not advised.

B. Telephone Numbers and Addresses. In case of errors or questions regarding an Online Banking or Bill Payment transaction, call 707-524-3000 or 800-995-4066 or write us at: Exchange Bank, P.O. Box 403, Santa Rosa, CA 95402, Attn: Electronic Banking Services Department 335.

We must hear from you at the telephone number or address, listed above, no later than 60 days after we sent you the FIRST statement on which the problem or error appeared. We will need:

1. Your name and account number
2. A description of the error or the transfer in question and an explanation concerning why you believe it is an error or need more information
3. The dollar amount of the suspected error and date on which it occurred.

XII. **Liability**

- Our Liability. This section explains our liability to you only to the extent that any other agreements, notices or disclosures have not separately disclosed our liability. In no event shall we be liable to you for failure to provide access to your Online Banking or Bill Payment services accounts. Unless otherwise required by applicable law, we are only responsible for performing the Online Banking and Bill Payment services as delineated in this Agreement. We will be liable for the amount of any material losses or damages incurred by you and resulting directly from our gross negligence.

We will not be liable to you in the following instances:

1. If through no fault of the Bank, you do not have enough money in your account to make the transfer.
2. If circumstances beyond our control (such as fire, flood, power outage, equipment or technical failure or breakdown) prevents the transfer despite reasonable precautions that we have taken.

3. If there is a hold on your account, or if access to your account is blocked, in accordance with banking policy.
4. If your funds are subject to a legal proceeding or other encumbrance restricting the transfer.
5. If your transfer authorization terminates by operation of law.
6. If you believe someone has accessed your accounts without your permission and you fail to notify the Bank immediately.
7. If you have not properly followed the instructions on how to make a transfer included in this Agreement.
8. If we have received incomplete or inaccurate information from you or a third party involving the account or transfer.
9. If we have a reasonable basis for believing that unauthorized use of your Password or account has occurred or may be occurring or if you default under this Agreement, the deposit account agreement, a credit agreement or any other agreement with us, or if we or you terminate this Agreement.

IN NO EVENT SHALL WE HAVE ANY LIABILITY TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES RESULTING FROM OR ARISING OUT OF THIS AGREEMENT.

- A. Indemnification. You agree to indemnify, defend and hold us, our affiliate companies, directors, officers, employees and agents harmless against any third party claim, demand, suit, action or other proceeding and any expenses related to an Online Banking or Bill Payment account.
- B. Third Parties. We are not liable for any loss or liability resulting from any failure of your equipment or software, or that of an internet browser provider such as Netscape (Netscape Navigator browser) or Microsoft (Microsoft Explorer browser), by an internet access provider, or by an online service provider, nor will we be liable for any direct, indirect, special or consequential damages resulting from your access to or failure to access an Online Banking or Bill Payment account.
- C. Virus Protection. The Bank is not responsible for any electronic virus or viruses that you may encounter. We suggest that you routinely scan your PC using a virus protection product. An undetected virus may corrupt and destroy your programs, files, and your hardware.

XIII. **General Terms and Conditions**

- Bank Agreements. In addition to this Agreement, you and the Bank agree to be bound by and comply with the requirements of the agreements applicable to each of your Online Accounts. Your use of the Online Banking Service or the Bill Payment Service is your acknowledgment that you have received these agreements and intend to be bound by them. You should review other disclosures including the charges that may be imposed for electronic funds transfers or the right to make transfers listed in the fee schedules accompanying those disclosures and the fee schedule contained in this Agreement. We will automatically deduct the fees related to this Service from your Bill Payment Account each month.

- A. Changes and Modifications. The Bank may modify the terms and conditions applicable to the Services from time to time. We may send any notice to you via e-mail and you will have to be deemed to have received it three days after it is sent. The revised terms and conditions shall be effective at the earliest date allowed by applicable law. We reserve the right to terminate this Agreement and your use of the Services in whole or in part at any time without prior notice.
- B. Assignment. We may assign this Agreement to an affiliate of the Bank or any successor in interest in the event of a merger, reorganization, change of control, acquisition or sale of all or substantially all assets of the business to which this Agreement is related without the other party's prior written consent.
- C. Notices. Unless otherwise required by applicable law, any notice or written communication given pursuant to this Agreement, may be sent to you electronically.
- D. Disclosure of Information. We will only disclose information to third parties about your account or transfers you make under the following circumstances:
- where it is necessary for the provision of Online Banking and for completing transfers;
 - in order to verify the existence and condition of your account for a third party, such as a credit bureau or merchant;
 - in order to comply with government or court orders, or other reporting requirements;
 - if you give us your permission;
 - to the Bank affiliated companies.
- E. Governing Law. This Agreement is governed by the laws of the State of California and applicable federal law.

XIV. ELECTRONIC FUND TRANSFERS YOUR RIGHTS AND RESPONSIBILITIES

This Electronic Fund Transfer disclosure does not apply to any accounts other than consumer accounts, as defined by Regulation E.

Indicated below are types of Electronic Fund Transfers we are capable of handling, some of which may not apply to your account. Please read this disclosure carefully because it tells you your rights and obligations for the transactions listed. You should keep this notice for future reference.

Electronic Fund Transfers Initiated By Third Parties. You may authorize a third party to initiate electronic fund transfers between your account and the third party's account. These transfers to make or receive payment may be one-time occurrences or may recur as directed by you. These transfers may use the Automated Clearing House (ACH) or other payments network. Your authorization to the third party to make these transfers can occur in a number of ways. For example, your authorization to convert a check to an electronic fund transfer or to electronically pay a returned check charge can occur when a merchant provides you with notice and you go forward with the transaction (typically, at the point of purchase, a merchant will post a sign and print the notice on a receipt). In all cases, these third party transfers will require you to provide the

third party with your account number and bank information. This information can be found on your check as well as on a deposit or withdrawal slip. Thus, you should only provide your bank and account information (whether over the phone, the Internet, or via some other method) to trusted third parties whom you have authorized to initiate these electronic fund transfers. Examples of these transfers include, but are not limited to:

- Preauthorized credits. You may make arrangements for certain direct deposits (such as Social Security payment or automated payroll check) to be accepted into your checking or savings account(s).
- Preauthorized payments. You may make arrangements to pay certain recurring bills from your checking or savings account(s).
- Electronic check conversion. You may authorize a merchant or other payee to make a one-time electronic payment from your checking account using information from your check to pay for purchases or pay bills.
- Electronic returned check charge. You may authorize a merchant or other payee to initiate an electronic funds transfer to collect a charge in the event a check is returned for insufficient funds.

24 Hour Account Information Service Telephone Transfers - types of transfers

You may access your account by telephone 24 hours a day at 866.506.9583 using your personal identification number, a touch tone phone, and your social security number, to:

- transfer funds from checking to checking
- transfer funds from checking to savings
- transfer funds from savings to checking
- transfer funds from savings to savings
- make payments from checking to loan accounts with us
- make payments from savings to loan accounts with us
- get information about:
 - the account balance of checking account(s)
 - deposits to checking accounts
 - withdrawals from checking accounts
 - the account balance of savings account(s)
 - deposits to savings accounts
 - withdrawals from savings accounts

ATM Transfers - STAR™, PLUS™, and MAESTRO™ Networks - types of transfers, frequency and dollar limitations, and charges

You may access your account(s) by ATM using your Debit Card and personal identification number or ATM Card and personal identification number, to:

- make deposits to checking or savings account(s)

Deposits are not accepted at Allpoint ATMs.

- get cash withdrawals from checking or savings account(s)
- you may make no more than ten withdrawals per day. Transaction type limitations per the Truth in Savings Disclosure apply.
- there is a charge of \$1.50 per transaction at ATMs we do not own or operate, unless a participating Allpoint ATM is used.

There is no fee when withdrawing money, using a Debit Card at participating Allpoint ATMs.

- Currency conversion fees may apply at Allpoint ATMs.
- ATM cards cannot be used fee-free at Allpoint ATMs.
 - transfer funds from savings to checking account(s)
 - transfer funds from checking to savings account(s)
- get information about:
 - the account balance of your checking or savings account(s).
 - there is a charge of \$1.00 per inquiry at ATMs we do not own or operate.

Some of these services may not be available at all terminals.

Types of ATM Card/Debit Card Point-of-Sale Transactions - You may access your checking account(s) to purchase goods (in person, online, or by phone), pay for services (in person, online, or by phone), get cash from a merchant, (if the merchant permits) or from a participating financial institution, and do anything that a participating merchant will accept.

Point-of-Sale Transactions - frequency and dollar limitations - Using your card:

- you may make no more than ten transactions per day.

Changes to your card limits

We may, without telling you, increase your daily purchase or ATM withdrawal limit based on account history, activity, and other factors. If we decrease the limits of your card, we will notify you in accordance with applicable regulations. We may restrict access to your card if fraudulent activity is suspected.

Card Services

If you have requested or obtained an ATM Card or Debit Card (Card) from the Bank, this disclosure will apply to all EFT activity occurring as a result of the use of that Card.

Each Person whose name appears on the Card or account agreement for an account which has been designated as accessible through the use of the Card jointly and severally agree to use the Card and an automatic teller machine (ATM) only for the purposes authorized by the Bank and in accordance with this agreement.

You understand that even if your deposit account agreement otherwise requires more than one signature for authorizing withdrawals, anyone who has been given a Card and a personal identification number (PIN) has the right and ability, acting alone, to access any account linked to the Card.

You agree to pay any checking and savings account charges resulting from withdrawals or transfers from your checking and savings accounts through use of your Card at branch cash machines, non-branch cash machines, or point of sale locations.

Currency Conversion and Cross-Border Transaction Fees. If you effect a transaction with your MasterCard®-branded Debit Card in a currency other than US Dollars, MasterCard will convert the charge into a US Dollar amount. The MasterCard currency conversion procedure includes use of either a government- mandated exchange rate, or a wholesale exchange rate selected by MasterCard. The exchange rate MasterCard uses will be a rate in effect on the day the transaction is processed. This rate may differ from the rate in effect on the date of purchase or the date the transaction was posted to your account.

MasterCard charges us a Currency Conversion Assessment of 20 basis points (.2% of the transaction) for performing the currency conversion. In addition, MasterCard charges us an Issuer Cross-Border Assessment of 100 basis points (1.0% of the transaction) on all cross-border transactions regardless of whether there is a currency conversion. A cross-border transaction is a transaction processed through the Global Clearing Management System or the MasterCard Debit Switch in which the country of the merchant is different than the country of the cardholder.

Advisory Against Illegal Use. You agree not to use your card(s) for illegal gambling or other illegal purpose. Display of a payment card logo by, for example, an online merchant does not necessarily mean that transactions are lawful in all jurisdictions in which the cardholder may be located.

XIV. MOBILE REMOTE DEPOSIT SERVICES

Exchange Bank

REMOTE DEPOSIT CAPTURE SERVICES TERMS AND CONDITIONS

In this Disclosure and Agreement, the words “I,” “me,” “my,” “us” and “our” mean the (consumer or business) that applied for and/or uses any of the Remote Deposit Capture Services (the “Services”) described in this Disclosure and Agreement. The words “you,” “your,” and “yours” mean (Exchange Bank). My Application for use of the Remote Deposit Capture Services, your notification of approval of my application, and my Exchange Bank Account Disclosures are hereby incorporated into and made a part of this Disclosure and Agreement. In the event of a discrepancy between this Disclosure and Agreement and my Application, your approval, or the Account Agreement, this Disclosure and Agreement will control.

Use of the Services. Following receipt of your notification approving my use of the Services, I am authorized by you to remotely deposit paper checks I receive to my account with you (the "Account") by electronically transmitting a digital image of the paper checks to you for deposit. My use of the Services constitutes my acceptance of the terms and conditions of this Disclosure and Agreement. I agree to comply with the hardware and software requirements set forth in the "System Requirements" (Upon receipt of the digital image, you will review the image for acceptability. I understand and agree that receipt of an image does not occur until after you notify me of receipt of the image via onscreen messaging and/or email notification. I understand that, in the event I receive a notification from you confirming receipt of an image, such notification does not mean that the image contains no errors or that you are responsible for any information I transmit to you. You are not responsible for any image that you do not receive. Following receipt of the image, you may process the image by preparing a "substitute check" or clearing the item as an image. Notwithstanding anything to the contrary, you reserve the right, within your sole and absolute discretion, to accept or reject any item for remote deposit into my Account. I understand that any amount credited to my Account for items deposited using the Services is a provisional credit and I agree to indemnify you against any loss you suffer because of your acceptance of the remotely deposited check.

The software provided by Financial Institution to Customer contains software provided by one or more third parties ("Third Party Software") under contract with Financial Institution (each a "Third Party")

Restrictions. Customer agrees that it will not itself, and will not permit any parent, subsidiary, affiliate, agent or other third party to: (1) sell, provide, distribute, lease, rent, lend, relicense, sublicense, or display Third Party Software or related documentation except as necessary to utilize the Software for mobile check deposits; (ii) decompile, disassemble, reverse engineer or attempt to reconstruct the Third Party Software, identify or discover any source code, trade secret, know-how, or ideas underlying user interface techniques or algorithms of Third Party Software by any means whatsoever, or disclose any of the foregoing; (iii) create any derivative works or any other software program based upon Third Party Software or related documentation or modify Third Party Software in any way; or (iv) use Third Party Software or documentation to develop or enhance any product that competes with Third Party Software.

Intellectual Property. Financial Institution or the Third Parties, as the case may be, retain all rights, title and interests, including intellectual property rights, in and to the Third Party Software and services, any improvements, translations, modifications or derivatives thereof, and any related documentation provided or made available to Customer, including all intellectual property rights therein. Customer acknowledges that the Third Party Software and related documentation contain copyrighted material, trade secrets, and other material that is proprietary to one or more Third Parties. Except as expressly stated herein, this Agreement does not grant Customer any intellectual property rights in the Third Party Software, services, or any related documentation or materials and all rights not expressly granted herein are reserved by Financial Institution and the Third Parties. Customer agrees to assign, and hereby does assign, to the Third Party all rights, title and interest, including all intellectual property rights, in any ideas, modifications, enhancements, improvements, inventions, works of authorship or any other suggestions that Customer or any of its employees or agents propose, create, author or develop relating to that Third Party's Software or services, and will take all necessary action, including execution of relevant documents, to perfect such party's ownership thereof.

Guarantee Specific to Deposits Received for Credit to a Business Account. My use of the Services for the purpose of depositing to a Business Account constitutes my understanding and agreement that I may be personally liable for any expenses Exchange Bank incurs in attempting to obtain final payment for the item in question, outside of the routine costs associated with item processing, in the event of a default by the Business. This includes but is not limited to recovery of the amount credited in the event of non-payment, collection costs and attorney's fees as applicable, as well as any and all costs associated with Exchange Bank enforcing this Guarantee. This Guarantee shall benefit the Exchange Bank and its successors and assigns.

Compliance with Law. Customer represents, warrants, and covenants that it will comply with all applicable laws, rules, regulations and prevalent industry standards in their use of Third Party Software, including compliance with applicable requirements under state and federal laws and regulations related to data security and nonpublic personal information, as defined or used in such applicable law or regulation

Check Requirements. Any image of a check that I transmit to you must accurately and legibly provide all the information on the front and back of the check at the time presented to me by the drawer. Prior to capturing the original check, I will indorse the back of the original check. My endorsement will include my name and the verbiage for "mobile deposit at Exchange Bank" The image of the check transmitted to you must accurately and legibly provide, among other things, the following information: (1) the information identifying the drawer and the paying bank that is preprinted on the check, including complete and accurate MICR information and the signature(s); and (2) other information placed on the check prior to the time an image of the check is captured, such as any required identification written on the front of the check and any endorsements applied to the back of the check. The image quality for the check will meet the standards for image quality established by the American National Standards Institute ("ANSI"), the Board of Governors of the Federal Reserve, and any other regulatory agency, clearing house or association.

Rejection of Deposit. You are not liable for any service or late charges levied against me due to your rejection of any item. In all cases, I am responsible for any loss or overdraft plus any applicable fees to your Account due to an item being returned.

Items Returned Unpaid. A written notice will be sent to me of transactions you are unable to process because of returned items. With respect to any item that I transmit to you for remote deposit that you credit to my Account, in the event such item is dishonored, I authorize you to debit the amount of such item from the Account.

Email Address. I agree to notify you immediately if I change my email address, as this is the email address where you will send me notification of receipt of remote deposit items.

Unavailability of Services. I understand and agree that the Services may at times be temporarily unavailable due to the Financial Institution's system maintenance or technical difficulties including those of the Internet service provider, cellular service provider and Internet software.

In the event that the Services are unavailable, I acknowledge that I can deposit an original check at your branches or through your ATMs. It is my sole responsibility to verify that items deposited using the Services have been received and accepted for deposit by you.

Funds Availability. I understand and agree that, for purposes of deposits made using the Services, the place of deposit is Santa Rosa, California. With regard to the availability of deposits made using the Services, such funds will be available as set forth below.

Accountholder's Warranties. I make the following warranties and representations with respect to each image of an original check I transmit to you utilizing the Services:

1. Each image of a check transmitted to you is a true and accurate rendition of the front and back of the original check, without any alteration, and the drawer of the check has no defense against payment of the check.
2. The amount, the payee, signature(s), and endorsement(s) on the original check are legible, genuine, and accurate
3. I will not deposit or otherwise endorse to a third party the original item (the original check) and no person will receive a transfer, presentment, or return of, or otherwise be charged for, the item (either the original item, or a paper or electronic representation of the original item) such that the person will be asked to make payment based on an item it has already paid.
4. Other than the digital image of an original check that I remotely deposit through your Services, there are no other duplicate images of the original check.
5. I have instituted procedures to ensure that each original check was authorized by the drawer in the amount stated on the original check and to the payee stated on the original check.
6. I am authorized to enforce each item transmitted or am authorized to obtain payment of each item on behalf of a person entitled to enforce such transmitted item.
7. The information I provided in my Application remains true and correct and, in the event any such information changes, I will immediately notify you of the change.
8. I have not knowingly failed to communicate any material information to you.
9. I have possession of each original check deposited using the Services and no party will submit the original check for payment.
10. Files and images transmitted to you will contain no viruses or any other disabling features that may have an adverse impact on your network, data, or related systems.

Storage of Original Checks. I must securely store each original check. If I am using the Service to deposit items into an account in the name of a Business to which I am a party I understand this means the original check(s) must be accessible only [under dual control] by my authorized personnel, that I deposit using the Services for a period of 14 days after transmission to you. Persons who have access to the stored checks must be fully bondable and have passed a thorough screening. After such period expires, I will destroy the original check. I understand and agree that I am responsible for any loss caused by my failure to secure the original checks.

Securing Images on Mobile Devices. When using Mobile Deposit, I understand that check images captured using my mobile device are stored on the device only until the associated deposit has been successfully submitted. I agree to promptly complete each deposit. In the event that I am unable to promptly complete my deposit, I agree to ensure that my mobile device remains securely in my possession until the deposit has been completed or to delete the associated images from the application.

Accountholder's Indemnification Obligation. I understand and agree that I am required to indemnify you and hold you harmless against any and all claims, actions, damages, liabilities, costs, and expenses, including reasonable attorneys' fees and expenses arising from my use of the Services and/or breach of this Disclosure and Agreement. I understand and agree that this paragraph shall survive the termination of this Agreement.

In Case of Errors. In the event that I believe there has been an error with respect to any original check or image thereof transmitted to you for deposit or a breach of this Agreement, I will immediately contact you regarding such error or breach as set forth below.

Telephone you at: 707-524-3000 or 800-995-4066

IN NO EVENT WILL ANY THIRD PARTY BE LIABLE HEREUNDER FOR AN AMOUNT EXCEEDING THE LESSER OF THE ACTUAL DAMAGES INCURRED BY CUSTOMER OR THE FEES PAID BY CUSTOMER FOR USE OF THE RESPECTIVE THIRD PARTY SOFTWARE IN THE TWELVE (12) MONTHS PRIOR TO WHEN THE EVENT GIVING RISE TO THE LIABILITY TOOK PLACE, WHETHER IN CONTRACT, TORT, OR OTHERWISE.

IN NO EVENT WILL A THIRD PARTY BE LIABLE FOR ANY LOSS OF PROFITS, OR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR OTHER CONSEQUENTIAL DAMAGES (INCLUDING ANY DAMAGES RESULTING FROM LOSS OF USE, LOSS OF DATA, OR LOSS OF BUSINESS) IN CONNECTION WITH ANY MATTER ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Charges for Use of the Services. All charges associated with the Services are disclosed in the Fee Schedule.

Warranties. I UNDERSTAND THAT THE FINANCIAL INSTITUTION DOES NOT MAKE ANY WARRANTIES ON EQUIPMENT, HARDWARE, SOFTWARE OR INTERNET PROVIDER SERVICE, OR ANY PART OF THEM, EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE FINANCIAL INSTITUTION IS NOT RESPONSIBLE FOR ANY LOSS, INJURY OR DAMAGES, WHETHER DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL, CAUSED BY THE INTERNET PROVIDER, ANY RELATED SOFTWARE, OR THE FINANCIAL INSTITUTION'S USE OF ANY OF THEM OR ARISING IN ANY WAY FROM THE INSTALLATION, USE, OR MAINTENANCE OF MY PERSONAL COMPUTER HARDWARE, SOFTWARE, OR OTHER EQUIPMENT.

Change in Terms. You may change the terms and charges for the Services indicated in this Disclosure and Agreement by notifying me of such change in writing and may amend, modify, add to, or delete from this Disclosure and Agreement from time to time. My use of the Services after receipt of notification of any change by you constitutes my acceptance of the change.

Termination of the Services. I may, by written request, terminate the Services provided for in this Disclosure and Agreement. You may terminate my use of the Services at any time upon written notice. In the event of termination of the Services, I will remain liable for all transactions performed on my Account.

Relationship to Other Disclosures. The information in these Disclosures applies only to the Services described herein. Provisions in other disclosure documents, as may be revised from time to time, remain effective for all other aspects of the Account.

Governing Law. I understand and agree that this Disclosure and Agreement and all questions relating to its validity, interpretation, performance, and enforcement shall be governed by and construed in accordance with the internal laws of the (California), notwithstanding any conflict-of-laws doctrines of such state or other jurisdiction to the contrary. I also agree to submit to the personal jurisdiction of the courts of the (California).

Periodic Statement. Any remote deposits made through the Services will be reflected on my monthly account statement. I understand and agree that I am required to notify you of any error relating to images transmitted using the Services by no later than 30 days after I receive the monthly periodic statement that includes any transaction I allege is erroneous. I am responsible for any errors that I fail to bring to your attention within such time period.

Limitations on Frequency and Dollar Amount. I understand and agree that I cannot exceed the limitations on frequency and dollar amounts of remote deposits that are set forth by you.

Unacceptable Deposits. I understand and agree that I am not permitted to deposit the following items using the Services:

- Checks payable to any person or entity other than you (i.e., payable to another party and then endorsed to you).
- Checks payable to you and another party who is not a joint owner on the account.
- Checks that contain evidence of alteration, or that you know or suspect, or should know or suspect, are fraudulent or otherwise not authorized by the owner of the account on which the check is drawn.
- Checks previously converted to a substitute check, as defined in Reg. CC.
- Checks drawn on a financial institution located outside the United States.
- Checks that are remotely created checks, as defined in Reg. CC.
- Checks not payable in United States currency.
- Checks dated more than 6 months prior to the date of deposit.
- Checks that have previously been submitted through the Service or through a remote deposit capture service offered at any other financial institution.

Changes in Financial Circumstances. I understand and agree that I must inform you immediately in the event a material change in my financial circumstances as or in any of the information provided in my Application including any supporting financial information. If I am using the Service to deposit items into an account in the name of a Business to which I am a party, this includes, but is not limited to, notification of the following: (a) changes in transaction volumes at my business; (b) any change in a representation or statement made or furnished to you by me or on my behalf in my Application; (c) a material change occurs in my ownership or organizational structure (acknowledging that any change in ownership will be deemed material when ownership is closely held); (d) I liquidate or dissolve, or enter into any consolidation merger, partnership, or

joint venture; (e) I sell any assets except in the ordinary course of my business as now conducted, or sell, lease, assign or transfer any substantial part of my business or fixed assets or any property or other assets necessary for the continuance of my business as now conducted including, without limitation, the selling of any property or other assets accompanied by the leasing back of the same; (f) I cease doing business, become insolvent, a receiver is appointed for all or any part of my property, I make an assignment for the benefit of creditors, or any proceeding is commenced either by me or against me under any bankruptcy or insolvency laws or any other law or laws relating to debtors; (g) any guaranty of my indebtedness to you, whether related or unrelated to the Account or the Services, ceases to be in full force and effect or is declared to be null and void; or the validity or enforceability thereof is contested in a judicial proceeding; or any guarantor denies that it has any further liability under such guaranty; or any guarantor defaults in any provision of any guaranty, or any financial information provided by any guarantor is false or misleading); (h) I or any guarantor dies; if I am a sole proprietorship, the owner dies; if I am a partnership, any general or managing partner dies; if I am a corporation, any principal officer or 10.00% or greater shareholder dies; if I am a limited liability company, any managing member dies; if I am any other form of business entity (any person(s) directly or indirectly controlling ten percent (10.00%) or more of the ownership interests of such entity dies; (i) any creditor tries to take any of my property on or in which you have a lien or security interest, including a garnishment of any of my accounts with you; (j) a judgment or judgments is entered against me or any guarantor(s) in the aggregate amount of \$250 or more that is not satisfied within thirty (30) days or stayed pending appeal; (k) an involuntary lien or liens is attached to any of my assets or property and not satisfied within thirty

(30) days or stayed pending appeal; (l) an adverse change occurs in my financial condition or applicable credit histories; and (m) I am in default under any agreement for borrowed money or any other material contract. I agree to provide you any financial records you reasonably request to determine my financial status during the term of this Disclosure and Agreement.

Confidentiality.

- i. "Third Party Confidential Information" means trade secrets, know-how, data, methods, documents, devices, software code, technology, technical information, as well as, business, financial or customer information of a Third Party. Confidential Information will not include any information that Customer can prove: (i) was publicly known in the trade or business prior to its receipt of the Third Party Software; or (ii) was entirely and independently developed by the Customer without any use or reference to Confidential Information of the other Party.
- ii. Customer acknowledges that Third Parties own all rights, titles and interests, including all IP Rights in Third Party Confidential Information. Customer may use Third Party Confidential Information only in connection with its utilization of the Third Party Software and Financial Institution's services, and not for any other purpose. Customer will protect Third Party Confidential Information from unauthorized use or access.
- iii. Customer acknowledges that Third Party Confidential Information may still be under development or may be incomplete or may relate to products that are under development or planned for development. **NO THIRD PARTY MAKES ANY WARRANTIES REGARDING THE ACCURACY OF ITS CONFIDENTIAL INFORMATION OR ITS**

USE FOR A PARTICULAR PURPOSE. Neither Financial Institution nor any Third Party grants any license or right to Third Party Confidential Information except for the limited use of such information in connection with this agreement.

Waiver. The failure of either party to seek a redress for violation, or to insist upon the strict performance, of any covenant, agreement, provision, or condition hereof shall not constitute the waiver of the terms or of the terms of any other covenant, agreement, provision, or condition, and each party shall have all remedies provided herein with respect to any subsequent act which would have originally constituted the violation hereunder.

Relationship. This Disclosure and Agreement does not create, and shall not be construed to create, any joint venture or partnership between the parties. No officer, employee, agent, servant, or independent contractor of either party shall at any time be deemed to be an employee, servant, agent, or contractor of the other party for any purpose whatsoever.

Card Swap

The following terms and conditions (the "Terms of Service") constitute a binding agreement between you and Exchange Bank and its licensors (collectively "We", "Us" or "Our") with respect to your use of the Cardswap software (the "Software"), and the Cardswap service (as defined in Section 5.1 below) (collectively the "Services"). By accessing or using the Services in any manner, you (A) ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTAND, AND AGREE TO THESE TERMS OF SERVICE AND OUR PRIVACY POLICY and (B) affirm that you are at least 18 years of age (or have reached the age of majority in the jurisdiction where you reside). IF YOU DO NOT AGREE TO THESE TERMS OF SERVICE OR OUR PRIVACY POLICY, DO NOT USE THE SERVICES.

1. Changes to Terms of Service. We may revise and update these Terms of Service from time to time in Our sole discretion. All changes are effective when they are posted and apply to all access to and use of the Services thereafter. Your continued use of the Services following the posting of revised Terms of Service means that you accept and agree to the changes.
2. Scope of and Restrictions on Use. Subject to these Terms of Service, We grant you a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to access and use the Services for your personal, non-commercial use. Except as otherwise provided in these Terms of Service, the Software may not be copied, downloaded, or stored in a retrieval system for any other purpose, nor may it be redistributed, reused, or modified for any purpose. You agree not to:
 - collect information from the Services using an automated software tool or manually on a mass basis;
 - use automated means to access the Services, or gain unauthorized access to the Services or to any account or computer system connected to the Services;
 - obtain, or attempt to obtain, access to areas of the Services or Our systems that are not intended for access by you;
 - "flood" the Services with requests or otherwise overburden, disrupt, or harm the Services or Our systems;

- restrict or inhibit other users from accessing or using the Services;
- modify or delete any copyright, trademark, or other proprietary rights notices that appear in the Software; or
- access or use the Services for any unlawful purpose or otherwise beyond the scope of the rights granted herein.

If you download the Software, you further agree not to:

1. copy the Software
 2. modify, translate, adapt, or otherwise create derivative works or improvements, whether or not patentable, of the Software;
 3. reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of the Software or any part thereof;
 4. rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Software or any features or functionality of the Software to any third party for any reason, including by making the Software available on a network where it is capable of being accessed by more than one device at any time; or
 5. remove, disable, circumvent, or otherwise create or implement any workaround to any copy protection, rights management, or security features in or protecting the Software.
3. **Ownership.** The Services and the Content are licensed or owned by Us and Our licensors and are protected under copyright, trademark, and other applicable United States and international laws and treaties. Without limiting the foregoing, the trademarks, service marks, and logos displayed in the Software are registered and unregistered marks of Ours and Our licensors. The Software is licensed, not sold, to you. You acknowledge and agree that, as between you and Us, We are and shall remain the sole owner of the Services, including, without limitation, all patents, copyrights, trademarks, trade secrets, and other intellectual property and proprietary rights therein and thereto.
 4. **Account Registration and Security.** Access to and use of certain Services may require you to register for an account. You agree to provide true, accurate, current, and complete information about yourself as prompted by the applicable registration or log-in form, and you are responsible for keeping such information up to date. You are responsible and liable for all activities conducted through your account, regardless of who conducts those activities. You are responsible for maintaining the confidentiality of your account information, including your username and password. You agree to immediately notify Us of any unauthorized use of your account, or any other breach of security. We are not liable for any loss or damage arising from your failure to protect your username or password.
 5. **Cardswap service**
 - **5.1 Description.** We provide a Cardswap Service (the "Cardswap service") that allows you to change the payment method to certain third-party service providers ("Payees") by accessing your accounts on such Payees' websites and online services ("Payee Sites") via the Cardswap service. The Cardswap service allows you to change the payment source using funds from a single Funding Account, as that term is defined in Section 5.3 below.
 - **5.2 Payee Account Information.** In order to use the Cardswap service, you will need to link your accounts on Payee Sites to the Cardswap service by providing Us with the

information necessary to access such accounts (such as account usernames and passwords) ("Payee Account Information"). You hereby authorize Us to use and store your Payee Account Information and to access your accounts on Payee Sites to provide the Cardswap service to you and to configure the Cardswap service so that it is compatible with the applicable Payee Sites. You represent and warrant to Us that you are the legal owner of any accounts on Payee Sites that you access via the Cardswap service and that you have the authority to allow Us to access your accounts using your Payee Account Information on your behalf.

- 5.3 Funding Accounts. If you use the Cardswap service, bills will be paid using funds from the Exchange Bank accounts that are permitted – Exchange Bank Credit and Exchange Bank debit. (each, a "Funding Account"). By initiating a swap through the Cardswap service, you authorize Us to replace the card on file with the payee for your account. You represent and warrant that you have the right to authorize Us to swap each Funding Account for payees you link using the Cardswap service.
- 5.4 Limitations. You acknowledge and agree that: (a) some Payees may not allow Us to access your account on Payee Sites on your behalf; (b) Payees may make changes to Payee Sites and/or other services, with or without notice to Us, that may affect overall performance of the Cardswap service and prevent or delay swaps to such Payees; and (c) We may, in Our sole discretion, impose limits on the number and amount of swaps, in aggregate, that you can send using the Cardswap service.
- 5.5 Swap delays and Errors. It is your responsibility to review all swap transactions you initiate using the Cardswap service against account statements you receive from Us. You are solely responsible for ensuring that swaps made using the Cardswap service arrive by the Payee's due date.

You are solely liable for errors you make in using the Cardswap service. Without limiting the foregoing, We will not be responsible or liable: (a) if a Funding Account you specify as a payment source is closed or does not contain sufficient funds to complete a transaction; (b) if a swap is rejected, returned, mishandled, or delayed by the Payee or Us for any reason; or (c) due to (i) any unavailability of the Cardswap service for any reason, (ii) fraud or attacks on the Services, or (iii) circumstances beyond Our control (for example, fire, flood, third party networks, or any failure by your computer, software, or Internet connection).

- 5.6 Unauthorized Transactions. You must notify Us immediately if you suspect or believe that a transaction has occurred through the Cardswap service that you did not authorize. In an effort to manage Our risk, We and Our service providers may, but are not required to, monitor your transactions and processing activity for high-risk practices or for fraudulent transactions.

6. Electronic Communications. The communications between you and Us via the Services use electronic means. For contractual purposes, you consent to receive communications from Us in electronic form, and you agree that all terms and conditions, agreements, notices, disclosures, and other communications that We provide to you electronically satisfy any legal requirement that such communications be in writing.
7. Privacy Policy. You acknowledge and agree that all information collected by Us is subject to Our Privacy Policy <https://www.exchangebank.com/pdfs/PrivacyNotice.pdf> By using the Services, you consent to all actions We take with respect to your information in compliance with Our Privacy Policy.

8. Software Updates. We may, from time to time in Our sole discretion, develop and provide Software updates, which may include upgrades, bug fixes, patches and other error corrections and/or new features (collectively, "Updates"). Updates may also modify or delete in their entirety certain features and functionality of the Services. You agree that We have no obligation to provide any Updates or to continue to provide or enable any particular features or functionality of the Services.
9. Change and Suspension.
 - 9.1 Changes to the Services. We reserve the right to make changes to, suspend, or discontinue (temporarily or permanently) the Services or any portion thereof at any time. You agree that We will not be liable to you or to any third party for any such change, suspension, or discontinuance.
 - 9.2 Suspension/Termination of Access. We have the right to deny access to, and to suspend or terminate your access to, the Services or to any features or portions thereof, at any time and for any reason, including if you violate these Terms of Service or if We believe there is suspicious or unusual activity related to your account. Neither termination nor suspension shall affect your liability or obligations under these Terms of Service. In the event that We suspend or terminate your access to the Services, you will continue to be bound by the Terms of Service that were in effect as of the date of your suspension or termination.

In the event We terminate your account, any payments to Payees that We havprocessed before the termination date may be completed, however you should verify that such payments have been completed directly with your intended Payee. We are not responsible for any payments not completed by Us as a result of termination.

10. Disclaimer; Limitation of Liability.

- 10.1 Disclaimer of Warranties. THE SERVICES AND THE CONTENT ARE PROVIDED TO YOU ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT WARRANTIES OF ANY KIND, AND WE HEREBY DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. NEITHER WE NOR ANY PERSON ASSOCIATED WITH US MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY, OR AVAILABILITY OF THE SERVICES OR ANY CONTENT. WITHOUT LIMITING THE FOREGOING, NEITHER WE NOR ANY PERSON ASSOCIATED WITH US REPRESENTS OR WARRANTS THAT THE SERVICES OR THE CONTENT WILL BE ACCURATE, RELIABLE, ERROR-FREE, OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT THE SERVICES, CONTENT, OR THE SERVERS THAT MAKES THEM AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT THE SERVICES OR THE CONTENT WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.
- 10.2 Limitation of Liability. TOTHE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL WE OR OUR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, LICENSORS, OR SERVICE PROVIDERS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES ARISING FROM OR RELATED TO YOUR USE OF OR

INABILITY TO USE THE SERVICES, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE OR LOSS OF DATA, WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT, OR OTHERWISE, EVEN IF FORESEEABLE. IF, NOTWITHSTANDING THE PROVISIONS OF THIS SECTION 10.2, WE ARE FOUND LIABLE FOR ANY LOSS, DAMAGE, OR INJURY UNDER ANY LEGAL THEORY RELATING IN ANY WAY TO THE SUBJECT MATTER OF THESE TERMS OF SERVICE, IN NO EVENT WILL OUR AGGREGATE LIABILITY TO YOU OR ANY THIRD PARTY EXCEED THE TOTAL AMOUNT OF \$100.00. THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF YOUR REMEDIES UNDER THESE TERMS OF SERVICE FAIL OF THEIR ESSENTIAL PURPOSE.

- 10.3 Exclusions. Some jurisdictions do not allow the exclusion or limitation of certain warranties or consequential damages, so some of the exclusions and/or limitations in this Section 10 may not apply to you. In such states, Our liability is limited to the maximum extent permitted by law.
11. You agree to indemnify, defend, and hold Us and Our officers, directors, employees, agents, licensors, and service providers harmless from and against any claims, liabilities, losses, damages, judgments, awards, costs, and expenses (including reasonable attorneys' fees) arising out of or resulting from: (a) your use of the Services; (b) any violation of these Terms of Service or applicable law; and/or (c) any claims by another owner of a Funding Account you use in connection with the Cardswap service or any joint account holder of an account on a Payee Site. We reserve the right, at Our own expense, to assume the exclusive defense and control of any action subject to indemnification by you, and in such event, you agree to cooperate with Us in defending such action. Your indemnification, defense, and hold harmless obligations will survive the termination of your use of the Services and/or these Terms of Service.
 12. Third Party Materials. The Services may display, include, or make available third-party content (including data, information, applications and other products services and/or materials) or provide links to third-party websites or services (collectively, "Third Party Materials"). You acknowledge and agree that We are not responsible for Third Party Materials, including their accuracy, completeness, timeliness, validity, legality, decency, quality, or any other aspect thereof. We do not assume and will not have any liability to you or any other person or entity for any Third Party Materials. Third Party Materials and links thereto are provided solely as a convenience to you, and you access and use them at entirely at your own risk and subject to such third parties' terms and conditions.
 13. Third Party Platforms. We may provide the Services to you through the Payees Sites and/or other third-party websites, operating systems, platforms, and portals (collectively, "Third-Party Platforms"). Additional terms and conditions will apply to you with respect to your use of Third-Party Platforms, which are not under our control. We do not assume any responsibility or liability for your use of such Third-Party Platforms.
 14. U.S. Export Controls. The Software may be subject to United States export laws, including the including the United States Export Administration Act and its associated regulations. You shall not, directly or indirectly, export, re-export, or release the Software to, or make the Software accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule or regulation. You shall comply with all applicable laws, rules, and regulations, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing or otherwise making the Software available outside the United States.

15. Miscellaneous.

- 15.1 Geographic Restrictions. We are based in the United States. We make no claims that the Services are accessible or appropriate outside of the United States. Access to and use of the Services may not be legal by certain persons or in certain countries. If you access the Services from outside the United States, you do so on your own initiative and are responsible for compliance with local laws.
- 15.2 Governing Law; Jurisdiction and Venue. These Terms of Service and any dispute or claim arising out of or related to these Terms of Service, their subject matter, or their formation (in each case, including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of the State of California, other than such laws and case law that would result in the application of the laws of a jurisdiction other than the State of California. Any legal suit, action, or proceeding arising out of or related to these Terms of Service or the Services or Content shall be instituted exclusively in the federal or state courts located in Sonoma County, California. You agree to waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.
- 15.3 Limitation on Time to File Claims. ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OF SERVICE OR THE SERVICES OR CONTENT MUST BE COMMENCED WITHIN TWO (2) YEARS AFTER THE CAUSE OF ACTION OR CLAIM ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.
- 15.4 Waiver of Jury Trial. YOU HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, CLAIM, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THESE TERMS OF SERVICE OR THE SERVICES OR CONTENT.
- 15.5 Waiver and Severability. Our failure to exercise or enforce any right or provision of these Terms of Service will not constitute a waiver of such right or provision. If any provision of these Terms of Service is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent possible, and the remaining provisions of these Terms of Service will continue in full force and effect.
- 15.6 Entire Agreement These Terms of Service, including Our Privacy Policy <https://www.exchangebank.com/pdfs/PrivacyNotice.pdf> and additional documents incorporated herein by reference, constitute the sole and entire agreement between you and Us with respect to the subject matter hereof, and supersede and replace all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter.