



**BANC OF  
CALIFORNIA**

**DEPOSIT ACCOUNT AGREEMENT**

*Effective January 2023*

# CALIFORNIA'S BUSINESSBANC

Banc of California is California's premier, relationship-focused, full-service business bank. Our depth of resources and financial strength allow us to adapt quickly and thoughtfully, delivering solutions to help our clients achieve their financial goals. As one of the strongest and most trusted banks headquartered in California, we have the resources and expertise to help your business grow and succeed.

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# DEPOSIT ACCOUNT AGREEMENT

Welcome to Banc of California. When you sign our signature card, whether in writing or electronically, and/or continue to have an account with us, you and each authorized signer on your account(s) effectively acknowledge receipt of, and agree to, this Deposit Account Agreement, together with applicable signature card(s), schedules, and disclosures, including fee, rate and consumer privacy disclosures (as applicable, collectively the "Agreement"). Our current applicable schedule of fees and charges (as defined below, the "Fee Schedule") is expressly incorporated herein and is referenced throughout this Agreement. Please read the Agreement and the Fee Schedule carefully and retain a copy for your records. This Agreement applies to all accounts you have with us. This Agreement supersedes any previous deposit account agreement and/or applicable disclosures with us.

**NOTE THAT THIS AGREEMENT INCLUDES IMPORTANT CONSUMER DISCLOSURES, INCLUDING DISCLOSURES PROVIDED PURSUANT TO THE ELECTRONIC FUND TRANSFER ACT AND THE EXPEDITED FUNDS AVAILABILITY ACT. YOUR ATTENTION IS ALSO DRAWN TO THE DISPUTE RESOLUTION PROVISION HEREIN. IF A DISPUTE ARISES BETWEEN US, THIS AGREEMENT PROVIDES THAT IT MAY BE RESOLVED THROUGH JUDICIAL REFERENCE, RATHER THAN BY JURY TRIAL.**

Terms. In this Agreement, the words "you" and "your" refer to the owners and authorized signers of an account; "we," "us" and "Bank" refer to Banc of California. "Business Days" are defined as Monday through Friday, excluding federal holidays. The term "Consumer Account" shall mean an account that is primarily established for personal, family or household purposes. All other accounts shall be considered business accounts. The term "Fee Schedule" refers to our current Personal or Business Schedule of Fees and Charges as may be amended from time to time, including any specific proposals which we may present to you. The term "items" as used in this Agreement includes a check, draft, demand draft, preauthorized draft, or other order or instruction for the payment, transfer or withdrawal of funds including a withdrawal slip, deposit slip/adjustment, automatic transfers, electronic transactions, and miscellaneous charges to your account. An item also means any other document created or authorized in your name that would be a check or draft but for the fact that it has not been signed. Except to the extent otherwise indicated in this Agreement, the term "may" shall mean that you authorize us to take action or not to take action at our sole discretion without resulting liability to you. Unless otherwise specified, the times indicated herein are Pacific Time. The headings in this Agreement are for convenience only and are not part of these terms.

## **CUSTOMER IDENTIFICATION NOTICE UNDER THE USA PATRIOT ACT: IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT.**

To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

What this means to you: When you open an account, we will ask for your name, address, date of birth, tax identification number ("TIN") and other information that will allow us to identify you. We may also ask to see a driver's license, government-issued photo identification, or other identifying documents for account owners and authorized signers.

We may further ask you for specific information regarding the nature of anticipated activity, the sources of your funds, the purposes of transactions, the relationships you have with persons to whom you send funds and persons who send funds to you, the anticipated frequency of such transactions, the ultimate beneficiaries of funds you send and receive, and other questions that may help us clarify the nature and purpose of transactions. We may close or freeze accounts if we are unable to understand the purpose of the account, the structure of the organization, the authority of the signers, the documentation provided or the general risk associated with the establishment of the account. We may elect not to disclose the specific reason for our action.

## **DEPOSITS AND CREDITS**

### **Source**

You authorize us to accept items for deposit to your account from any source without questioning the authority of the person making the deposit. We also may give cash back to any authorized account signer(s) or agent(s) in connection with items payable to any owner, whether or not the items have been endorsed by the owner. If you make a deposit or payment that is not accompanied by instructions indicating how or where it is to be credited, we may apply it at our discretion to any loan or deposit account you maintain with us. You will be responsible for any loss because of your failure to identify your account properly by name and number on any deposited item. We may accept for deposit to your account all items made payable to or endorsed by you as an individual payee or joint payee, regardless of whether those items bear your endorsement, subject to our verification and final inspection. You guarantee to us the payment of all such deposited items. Deposits received at unstaffed facilities will be credited on the Business Day funds are removed, verified and processed by us. We may delay the verification of large currency and coin deposits until such time as armored transportation to a secure facility is completed, and delay the posting of the deposit to your account until verification and processing is complete. We may pass-through the costs or otherwise charge you a fee for the additional secure logistics that we require. We are not responsible for transactions initiated by mail until we actually receive them. We may refuse any deposit (whether in cash or by item or other charge) to an account, limit the amount of any deposit or funds that may be maintained in an account, or return all or any part of a deposit to you without prior notice, whether the deposit is attempted to be made by you or anyone else on your behalf. We reserve the right to return to you any item or other charge that we receive for deposit to your account, if we decide not to handle that item or other charge.

### **Presentment of Returned or Dishonored Items**

You authorize us to present an item again for payment, after it has been returned or dishonored, without telling you that the item was returned unpaid or that we are presenting it again. If we present a returned item again, you will be charged a fee. See the Fee Schedule (“Returned Deposit Item Fee”). You also authorize us to process and deliver to you a photocopy or other image of a returned item, in lieu of the original, whether it is charged back to your account or automatically presented again, and whether or not the original item is available.

## **Joint Accounts**

If your account is a joint account, any one of the account owners may, without notice to the other account owners, enter separate service agreements that bind all account owners, initiate withdrawals or close the account, add authorized signers to the account, write items against the account or place stop payment orders (whether or not drawn by the requesting account owner). Each joint account owner authorizes the other account owner(s) to endorse items in that person's name and to cash the items or deposit them into the joint account, with or without an endorsement. Each joint account owner is jointly and severally liable to us for any and all overdrafts to the account (or for overdrafts to other accounts owned by a joint owner), and/or other fees, charges or losses relating to the account. We may use the funds in your deposit accounts to pay the debts of any account owner (see the Setoff section).

## **Endorsements**

You warrant that all endorsements on items deposited to your account are genuine and further warrant that you are authorized to negotiate and/or deposit any items that contain no endorsements. We may add your endorsement and/or collect items deposited to your account without your endorsement. We also may require your personal endorsement prior to accepting an item for deposit. If you deposit an item that bears the endorsements of more than one person or persons who are not known to us, we may refuse the item, require all endorser(s) to be present, or require that the endorsements be guaranteed by another financial institution acceptable to us before we accept the item. We are not bound by any conditional or restrictive endorsements on a check you cash or deposit, or by any endorsement "without recourse."

You represent and warrant that any third party checks you deposit to your account will be endorsed or authorized for deposit by all payees prior to deposit. We may refuse to deposit third party checks or joint payee checks in our discretion. To the extent legally permitted, each co-owner of an account appoints the other co-owner as his or her attorney-in-fact with full power to endorse the name of any co-owner on any item for deposit, or to deposit without endorsement any such item, into the account or cash the item.

You agree to indemnify, defend, and hold us harmless from and against any and all losses, damages, claims, costs or expenses (including attorneys' fees and costs) incurred by us in connection with your deposit of a joint payee check or third party check without proper endorsement or authorization, or your failure to endorse an item exactly as it is drawn or for any item that is alleged to have a forged, missing or unauthorized endorsement. This provision shall survive the termination of this Agreement.

## **Direct Deposit**

If, in connection with a direct deposit plan, we deposit or credit any amount in your account which should have been returned to the state or federal government or any other third party for any reason, you authorize us to deduct the amount from your account or from any other account you have with us without prior notice and at any time, except as prohibited by law. If you have withdrawn these amounts, you agree to repay them to us upon demand. You also authorize us to use any other legal remedy to recover the amount of our liability.

## **Items Sent For Collection**

We may refuse to accept a check or other item for deposit or may accept it on a collection basis only. This sometimes occurs with foreign, questionable or damaged items. If we accept an item for collection, we will send it to the institution upon which it is drawn, but will not credit your account for the amount until we receive the funds from the other institution. If we elect to credit your account before we receive the funds, we may charge the amount back against your account if we do not receive payment for any reason. We are obligated only to use ordinary care in collecting items on your behalf. You agree that we have sole discretion to determine whether to accept an item or check for deposit or collection. We may notify you that an item is not a deposit, but rather a collection item, as soon as practicable after we decide to handle the item as a collection item. This may include after you have left a branch office. Items drawn on a non-U.S. bank or payable in foreign currency are handled on a collection basis only. We and other institutions may each impose a fee in connection with sending and receiving items for collection. Please see the Fee Schedule (“Check/Draft Collections Domestic/Int’l”). You waive any notice of nonpayment, dishonor, or protest regarding any items purchased or received by us for credit to your account or for collection. An item or check accepted for collection will not be deemed accepted for deposit for purposes of Regulation CC and is not governed by our funds availability policy.

## **Verification and Collection**

Any item that we cash or accept for deposit is subject to later verification and final payment. We may deduct funds from your account if an item is lost, stolen or destroyed in the collection process, if it is returned to us unpaid, or if it was improperly paid, even if you have already used the funds. You are responsible for the condition of an item when you issue it, or present it for deposit to your account. If an item is returned or payment is delayed as a result of any writing or marking that you or a third party placed on the front or back of the item, you will be responsible for any costs or liabilities incurred as a result.

Although we may make funds provisionally available to you and may take steps to determine whether a check will be paid, you are responsible for any loss that occurs if the check is returned to us for any reason (for example, because it is counterfeit).

## **Provisional Credit; Returned and Unpaid Items and Other Credits**

Any item or other charge posted for credit to your account, including an item we cash for you, is subject to final payment by the payor or receiving bank (as applicable). If we credit your account for an item or other charge, we may charge back that item or other charge at any time, if we do not receive payment for the item or other charge or if we receive notice that the item or other charge will not be paid. We act as a collection agent for you when we receive an item for deposit or when we cash an item for you, and are not responsible for the actions or inactions, whether or not negligent, of other financial institutions during the collection process. You assume all risk of loss of an item in transit. We reserve the right to charge a dishonored, returned or unpaid item or other charge against the applicable account even if the item or other charge is dishonored or returned late, the dishonor or return does not comply with applicable laws, rules or regulations (including any clearinghouse rules), or we could have made a claim for reimbursement on the



item or other charge from the bank on which the item was drawn or from another bank, regardless of whether we notify you. We may charge a dishonored, returned or unpaid item fee or other charge against the applicable account even if the fee or charge results in an overdraft. In addition to any returned item fees, you agree to pay any applicable overdraft fees. See the Fee Schedule (e.g., “Returned Deposit Item Fee,” “NSF Returned Item Fee”).

You authorize us to charge an item back to your account even if you have already used the funds, and/or if we receive an affidavit of forged, missing or unauthorized endorsement or alteration, or similar document. We have no obligation to investigate the accuracy of such affidavit or similar document.

### **Foreign Currency and Instruments**

You may not write items or other withdrawal orders on your account which order payment is in a foreign currency.

The processing and collection of foreign instruments are not subject to United States laws and regulations. We may refuse to accept for deposit or collection an item that is payable in a currency other than U.S. dollars or that is drawn on a bank or a branch of a bank located outside of the United States (a “foreign instrument”). If we accept a foreign instrument for deposit or collection, you bear all the risks associated with the collection process and foreign currency fluctuation (exchange rate risk). A foreign instrument may be returned unpaid much later (sometimes several months after we process the foreign instrument) than instruments that are drawn on banks located in the United States. You bear all the risks of a late return. We may decide not to credit a foreign instrument to your account until we receive the proceeds in cleared funds from the paying bank. If we do provide credit, such credit is provisional and we may reverse the credit at any time if the foreign instrument is returned unpaid or is initially paid but then subsequently returned for fraud or any other reason. You agree that we may use the current exchange rate and we may charge your account for the full value of the foreign instrument, including any applicable fees, which may result in a loss to you. You are responsible for all fees incurred, including exchange rate, our collection fee, and other charges assessed by the payor bank. You understand that foreign instruments sent for collection are sent solely for your benefit and at your risk and that we are not liable for any event in the collection process which is beyond our control including a default by any banks or agents involved in the collection process or for loss of the foreign instrument in transit.

## **FUNDS AVAILABILITY**

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

Our policy is to make funds from your cash and check deposits available to you on the first Business Day after the day we receive your deposit. Electronic direct deposits will be available on the Business Day we receive the deposit. Once they are available, you can withdraw the funds in cash and we will use the funds to pay checks that you have written. Please keep in mind, however, that after we make funds available to you, and you have withdrawn the funds, you are still responsible for checks you deposit that are returned to us unpaid and for any other problems involving your deposit.

For determining the availability of your deposits, every day is a Business Day

except Saturdays, Sundays, and federal holidays. If you make a deposit before our branch closing time (or before 4:30 p.m. for deposits made at an automated teller machine (“ATM”) that we own or operate, and before 12:00 p.m. for deposits at a night depository) on a Business Day that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit after these hours or on a day we are not open, we will consider that the deposit was made on the next Business Day we are open. Our name is on all the ATMs that we own or operate.

### **Longer Delays May Apply**

In some cases, we will not make all of the funds that you deposit by check available to you on the first Business Day after the day of your deposit. The first \$225 of your deposits, however, will be available on the first Business Day. Depending on the type of check that you deposit, funds may not be available until the second Business Day after the day of your deposit.

If we are not going to make all of the funds from your deposit available on the first Business Day, we will notify you at the time you make your deposit. We will also 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 day after we receive your deposit or the first day following the day the facts became known to the Bank. If you will need the funds from a deposit right away, you should ask us when the funds will be available.

In addition, funds you deposit by check may be delayed for a longer period under the following circumstances:

- We believe a check you deposit will not be paid.
- You deposit checks totaling more than \$5,525 on any one day.
- You redeposit a check that has been returned unpaid.
- You have overdrawn your account repeatedly in the last six months.
- There is an emergency, such as failure of computer or communications equipment.

We will notify you if we delay your ability to withdraw funds for any of these reasons, and we will tell you when the funds will be available. They will generally be available no later than the seventh Business Day after the day of your deposit.

### **Special Rules for New Accounts**

If you are a new customer, the following special rules will apply during the first 30 days your account is open.

Funds from electronic direct deposits to your account will be available on the day we receive the deposit. Funds from deposits of cash, wire transfers and the first \$5,525 of a day's total deposits of cashier's, certified, teller's, traveler's, and federal, state and local government checks will be available on the first Business Day after the day of your deposit if the deposit meets certain conditions. For example, the checks must be payable to you (and you may have to use a special deposit slip). The excess over \$5,525 will be available on the ninth Business Day after the day of your deposit. If your deposit of these checks (other than a U.S. Treasury check) is not made in person to one of our employees, the first \$5,525 will not be available until the second Business Day after the day of your deposit.

Funds from all other check deposits will be available on the ninth Business Day after the day of your deposit.

### **Holds on Other Funds**

If we cash a check for you that is drawn on another bank, we may withhold the availability of a corresponding amount of funds that is already in your account. Those funds will be available at the time funds from the check we cashed would have been available if you had deposited it.

## **INTEREST ON DEPOSITS**

### **Interest Rates**

Interest rates paid on our accounts are determined by our management, based on market conditions and other business factors. Except for certificates of deposit (which earn the same interest rate through maturity), the interest rate and Annual Percentage Yield on deposits can change as often as daily, at our discretion, without prior notice to you. On tiered-rate accounts, interest is calculated by the daily balance method, which applies a daily periodic rate to the principal in the account each day, based on the rate tier applicable to that day's account balance. For current rates, please visit one of our branch offices or contact us at 877-770-BANC (2262). See the account-specific disclosure(s) for further information.

The Annual Percentage Yield stated for certificates of deposit that earn compounded interest assumes that interest remains on deposit until maturity. A withdrawal of interest will reduce earnings.

### **Interest Calculations**

Interest is calculated on an actual/365 day basis (366 days for leap years), except for certain public fund accounts where interest is calculated on an actual/360 day basis. Interest begins to accrue no later than the Business Day we receive credit for the deposit of noncash items (for example, checks). We use the daily-balance method to calculate the interest on your account. This method applies a daily periodic rate to the principal in the account each day. We reserve the right not to pay interest on any deposited item that is returned to us unpaid.

### **Payment of Interest**

Depending on the account, interest may be credited to your account at the end of your monthly, quarterly, or annual cycle, or at maturity. See the account-specific disclosure for details. Interest is paid to the last day of each payment period, the date of withdrawal, and/or the maturity date. Interest may be lost on some accounts if the account is closed prior to the end of the statement period or the regular interest crediting date.

### **Matured Certificates of Deposit**

At maturity, certain certificate of deposit accounts will automatically renew for a new term at the rate then in effect for accounts of the same type, amount and duration. You have a ten calendar day grace period after maturity during which a withdrawal can be made without penalty. We reserve the right to change the rate of interest for automatically renewable accounts at each renewal period. If we elect not to permit the renewal of an automatically renewable certificate of deposit, we will notify you in advance. Unless specifically stated otherwise, any

bonus or special promotion we are offering will not apply to automatically renewing certificates of deposit. Certificate of deposit accounts which do not automatically renew will stop earning interest at maturity.

### **Early Withdrawals From Certificates of Deposit**

Certificate of deposit customers agree to keep funds on deposit for a fixed period of time. Unless otherwise provided, partial withdrawals and additional deposits are not permitted. We will generally impose an early withdrawal penalty if you withdraw any of the deposited funds prior to the maturity date. This includes any interest, unless you elect to have interest credited to another account. Tax penalties also may apply to premature distributions from IRAs.

## **WITHDRAWALS**

### **Authorized Signers**

An authorized signer is someone to whom you give all rights you have now or in the future regarding your account, including but not limited to the authority to make withdrawals and deposits, to obtain ancillary services (for example, electronic fund transfer services, wire services, and online banking access), and to otherwise transact on your account, receive account information and provide instructions to us regarding your account. Any authorized signer may sign checks or withdrawal orders and give us instructions regarding your account, including an instruction to close the account. Although your signature card may indicate that more than one signature is required on checks and for the withdrawal or transfer of funds, that notation is solely for your own purposes. We do not assume a duty to enforce multiple signature requirements unless we enter into a separate written agreement with you.

To determine the authenticity of the signature of your authorized signers, we may refer to the signature card or to an item or other document upon which the authorized signers' signatures appear or use an automated process to reproduce and retain the signatures. We may pay any check that bears a signature or endorsement (including a facsimile signature) resembling an authorized signature on file with us. You agree that signatures by your authorized agents (such as persons acting under a power of attorney) are valid, even if the principal-agent relationship is not indicated on the check or instruction.

You agree that we may honor checks drawn by an authorized signer against your account even if the checks are made payable to that authorized signer and even if such checks are cashed or deposited into that signer's personal account. We have no duty to investigate or question the nature of the signer's withdrawals or payments. You must notify us if an authorized signer on an account changes, and provide us reasonable time to act upon such request. Until then, we may continue to honor checks, withdrawal orders, and other instructions by all authorized signers.

### **Requirements**

We may refuse to pay any check that bears a signature that (in our opinion) does not satisfactorily compare with the specimen signature on file with us. All checks written on your account must be drawn in U.S. dollars. If your checks are presented for payment or acceptance on a weekend, a holiday, or after our processing cutoff hour, we may treat them as if we received them on the next Business Day.

## Order of Payments

Our order of payments is the order in which we apply deposits and withdrawals to your account. The order in which we pay your checks and/or any other transactions is important if there is not enough money in your account to pay all of the transactions presented on one day. Generally, we post transactions presented on a single banking day in the following order:

- Credits/deposits we receive before the daily cutoff time;
- Your outgoing wires;
- Electronic debits through our online banking, mobile banking, or automated banking service;
- Debit card (POS) transactions (every day transactions and recurring transactions);
- Cash paid items (over-the-counter withdrawals made at a Bank branch);
- ATM withdrawals;
- Automated Clearing House (ACH) transactions, including electronic bill payments;
- Checks deposited to another Banc of California account will be posted in check number order, starting with the lowest number;
- Checks presented to Banc of California will be posted in check number order, starting with the lowest number;
- Interest; and
- Fees.

We reserve the right to decide the order of the items we will pay and which items will be returned. We may change our posting order at any time without notice to you. Our posting order may not be the same as the order in which you conducted a transaction and could result in overdraft fees, if you do not have available funds at the time the item is paid.

We receive credits, debits and holds throughout the day. Regardless of when during the day we receive transactions for your account, we treat them as if we received all transactions at the same time at the end of the business day. During the day, we may show some transactions as processing. For example, you may see some transactions as processing in online banking. Please note that transactions shown as processing have not been posted yet. The posting order for these transactions is determined at the end of the day, with the other transactions we receive for that day.

**You should note that often we do not receive debits on the same day that you conduct them. For instance, when you use your debit card to pay for a purchase at a merchant and sign for the transaction, we usually receive an authorization request from the merchant the same day, but we might not receive the final debit card transaction for payment and posting until several days later. Credits and debits to your account may appear in a different order than the order in which you conduct them or we receive them on your statement.**

## **Discrepancies**

If there is a discrepancy in a check you have written between the amount in numbers and the amount in words or embossed numbers, we may honor either amount in paying the item or may dishonor the item, without liability.

## **Limitations**

We may refuse or limit withdrawals from any branch office that is not your branch of account. We may (but are not obligated to) require suitable identification and/or presentation of account ownership records for any withdrawal or account closure. At our discretion, we may require all of your signatures for the withdrawal of funds and/or the closing of an account.

Money market and savings accounts may be subject to transaction limitations (see the section titled “Money Market and Savings Accounts”). We may refuse to honor any transaction if the funds on deposit are insufficient or unavailable to cover the transaction or if there is a dispute or question as to the ownership of account funds. We reserve the right to refuse any withdrawal or transfer request, which is attempted by any method not specifically permitted, which is for an amount less than any minimum withdrawal requirement, or which exceeds any frequency limitations. We may limit the amount of cash that can be withdrawn each day. Even if we honor a nonconforming request, repeated abuse of the stated limitation may force us to close the account. Additional withdrawal limitations may be disclosed elsewhere.

## **Large Cash Withdrawals**

We may require reasonable advance notice for large cash withdrawals. We may also refuse to honor a request to withdraw funds in cash from your account or to cash an item (including a cashier’s check or other official item) at a branch if we believe that the amount is unreasonably large or that honoring the request would cause us an undue hardship or security risk. We may require that such withdrawals include an armored courier acceptable to us and at your sole risk and expense. We are not responsible for providing for your security in such transactions. We reserve the right to provide you with a cashier’s check for the amount requested, in lieu of permitting the cash withdrawal.

## **Non-Customer Check Cashing**

We may impose a charge on non-customers who cash your check at one of our branch offices. Please see the Fee Schedule (“Non-Client Check Cashing”). We also may require non-customers to present suitable identification, including a fingerprint, or we may impose other requirements, in connection with the transaction. If the person seeking to cash a check fails or refuses to meet any of our requirements, we may refuse to cash the check.

## **Advance Notice**

We reserve the right to require seven days’ advance written notice of an intended transfer or withdrawal of funds from any savings account or money market deposit account. This notice requirement will not apply to demand deposit checking accounts.

## **Electronic Presentment/Posting**

We may charge your account on the day that a check or other transaction is

presented (or returned) to us directly or electronically for payment. We may charge your account or place a hold on funds at an earlier time if we receive notice that a check or other item deposited to your account is being returned, or if we receive notice that your check or electronic payment (e.g., at a point-of-sale) is being processed for collection. Some merchants may obtain authorizations in advance for point-of-sale transactions in an amount greater than the final transaction amount. You agree that we may place a hold on sufficient funds to cover the amount of the authorized transaction, pending its final settlement through the system, even if that amount exceeds the actual amount of the transaction, which could affect your available balance to cover other transactions (see Available Balance).

## **ACCOUNT LIMITATIONS**

### **Deposits**

We may refuse to accept a deposit or an addition to an account, limit its size, or return all or part of it to you. We reserve the right to limit the amount of funds that may be maintained in an account.

### **Money Market and Savings Accounts**

You may make up to six withdrawals and/or transfers per calendar month or statement cycle (or similar period) of at least four weeks by check (for accounts with check privileges), preauthorized or automatic transfer (e.g., automatic payments to an insurance company), draft, point-of-sale debit card, telephone and/or online banking. If you exceed this limitation, we may refuse to honor the excessive transactions, remove your transfer privileges, close the account, convert it to another type of account, and/or impose a fee for exceeding the limits. See the account-specific disclosure and Fee Schedule (“Excessive Transaction Activity Fee”). We count checks for purposes of the transaction limitation as of the date we post them to your account (not as of the date you write them). As such, a check you write during one statement period may not be counted until a subsequent statement period.

This limit does not apply to withdrawals made in person, at an ATM, by mail, messenger, or telephone (via check mailed to you), or to transfers made to repay a loan with us. There is no limit on the number of deposits that can be made to your account each month (e.g., in person or by preauthorized or automatic transfer). We may refuse or limit telephone and mail withdrawals, at our discretion.

### **Certificates of Deposit**

You do not have a right to make early or partial withdrawals from, or additional deposits to, an existing certificate of deposit, unless we otherwise agree with you in writing. We may impose early withdrawal penalties on a withdrawal from a time account even if you do not initiate the withdrawal. For instance, the early withdrawal penalty may be imposed if the withdrawal is caused by our setoff against funds in the account or as a result of an attachment or other legal process. We may close your account and impose the early withdrawal penalty on the entire account balance in the event of a partial early withdrawal. See the account-specific disclosure (certificate of deposit) for further details.

## **FEES**

A schedule of fees associated with our Consumer and Business deposit accounts

is provided in our Fee Schedule. The Fee Schedule that applies to your account is part of the contract between you and us. You agree to promptly pay the fees we charge, and you give us the right to collect any fees, as earned, directly from any of your account balances. From time to time we may list fees for some non-account services (including but not limited to wires, cashiers' checks, travelers' checks) in the Fee Schedule. We may change non-account fees at any time without notice. You can get current information about non-account services and fees that apply at any of our branches. Some services are negotiated separately and may be subject to other written agreements with us. Information on fees for services not covered by the Fee Schedule is available upon request. In addition to fees, you agree to pay for all taxes, tariffs and assessments levied or imposed by any government agency in connection with your account or account-related services (excluding any income tax payable by us).

If an average balance is required to avoid a fee, the average balance is calculated by adding the principal in the account for each day of the period and dividing that figure by the number of days in the period.

Monthly service charges are accrued the first day of the statement period and collected on the last day of the statement period or the date the account is closed, even if you do not receive an account statement from us. Service charges are not prorated for partial months. Certain fees may change without specific notice to you.

## **BUSINESS ACCOUNT ANALYSIS**

Our business account analysis service ("Analysis Service") allows you to offset certain account and cash management service charges with an "Earnings Credit" that is based on the balances you maintain with us. If you wish to use Earnings Credits to offset account fees and charges, you will have to maintain sufficient balances on analyzed accounts. Depending on the level of activity or inactivity in the analyzed accounts and the types of services required, your accounts may be removed from the Analysis Service at our discretion.

### **Use of Earnings Credit**

Unlike interest, Earnings Credit is not paid to you and does not carry over to the following period. Earnings Credit may only be used to offset charges that are subject to analysis and that are incurred during the month covered by analysis. Unless we agree otherwise in writing, excess Earnings Credit is not carried forward or backward to other billing periods. Charges associated with certain third party vendor services may not be eligible for analysis. If you wish to apply your Earnings Credit towards third party vendor services, additional terms and conditions will apply.

If Earnings Credit is insufficient to cover analyzed service charges during any period, we may charge the difference to your account. We also have the right to cease providing you the Analysis Service at any time. If you have several analyzed accounts, you can designate which account should be charged. We may stop calculating Earnings Credit and applying it against service charges for any analyzed account that becomes inactive (i.e., has no deposits or withdrawals for twelve months). Your account officer can provide you with an estimated balance required to earn sufficient Earnings Credit for type and volume of services you



use. The actual balance amount may vary because of changes in the Earnings Credit rate, service charges, the services used, or other aspects of analysis. We do not calculate an Earnings Credit for accounts that are not linked to the Analysis Service; nor do we allow Earnings Credit to offset charges against accounts or services not linked to the Analysis Service. See our account-specific disclosure for further information.

### **Negative Available Balance Interest Charge**

We may impose an uncollected funds charge for any overdraft balance and/or float that exceeds the account's ledger balance. The charge will be based on our deficit rate and will be in addition to any overdraft fee that we may impose.

### **Analysis Rates and Charges**

Account analysis charges and the Earnings Credit rate and deficit rates are subject to change from time to time without prior notice. Current rate and service charge information is available from your account officer.

### **System Changes**

We reserve the right to input changes in our system as of the beginning or end of any statement or analysis cycle. As a result, some changes input at the end of a cycle may relate back to the entire cycle.

### **Third Party Funds**

If you deposit funds that belong to others ("Beneficial Owners") in an analyzed account, you represent to us that: (a) you are authorized by the Beneficial Owners to benefit from the use of any associated Earnings Credit, and (b) your use of the Earnings Credit will not violate any agreement, law or regulation. You also agree to indemnify, defend and hold us harmless from and against all claims, actions, proceedings, losses, costs (including attorneys' fees and other charges), liabilities and/or damages that arise from your use of the Analysis Service or the manner in which you compensate or charge Beneficial Owners for your use of the Analysis Service. This provision shall survive the termination of this Agreement.

### **Limitation of Liability**

We will not be liable under any circumstances for special, indirect or consequential damages related to our Analysis Service actions or omissions. In no event will our liability exceed the amount of any Earnings Credit which we fail to apply against a service charge. You agree to review account notices and statements immediately upon receipt and to send us a written notice of any problem regarding Earnings Credits within a reasonable time (not to exceed 14 days from the date you receive the first notice or statement reflecting the problem).

## **WIRE AND OTHER FUND TRANSFERS**

### **Payment Orders**

The following provisions apply to "Payment Orders," which as used herein means an instruction of a sender to a receiving bank, transmitted orally, electronically, or in writing, to pay, or to cause another bank to pay, a fixed or determinable amount of money to a beneficiary if all of the following apply: (i) the instruction does not state a condition to payment to the beneficiary other than time of payment; (ii) the receiving bank is to be reimbursed by debiting an account of, or otherwise

receiving payment from, the sender; and (iii) the instruction is transmitted by the sender directly to the receiving bank or to an agent, funds-transfer system, or communication system for transmittal to the receiving bank. We reserve the right to choose any wire transfer system to execute your Payment Orders. These provisions do not apply to the transactions described in the “Electronic Fund Transfer” section. These provisions also do not apply to foreign remittance transfers governed by Federal Reserve Regulation E (“foreign remittance transfers”) to the extent these provisions are inconsistent with Regulation E or the disclosures we provide to you for such transfers.

### **Processing Orders**

At our discretion, we may process your Payment Order to transfer funds to another account with us or to an account maintained with another financial institution. We reserve the right to reject any Payment Order without cause or prior notice, and may notify you of the rejection orally, electronically or in writing.

### **Cutoff Hours**

Our processing hours for Payment Orders vary based on location, transaction type and other factors. Information about our processing hours is available upon request. We may process any Payment Order we receive after our processing cutoff hour on our next funds transfer Business Day.

### **Provisional Credit**

Credit given by us to you with respect to a Payment Order is provisional until we receive final settlement for such entry through a Federal Reserve Bank. If we do not receive final settlement, you are hereby notified and agree that we are entitled to a refund of the amount credited to your account in connection with the Payment Order, and the party (the originator of the entry) making payment to you will not be deemed to have paid you the amount of the Payment Order. We will notify you of the receipt of payments in the periodic statements we provide you and we will not give you next day notice of such receipt.

### **Form and Accuracy**

You must provide us with accurate transaction information on Payment Orders, in the form and format we require. We are not responsible for confirming such information, or for failing to detect and reject duplicate or incorrect Payment Orders. If you provide us with a Payment Order that is incorrect in any way, you agree that we may charge your accounts for the transaction whether or not the error could have been detected by us. We are not obligated to detect errors in your transfer or payment instructions. If you communicate Payment Orders using our online banking services, all Payment Orders must also be consistent with our separate Online Banking Agreement and/or Treasury Management Services Agreement.

### **Inconsistent Information**

We advise you that any receiving financial institution (including us) of a Payment Order is entitled to rely on any account or bank number you have provided even though that account or bank number may identify a party different from the person or entity you have described by name in any transfer order.

### **Foreign Transactions**

Foreign transactions may be subject to delays, charges imposed by other financial

institutions, and changes in foreign currency exchange rates. If you direct a Payment Order to a foreign country, we may execute the order in the currency of the country of the payee's bank at either our buying rate of exchange for U.S. dollar transfers or the exchange rate of the payee bank. If the transfer is made in

U.S. dollars, we cannot guarantee that the beneficiary will receive the funds in U.S. currency. The beneficiary bank may convert the funds into the local currency and may also charge incidental fees. If for any reason the Payment Order is returned to us, you agree to accept the refund in U.S. dollars in the amount of the foreign money credit, based on the current buying rate on the day of the refund, less any charges and expenses incurred by us. Unless you advise us otherwise, we may charge your account to pay for fees imposed by intermediary banks or instruct such banks to obtain payment of their charges for services and expenses by deducting the amount from your order. A portion of those charges may be shared with us. Different rules may apply to foreign remittance transfers.

### **Unauthorized Payment Orders**

We may process any Payment Order we believe is transmitted or authorized by you if we act in compliance with a security procedure agreed upon by you and us. Such Payment Orders will be deemed effective as if made by you, and you will be obligated to pay us in the amount of such orders, even if they are not transmitted or authorized by you, and/or if you initiate a Payment Order based on mistaken facts or misrepresentations made by others to you. Unless we agree on another security procedure, you agree that we may (but are not obligated to) confirm the authenticity and content of Payment Orders (among other ways) by placing a call to any of you. If we cannot reach you, or if the Payment Order is not confirmed or approved in the manner we require, we may refuse to execute the Payment Order.

### **Notice of Errors**

You agree to review all statements and notices promptly to confirm the accuracy and authorization of each Payment Order. You must notify us immediately if there is any discrepancy between your Payment Order and any confirmation or statement of account, or if you discover any other problem with respect to a transfer. You must send a written notice to us of the discrepancy or other problem, including a statement of the relevant facts, within a reasonable time (not to exceed 14 days from the date you first discover the problem or receive a statement or notice reflecting the problem, whichever occurs first). Different rules apply to foreign remittance transfers.

### **Cancellation and Amendment of Payment Orders**

A Payment Order is final and cannot be canceled or changed by you. However, at your request, we can attempt to recall a Payment Order, but we will not be liable if we are unable to do so. Although we may attempt to act on any cancellation or change request you make, we assume no responsibility for failing or refusing to do so, even if we could have affected the cancellation or change. You agree to indemnify, defend, hold harmless and reimburse us for all expenses, losses, claims, actions, proceedings and damages (including but not limited to reasonable attorneys' fees) arising out of or relating to the cancellation or change of a Payment Order, or effecting or attempting to effect any cancellation or change. This provision shall survive the termination of this Agreement.

## **Limitation of Liability**

Except as otherwise required by law for foreign remittance transfers: (a) our liability for any act or failure to act shall not exceed the direct resulting loss, if any, which you incur and payment of interest, and (b) we will not be liable for any consequential, indirect or special damage that you incur in connection with Payment Orders, even if we are aware of the possibility for such damages.

## **ELECTRONIC FUND TRANSFER DISCLOSURE**

**The provisions of the following Electronic Fund Transfers Disclosure apply only to electronic fund transfers (e.g., point-of-sale transfers, ATM transfers, direct deposits, certain transfers initiated by telephone, and transfers resulting from debit card transactions) to or from accounts established primarily for personal, family, or household purposes (“consumer accounts”). These provisions do not apply to any transactions that are not covered under the Electronic Fund Transfers Act or Regulation E.**

### **Authorized Signers**

Any authorized signer on an account may apply for electronic fund transfer services on behalf of all authorized signers. Once an electronic fund transfer service is established, any authorized signer on your account may act alone in conducting electronic fund transactions, regardless of the number of required signers indicated on the account’s signature card.

### **ATM or Debit Cards**

Refer to the Debit Card Agreement and Disclosure for additional disclosures that apply to electronic fund transfers involving an ATM or debit card.

### **Online Banking Transactions**

Refer to the Online Banking Agreement and Mobile Banking Agreement for additional disclosures that apply to electronic fund transfers involving our online banking system(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:

- (1) Pay for purchases; and
- (2) Pay bills.

### **Telephone Banking Service**

You can use this service by calling 877-770-BANC (2262) to transfer funds between your designated accounts with us, to obtain account information, and to pay your loan with us from your deposit account. We will provide you with a personal identification number (“PIN”) in order to access this service and provide us with instructions. You agree not to disclose your PIN to others and to safeguard its confidentiality. We will transfer funds between your Bank accounts that have been tied to the service. Transfers cannot be made from certificates of deposit. If we receive your transfer instruction prior to our daily cutoff hour, we will make the funds available for use or withdrawal at the opening of our next Business Day. You can obtain information regarding your Bank accounts that are tied to this service. Balance information may not reflect recent transactions, and may include funds

that are not available for immediate withdrawal. The balance information feature is not subject to the error resolution or liability sections set forth below. We will act upon instructions received prior to 5:00 p.m. on any Business Day. If we receive a transfer or payment instruction after the cutoff hour or on a non-Business Day, it may not be processed until the next Business Day.

### **Preauthorized/Automatic Transfers**

Pre-authorized electronic fund transfers may be made to your account from a third party (e.g., Social Security, a pension fund or your employer) or from your account to a third party (e.g., recurring mortgage or insurance payments through the Automated Clearing House).

Pre-authorized transfers do not include:(a) transactions initiated by check, draft or similar paper instrument, (b) transfers to or from business or other non-personal accounts, (c) individual transfers we initiate under an agreement with you, but without your specific request (e.g., automatic savings and automatic loan payments to us from your account), or (d) certain transfers initiated by telephone. If federal recurring or other electronic payments are made into your account, the payments may be affected by a change in account status or transfer (e.g., to another branch office).

### **Limitations**

Money Market and Savings Accounts may be subject to transaction limitations (see the section titled “Money Market and Savings Accounts”).

#### **Mobile Banking Transaction Limits**

Please see the Online Banking and Mobile Banking Agreement.

#### **Mobile Banking and Online Banking Account Limitations**

Please see the Online Banking and Mobile Banking Agreement.

### **Record of Your Transactions**

#### **Preauthorized Credits**

If you have arranged to have direct deposits made to your account at least once every 60 days from the same person or company, you can call us at 877-770-BANC (2262) to find out whether or not the deposit has been made.

#### **Periodic Statements**

You will receive a quarterly statement unless there are electronic transfers in a particular month (you will receive a statement for any month during which an electronic transfer occurs). Electronic transfers include account-to-account transfers, ACH debits and credits, and transactions performed with any debit card attached to your account. We will charge you a Mailed Statement fee if you receive a printed paper statement. See the Fee Schedule (“Mailed Statement Fee”).

#### **Varying Preauthorized Transfers**

If you have arranged in advance to make regular payments out of your account and they may vary in amount, the person you are going to pay will tell you 10 days before each payment when it will be made and how much

it will be. You may choose instead to get this notice only when the payment would differ by more than a certain amount from the previous payment or when the amount will fall outside certain limits that you set.

### **Financial Institution's Liability**

If we do not complete an electronic fund transfer to or from your account on time or in the correct amount according to our agreement with you, we will be liable for your losses or damages. There are some exceptions, however. We will not be liable, for instance, if:

- Through no fault of ours, you do not have enough available funds in your account to make the transfer;
- The transfer would go over the credit limit on your overdraft line;
- Circumstances beyond our control (such as fire, flood, water damage, power failure, strike, labor dispute, computer breakdown, pandemic, telephone line disruption or a natural disaster) or a rolling blackout prevent or delay the transfer despite reasonable precautions taken by us;
- If the ATM where you are making the transfer does not have enough cash;
- The system was not working properly and you knew about the problem when you started the transaction;
- The funds in your account are subject to legal process, an uncollected funds hold or are otherwise not available for withdrawal;
- The information supplied by you or a third party is incorrect, incomplete, ambiguous or untimely;
- The transaction cannot be completed because your debit card is damaged; or
- We have reason to believe the transaction may not be authorized by you.

There may be other exceptions stated in our agreement with you.

### **Consumer Liability**

Tell us AT ONCE if you believe your card, PIN, or code has been lost or stolen, or if you believe that an electronic fund transfer has been made without your permission (e.g., using information from your check). Telephoning is the best way of keeping your possible losses down. You could lose all the money in your account (plus your maximum overdraft line of credit). If you tell us within 2 Business Days after you learn of the loss or theft of your card, PIN, or code you can lose no more than \$50 if someone used your card, PIN, or code without your permission. If you do NOT tell us within 2 Business Days after you learn of the loss or theft of your card, PIN, or code and we can prove we could have stopped someone from using your card, PIN, or code without your permission if you had told us, you could lose as much as \$500.

Also, if your statement shows transfers that you did not make, including those made using your card, PIN or other means, tell us at once. If you do not tell us within 60 days after the statement was mailed or otherwise made available to you, you may not get back any money you lost after the 60 days if we can prove that we could have stopped someone from taking the money if you had told us in time. If

a good reason (such as a long trip or a hospital stay) kept you from telling us, we will extend the time periods.

### **Contact in Event of Unauthorized Transfer**

If you believe your card, PIN or code has been lost or stolen or that someone has transferred or may transfer money from your account or is using information from your check without your permission, call us at 877-770-BANC (2262) or write to us at Banc of California, Attn: Customer Care Center, 3 MacArthur Place, Santa Ana, CA 92707.

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

The provisions in this Electronic Fund Transfers section dealing with “Financial Institution’s Liability,” “Consumer Liability,” and “In Case of Errors or Questions About Your Electronic Fund Transfers” (and related provisions on the back of periodic statements) do not apply to business or other non-personal accounts. You must notify us immediately if you discover any unauthorized transactions or errors involving your business or non-personal account. You must send us a written notice of the problem within a reasonable time, not to exceed 14 days from the date of discovery or the date the first statement or notice reflecting the problem was mailed or otherwise made available to you, whichever occurs first. See the “WIRE AND OTHER FUND TRANSFERS” section above for terms applicable to Payment Orders.

### **How to Stop Preauthorized Transfers From Your Account**

If you have told us in advance to make regular payments out of your account, you can stop any of these payments by writing to us at Banc of California, Attn: Customer Care Center, 3 MacArthur Place, Santa Ana, CA 92707, or by calling us at 877-770-BANC (2262).

We must receive your request at least 3 Business Days before the payment is scheduled to be made. (Note: If you fail to give us your request at least 3 Business Days prior to a transfer, we may attempt, at our sole discretion, to stop the payment. We assume no responsibility for our failure or refusal to do so, however, even if we accept the request for processing.) If you call, we may require you to put your request in writing and to provide us with a copy of your notice to the payee, revoking the payee’s authority to originate debits to your account and get it to us within 14 days after you call. If we do not receive the written confirmation within 14 days, we may honor subsequent debits to your account. For individual payments, your request should specify the exact amount (dollars and cents) of the transfer you want to stop, the date of the transfer, and the identity of the payee. Unless you tell us that all future transfers to a specific recipient are to be stopped, we may treat your stop payment order as a request concerning the one transfer only. If you order us to stop one of these payments at least 3 Business Days before the transfer is scheduled and we do not do so, we will be liable for your losses or damages. We will charge you the stop payment fee listed in our Fee Schedule for each stop payment order you give. See the Fee Schedule (“Stop Payment – Order/Renew Fee”).

If you have arranged in advance to make regular payments out of your account and they may vary in amount, the person you are going to pay will tell you 10 days before each payment when it will be made and how much it will be. You may choose instead to get this notice only when the payment would differ by more than

a certain amount from the previous payment or when the amount would fall outside certain limits that you set.

### **In Case of Errors or Questions About Your Electronic Fund Transfers**

Call us at 877-770-BANC (2262) or write us at Banc of California, Attn: Customer Care Center, 3 MacArthur Place, Santa Ana, CA 92707 as soon as you can if you think your statement or receipt is wrong or if you need more information about a transfer listed on the statement or receipt. We must hear from you no later than 60 days after we sent the FIRST statement on which the problem or error appeared.

- (1) Tell us your name and account number.
- (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.
- (3) Tell us the dollar amount of the suspected error.

In addition, it would be helpful if you provided us with any supporting documentation related to the error.

If you tell us orally, we may require that you send us your complaint or question in writing within 10 Business Days.

We will determine whether an error occurred within 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 45 days to investigate your complaint or question. If we decide to do this, we will credit your account within 10 Business Days for the amount you think is in error, so that you will have the use of the money during the time that it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within 10 Business Days, we may not credit your account.

For errors involving new accounts, point-of-sale, or foreign-initiated transactions, we may take up to 90 days to investigate your complaint or question. For new accounts, we may take up to 20 Business Days to credit your account for the amount you think is in error.

We will tell you the results within 3 Business Days after completing our investigation. If we decide that there was no error, we will send you a written explanation and may also reverse the provisional credit previously provided, if applicable. You may ask for copies of the documents that we used in our investigation.

### **Fees**

See the account-specific disclosure and Fee Schedule for charges related to electronic fund transfer services.

### **Business Days**

Our Business Days are Monday through Friday, excluding holidays.

### **Confidentiality**

We will disclose information to third parties about your account or the transfers you make:

- (1) where it is necessary for completing transfers, or



- (2) in order to verify the existence and condition of your account for a third party, such as a credit bureau or merchant, or
- (3) in order to comply with government agency or court orders, or
- (4) if you give us your written permission.  
Refer to our Privacy Notice applicable to Consumer Accounts for further details.

### **Change in Terms/Termination of Service**

We may add to, delete or change the terms or terminate or restrict or suspend your use of our electronic fund transfer services at any time, with or without cause and without affecting your outstanding obligations under this Agreement. If you ask us to terminate your account, you will remain liable for subsequent transactions performed by you or any authorized signer.

## **DISPUTE RESOLUTION**

If a dispute arises between us with respect to the account, this Agreement, its enforcement or our account services, such dispute shall be resolved by judicial reference in accordance with California Code of Civil Procedure, Sections 638, et seq. The referee shall be a retired judge, agreed upon by the parties or appointed by the court. The costs of the reference procedure, including the fee for the court reporter, shall be paid equally by all parties as the costs are incurred. The referee shall hear all pre-trial and post-trial matters, including requests for equitable relief, prepare an award with written findings of fact and conclusions of law, and apportion costs as appropriate. The parties shall be entitled to discovery, which shall be conducted in the same manner as it would be before a court under the rules of discovery applicable to judicial proceedings. The private judge shall oversee discovery and may enforce all discovery rules and orders applicable to judicial proceeding in the same manner as a trial court judge. The parties agree that the selected or appointed private judge shall have the power to decide all issues in the action or proceeding, whether of fact or of law, and shall report a statement of decision thereon pursuant to the California Code of Civil Procedure Section 644(a). The private judge shall also determine all issues relating to the applicability, interpretation, and enforceability of this paragraph. If the parties do not agree on how the payment of the private judge's fees and expenses will be shared, the court may apportion such fees and expenses between the parties in a fair and reasonable manner that is consistent with the Code of Civil Procedure Section 645.1. Judgment upon the award shall be entered in the court in which such proceeding was commenced and all parties shall have full rights of appeal. All such proceedings shall be closed to the public and confidential and all records relating thereto shall be permanently sealed. The only exception to judicial reference shall be the following: both you and we have the right to pursue a claim in small claims court instead of judicial reference, if the claim is in that court's jurisdiction and proceeds on an individual basis.

This provision will not be deemed to limit or constrain either party's right to exercise self-help remedies such as set off, to obtain provisional or ancillary remedies such as injunctive relief or the appointment of a receiver, to interplead funds in the event of a dispute, to exercise any right or remedy as a secured party against any collateral pursuant to the terms of a security agreement, or to comply with

legal process involving accounts or other property. Venue for any action brought in accordance with this provision shall be in the State of California, County of Orange.

## **ADDITIONAL TERMS AND CONDITIONS**

### **Adjustments; No Legal Entitlement**

We may make adjustments to your account whenever a correction or change is required. Adjustments might occur, for example, if deposits are recorded or keyed in the wrong amount or items you deposit are returned unpaid. Unless the adjustment is to your benefit, we may elect, at our discretion, not to make an adjustment to your account to correct an error which you or a third party (e.g., another financial institution) cause if the adjustment is less than \$5.00 or our cost to make the adjustment is greater than the amount in question.

If monies are deposited in your account in error or you otherwise receive monies for which you have no legal entitlement, you agree to immediately return such funds to us or to the rightful owner. If you refuse to immediately return such funds to us or the rightful owner, you agree to be legally responsible for the funds, and you agree to indemnify, defend and hold us harmless from any loss, damage, claim, action, and liability that results (including, but not limited to, attorneys' fees and costs), and any charges and costs we incur, in connection with your refusal to immediately return such funds. This provision shall survive the termination of this Agreement.

### **Amendments/Changes in Account Terms**

We may add to, delete or change the terms of this Agreement at any time by mailing, or emailing, a notice, statement message or an amended agreement to any of you at the last address, or email if applicable, on file for you, your account, or the service in question. Your continued use of a service or an account constitutes your acceptance of the change. Changes may include a deletion, modification, or amendment of an existing term or the addition of a new term not otherwise contemplated when you entered into this Agreement or opened your account(s). Any change will take effect immediately, unless stated otherwise in any notice we make available to you. Unless otherwise required by law, we may amend the Agreement without prior notice (e.g., by posting the information in our offices, on our website, or otherwise making it available to you).

We may substitute similar services or discontinue currently offered services for certain accounts by giving you prior notice. We do not have to notify you, however, of any changes that are beneficial to you (e.g., a reduction or waiver of any fees or the addition of services) or if the change is required for security reasons.

### **Changes in Account Ownership, Address and Authorized Signers**

You agree to notify us immediately in writing of any change in your name, address, email address, beneficial ownership, business capacity (e.g., sole proprietor to corporation), or authorized signers on your account. We may require a new signature card or other documentation before giving effect to any change in ownership or authorized signers. We may rely on our account records to determine the ownership of your account.

We may also change the mailing address of record we have for you if we receive an address change notice from the U.S. Postal Service. Each account owner is responsible for submitting their own signed change of address request; however,

we may act on a signed change of address request from any one joint account owner. The address will be changed only for the accounts you specify and does not affect your other account relationships with us unless you specify that you want the address changed for those accounts as well. We are only required to attempt to communicate with you using the address we have on file for you for your account.

If the authorized signers on your account change, we may continue to honor items and instructions given earlier by any previously authorized signer(s) until we receive specific notice from you in writing not to do so. (A new or updated signature card, by itself, does not constitute notice to terminate any pre-existing payment or transfer plan.) In some instances we may require you to close your account or provide us with stop payment orders in order to prevent transactions from occurring. There may be a delay in implementing a change in the authorized signers on our records, and you agree that we will be given a reasonable opportunity to make the changes necessary.

## **Checks**

Check prices vary according to the types of checks you select. You can obtain information on the current price of checks by contacting your branch. You are responsible for verifying the accuracy of all information shown on your checks and deposit tickets. If you find an error, please notify us immediately. We are not liable for losses resulting from incorrectly printed checks or deposit tickets.

If you arrange for the printing of your own checks, the form, encoding and format of the checks must follow our check specification requirements and be approved by us in advance. The name(s) printed on your checks must match with the name(s) on our account records. If you do not purchase your checks through us, we may charge a fee for each check that is rejected during processing due to poor print quality, or if it fails to meet our specifications. You agree not to issue checks with features or marks that obscure, alter or impair information on the front or back of a check or that otherwise prevents us or another bank from capturing such information during automated check processing.

We make checks available that include fraud prevention features. If you choose not to use them or other checks that include fraud prevention features, you agree to assume a heightened degree of care for safeguarding your checks.

You agree to safeguard your blank and canceled checks, take reasonable steps to prevent their unauthorized use, and to review all returned checks and statements as soon as you receive them. If you have a business account, you should store checks under dual control in a secure, locked location that is accessible only to authorized personnel. If your checks are lost or stolen, you agree to notify us immediately. For security reasons, we reserve the right to close your account and transfer the balance to a new account. If we do, all checks written but not yet paid may be returned to payees as "Account Closed" or "Refer to Maker." You will be responsible for issuing any replacement checks. We reserve the right to hold you responsible for your failure to comply with this paragraph, or if you are negligent with regards to the safeguarding of your checks.

## **Unauthorized Check Transactions**

If your negligence contributes to a check being altered, changed or forged, we will not be responsible if we pay the check in good faith and in accordance with the

reasonable commercial standards of our business. If anyone disputes the payment of a check because it was altered, changed, forged, bore an unauthorized signature or was otherwise improper, we may not credit the amount to your account until the dispute has been resolved.

We will have a reasonable period of time to investigate the facts and circumstances surrounding any claim of loss. Unless a law, rule or regulation provides otherwise, such a claim is deemed not to have been made until submitted in writing to us. You agree to fully cooperate in our investigation of such a claim. Your cooperation may include among other things, at the Bank's discretion: (1) a requirement that you submit a declaration under penalty of perjury describing your claim; (2) a report filed with the appropriate police and/or investigatory authority; (3) promptly providing documentation in support of your claim that the Bank requests; and (4) making a claim against any insurance coverage that you might carry, including for claims arising from employee fraud or embezzlement. Any failure to cooperate in the Bank's investigation may result in our decision not to honor your claim. We may, although we are not required to do so, provisionally credit your account pending the final outcome of the investigation. If we determine, in our sole discretion, that the debit to your account was not improper, then we may reverse any provisional credit made to your account.

We will not be liable for special or consequential damages, including loss of profits or opportunity, or for attorneys' fees incurred by you to recover your loss against the person responsible and you agree to indemnify and hold us harmless from any such losses.

In the event that we reimburse your loss, you agree that you will not waive any rights you have to recover your loss against anyone who is obligated to repay, insure, or otherwise reimburse us for your loss. You will pursue your rights or, at our option, assign them to us so that we may pursue them. Our liability will be reduced by the amount you recover or are entitled to recover from these other sources, including insurance coverage. At our request, you will provide us with all reasonable information about your insurance coverage, including the name of your insurance carrier, policy number, policy limits, applicable deductibles, and/or assignment of rights under the policy. You waive all rights to subrogation against us with respect to any insurance policy or bond.

### **Checks Bearing Notations**

You agree not to print, or other otherwise present, checks, withdrawal orders or other items with special limitations, including when drawn on your account. Examples of special limitations include, but are not limited to, "void over \$100," "two signatures required," "paid in full" or "void after 90 days." If you do print, or otherwise present, checks, withdrawal orders or other items with any special limitations, you agree that we are not bound by such limitations. You authorize us, but we will not be obligated, to pay such items, or take them for deposit, without regard to the stated limitation(s). You further agree to indemnify us and hold us harmless for any claims or losses arising out of our refusal to honor said restrictions. In no event will we be liable for our refusal to honor the special limitations, whether or not we previously honored them. If you cash or deposit an item or write a check with such a notation, you agree that it applies only between you and the payee or maker and you agree to accept responsibility for payment of the item.

## **Check Endorsement**

Federal regulations provide that the top 1-1/2 inches on the back of a check (when read vertically from the trailing edge) are designated for your endorsement as payee. If you endorse a check in the area outside of the endorsement area, mark or otherwise obscure the other area, or make an endorsement which is illegible or incomplete, you agree to hold us harmless from any loss, delay, liability, claim, or damage which occurs as a result.

## **Check Images/Safekeeping**

If we do not return your paid checks to you, images of the checks may be sent or made available to you with your periodic statement. Your original checks may be destroyed shortly after we process the checks, but we will maintain a record of the checks for a reasonable time period. You can obtain copies of your checks by sending us a written request with the following information: your name, account number, check number, the amount of the check, and (if known) the date the check was paid. There may be a research charge for obtaining copies of certain checks; if applicable, we will charge your account a fee for each copy (including the front and back of the check). If you have access to our online banking system, you may also be able to view copies of your checks there. We will not be responsible for any indirect, special or consequential damages under any circumstances for our inability to provide copies of checks. Our liability, if any, will not exceed the face amount of the check in question, and you must provide us with reasonable proof of any loss.

## **Check Processing Cutoff Hour**

If we receive an item for payment on a weekend or a holiday, we may treat it as if we had received it on the next Business Day. Our processing cutoff hour with respect to any knowledge, notice, stop payment or postdated check order, or legal process received by us involving a check is one hour after the opening of the Business Day following the Business Day on which we receive the check. The cutoff hour with respect to setoffs exercised by us is midnight of the Business Day following the Business Day we receive a check, or such later time by which we must return the check. The cutoff hour determines our obligation under state law to pay or return certain checks that have been received (but not finally paid) by us on the previous Business Day.

## **Check Signature Verification**

We have automated collection and payment procedures that rely primarily on information encoded on each check or item in magnetic ink for paying or processing an item. We may rely on the information encoded on the check's magnetic ink character recognition (MICR) line, according to general banking standards, whether or not that information is consistent with the other information on the item. You will reimburse us for any loss or expense we incur because you issue or deposit an item containing altered or extra information in the MICR line. You agree that automated check processing is reasonable and that you have responsibility for preventing and reporting forgeries, alterations, and other unauthorized use of your account. We do not fail to exercise ordinary care by posting or paying items without sight examination of the items. The Bank's own policies and procedures are used solely for our internal reasons and do not establish a higher standard of care for the Bank other than that which is provided by law or regulation.

## **Compliance**

You agree to comply with all laws, rules, and regulations applicable to you, to your activities and to your use of our services. This includes your agreement to comply with (to the extent applicable to you and your actions) federal anti-money laundering laws, sanctions laws administered by the Office of Foreign Assets Control, currency transaction or Bank Secrecy Act reporting and recordkeeping requirements, and any state counterpart of the same. Upon request by us, you must inform us about and disclose to us the identity of all persons who have a beneficial interest in you (if you are a non-natural person) and in your transactions.

You represent and warrant that you will not use your account or any service we provide to you for any unlawful purpose, including not accepting or making payments in connection with the participation of any person (including yourself) in unlawful Internet gambling. You acknowledge that “restricted transactions” (as defined in the Unlawful Internet Gambling Enforcement Act and its implementing regulations) are prohibited from being processed through your accounts or your relationships with us. We reserve the right to deny or block transactions or authorization from merchants engaged in internet gambling or any other illegal or improper business.

You represent and warrant that you are not, and you agree not to take, any action that would result in your being deemed or treated as a money service business under any applicable state or federal law, except to the extent that you have specifically and in writing previously informed us that you are a money service business. Notwithstanding the foregoing, we reserve the right to refuse to open or to continue to maintain any deposit account.

You covenant, represent and warrant that the foregoing is true and correct, as of the opening of your account and again each time you make a deposit or withdrawal or otherwise use a service offered by us. You agree to provide us with evidence reasonably satisfactory to us showing that you are in compliance with the above, upon our request. If we are uncertain regarding the legality of any transaction, we may refuse the transaction or freeze the amount in question, or freeze the account, while we investigate the matter. You agree to indemnify, defend and hold us harmless from every action, proceeding, claim, loss, cost and expense (including attorneys’ fees) suffered or incurred by us due to any government entity seizing, freezing or otherwise asserting or causing us to assert control over any account or funds in an account of yours (or ours) when purportedly caused by or arising out of your action or inaction. This will apply whether or not such action is ultimately determined to be authorized under the laws of the U.S. or its territories, or of any foreign jurisdiction. We are not required to inquire or determine the authority of any action taken by the U.S., state or foreign government entity prior to acceding to any legal process initiated by it.

## **Conflicting Demands/Disputes**

If there is any uncertainty regarding the ownership of an account or its funds, or if a dispute arises over control of or access to your account, or if we are unable to determine any person’s authority to give us instructions, or if we believe a transaction may be fraudulent or in violation of law, or if we receive conflicting instructions from you (including any owner, joint account owner, contracting officer and/or other authorized signer on your account), or in the case of a corporate

or partnership or association/LLC account, conflicting board resolutions or partnership authorizations or member instructions or similar conflicting demands, or if we are required to do so by any government agency, we may require, but are not obligated to require, the signatures of all account owners and authorized signers on items, withdrawals, or other transactions. We may also, but are not obligated to, “freeze” the account until we get evidence satisfactory to us that either the dispute is resolved or there is general agreement on payment of or access to the funds in the account.

Without limiting the foregoing, you also authorize us to do one or more of the following:

- (1) We may ignore any instructions (such as an instruction by one account owner not to honor items or other withdrawal orders by another account owner) that conflict with the terms of the signature card for the account unless all account owners and authorized signers sign the instructions.
- (2) We may reverse any debits or credits to the account in dispute, or other accounts with us, to correct what we believe in our sole discretion resulted from action taken to the disadvantage of one account owner, over another.
- (3) We may return items unpaid, marked “Refer to Maker” or otherwise at our discretion.
- (4) We can close the account and issue a single cashier’s check for the available account balance jointly payable to all account owners, and we may mail or deliver that check to any one of the account owners or signatories, or to the address of record.
- (5) We may commence an action in interpleader, giving the disputed funds to a court so that it can decide who has the right to control the funds. We will not be liable to you for any costs, claims, damages, or other expenses that result from the payment or non-payment of items or other request for payment of the deposited funds. We will charge the account for our costs and expenses (including attorneys’ fees and costs) in commencing an action in interpleader or may seek recovery of such costs and expenses from the funds deposited in the interpleader action.
- (6) We can “freeze” the account until we receive written proof (in form and substance satisfactory to us) of each person’s right and authority over the account and its funds, or until a court of competent jurisdiction issues an order that, in our sole discretion, resolves the conflict.
- (7) Continue to pay items and other withdrawals when the instructions to do so are given to us by an owner of the account according to our records.
- (8) We can take any other action we believe to be reasonable under the circumstances.

You agree to assume all liability for, and you agree to indemnify, defend, and hold us harmless from and against any and all losses, damages, claims, costs or expenses (including attorneys’ fees and costs) incurred by us as a result of any dispute that arises under this section. In addition to the foregoing rights, you authorize us in our sole discretion to elect to close your accounts pursuant to this Agreement. The existence of the rights set forth above shall not impose an



obligation on us to assert such rights or to deny a transaction. This provision shall survive the termination of this Agreement.

### **Consent For Us to Contact You By Email and Phone, Including Cell Phone and Text Messaging**

You agree that we or our agents may contact you at any email address or telephone or cell number you provide to us. You authorize us to send emails and text messages and to make prerecorded or autodialed calls to any number(s) you provide. Your service provider may impose a charge you for those calls/messages. If necessary, you may change or remove any of the email addresses or telephone numbers at any time by contacting us at 877-770-BANC (2262).

### **Consent to Gather Information**

You authorize us to obtain information from time to time regarding your credit history from credit reporting agencies, ChexSystems, and other third parties. You authorize us to obtain address information from the California Department of Motor Vehicles or any other government agency. As such, you waive your rights under California Vehicle Code §1808.21 (or equivalent). Accounts not maintained in a satisfactory manner at the Bank are subject to closure by the Bank and are reported to ChexSystems. You are also hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations. We may report information about your account to credit bureaus. Late payments, missed payments or other defaults on your account may be reflected in your credit report.

### **Cutoff Hours**

A number of our services are subject to processing cutoff hours. Requests received after the cutoff hour or on a non-Business Day may, in our discretion, be deemed received as of the next Business Day. Alternatively, some services may require you to resubmit an order when it is received after the cutoff hour or on a non-Business Day.

### **Death or Adjudication of Incompetence**

You agree to notify us immediately of the death or court-declared incompetence of any owner, authorized signer or designated beneficiary on your account. We may require additional documentation, including but not limited to a court order, prior to acting on any notice of death or incompetence. Until we receive such notice in writing, and have a reasonable opportunity to act on it, we may continue to honor items drawn on your account by the authorized signer(s). We also may freeze, offset, refuse and/or reverse deposits and transactions (e.g., governmental or retirement benefit payments payable to the deceased) if an owner dies or is adjudicated incompetent.

If your account ownership records indicate that the account is held as a joint account, upon the death of any owner, the deceased owner's share passes automatically to the surviving owner(s) unless there is clear and convincing evidence of a different intent on the signature card. We typically refer to such accounts as joint accounts with right of survivorship or joint tenancy. If the account is held by a husband and wife or by registered domestic partners as "community property," ownership of the account will be determined by community property law and may be affected by a will. Upon death of all account owners, "Pay On Death" and Totten Trust ("in trust



for”) accounts pass automatically (and in equal shares unless otherwise indicated in our records) to the named beneficiaries who survive the last surviving owner.

If we have any question as to the ownership of funds or the amount of funds that belong to any person upon the death of an owner, we may freeze all or part of the account, pending receipt of proof (satisfactory to us) of each person’s right to the funds.

### **Deposit Insurance**

Banc of California is a member of the Federal Deposit Insurance Corporation (“FDIC”). Your accounts with us are insured to the regulatory limits by the FDIC. For further information regarding insurance of accounts, you may write to the FDIC at 550 17th Street, N.W., Washington, D.C. 20429, telephone the FDIC’s toll-free consumer hotline at 877-275-3342, or visit its website at [www.fdic.gov](http://www.fdic.gov).

### **Disputed Payments**

If you have a dispute regarding an amount you owe to us, you must direct all correspondence regarding the dispute to us at: 3 MacArthur Place, Santa Ana, CA 92707, Attn: Client Services. Any communications regarding the disputed payment that are sent elsewhere or to someone else will be of no legal effect.

### **Electronic Communications and Signatures**

Where permitted by law, you agree that we may use electronic communications to enter into agreements between you and us and otherwise to establish terms and conditions for products and services you receive from or through us. Electronic agreements may be provided to you using hyperlinks or “click-through” agreements on our web site. Your consent may occur by your clicking “agreed” or similar terms, or by your subsequent use of a product or service.

### **Facsimile; Mechanical or Electronic Signatures**

Many customers use a facsimile, electronic or other mechanical signature, including those computer generated or created via a stamp (referred to herein as “**facsimile signature**”) to execute agreements, authorize transactions, provide and authorize instructions and to endorse or otherwise complete other documents. If you use any form of facsimile signature in connection with any account, you agree to deliver a sample to us before you begin using it, and to execute and deliver agreements in a suitable form, if we so require. If you use a facsimile signature for any of these purposes, you are responsible for any such transactions, instructions or endorsements that appear to us to bear a signature that resembles the signature of a person authorized to sign on your account. When you use a facsimile signature in connection with any account, you agree you shall have the sole responsibility for maintaining security of the facsimile signature or device by which it is affixed, and you shall bear the entire risk for unauthorized use thereof, whether or not you are negligent, except as may be required by law. You agree that we may rely on facsimile signatures that resemble the appropriate original or any signature specimen given to us and that appears to have been made through an authorized medium, regardless of how the facsimile signature came to be placed on the item. We may rely on facsimile signatures, even if they were placed on agreements, transactions, instructions, items or otherwise without your knowledge or consent. We may pay items bearing facsimile signature, regardless of the persons to

whom they are drawn or paid. A facsimile signature that resembles an authorized signer's signature or any facsimile signature specimen is not considered a forgery or an unauthorized signature, and such a facsimile or automated signature shall be effective as your signature or endorsement, without regard to color variation, whether or not you have been negligent. You further agree to indemnify, defend, and hold us harmless from and against any and all losses, damages, claims, costs or expenses (including attorneys' fees and costs) incurred by us as a result of the unlawful use, unauthorized use, or misuse by any person of any such facsimile signature or the device by which it is affixed. This means that we are not responsible for any misuse of a facsimile signature we believe you authorized. This provision shall survive the termination of this Agreement.

### **Fax Instructions/Voice-Mail/Email**

We may, but are not required to, act upon instructions received by fax transmission, voice-mail or email. We may not review your message until the Business Day after its receipt. As such, it may not be appropriate to use these methods of communication if you need to reach us with time- sensitive information.

### **Force Majeure**

We shall not be liable for any loss, expense, failure to perform, or delay caused by failure of communication systems, accidents, strikes, fire, flood, war, riot, pandemic, civil strife, terrorist attack, earthquake, power outage, funds transfer system or government rules, acts of third parties, or any cause that is beyond our reasonable control. We will not be liable or responsible for the acts or omissions of any other financial institution or any third party or for any inaccuracy or omission in a notice or communication received by us from you, your agents, your authorized signers, other financial institutions, or any other third party. In addition, we shall be excused from failing to transmit, or delaying the transmission of, any transaction, if such transmittal would result in our having exceeded any limitation upon its intra-day net funds position established pursuant to present or future Federal Reserve guidelines or in our otherwise violating 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. We shall not be liable for any failure to perform any of our obligations under this Agreement if such performance would result in us being in breach of any law, regulation, requirement or provision of any government, government agency, banking or taxation authority in accordance with which we are required to act, as shall be determined in our sole discretion.

### **Governing Law and Rules**

To the extent this Agreement is subject to the laws of any state, it will be subject to the laws of the state of California, without regard to its conflict of law provisions. All accounts are exclusively governed by U.S. federal law and California state law. If, after opening an account with us, you change your residence to leave the United States, you agree that the laws of such other countries shall not govern this Agreement, your accounts, or the relationship between you and us. Your accounts and services also will be subject to applicable clearinghouse, Federal Reserve, funds- transfer system, image exchange and correspondent bank rules (collectively, "Bank Rules"). You agree that we do not have to notify you of a change in the Bank Rules, except to the extent required by law. If there is any inconsistency between the terms of this Agreement and the Bank Rules, the terms of this Agreement shall

supersede the Rules, unless otherwise provided in the Bank Rules.

### **Inactive Accounts**

The funds in your account may be transferred to the appropriate state agency if no activity occurs in the account within the time period specified by state law.

If an account or other property is inactive for more than three years (or other escheat period or as required by escheat law as may apply to the account or property), we may comply with what we in good faith believe to be any legal requirement to turn the balance over to the state of California or to another jurisdiction. To the extent required by law, we will send a notice to your last known address before we turn your account or other property over to the state. If your mail has been returned to us as undeliverable, we may not send you any notice. If you discover that an account of yours has been turned over to the state, you may seek to claim your funds by submitting proof of ownership to the State Controller's office in Sacramento or to such other comparable authority as may be responsible for escheated funds.

### **Limitation on Liability; Hold Harmless and Indemnity**

Except as otherwise stated in this Agreement or as specified by applicable law, we will be liable to you only for actual damages arising directly from our intentional misconduct or gross negligence. We owe you a duty of ordinary care. "Ordinary care" requires only that we follow standards that do not vary unreasonably from the general standards followed by similarly-situated banks. Unless otherwise expressly agreed in writing, our relationship with you will be that of debtor and creditor. That is, we owe you the amount of your deposit. No fiduciary, quasi-fiduciary or other special relationship exists between you and us. Our policies and procedures are general internal guidelines for our use and do not establish a higher standard of care for us that is otherwise established by the laws governing your account. A mere clerical error or an honest mistake will not be considered a failure by us to perform any of our obligations.

Except to the extent limited by applicable law, we are not liable for loss, damage, harm or expense ("Loss") from: (a) any inaccuracy, act or failure to act of any person not within our reasonable control; (b) the failure of other financial institutions to accept or perform in connection with items or other charges; or (c) your negligence or breach of this Agreement.

Our liability for any act or failure to act is limited to your direct Loss (and interest on that Loss, if required by law). Our liability will be reduced: (a) by the amount of the Loss that is caused by your own negligence or lack of care; (b) to the extent that damages could not have been avoided by our exercise of ordinary care; and (c) by any Loss recovery that you obtain from third parties (apportioned in accordance with this provision). We will not be liable for any Loss that is caused in part by your negligence if we acted with ordinary care.

Except if specifically imposed by statute that cannot be waived between parties, WE ARE NOT LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES, such as Loss or damage from subsequent wrongful dishonor from our acts or omissions, even if we are aware of the possibility of the same.

You agree to pursue all rights you may have under any insurance policy covering any Loss and to provide us with information regarding coverage. Our liability will

be reduced proportionately in accordance with our responsibility for any Loss, and by the amount of any insurance proceeds you receive or are entitled to receive for the Loss. If we reimburse you for a Loss and the Loss is covered by insurance, you agree to assign us your rights under the insurance policy to the extent of our reimbursement, in accordance with this provision. You waive all rights of subrogation against us with respect to any insurance policy or bond.

(Note: Different liability rules apply to certain electronic fund transfers. See the section titled “Electronic Fund Transfer Disclosure.”)

In addition to any other rights we may have under this Agreement or any related agreement, or at law or in equity, and except as expressly limited by applicable law or regulation, you agree that you will indemnify, defend, and hold harmless the Bank and our directors, officers, shareholders, employees and agents, from and against any and all suits, proceedings, claims, demands, causes of action, damages, expenses (including reasonable attorneys’ fees and other legal expenses), liabilities and other losses that result from or arise out of: (a) the wrongful acts or omissions of you, or any person acting on your behalf (including without limitation your authorized processor, if any), in connection with your use of your accounts or services we offer to you, including, without limitation: (i) the breach by you of any provision, representation or warranty; (ii) the negligence or willful misconduct (whether by act or omission) of you, your customers, your authorized processor (if any) or any third party on behalf of you; (iii) any misuse of the account or services by you, or any third party within the control or acting on behalf of you; or (iv) the failure by you to comply with applicable state and federal laws and regulations applicable to you; (b) any act or omission of ours that is in accordance with this Agreement or instructions from you; (c) actions by third parties, such as the introduction of a virus that delays, alters or corrupts the transmission of information to us; or (d) any loss or corruption of data in transit from you (or on your behalf) to us. This provision shall survive the termination of this Agreement.

### **Legal Process**

You authorize us to accept and act on any legal process that we believe to be valid without any liability by us to you, whether served in person, by mail, by facsimile transmission or electronic communication, and whether at locations other than the branch at which the account, property, or records are held. “Legal process” includes a subpoena, restraining order, injunction, writ of attachment or execution, levy, garnishment, or other legal order relating to you or your account. If we are permitted, we will use good faith efforts to send you notice of any legal process received by us, but this Agreement does not require us to do so.

We have a legal process cutoff time of 3:00 p.m. Pacific. If we receive legal process against your account before our cutoff time for legal process which requires us to attach, garnish or turn over your funds, and you do not have enough funds in the account to cover the legal process, we may return items presented against your account the previous Business Day and apply the funds to satisfy the conditions of the legal process.

If any legal process directs us to attach, garnish or turn over funds or other property, then, depending on the type of order, we either immediately deliver the funds or property or hold them for a legally permitted period. We do not pay interest on the funds during the period we hold them. If we use funds from a certificate of deposit

account, we may impose an early withdrawal penalty.

You authorize us to charge your account a legal process fee for each order. See Fee Schedule (“Levy/Legal Service Processing Fee”). You agree to pay our fees and expenses for research and copying of documents and all other expenses, including administrative expenses, we incur in responding to any legal process related to your account. These may include attorneys’ fees and costs. You authorize us to deduct these fees and expenses from any of your accounts without prior notice to you.

Any legal process requiring us to attach, garnish or turn over your funds shall be subject to the Bank’s right of setoff and security interest in the account. We are not liable to you for not paying items because we have withdrawn funds from your account or in any way restricted your access to funds because of a legal process or our setoff.

### **Lost/Stolen/Destroyed Cashier’s Checks**

You do not automatically have the right to stop payment on cashier’s checks you purchase from us. If a cashier’s check is lost, stolen or destroyed, please contact us. In general, you must complete a declaration of loss form describing the cashier’s check and how it was lost, stolen or destroyed. We will then wait ninety days from the date the cashier’s check was issued before we pay your claim. If ninety days has already passed, we will act on your claim within a reasonable time. If the cashier’s check is presented during the ninety day waiting period, we may pay the item to a person entitled to enforce the cashier’s check. If this happens, we will not pay your claim. If we determine that any such instrument is presented by or on behalf of a person who may be a holder in due course or who may otherwise have the right to obtain payment of the cashier’s check from the Bank, we may, without notice to you, pay the cashier’s check, even though you may have paid us a fee to not honor the cashier’s check.

### **Limitation on Time to Bring Action**

Unless otherwise required by law, an action or proceeding by you to enforce an obligation, duty or right arising under this Agreement or by law with respect to your account or any account service must be commenced no later than one year after the day the cause of action accrues.

### **Monitoring, Recording and Retaining**

We may monitor and record communications between you and us without notice, unless notice is required by law. You agree that we may produce the telephonic or electronic recordings or computer records as evidence in any proceedings brought in connection with the Agreement, and you hereby acknowledge the validity and enforceability of such telephonic or electronic recordings.

### **Notices**

We may provide you with any notices and communications telephonically, by mail, or electronically. Any notice or communication will be sent using the information we have in our records, and will be effective when sent or made available to you.

If there are multiple authorized signers, we may send or make available communications to any one or more of them (unless otherwise agreed by us in writing).

All notices and other communications by you to us shall be in writing and, addressed to the branch where you maintain your account or at Banc of California, 3 MacArthur Place, Santa Ana, CA 92707, Attn: Client Services, except as otherwise provided in this Agreement. Any notice, instruction, or other communication sent by you to us will be effective when we have actually received and have had a reasonable time to act on the notice, instruction, or other communication. Without limiting the foregoing, we are entitled to rely on any notice, instruction, or other communication believed by us in good faith to be genuine or to have been signed or authorized by your authorized representative.

### **Other Agreements**

You may have other agreements with us which, by their terms, supersede this Agreement in whole or in part. For example, if you are a governmental unit or have a business account with us, certain provisions of your other agreements with us (e.g., involving treasury management services) may supersede some of the terms of this Agreement, to the extent that they are inconsistent.

### **Overdrafts**

An overdraft occurs when the available balance in your account is insufficient to pay a debit (withdrawal) transaction, but we pay the transaction anyway. We strongly recommend that you not overdraw your account, as overdrafts can result in fees for which you will be responsible. You will also be responsible for bringing your account current. Our standard overdraft services do not ensure that your overdrafts will be covered. There are ways to avoid overdrafts, including prudent account management.

Where the “Fee Schedule” is cited, consumers should reference the Schedule of Fees and Charges – Personal Accounts, while business accounts should reference the Schedule of Fees and Charges – Business Accounts.

Your account will not be charged an overdraft fee if your account is overdrawn by less than the de minimis amount as described in the applicable Fee Schedule. Further, see the applicable Fee Schedule for the maximum number of overdraft charges that we impose per account per day, whether the overdraft item is paid or returned.

Your consumer account will not be charged the following fees: NSF Returned Item Fee, Overdraft Coverage Transfer Fee, and Daily Negative Balance Fee.

An overdraft can happen, which may trigger an overdraft item fee (see the Fee Schedule (“Overdraft Paid Item Fee,” “NSF Returned Item Fee”)), for example:

- If you write a check without enough money in your checking account to pay the check, and we pay the item;
- If an electronic transaction clears against your account without enough money in your account to cover the transaction;
- If you make a withdrawal from your account that exceeds your available balance;
- If you use your Banc of California debit card for payment without enough money in your checking account to cover the amount authorized or the amount paid to the merchant;

- If you make a deposit, withdraw money based on the credit received from that deposit, and then have that deposit reversed because the deposited item is later returned to us unpaid;
- If you withdraw money from your account and do not have enough money left to pay any related charges posted to the account; or
- When at the moment you authorize certain transactions, your account has a positive balance; however, by the time the transaction is settled, your account has a negative balance. These transactions can occur, for example, when an ATM transaction or an everyday debit card transaction is approved, and other subsequent transactions reduce the balance in your account before your ATM transaction or everyday debit card transaction is posted to your account (i.e., a force pay transaction). Your account will not be charged an Overdraft Paid Item Fee for any force pay transactions.

You do not have the right to withdraw funds that exceed the available balance on your account. When an item overdraws your account, we can either pay or return the item. You cannot choose which items we pay or return.

If we get a batch, or multiple batches, of items in a day (for example, checks, ATM purchase transactions, and debit card purchase transactions typically come in batches), and if one, some or all of them would overdraw your account if paid, we will post items in accordance with the “Order of Payments” section within this Agreement.

We may charge a fee if your account is overdrawn and your covering deposit is deemed received the next Business Day (e.g., deposits received after our processing cutoff hour). See the Fee Schedule (“Overdraft Paid Item Fee”, “NSF Returned Item Fee”). We also may impose a fee for deposited items that are returned. See the Fee Schedule (“Returned Deposit Item Fee”). When an overdraft fee is imposed, it operates to reduce the available balance in your account.

### **Current Balance**

The current balance (also known as the ledger balance) is the amount of funds in your account as of the last processing date. Not all transactions are reflected in the current balance, and part of the balance may not be available for withdrawal or authorizing transactions (see Available Balance section below).

### **Available Balance**

The available balance in your account is the amount of funds available for withdrawal and authorizing transactions. Your available balance will be less than the current (ledger) balance when there are pending transactions. Some examples of pending transactions are:

- Funds on hold in accordance with our funds availability policy;
- Point of Sale (debit card) transactions – This includes merchant authorizations that have not been settled by the merchant (see the section titled Electronic Presentment/Posting);
- Our receipt of legal process related to funds in your account;
- Funds frozen for another reason, such as funds pledged as collateral for a loan or commitment you have made;



- Funds related to our receipt of a notice that a transaction will be presented or returned.

The Available Balance does not reflect every transaction you have previously authorized. Some examples of transactions that may not be reflected in your Available Balance are:

- Outstanding checks and authorized automatic withdrawals (such as recurring debit card transactions, transfers, and ACH transactions that we have not received for payment or processing);
- The final amount of a debit card purchase. For example, we may authorize a purchase amount from a restaurant or a gas station, but the authorized amount may be different from the final charge;
- Scheduled bill payments that have not yet been processed;
- Debit card transactions that have been previously authorized but not sent to us for payment from your account where we have released the transaction authorization hold and the transaction is sent for payment from your account at a later date.

### **Your Responsibility to Repay Overdrafts**

If we permit an overdraft or otherwise allow your account balance to drop below zero, you agree to pay the amount of the overdraft promptly, without notice or demand from us. You agree that we may use subsequent deposits and other credits to your accounts, including without limitation, deposits of government, welfare, retirement and Social Security benefits, to cover any overdraft existing in your account, to the fullest extent permitted by law. (See the section titled “Setoff” below.)

Each account owner is jointly and severally responsible for paying any overdrafts created by any authorized signer(s) or party to the account, whether or not the owner participates in the transaction or benefits from its proceeds.

### **Discretionary Overdraft Service**

We automatically enroll your eligible demand deposit accounts in the Discretionary Overdraft Service, our standard overdraft program. This is an automated discretionary overdraft service where we may authorize and pay transactions that exceed your available balance in your deposit accounts. We also offer alternatives that may be less expensive for you (see the section titled “How to Avoid Overdraft Fees,” below). Our Discretionary Overdraft Service is not available if you have an overdraft line of credit with us.

Our Discretionary Overdraft Service is not a line of credit. We have the discretion to pay overdrafts within the overdraft limit, but payment by us is a discretionary courtesy and not a right of the client or an obligation of the Bank. We are not obligated to pay any transaction presented for payment if your account does not have a sufficient available balance. Your overdraft limit is dynamic, established based on algorithms that weigh numerous variables and behaviors. Your limit may change as often as each day and may be suspended or reduced to zero when you no longer sustain the eligibility criteria. Balances at ATM or other points of inquiry will not include the Discretionary Overdraft Service limit; however, transactions may be paid in excess of the balances indicated, creating an overdraft. We discourage the practice of overdrawing accounts.



When you are enrolled in the Discretionary Overdraft Service:

- Your overdraft limit is determined daily by our automated overdraft solution and may change as often as daily, without prior notice to you.
- A per item overdraft fee will be charged, whether the overdraft item is paid or returned. See the Fee Schedule (“Overdraft Paid Item Fee,” “NSF Returned Item Fee”). If your business account balance remains overdrawn for eight consecutive calendar days, commencing with the first day overdrawn, we will charge your account an additional Daily Negative Balance Fee if your overdrawn balance meets or exceeds the de minimis amount as described in the applicable Fee Schedule. See the Fee Schedule (“Daily Negative Balance Fee”).
- Your ATM and everyday debit card transactions are not included in the Discretionary Overdraft Service. For business accounts, we may assess a fee each time an item is presented and re-presented against non-sufficient funds. If the item is ultimately paid and overdraws your account, we will also assess a fee. This process is automated and may result in more than one fee assessed on a single item. See the Fee Schedule (“Overdraft Paid Item Fee,” “NSF Returned Item Fee”).

What Happens if You Are Not Enrolled In the Discretionary Overdraft Service?

If you opt- out of the Discretionary Overdraft Service or you do not have an eligible account and you do not have Overdraft Protection (see “How to Avoid Overdraft Fees,” below), we will generally return or decline transactions that would overdraw your account rather than pay these transactions. In general:

- Your account will be charged an NSF Returned Item Fee for each transaction that is returned for insufficient funds rather than paid, up to our maximum number of overdraft fees, see the applicable Fee Schedule. See the Fee Schedule (“NSF Returned Item Fee”). Consumer accounts are not charged a fee for items that are returned when there are insufficient funds to pay such items. In addition, some merchants may also assess a returned check fee.
- Subject to our policy on Force Pay Transactions (see below), your everyday debit card transactions and/or ATM transactions will be declined. We do not charge a fee for declining your debit card or ATM transactions.
- Force Pay Transactions: There may be instances where we will pay a transaction even if you do not have sufficient funds in your account to cover the transaction and you are not enrolled in the Discretionary Overdraft Service. These transactions can occur, for example, when an ATM transaction or an everyday debit card transaction is approved, and other subsequent transactions reduce the balance in your account before your ATM or everyday debit card transaction is posted to your account. Under these circumstances, we will still pay the transaction and your account will not be charged an overdraft fee. Your business account will be charged an overdraft fee and may still accrue a Daily Negative Balance Fee (see the Fee Schedule).

### **How to Avoid Overdraft Fees**

The best way to avoid incurring overdraft fees is to not overdraw your account. If,

however, your account is overdrawn, the following options may better serve your needs, and could save you money:

- **Sign Up For Overdraft Protection:** If you have multiple deposit accounts at Banc of California, you can link these accounts so that if one account
- is overdrawn, and you have available funds in another eligible account, the funds will be automatically transferred to cover the overdraft. Our Discretionary Overdraft Service will only be used if Overdraft Protection has been exhausted. For business accounts, there is a fee per transfer with this service. See the Fee Schedule (“Overdraft Coverage Transfer”).
- **Utilize Account Balancing:** Balance or reconcile your accounts periodically. If you need help learning to balance or reconcile your Banc of California accounts, please reach out to our staff members. Just visit your local branch – we are happy to help.
- **Apply For An Overdraft Line of Credit:** You may apply for our business or consumer overdraft line of credit. With an overdraft line of credit, our Discretionary Overdraft Service is not available. If we approve your request for an overdraft line of credit, your rights and obligations shall be governed by the loan documents executed between you and us with regards to this product. If you are interested in applying an overdraft line of credit, contact your relationship manager or visit a branch.
- You can also sign up for automatic email alerts. If you sign up for email alerts, we will send you an email alert if your account balance reaches a preset threshold as determined by you, in order to help you avoid overdrafts . We will use the email address we have on file for you. It is your sole responsibility to notify us if your email address has changed.

To opt-out of our Discretionary Overdraft Service, sign up for email alerts, or for more information on any of the options described above, please call us at 877-770-BANC (2262).

### **“Pay-on-Death” Accounts**

Any funds in a consumer account where the signature card has been marked “payable on death” pass directly to the surviving beneficiary(ies) on the death of all account owners. During their lifetime, the owner(s) exercise full control over the account, including making deposits and withdrawals. If there is more than one surviving beneficiary, each will receive an equal share of the funds, unless we and the account owner(s) have otherwise agreed in writing. The owner(s) may change beneficiaries during their lifetimes by updating our account documentation. Owners should keep us informed about each beneficiary’s address.

### **Photocopies**

Checks and other items are sometimes lost during processing or while in transit. If a photocopy of a check or other item that appears to be drawn on your account is presented to us for payment in place of the original, we may pay the photocopy if it is accompanied by a representation from another financial institution that the original item has been lost or destroyed. We will not incur any liability in the event the original item is later presented to and paid by us, unless a stop payment order is in effect for the check.

## **Post-Dated and Stale Dated Checks**

Processing checks is a highly automated service, and we use commercially reasonable efforts to process checks. We may pay checks drawn on an account even if one or more of the following are true: the check is dated after the date we pay it; the check is presented to us for payment more than six months after the date on the check; a stop payment previously requested has expired; the check contains language that purports to make it void before the time it was paid; or the check contains other language that purports to establish conditions under which it may be paid.

Upon presentment of an item for payment more than six months after its date, you agree that we may, in our sole discretion and without notice or inquiry to you, charge your account for the item. However, we are not obligated to do so. You agree that our obligation of good faith does not require us to make any inquiry of you or require us to give you notice prior to the payment of an item more than six months after its date. Our payment of the item will be in good faith unless we have timely received a stop payment order from you. If you want to ensure that we do not pay a stale dated item, you should place a stop payment order on the item.

## **Power of Attorney**

Under certain types of account ownership, you may authorize another person as your agent and attorney-in-fact to act on an account (“agent”). You shall be bound by and responsible for the actions of your agent, even if the agency relationship is not indicated on the item, withdrawal order or other instruction. Unless prohibited by law, we may reasonably refuse to honor a power of attorney or agency that you grant to others for any reason or require the appointment to be in a form satisfactory to us. We may require you or your agent to present the original form. In some cases, we may require that the agent confirm in an affidavit that the powers have not been revoked or terminated. We may continue to rely on the instructions and actions of your agent until we receive written notice that the agent’s authority has been revoked, terminated or is amended, and we have had time to act upon it. We will not be liable to you or anyone else if we, in good faith and without actual knowledge that the power of attorney has been revoked, terminated or is amended for any reason, act on the instructions of your attorney-in fact. We assume no duty to monitor the actions of your attorney-in-fact to ensure that (s)he acts for your benefit.

## **Relationship; No Third Party Beneficiaries**

Our relationship with you concerning your accounts is that of debtor and creditor. No fiduciary, quasi-fiduciary or similar relationship exists between you and us. There are no third party beneficiaries to this Agreement.

## **Remotely Created Checks and Electronically Created Items**

A remotely created check, or demand draft, is a writing not signed by the customer that is created by a third party under the purported authority of the customer for the purpose of charging the customer’s account with a financial institution. It must contain the customer’s account number and may contain the customer’s printed or typewritten name, a notation that the customer authorized the draft, or the statement “no signature required” or words to that effect. An electronically created item is an electronic image resembling a check, created from your information that was not actually derived from an original paper check.

You agree not to present remotely created checks or electronically created items for deposit, unless we have given prior express written approval.

If you authorize a third party to draw against your account, we may charge your account and pay such items, including remotely created checks and electronic items initiated by the third party. You authorize us to continue to honor items or debits from a payee previously authorized by you, until you instruct us otherwise. If you want us to stop honoring items from a payee previously authorized by you, we may require that you tell us in writing. Until you notify us that such items are not authorized, we can continue to pay them and will not be liable to you even though the items are not in accordance with any authorization you may have given.

If any information on a remotely created check or electronically created item is incomplete, inaccurate, or inconsistent, you agree that we may, at our sole discretion, either pay the remotely created check or electronically created item and charge your account for the check or item as drawn or refuse to honor the check or item and, without prior notice to you, return the check or item unpaid.

You also agree to indemnify, defend and hold us harmless from every loss, expense, cost (including attorney's fees), claim and liability related to or arising from remotely created checks and electronically created items, including (without limitation) claims that they were not authorized by the persons on whose accounts the items were drawn.

### **Returned Items/Transactions**

If we are notified that an item you cashed or deposited is being returned unpaid, we may attempt to re-clear the item, place a hold on the funds in question (see "Funds Availability") or charge your account for the amount (and any interest earned on it), whether or not the return or notice of non-payment is proper or timely. This also applies to checks drawn on us which are not paid for any reason, and to checks and other transactions that are returned or charged back to us in accordance with any law, regulation, funds transfer system or clearinghouse rule. We may assess a fee for each returned item/transaction. An item/transaction can be represented for payment multiple times and the same item/transaction might result in multiple fees. See the Fee Schedule ("Returned Deposit Item Fee" "NSF Returned Item Fee").

If we receive an affidavit or a declaration under penalty of perjury stating that an endorsement on an item deposited to your account is forged, that the item contains an alteration, or that there has been a breach of warranty in connection with any item or transaction, we may charge the item or transaction back against your account or place a hold on the funds pending an investigation, without prior notice to you.

### **Security Interest**

You grant us a security interest in your accounts, including all current and future deposits and renewals, for amounts owing to us now and/or in the future under this Agreement or under any account service agreement by any owner. This security interest is in addition to any other security interest we may have in your accounts or other assets. This security interest will survive termination of this Agreement. This provision does not apply to IRA or tax-qualified retirement accounts or where otherwise prohibited by law.

## **Setoff**

Subject to applicable law, we may use the funds in all of your accounts to pay any due and payable debt(s) and obligation(s) that you owe us which are not paid when due. This is referred to as a “setoff.” Generally, you agree that all sums in deposit accounts will be subject to our right of setoff for liabilities owed to us by any one or more of: the account owners, including any other person who is a joint account owner; or any partnership of which you are a general partner; or any limited liability company where you are the sole member; or any sole proprietorship you own; or any account established under the same social security number(s) or employer identification number(s); or any other person or entity with whom you are a co-obligor, or have agreed to act as surety or guarantor, or for whose debts you are liable or may be contingently liable; or otherwise as permitted by law. You authorize us to use account funds to pay your debts and obligations to us even if the setoff results in an early withdrawal penalty or the dishonor of items. If we exercise our right of setoff, our duty to pay any items presented for payment on your account during the Business Day preceding the day on which the setoff occurs may be terminated, and you agree that we may return those items unpaid. If we do return items, we may also charge you a fee for each returned item. See the Fee Schedule (“NSF Returned Item Fee”). You acknowledge and agree that our rights of setoff could bring your account into an overdraft status. See the section titled “Overdrafts” for further information. If the debt arises from a note, “any due and payable debt” includes the total amount of which we are entitled to demand payment under the terms of the note at the time we charge the account, including any balances for which we properly accelerated the due date under the note. We will not be liable for the dishonor of any item or draft when the dishonor occurs because we charge and deduct an amount you owe us from your account. You agree to hold us harmless from any claim arising as a result of our exercise of our right to repayment.

This provision does not apply to IRA or tax-qualified retirement accounts, to consumer credit card obligations, or where otherwise prohibited by law.

## **Severability**

If any provision of this Agreement is determined to be unenforceable, void or invalid, the remainder of the Agreement shall remain in full force and effect. No provision of this Agreement shall be deemed to deny (and any term to the contrary is modified so as not to deny) protections, rights or privileges that under state or federal law are required to be made available to consumers or to Consumer Accounts, except that any modification of your protections, rights and privileges under this Agreement will be effective to the extent (but only to the extent) that the relevant state or federal law allows us and you to agree to modify them. If any of the provisions of this Agreement are determined to be unenforceable, void or invalid, the remainder of the Agreement shall remain in full force and effect.

## **Statements**

If we provide you with a notice or statement, electronically or otherwise, you must promptly and carefully review it as soon as we make it available to you to determine if any errors or problems exist. Your statements will be deemed to provide sufficient information about your checks and other transactions for you to determine whether there was an error or unauthorized transaction if the statements provide you with

the check or transaction number, the amount, and the date of payment.

You are in the best position to discover and report any errors or unauthorized transactions involving your account. You agree to notify us immediately of any error, discrepancy or unauthorized transaction you discover on any statement, notice or check. If you fail to do so, you may become responsible for the losses resulting from such failure. If you fail to notify us promptly, but no later than 60 days following the earlier of the statement mailing date or the date we make the statement available to you, then you agree that you cannot assert any error, problem or unauthorized transaction or forged, altered or unauthorized item against us. This 60-day limitation is without regard to whether we did or did not use ordinary care and does not otherwise restrict any right we have under law or other agreements with you. You further agree that if you fail to notify us within 14 days of making the statement available to you, then you are precluded from asserting against us the error, problem, unauthorized transaction or forged, altered or unauthorized item and any subsequent forged, altered or unauthorized item from the same wrongdoer.

If you claim a credit or refund because of an error or unauthorized transaction, you agree to provide us with a declaration containing reasonable information we require regarding your account, the transaction, and the circumstances surrounding the claimed loss. We must receive your declaration within 10 days of our request. Unless otherwise prohibited by law, and if applicable, you also agree to make a report to the police and to provide us with a copy of the report, upon request. We will have a reasonable period of time to investigate the circumstances surrounding any claimed loss. During our investigation, we will have no obligation to provisionally credit your account, unless otherwise required by law (e.g., in connection with certain consumer electronic fund transfer services).

If you are a consumer and suspect a problem with a substitute check, notify us of your suspicions. For these purposes, the terms “consumer” and “substitute check” are used as defined in Federal Reserve Board Regulation CC. See the “Substitute Checks and Your Rights” disclosure in this Agreement for information on rights you may have with respect to substitute checks.

If you are a consumer and suspect a problem with an electronic fund transfer to or from your Consumer Account, see the “Electronic Fund Transfer Disclosure” in this Agreement for information on rights you may have with respect to these transfers.

If you are a business, you agree not to entrust the writing of checks and the reconciliation and review of your periodic statements and notices to the same person without frequent monitoring. We may deny a claim for monetary loss due to forged, altered or unauthorized checks if you fail to follow these procedures.

Statements and notices are normally sent to the last address listed with us for your account. Notify us promptly if you do not receive your statement by the date you normally would expect to receive it. If items are not returned with your statement, upon your request, the Bank will make a reasonable effort to promptly provide you with a copy or image of any item in our possession. Unless otherwise agreed, you waive any right to receive any original item after it is paid.

Statements and notices sent or made available to any of you are deemed to be received by all of you. If we hold them at your request or because you fail to provide us with a current address, they will be deemed delivered to you when they

are prepared (for held statements), mailed (for returned mail) or otherwise made available to you (e.g., at a website or email address if you have agreed to electronic communications). At our discretion, we may destroy mail that is returned to us or determined to be undeliverable.

We will charge you a Mailed Statement fee if you receive a printed paper statement. See the Fee Schedule (“Mailed Statement Fee”).

### **Stop Payment Orders**

You or your authorized signer on your account may request us to stop payment on a check or transaction. To place a stop payment order, please visit a branch or call us at 877-770-BANC (2262). To place a stop payment order, you must provide us with timely, complete and accurate information on: the number of the account in question; the date of the item; the item number; the payee information; the EXACT amount of the item (dollars and cents); and/or any other information we require. If any information is untimely, incomplete or incorrect, we will not be responsible for failing to stop payment. In order to be effective, you must submit the stop payment request before the check or transaction is presented for payment. We will not be liable for paying a check or transaction over a stop payment order if the order is incomplete or incorrect. We must receive stop payment orders at a time and in a manner which affords us a reasonable opportunity to act upon them, before it is guaranteed or finally paid by us.

You may furnish the stop payment order orally or in writing. If you give us an oral stop payment order, then it will be effective for 14 days. The stop payment order will expire at the end of 14 days unless you give us written notice of the stop payment order. Upon confirming the order in writing, the order will remain in effect for six months and must be renewed by you every six months to remain in effect. If you do not renew the stop payment order when it expires and the item is presented for payment, we may pay the item and charge it to your account. There is a charge for each stop payment order and renewal order requested. See Fee Schedule (“Stop Payment - Order/Renew Fee”).

In some cases, we may pay an item even if a stop payment request is in effect. If we, or another person or entity, is determined by us to be a “holder in due course” of the item, we may pay the item. If we pay a check which has a valid stop payment order on it with correct information, we may be responsible to you for up to the face amount of the item if you establish that you have suffered a loss because we paid the item. You agree to assign to us all of your rights against the payee and/or any other holder of your check. You also agree to cooperate fully with us in any legal actions that we subsequently take against such persons.

Anyone holding the check, including the Bank, may be entitled to enforce payment against you despite the stop payment order. Except for transactions governed by Regulation E (see section titled Electronic Fund Transfer Disclosure), you agree to indemnify, defend, and hold us harmless from all costs (including attorneys’ fees), actions, damages, claims, and demands related to or arising from our action in stopping payment on the check. This provision shall survive the termination of this Agreement.

You may not stop payment on point-of-sale debit card transactions, or checks or payments guaranteed by us. You should contact us if you wish to stop the payment of a cashier’s check or a check that has been converted to an electronic



transaction by a merchant. Electronic transactions are often processed on the same day and cannot be stopped with a regular check stop payment order.

## **Substitute Checks**

You agree not to deposit substitute checks, as described below, or checks bearing a substitute check legal equivalence statement (“This is a legal copy of your check. You can use it the same way you would use the original check.”) to your account without our prior written consent. Unless we agree otherwise in writing, our acceptance of such checks shall not obligate us to accept such items at a later time, and we may cease doing so without prior notice. If we approve the deposit of substitute checks, you agree to indemnify, defend and hold us harmless from all losses, costs, claims, actions, proceedings and attorney’s fees that we incur as a result of such checks, including without limitation, any indemnity or warranty claim that is made against us because: (a) the check fails to meet the requirements for legal equivalence, (b) a claimant makes a duplicate payment based on the original check, the substitute check, or a paper or electronic copy of either; or (c) a loss is incurred due to the receipt of the substitute check rather than the original check. Upon our request, you agree to provide us promptly with the original check or a copy that accurately reflects all of the information on the front and back of the original check when it was truncated.

We may convert original checks to substitute checks.

The following notice applies to Consumer Accounts and supersedes, where inconsistent, other terms in this Agreement with respect to substitute checks.

### Substitute Checks and Your Rights – Important Information About Your Account

#### *What is a Substitute Check?*

To make check processing faster, federal law permits banks to replace original checks with “substitute checks.” These checks are similar in size to original checks with a slightly reduced image of the front and back of the original check. The front of a substitute check states: “This is a legal copy of your check. You can use it the same way you would use the original check.” You may use a substitute check as proof of payment just like the original check.

Some or all of the checks that you receive back from us may be substitute checks. This notice describes rights you have when you receive substitute checks from us. The rights in this notice do not apply to original checks or to electronic debits to your account. However, you have rights under other law with respect to those transactions.

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

In certain cases, federal law provides a special procedure that allows you to request a refund for losses you suffer if a substitute check is posted to your account (for example, if you think that we withdrew the wrong amount from your account or that we withdrew money from your account more than once for the same check). The losses you may attempt to recover under this procedure may include the amount that was withdrawn from your account and fees that were charged as a result of the withdrawal (for example, bounced-check fees).

The amount of your refund under this procedure is limited to the amount of your loss or the amount of the substitute check, whichever is less. You also are entitled



to interest on the amount of your refund if your account is an interest-bearing account. If your loss exceeds the amount of the substitute check, you may be able to recover additional amounts under other laws.

If you use this procedure, you may receive up to \$2,500 of your refund (plus interest if your account earns interest) within 10 Business Days after we received your claim and the remainder of your refund (plus interest if your account earns interest) not later than 45 calendar days after we received your claim.

We may reverse the refund (including any interest on the refund) if we later are able to demonstrate that the substitute check was correctly posted to your account.

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

If you believe that you have suffered a loss relating to a substitute check that you received and that was posted to your account, please contact us at 877-770-BANC (2262). You must contact us within 40 calendar days of the date that we mailed (or otherwise delivered by a means to which you agreed) the substitute check in question or the account statement showing that the substitute check was posted to your account, whichever is later. We will extend this time period if you were not able to make a timely claim because of extraordinary circumstances.

Your claim must include –

- A description of why you have suffered a loss (for example, you think the amount withdrawn was incorrect);
- An estimate of the amount of your loss;
- An explanation of why the substitute check you received is insufficient to confirm that you suffered a loss; and
- A copy of the substitute check and/or the following information to help us identify the substitute check: the check number, the date of the check, the name of the person to whom you wrote the check, and the exact amount of the check (dollars and cents).

#### **Termination/Closing or Restricting Your Account**

We may, at any time, with or without cause, and in our sole discretion, close, freeze, suspend, or restrict your account or any service we are providing to you. We may deliver the balance after an account is closed by any means chosen by us, including mailing a check for the balance to your last address as shown on our records. We will provide you with notice before or after taking this action, unless prior notice is required by law.

You may close your account at any time. You will remain liable for the payment of accrued fees on the account and for checks in the process of collection, as well as any other obligations relating to actions or inaction prior to account closure. If you close an account, it may be subject to accrued or prorated fees or charges or, if applicable, early withdrawal penalties. You agree to reimburse us immediately upon request for any overdrafts that arise after an account is closed, whether closed by you or by us.

We may honor any account owner's or authorized signer's request to close an account or stop a transaction. At our discretion, we may require the signatures of all account owners and/or authorized signers before permitting the withdrawal of funds or the closing of an account.

If an interest bearing account is closed for any reason before accrued interest is actually paid, interest may not be paid for the last interest period.

This Agreement shall terminate automatically as to any account upon the closing of such account. The termination of this Agreement will not affect the rights or obligations of the parties that arise prior to termination (for example, the indemnification requirements). Certain provisions of this Agreement shall survive termination of the Agreement.

### **Transfers/Assignments**

Unless otherwise agreed by us in writing, all accounts are non-transferable and non-assignable.

### **Trust and Other Fiduciary Accounts**

Legal title to the trust or other fiduciary account is owned by the signing party(ies) as trustee, custodian, guardian, executor, administrator, conservator, or other fiduciary (collectively, "Fiduciaries") for the named beneficiary(ies) under a separate trust agreement, employee benefit plan, court order or other fiduciary arrangement. The Fiduciaries certify that they are authorized to manage funds in this account and agree to indemnify, defend and hold us harmless (in their individual capacity and jointly and severally) from and against any and all claims, damages, liability, or exposure, including reasonable attorney's fees, that we may suffer or incur arising out of any action or claim by any beneficiary, account owner or other Fiduciary with respect to the authority, action or inaction taken by the Fiduciaries in handling or dealing with the account. We will not be responsible for monitoring a trustee or other Fiduciary's management of the account. We will not be obligated to monitor items deposited to, or drawn against, accounts held by a trustee or other Fiduciary to determine whether a trustee or Fiduciary is acting consistently with or in breach of any Fiduciary duty. If you open an estate account, trust account, guardianship or conservatorship account, or other similar type of account, and/or if there is a change on such an account, such as a successor trustee is appointed, we reserve the right to require any documents we reasonably request to satisfy us that you are authorized to open and use the account, including withdrawing the funds. We do not have to permit any withdrawal from the account until we receive all requested documents. We have no fiduciary duties to you as the trustee, executor, guardian or conservator, or to the beneficial owners of the account. This provision shall survive the termination of this Agreement.

### **Waivers**

We may delay enforcing our rights under this Agreement without losing them. Any waiver by us shall not be deemed a waiver of other rights or of the same right at another time. You waive diligence, demand, presentment, protest and notice of every kind, except as set forth in this Agreement.

### **Taxpayer Identification Numbers and Withholding of Income Tax**

Unless you are exempt under federal law, we are required to withhold a portion of your taxable interest and certain other payments (this is referred to as backup withholding) if: (1) you fail to supply us, under penalties of perjury, with your correct TIN; (2) you fail to provide us with the required certified information; (3) the IRS instructs us to withhold; or (4) the IRS notifies you that you are subject to backup withholding. You must provide your TIN whether or not you are required to file a

tax return. You also must certify that you are not subject to backup withholding.

We may report interest, withholdings, and other payments to you to the IRS and the California Franchise Tax Board, along with your TIN. We will provide you with a copy of any information we reported.

We may refuse to open, and we may close, any account for which you do not provide a certified TIN, even if you are exempt from backup withholding and information reporting. To avoid possible erroneous backup withholding, an exempt payee should furnish its TIN and indicate on the signature card that it is exempt.

A non-resident alien or foreign entity not subject to information reporting must certify its exempt status by completing an appropriate IRS certification form (e.g., W-8 BEN). Non-resident aliens may be required to certify their exempt status every three years (or earlier upon request) to avoid backup withholding.

You may be subject to civil and criminal penalties if you fail to provide us with a correct TIN or falsify information with respect to withholding.

We are not responsible for your action or inaction in selecting or completing a form, and no information in these matters that may be supplied by us to you should be relied upon by you. In all tax matters, you should consult your own tax advisor. If there are any fines, penalties, or charges assessed upon us due to any incorrect name/TIN mismatch or error not caused by us, you agree to reimburse us for the fine, penalty, or charge, and we may charge your account for the same.

For additional information on interest reporting and withholding, contact your tax advisor or the IRS.

## **CONTACT INFORMATION**

If you have any questions or comments, you can call us at 877-770-BANC (2262) or write to us at Banc of California, Attn: Client Services, 3 MacArthur Place, Santa Ana, CA 92707.



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