

# IBC Bank Online Services Agreement

## Version 5.3

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Securities (including repurchase agreement, mutual funds and variable life insurance), annuities and insurance products are not bank deposits and are not insured by the FDIC or any other agency of the United States, nor are they obligations of, nor insured or guaranteed by, IBC or any of its subsidiaries or affiliates. Securities (including mutual funds and variable life insurance) and annuities involve investment risks, including the possible loss of value. The information and materials contained in this Website - and the terms and conditions of the access to and use of such information and materials - are subject to change without notice. Your eligibility for particular products or services is subject to final IBC determination and acceptance. Some of our other Websites or pages within this Website contain supplemental terms and conditions and additional disclosures and disclaimers, which are in addition to this Agreement, disclosures and disclaimers. In the event of a conflict, the supplemental terms and conditions and additional disclosures and disclaimers will govern for those sections or pages.

The value of the securities or financial instruments mentioned herein (including the income derived therefrom) may be adversely affected by changes in market prices and exchange rates, the imposition of taxes and other factors. Prices, opinions and estimates reflect IBC's judgment on the date of original publication and are subject to change at any time without notice. Information concerning past performance is not necessarily a guide to future performance.

You agree that (i) you will not engage in any activities related to this Website that are contrary to applicable law, regulation or the terms of any agreements you have with us, and (ii) in circumstances where locations of this Website require identification for access, you will establish commercially reasonable security procedures and controls to limit access to your password or other identifying information to authorized individuals. You agree that you will not use any robot, spider, other automatic device or manual process to monitor or copy our web pages, data or the content contained herein or for any other unauthorized purpose without our prior expressed written permission.

WE OR OUR SUPPLIERS MAY DISCONTINUE OR MAKE CHANGES IN THE INFORMATION, PRODUCTS OR SERVICES DESCRIBED HEREIN AT ANY TIME WITHOUT PRIOR NOTICE TO YOU AND WITHOUT ANY LIABILITY TO YOU. ANY DATED INFORMATION IS PUBLISHED AS OF ITS DATE ONLY OR, IF NO DATE IS STATED, THE DATE OF FIRST POSTING. WE DO NOT UNDERTAKE ANY OBLIGATION OR RESPONSIBILITY TO UPDATE OR AMEND ANY INFORMATION ON THIS WEBSITE. WE RESERVE THE RIGHT TO TERMINATE ANY OR ALL WEBSITE OFFERINGS OR TRANSMISSIONS WITHOUT PRIOR NOTICE TO YOU. FURTHERMORE, NO DISTRIBUTION OR SOLICITATION IS MADE BY US TO ANY PERSON

TO USE THIS WEBSITE OR THE INFORMATION, PRODUCTS OR SERVICES IN JURISDICTIONS WHERE THE PROVISION OF THIS WEBSITE AND SUCH INFORMATION, PRODUCTS OR SERVICES IS PROHIBITED BY LAW.

## 2. INTRODUCTION AND DEFINITIONS

In this Agreement, the words "we", "us" or "our" mean International Bank of Commerce and/or Commerce Bank (sometime hereinafter "IBC" or "Bank") and each's successors or assigns. "You" or "your" or "customer" means each Authorized Signatory and each person who has an interest in an account or other relationship that is accessible through IBC Bank Online, having authorized access to use the account or relationship, including any person authorized by you to have such access. "Account" and "Accounts", including "loan account(s)" mean the account(s) tied to your User ID(s) and Password(s) used to access to your account(s) through the Internet. "IBC Bank Online" or "IBC Bank Online Services" means IBC Bank Services accessed through the Internet on a computer and modem, a mobile device, or other access device with qualified browser software. "IBC Mobile Banking Services" means the optional IBC Mobile Banking Services accessed through a mobile device under Section 12, "IBC Mobile Banking Services," of this Agreement. The term "IBC Bank Online Services" include IBC Mobile Banking Services. Your IBC Bank Online Profile will mean the list of the accounts which may be accessed through the Internet. Each Authorized Signatory on an account is jointly and severally liable for all transactions initiated through IBC Bank Online, including overdrafts, even if such Authorized Signatory did not participate in and/or authorize the activity that resulted in the transaction.

This Agreement governs in conjunction with other agreements between Bank and you, including but not limited to your Depositor's Agreement (signature card), Deposit Account Agreement booklet, Account Services and Fees Schedule, Truth In Savings Disclosure, Electronic Funds And Automated Teller Card Agreement and Disclosures, and any loan agreement(s) and other Disclosures as applicable. If the terms and conditions of this Agreement, including any subsequent disclosure or agreement, conflict with the terms and conditions contained in any other disclosure or agreement between Bank and you, the terms and conditions of this Agreement regarding Online Banking issues shall be controlling to the extent of the conflict.

## 3. E-SIGN DISCLOSURES AND CONSENT; IBC BANK ONLINE ESTATEMENTS

By enrolling for IBC Bank Online, you consent to stop mail delivery of your paper account statement and receive estatements and other electronic disclosures regarding your account. Estatements and electronic disclosures are required by IBC to have access to IBC Bank Online, and if you ever decide to withdraw your consent to estatements and electronic disclosures, then IBC will automatically terminate your IBC Bank Online Services. International Bank of Commerce/Commerce Bank ("IBC Bank") will send an email reminder to the email address that you have provided when your statement becomes available to view online. You can change the email address for the statement reminder at any time by selecting Update Profile on the e-Statement page within IBC Bank Online. Each account statement, together with any legal notice about your account, and copies of the related items (if you receive them now) will remain available online at least 18 months. You may also print the statements or download them to your own system. There is no charge for this service. If you receive a combined statement for your accounts, once you select to view any of these account statements online, all other referenced, related or linked accounts will be available only online.

To view account statements and other electronic disclosures online, you only need the same hardware and software that you use for IBC Bank Online as stated in Section 4. Your statements and other electronic disclosures will be provided in two formats: as an Adobe Portable Document Format (PDF) file and as a Portable Network Graphic (PNG) file. To access and retain a PDF file, you need the free Adobe Acrobat Reader (version 8 or higher).

You consent to the electronic delivery of your periodic account statements, all related terms, and all notices (including any modifications in the terms of the Deposit Account Agreement and Schedule of Fees and Charges) which are included with the paper statements, or otherwise normally mailed to you. You agree that posting the notices and/or modifications online, has the same effect as mailing them to you. Your paper account statement may be delivered for one statement cycle after today's date, and then you will no longer receive a paper copy delivered by mail. Images of any checks and other items you currently receive will be included as part of your online account statement. You may also request a paper copy of any statement by contacting Online Banking Customer Service. Charges may apply for paper copies. Check the current [Schedule of Fees and Charges](#). Upon our request, you agree to sign a non-electronic version of this Agreement. You have the right to withdraw consent by: (i) Contacting IBC in writing to IBC Bank Online Services, P.O. Box 659507 San Antonio, TX 78265-9507; (ii) sending your request via secured message through IBC Bank Online; or (iii) by speaking to an online banking customer service representative by calling your local IBC Voice number and choosing Option 7.

All electronic communications received from you after having accessed IBC Bank Online using your User ID and Password will be deemed to be valid and authentic and you will be deemed to intend and agree that these electronic communications will be given the same legal effect as your written and signed paper communications. You agree that electronic copies of communications are valid.

## 4. COMPUTER EQUIPMENT AND SOFTWARE

You understand that to use Bank Online Services you need a computer or mobile device with access to the Internet. You must first

obtain access to the Internet with compatible hardware, software and web browser. Bank requires you to use a web browser that supports adequate security measures including SSL encryption technology or additional security measures as Bank may require, such as Microsoft Internet Explorer version 10 and above, or the most current version of Chrome, Firefox or Safari. Bank also requires that you have Adobe Acrobat Reader version 8.0 or newer to access pdf documents. Obtaining and maintaining adequate Internet access is your responsibility, and you are solely responsible for all Internet Service Provider ("ISP") fees and costs. **You understand that the Bank is not responsible for any computer virus or related problems that may be associated with your use of the Internet in general or your use of IBC Bank Online services via the Internet.**

#### **5. USE OF EMAIL ADDRESS**

We may send messages relating to the Bank Online Services to the e-mail address we have on file for you and notify you that responses to your payment inquiries or customer service inquiries are available, or as otherwise described in any applicable agreements governing the Bank Online Services. Bank will not, however, include any account numbers, Access Codes or similar non-public personal information in any e-mail response to you. If, for any reason your e-mail address changes or becomes disabled, it is your responsibility to contact bank immediately so that we can continue to provide you with automated messages.

#### **6. CONFIDENTIALITY AND SECURITY**

To provide the highest level of confidentiality and security, we require use of browsers that provide encryption using 128-bit key. The higher the level of encryption, the harder it is for unauthorized persons to read information. Major browser suppliers (Microsoft Internet Explorer, Safari, etc.) support 128-bit encryption versions that are available for download from their respective Websites without charge. The encryption level may be called cipher strength or refer to cryptography.

You understand that security procedures implemented by Bank are for the purpose of verifying the authenticity of the instructions transmitted to Bank by you ("Instructions"), and not for the purpose of detecting errors in such Instructions and Bank shall not be liable for any failure to detect errors in any Instruction. Such security procedures include (i) a unique file identification number and transmission password, and (ii) encryption. You agree that this procedure constitutes a commercially reasonable method of providing security against unauthorized Instructions. You agree to be bound by any Instruction issued by you and received and verified by Bank in accordance with such security procedure, and you shall indemnify and hold Bank harmless against any loss suffered or liability incurred by, or arising from, the execution of Instructions in good faith and in compliance with security procedures.

#### **7. ACCOUNT OWNERSHIP/ACCURATE INFORMATION**

You represent that you are the legal owner of the accounts linked to the Bank Online Services, and that all the information you provide to us in connection with the Bank Online Services, including your e-mail and contact information, is accurate, current and complete, and that you have the right to provide such information to us for using the Bank Online Services. You agree not to misrepresent your identity or your account information. You will keep your account information up to date and accurate. When using a mobile device to access Bank Online Services, you represent that you are an authorized user of such mobile device.

#### **8. ACCOUNT ACCESS**

To enroll in IBC Bank Online you must maintain at least one account with Bank which may be any one of the following types of personal and/or business accounts: Checking, NOW, Money Market, or Savings Account, a CD, or a Personal, Consumer, Mortgage or Commercial Loan.

Authorization to enroll requires an IBC Account Number and specific qualifying information.

To use IBC Bank Online, you must use the User ID and Password ("Access Codes") we establish or provide for you. Access Codes will be delivered to you via phone, SMS text message or email. Keep them confidential to prevent unauthorized use or loss to your accounts. Anyone to whom you give your Access Codes will have full access to your accounts even if you attempt to limit that person's authority. Additionally, that person will have full access to any of your accounts which are accessed by those Access Codes, even if those accounts are in your name with another person.

None of our employees or our affiliates' employees will contact you via phone or e-mail requesting your Access Codes. If you are contacted by anyone requesting this information, do not release your information and contact IBC Bank immediately in person or by telephone. Following successful enrollment, Bank will identify and allow you online access to any other qualifying account(s) "tied" to the authorized enrollment confirmation. The tied accounts and loans make up your IBC Bank Online Profile. You will be provided the opportunity to disable displaying any specific account(s) listed in your IBC Bank Online profile. You will also be provided the opportunity to add any accounts not included in your IBC Bank Online Profile. This requires you to be an Authorized Signatory on the added account(s). Qualified accounts may be added to your profile at any time. Information access to added accounts will be available immediately. The request to add an account must be in writing and submitted to any IBC/Commerce Bank Branch.

Upon successful authentication to IBC Bank Online, you will have already selected a User ID and Password that will allow you to access your account information. Use of the User ID and Password will indicate to Bank your acceptance of this Agreement. You agree to protect your User ID and Password from unauthorized use by not divulging the User ID or Password to anyone or in any way allowing the User ID or Password to be obtained by someone. Based upon certain activity, you may not be able to retrieve your Password. If you are unable to retrieve your Password and you have recurring bill payments set up, you must contact Online Banking Support to have the bill payments cancelled. If you are unable to retrieve your Password, you may be required to re-enroll and any information stored in your IBC Bank Online Profile (such as Bill Pay information, messages, etc.) may be lost.

We reserve the right, under certain circumstances, to deny access to any one or more or all deposit and/or loan accounts or to Bank Online Services, or to deny the processing of transactions, in order to maintain or restore security to our Website and systems. We may also do so if we reasonably believe your Access Codes have been or may be obtained or are being used or may be used by an unauthorized person(s). You should not use email as a means of communications to ask questions about your account(s) or maintenance and/or problem resolution issues, or to give comments regarding your satisfaction with IBC Bank Online. Email is not a secure method of communicating over the Internet and we recommend you do not send confidential information by email. We recommend all such communication be sent via the secure "Messages" feature available within IBC Bank Online. We also do not recommend using email to communicate matters requiring immediate attention as delivery of such correspondence may be lost or delayed. You should communicate matters requiring Bank's immediate attention in person or by telephone.

You cannot use e-mail to initiate transactions on your account(s). For banking transactions, you must use the appropriate Bank Online Services or call a bank location convenient to you. Confirmation of any transfer can be obtained from your statement, through IBC Bank Online, through IBC Voice or at any IBC Bank. If you discover any discrepancies, you must notify Bank immediately.

## 9. BUSINESS ACCOUNTS

Additional terms and conditions for business accounts using commercial services are provided in the IBC Link Agreement.

## 10. SERVICES AVAILABLE THROUGH IBC BANK ONLINE

IBC Bank Online is available to you seven days a week, 24 hours a day (except for a daily update and maintenance period which typically takes place between 12 a.m. Central Time and 2 a.m. Central Time).

This service is available to conduct the following:

- **view account balances**
- **view transaction information**
- **view check images**
- **view statements**
- **pay bills with your designated qualified accounts**
- **transfer funds between designated qualified accounts**
- **deposit checks electronically to your designated qualified accounts**
- **reorder checks online**
- **request a stop payment**
- **request a change of address**
- **have access to secure messaging**

Services are limited to the extent and subject to the terms as noted below:

Federal law limits your ability to transfer funds from certain accounts as well as the number of times you may debit certain types of accounts. You should refer to the [Deposit Account Agreement](#) for these legal limits and the service charges and penalties related to overstepping these restrictions and limitations. Transfers made using these services are included in calculating the number of transfers from affected accounts. There is a maximum dollar limit on any transfer, which is the available balance, and/or credit line or overdraft courtesy availability.

With regard to transfers between your IBC accounts, all funds transfer instructions received before 9 p.m. Central Time on a business day will be posted to your account the same day. Funds transfer instructions received after 9 p.m. Central Time on a business day or at any time on a Saturday, Sunday or banking holiday will be considered as having been received the next business day. Bank business days are Monday through Friday. Federal holidays are not included.

You understand that you cannot cancel an immediate transfer from your IBC account after it has been entered into IBC Bank Online Services and the information has been transmitted to Bank. In order to cancel future-dated payments, you must log into IBC Bank

Online and follow the directions provided for canceling transfers. You may also request to cancel a future-dated transfer by calling Bank at (210) 841-3000 or writing us at 2416 Cee Gee, San Antonio, TX 78217. Bank must receive a cancellation request via telephone or in writing at least three (3) business days before the transfer is scheduled. If you call, we may ask you to put your request in writing and get it to us within fourteen (14) days after you call. If you do not provide required notice of cancellation, Bank will not be liable for any losses or damages incurred by you if the transfer is not cancelled. Bank is not responsible for any transfers made before it has a reasonable opportunity to act on your cancellation notice.

By agreeing to this Agreement, and by using the IBC Bank Online Services, you also provide your express written consent, permitting us to contact you as necessary to provide the Online Banking Services, including sending messages and notifications to any mobile device number that we have on file for you. Such activities may include, but are not limited to, providing account alerts, confirming account activity, confirming mobile remote capture deposits, undertaking fraud prevention you requested, servicing, , or for any other purpose as provided in this Agreement.

You may contact IBC to decline (i.e. "opt out") receiving Bank messages sent to your mobile phone or other mobile device by: (i) texting STOP as a reply to any message we send to your mobile phone or other mobile device; (ii) sending your request via secured message through IBC Bank Online; or (iii) sending your request in writing to Dennis Nixon, President, International Bancshares Corporation, P.O. Drawer 1359, Laredo, Texas 78042-1359. All requests to opt out of this service must include the name on the account(s), account number(s) and your mobile phone number. Include no other correspondence with this request.

## 11. SERVICES AVAILABLE THROUGH IBC BANK ONLINE AND CHECKFREE

IBC Bank Online offers certain services through CheckFree. These include the following: 1. Bill Payment Service, 2. Account-to-Account ("A2A") Transfer Service, and 3. Popmoney Personal Payments Service. These services provide different methods for making bill payments online, funds transfers between your accounts with IBC and other institutions, and transmission and receipt of ACH transactions. Each of these is more particularly described in the specific [Terms of Service](#) for such product, which can be accessed by clicking on Bill Pay in the left menu. In order to avail yourself of such additional product, you must review and accept the [Terms of Service](#) for such product; In addition, you must have a valid physical address in the United States.

You will get an statement for each of your IBC Account(s) which will reflect, among other things, all transfers that have occurred during your monthly billing cycle. You will receive an statement at least quarterly for each account, even if no activity has occurred during the time period covered by that statement.

## 12. IBC MOBILE BANKING SERVICES

12.1 What the IBC Mobile Banking Services Cover. The IBC Mobile Banking Services permit you as a Bank customer (including consumers, sole proprietors and other business customers) to perform a number of banking functions on your Bank account(s) linked to the IBC Mobile Banking Services through the use of your mobile device (i.e. mobile smart phone or mobile tablet device). Unless otherwise indicated by the context, "linked Bank accounts" or "linked accounts" refers to all of your accounts with Bank or its affiliates that you have linked to the IBC Mobile Banking Services. This Agreement is by and between you and Bank, and we are solely responsible for the IBC Mobile Banking Services and Contents. Neither Apple, Inc. nor Google, Inc. (Android) is responsible for the IBC Mobile Banking Services or its Contents.

12.2 Relation to Other Agreements. You understand and agree you are still subject to the terms and conditions of any agreement you have with any unaffiliated third-party service providers, including, but not limited to your mobile service provider (e.g. AT&T, Verizon, Sprint, T-Mobile, etc.) or any third-party provider of or marketplace for the IBC Mobile Banking Services (e.g. Apple, Inc., or Google, Inc. (Android)), and this Agreement does not amend or supersede any of those separate third-party service provider agreements. You understand that such services may provide for fees, charges, limitations and restrictions which might impact your use of the IBC Mobile Banking Services (e.g. data use charges, etc.), and you agree to be solely responsible for all such fees, charges, limitations and restrictions. You agree that only your mobile service provider is responsible for the performance and operation of its products and services, including your mobile device and the mobile service provider's own network. You agree to resolve any problems with your mobile service provider without involving Bank, Apple, Inc. or Google, Inc. (Android). You must comply with applicable third party terms when using the IBC Mobile Banking Services (e.g. you cannot be in violation of your wireless provider agreement when using the Service.)

12.3 Mobile Banking System Requirements. In order to activate the optional IBC Mobile Banking Services, you must have a mobile device with SMS text message functionality and/or ability to access the Internet via a web browser, as well as any other compatible wireless hardware and software necessary to operate such mobile device. You understand that you also must have a mobile device wireless service plan with a suitable mobile device service provider of your choice. You understand that you are responsible for

acquiring, maintaining and operating your mobile device and its related hardware and software and for all associated costs and expenses, including, without limitation, all fees you incur for data transfers and as a result of sending and receiving SMS text messages through your mobile device service. You assume full responsibility for ensuring these requirements are met should any changes be made to your existing mobile device and/or the associated service plan. **You understand that the Bank is not responsible for any errors or failures of your mobile device or its software and is not responsible for any viruses or related problems that may be associated with your use of IBC Bank Online Services via mobile banking.**

**12.4 IBC Mobile Banking Services.** Bank's IBC Mobile Banking Services provide personal financial information management services and check deposit via remote deposit capture on your mobile device. Bank reserves the right to add or remove various components of the IBC Mobile Banking Services in Bank's sole discretion. Customer should visit the Bank Website at [www.ibc.com](http://www.ibc.com) for a complete listing of current Mobile Services.

Some of the activities listed in this section may not be available for certain accounts or customers. We reserve the right to modify the scope and type of activities offered via the IBC Mobile Banking Services at any time in our sole discretion. We also reserve the right to refuse to make any transaction you request through the IBC Mobile Banking Services for a variety of reasons as set forth in any of the agreements listed in Section 2 governing your use of the IBC Mobile Banking Services.

Subject to the terms and conditions herein, customer subscribes to, and Bank agrees to provide, the Mobile Remote Deposit Capture ("MRDC") Service to be used by customer in accordance and in compliance with and the Check Clearing for the 21st Century Act ("Check 21 Act"). The MRDC Service enables you to create and submit electronic check images (also known as Image Replacement Documents ("IRDs")) to Bank, for deposit to your personal or business deposit account(s), as applicable, in lieu of the Original Checks (as defined herein) from which such MRDC check images were obtained. The dollar amount limits and daily number of transaction limits for MRDC shall be determined by the Bank in its sole discretion. Customer should visit the Bank Website at [www.ibc.com](http://www.ibc.com) or talk to their IBC banker for information regarding dollar limit and daily number of transactions restrictions. Items exceeding customer's daily limits must be delivered to Bank for processing or held until the next Business Day for transmittal.

Bank retains the ability to either approve or deny your use of IBC Mobile Banking Services, including the MRDC Service in Bank's sole and absolute discretion. If Bank approves you to use such IBC Mobile Banking Services, then by using such IBC Mobile Banking Services, you agree to the applicable provisions set forth in this Agreement, you agree to pay any fees that Bank may charge in conjunction with such IBC Mobile Banking Services (as set forth in Bank's current Schedule of Fees and Charges), and you understand and agree that the meanings of the defined terms set forth in this Agreement and any related documentation made available to you by us for use with the IBC Mobile Banking Services.

In the event of any unforeseen issues or failure of this product for MRDC deposits, your deposits can be made in person at any Bank branch.

**12.5 Location-Based Information.** If you use any location-based feature of the IBC Mobile Banking Services, you agree that your geographic location and other related personal information may be accessed and disclosed via the IBC Mobile Banking Services. If you wish to revoke IBC Mobile Banking Services access to such geographic location information, you must cease using the location-based features of the IBC Mobile Banking Services.

**12.6 Information Regarding MRDC Transactions.** For the purposes of this section and other provisions relating to the MRDC Service, any capitalized term not otherwise defined herein has the definition ascribed to it under the Check21 Act. If you have met, in our sole discretion, the conditions we have established for use of the MRDC Services to make deposits via electronic images, we will provide for acceptance for deposit to your account(s) the electronic images of Original Checks for collection as allowed under this Agreement and the Deposit Account Agreement.

By depositing electronic images with the Bank via the Personal MRDC Services, you give us the same warranties and indemnities that we, as a reconverting bank, would give under applicable law or regulation. You understand and acknowledge that all of the warranties deemed given by a depositor of a check to a bank under the Uniform Commercial Code ("UCC"), as applicable from time to time in the State of Texas, shall also apply to any electronic image of an Original Check the same as if such electronic image or Substitute Check were a paper check within the meaning of the UCC as adopted by the State of Texas ("Texas UCC"). Accordingly, except to the extent that any warranties deemed given under the Texas UCC are expressly superseded by the Check 21 Act or the Check 21 regulations, you understand that you are deemed to give us all the same warranties you would have given under the Texas UCC for the deposit of an

Original Check by transferring to us: (a) Any Substitute Check; (b) an IRD or other item purporting to be a Substitute Check; or (c) any electronic image that purports to contain a Sufficient Copy of an Original Check or a Substitute Check.

Such warranties also include the following two (2) specific warranties regarding transfer and presentment:

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

Customer represents that it shall permit no third parties to use the MRDC Service to deposit Original Checks to customer's account.

With respect to each and every Personal MRDC deposit initiated by you, you represent and warrant to Bank and agree that you shall perform your obligations under this Agreement in accordance with all applicable laws and regulations, including the sanctions laws administered by Office of Foreign Assets Control ("OFAC") and the Bank Secrecy Act.

**A. Prohibited Transactions; Procedures; Retention of Original Checks.**

1. **Prohibited Transactions.** Customer agrees not to use the MRDC Service to deposit or otherwise process: (i) non-cash items; (ii) items drawn on foreign banks or payable in other than U.S. money; (iii) items without preprinted magnetic ink routing numbers; (iv) items for which customer is not a holder in due course; (v) Substitute Checks, except those which have been returned to customer for any reason; (vi) items payable to any person or entity other than customer (i.e. no third-party deposits); (vii) items containing apparent alterations to any of the information on the front of the check or item, or which you know or suspect (or should know or suspect) are fraudulent or otherwise not authorized by the owner of the account on which the check or item is drawn; (viii) items dated more than six months prior to the date of deposit; (ix) items prohibited by Bank's current procedures relating to the IBC Mobile Banking Services or which are not acceptable under the Agreement; (x) Original Checks or other items previously converted to a Substitute Check; (xi) checks or items that are Remotely Created Checks (as defined in Reg. CC).
2. **Processing of MRDC Deposits.** Customer shall submit check images to Bank in such format, and with such associated check information, as Bank may require periodically, utilizing Accredited Standards Committee X9's Specifications for Electronic Exchange of Check and Image Data (DSTU X9.37-2003) and in conformance with the requirements of Bank's Mobile Services. Bank reserves the right to reject any single check image or group of check images for any reason, before or after it/they appear on Bank's system. All checks submitted through the MRDC Service must be properly endorsed by customer prior to transmittal. The proper endorsement must include "For IBC Mobile Deposit Only". Items transmitted without being properly endorsed are subject to rejection by Bank. Customer agrees to inspect and verify the quality of the check images, ensuring that the check images of the front and back of the original check are legible before capturing the image via the MRDC Service. Specifically, customer warrants the following: (i) the check image is an accurate representation of the information contained in the original check, and the check image includes all endorsements from the original check; (ii) each check image contains a record of all MICR line information required for a substitute check, and the check image satisfies all of the requirements of the Check 21 Act and Regulation CC; (iii) the original check, a duplicate check image, or any copy of the original check or check image will not be deposited by customer with Bank; and (iv) the original check, a duplicate check image, or any copy of the original check or check image will not be presented, transferred or returned such that Bank or any other person will be asked to make a payment based on a check or check image that has already been paid. Bank has no responsibility or liability for any fees incurred due to the rejection of transmitted items for missing/incomplete endorsements. Unless the Bank notifies customer otherwise, Bank provides same day credit to the applicable account for all items transmitted by customer and received by the Bank within the timelines established by the Bank.

Electronic images shall be deemed received by us for deposit based upon time of receipt as well as successful receipt of electronic images that are complete, usable, and adhere to the standards discussed above. If any electronic image is not complete, is not usable, or does not adhere to the Standards, the electronic image may not be processed by us, in which event your deposit will be adjusted and notification provided. You understand we will process only your electronic images that comply with the standards discussed above and are Sufficient Image Copies, and we will use commercially reasonable efforts to present these Sufficient Image Copies for collection under the Check 21 framework. The daily cutoff time for Personal MRDC deposits is 7:00 p.m. Central Time. Such daily cutoff times may be adjusted by Bank at its sole discretion from time to time upon notice to you. If the deposits are not received by the end-of-day cutoff time, Bank will not guarantee that deposits will be processed that day. Bank may accept these deposits and they will be processed on Bank's next Business Day. MRDC deposits received after the daily cutoff time of 7:00 p.m. Central Time, Saturday, Sunday or banking holiday may be accepted and processed on Bank's next business day. Bank shall give provisional credit for deposits subject to revocation of credit for deposits as provided in Regulation CC and the Uniform Commercial Code. The availability of funds for deposits via MRDC Services is set forth in this Agreement.

Should a Drawee Financial Institution return an item to us unpaid, we will charge your respective account for such returned item and may either (i) return the item to you, or (ii) re-present it to the Drawee Financial Institution before returning it to you. Items may be returned as Image Exchange Items, rather than Substitute Checks. Should a Drawee Financial Institution or other third party make a claim against us or seek re-credit with respect to any electronic image, we may provisionally freeze or hold aside a like amount in your account pending investigation and resolution of the claim.

Bank may reject any entry which does not comply with the requirements set forth herein. Bank may reject any entry if customer has failed to comply with its account balance obligations. Bank may reject any deposit from customer that does not adhere to the security procedures. Bank shall notify customer by phone or electronic transmission, including e-mail or fax, of such rejection no later than the Business Day such deposit would otherwise have been transmitted by Bank to the Federal Reserve. Notices of rejection shall be effective when given. Bank shall have no liability to customer by reason of the rejection of any such deposit or the fact that such notice is not given at an earlier time than that provided for herein.

Customer shall have no right to cancel or amend any deposit after its receipt by Bank. However, if such request complies with the security procedures, Bank shall use reasonable efforts to act on a request by customer for cancellation of a deposit prior to transmitting it to the Federal Reserve, but shall have no liability if such cancellation is not implemented. Customer shall reimburse Bank for any expenses, losses, or damages Bank may incur in implementing or attempting to implement customer's request for the reversal of a deposit.

You understand and acknowledge that we are relying on the truth and veracity of all electronic images submitted for deposit via the MRDC Services by you to us, and you warrant that such electronic images accurately reflect Original Checks that are, or at the time of the creation of the Substitute Checks, were, in your possession. You also understand that issues regarding returned item collection, returned deposit, and other issues regarding deposit of items not specifically addressed in this Agreement shall be governed by the terms and conditions of the Deposit Agreement.

3. Retention and Security of Original Checks. Customer shall retain physical checks that represent the deposit for no longer than (30) days following the date of their transmittal to Bank and agrees to make the originals available to Bank within seventy-two (72) hours of Bank's request for fraud control purposes. Such checks must be securely stored, to prevent unauthorized access to the items until they are destroyed (locked cabinet, etc.). You understand that in all cases you are solely responsible for safeguarding all items you retain, during the reasonable period of time described above from destruction, alteration or theft. Items are to be securely destroyed in a commercially reasonable manner that renders it unusable or otherwise unreadable (shredding) on the thirty-first (31st) day following the date of the deposit.

**B. Funds Availability Regarding MRDC Deposits.**

1. Your Ability To Withdraw Funds. These provisions apply only to demand deposit checking accounts where deposits are made via Bank's MRDC Services. You agree that electronic images submitted via Bank's MRDC Services from your mobile device are not subject to the funds availability requirements of the Federal Reserve Board's Regulation CC. Our policy is to generally make funds from your Personal MRDC Services available to you on the first Business Day after the day we receive your deposit. Funds that are deposited using Bank's MRDC Services will not be deemed "received" by us until we have received an electronic image that meets all of the requirements for deposits (including all requirements to create a Substitute Check) stated in this Agreement and in any Documentation and we have received payment in actuality and finally collected funds. Once the funds are available, you can withdraw the funds in cash and we will use the funds to pay items and transactions drawn on your account. For determining the availability of your deposits, every day is a business day, except Saturdays, Sundays, and Federal holidays. If you make a deposit via the MRDC Service by the cut-off time of 7:00 p.m. Central Time on a day that is not a business day, we will consider such deposit made on the next business day we are open.
2. Longer Delays May Apply. In some cases, we will not make all of the funds that you deposit via the MRDC Service available to you on the first business day after the day we receive your deposit. Funds may be delayed if you deposit checks totaling more than \$5,000 on any one day, you redeposit a check that has been returned unpaid, or there is an emergency, such as a failure of computer or communication equipment. We may also delay funds if we believe a check you deposit through MRDC is a duplicate image or we exercise our rights to investigate any unusual or suspicious MRDC items as determined in our sole discretion. If we are not going to make all of the funds from your deposit available on the first business day, we will generally notify you at the time you make your deposit. We will also attempt to tell you when the funds will be available. If you will need the funds from a deposit via the MRDC Services, you should contact us to inquire when the funds will be available.

In addition, funds you deposit via the MRDC Service may be delayed for a longer period for a variety of additional reasons as determined in Bank's sole discretion, including, but not limited to:



- We believe a check you deposit will not be paid
- We believe a check you deposit is a duplicate image
- You deposit checks totaling more than any applicable per item limit, daily dollar amount limit, monthly item limit or any other limitations on your Services that Bank may impose
- 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 exercise our rights to investigate any unusual or suspicious MRDC items as determined in Bank's sole discretion

Customer Representation and Agreements; Indemnity. With respect to each and every deposit initiated by customer, customer represents and warrants to Bank and agrees that to the best of customer's knowledge: (a) each deposit is made payable to the customer (b) any necessary authorization is operative at the time of transmittal or crediting/debiting by Bank as provided herein, and (c) customer shall perform its obligations under this Agreement in accordance with all applicable laws and regulations, including the sanctions laws administered by OFAC. In addition to other indemnification under this Agreement, customer also shall indemnify Bank against any loss, liability, or expense (including attorney's fees and expenses) resulting from or arising out of any breach of any of the foregoing representations or agreements.

Limitation on Liability. In addition to the provisions contained in the Agreement, liability shall not exceed the sum of the amount of any loss suffered by the customer as a result of a breach of warranties under Regulation CC (12 CFR Part 229) up to the amount of any substitute check, interest and expenses (including cost and reasonable attorney fees and other expenses of presentation) related to the substitute check reduced by any amount the customer receives and retains as a re-credit. Furthermore, such liability shall be further reduced by the amount of any damages incurred as a result of the negligence or bad faith of the customer. Without limiting the generality of the foregoing provisions, Bank shall be excused from failing to act or delay in acting if such failure or delay is caused by legal constraint, interruption of transmission of communication facilities, equipment failure, war, emergency conditions, or other circumstances beyond Bank's control.

In addition, Bank shall be excused from failing to transmit or delay in transmitting a deposit if such transmittal would result in Bank having exceeded any limitation upon its intra-day net funds position established pursuant to present or future Federal Reserve guidelines or in Bank's reasonable judgment 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. In such event, customer shall be responsible for having a contingency plan in place including temporarily depositing original, paper items at any branch facility of Bank.

Subject to the foregoing limitations, Bank's liability for loss of interest resulting from its error or delay shall be calculated by using a rate equal to the average Federal Funds rate at the Federal Reserve Bank of Dallas for the period involved. At Bank's option, payment of such interest may be made by crediting the account resulting from or arising out of any claim of any person that Bank is responsible for any act or omission of customer or any other person described in the foregoing Agreement.

Customer Responsibilities. Customer will maintain at least one or more accounts at Bank eligible for the transactions conducted via the Services, including receiving MRDC deposits. With regard to the MRDC Service, customer will inspect and verify the quality of electronic images, ensuring that the electronic images of the front and back of the Original Checks are legible for all posting and clearing purposes by Bank. The customer's applicable account will be charged for any deposited check that is later returned to Bank owing to an actual or alleged breach of any warranty made in this Agreement. Customer will assist in the installation and implementation of any changes and upgrades to the MRDC Services as required by Bank to ensure compliance with regulatory changes and developments, or to protect the integrity and security of such Services. Customer will use the Personal MRDC Services to enter, process, and transmit Original Checks in accordance with procedures and transmission deadlines outlined in this Agreement. Customer will verify Bank's receipt of its Personal MRDC deposits by reviewing deposits that have been posted to the designated accounts, in addition to cooperating with Bank in any investigation and resolving any unsuccessful or lost transmissions. Customer will comply with all security procedures outlined in this Agreement and any Documentation and agrees not to bypass, override or disable any security mechanisms in the processing software or processing equipment. Customer will retain each Original Check for the time frame specified in this Agreement after an electronic image of the check has been created and will promptly provide any related Original Check (or Sufficient Copy of the front and back of the Original Check) to Bank as requested to aid in the clearing and collection process or to resolve claims by third parties with respect to any check.

Customer understands that in all cases it is solely responsible for safeguarding all such images from destruction, alteration or theft in accordance with the provisions of this Agreement. Customer will use commercially reasonable methods to destroy the Original Checks after the required retention time has expired to render them unusable or otherwise unreadable. Customer will cooperate with Bank in providing information and access to customer records in the event of lost, mistaken, incomplete, or unusable electronic images, or in the event of claims of fraud, alteration, counterfeit or otherwise. Customer may not perform the MRDC Service for any third party, and any attempt to do so shall automatically terminate this Agreement, except for any provisions of this Agreement that are expressly to survive such termination.

12.7 Text Banking. Customer may request information from Bank with regard to Bank products, including balance inquiries. The Bank number for SMS is 226563. Customers will receive one message per query. There are no premium charges for this service; however, message and data rates of Customer's carrier may apply.

- A. **Opt Out.** To opt out of Text Banking, reply STOP to 226563. An unsubscribe message will be sent to your number confirming the cancellation, but no more messages will be sent after that one.
- B. **Support/Help.** For support or information about Text Banking, reply HELP to 226563. To receive a list of available text banking commands, reply LIST to 226563. Customer may visit [ibc.com](http://ibc.com) for additional information.
- C. **Supported Carriers.** Alltel, Appalachian Wireless, AT&T, Bluegrass Cellular, Boost Mobile, Cellcom, Cellular South, Centennial Wireless, Cincinnati Bell, GCI, Immix Wireless, Inland Cellular, IV Cellular, Nex-Tech Wireless, Nextel Communications, nTelos, Revol Wireless, Sprint PCS, T-Mobile, U.S. Cellular, United Wireless, Verizon Wireless, Virgin Mobile, and West Central Wireless.
- D. **Privacy.** Bank will never, under any circumstances, sell or distribute your cell phone number to third parties whom you have not approved. Bank will never directly market to you any services for which you have not opted in, either by cell phone, text message or email.

12.8 Use of IBC Mobile Banking Services. You agree that you will learn how to use the IBC Mobile Banking Services from the instructions contained within the IBC Mobile Banking Services, and you agree that you will contact us if you have any questions about or problems with the IBC Mobile Banking Services. If the IBC Mobile Banking Services are modified, you are responsible for understanding how to use any modifications. You may not copy (other than a copy for personal or business use), modify, distribute, transmit, display, perform, reproduce, transfer, resell, lease, rent, distribute access to or republish any of the contents of these IBC Mobile Banking Services without the prior written consent of Bank, which may be withheld in its sole discretion. Unless otherwise subject to the provisions of Regulation E for consumer customers as further described in the Deposit Agreement, Bank will not be liable to you for any losses caused by your failure to properly use the IBC Mobile Banking Services or your mobile device.

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

12.9 Processing Equipment and Processing Software. You must obtain the Bank's Mobile application in the Apple or Google (Android) app stores and install it on your mobile device in order to become approved and use the IBC Mobile Banking Services. You must comply with the mobile device hardware, software, and other requirements, as well as applicable security procedures, as set forth in this Agreement and in any related documentation or any supplemental information and/or instructions provided by Bank.

For the MRDC Service in particular, you understand that failure to comply with mobile device hardware, software and other requirements regarding the IBC Mobile Banking Services may result in you being unable to generate a Sufficient Image Copy in order to create an electronic image to complete a MRDC deposit.

Bank reserves the right as encryption technology develops to impose further reasonable requirements to maintain the appropriate level of security for the IBC Mobile Banking Services and transactions contemplated hereunder, and you agree to abide by such requirements. Furthermore, you understand and acknowledge that if you do not implement and follow your own commercially reasonable hardware, software, physical access and physical storage security procedures regarding any of the data owned by you, which includes such data containing your sensitive personally identifiable information ("PII") of any individual, the security of your IBC Mobile Banking Services may be compromised. You understand, acknowledge and agree that installation, maintenance and operation of your mobile device (hardware and software) and related security procedures that you adopt and follow, including, but not limited to, data security protection, firewalls and anti-virus software, is your sole responsibility, and that you are solely responsible for securing, encrypting, protecting and otherwise safeguarding the data owned by you.

In addition to other limitations on Bank's liability contained elsewhere in this Agreement, you understand, acknowledge and agree that Bank is not responsible for any loss or damages resulting from any errors or failures of your mobile device or data processing systems, including, but not limited to any mobile device virus or malware attack (such as a keystroke logging program or similar malware), any

attack by a person attempting or actually gaining unauthorized access to the data owned by you, or any mobile device network problems that may be associated with your access and use of our IBC Mobile Banking Services.

For avoidance of doubt, you understand, acknowledge and agree that all data provided by you to Bank (including, but not limited to, electronic images or Substitute Checks) retained on any processing equipment or processing software (including your mobile device used by you in conjunction with the IBC Mobile Banking Services), and all data produced, compiled or otherwise provided by Bank to you, in any form or format, is your sole and exclusive property and copies thereof shall be provided to you at your request from time to time and at any time. Once such data owned by you is delivered by Bank to you, retrieved by you from Bank, or otherwise created as a byproduct of a transaction between you and Bank and retained by you, such data owned by you is solely within your possession and control.

12.10 Security Procedures. Unless otherwise subject to the provisions of Regulation E for consumer customers as further described in your Deposit Agreement, you are responsible for all payments, transfers or other transactions you authorize using the IBC Mobile Banking Services. If you permit other persons to use your mobile device to access the IBC Mobile Banking Services, you are responsible for any transactions they authorize. If you access the IBC Mobile Banking Services on your mobile device, you understand that you will be required to enter your User ID and password. The IBC Mobile Banking Services may include your name and certain information about your account, such as the last 4 digits of your account number or specific account transaction information. You understand and acknowledge that transmission of your masked account number and specific information, including dollar amounts or individual payees and payors, does not constitute transmission of personal or private information, and you hereby authorize us to send such information via the IBC Mobile Banking Services to your mobile device. Use of our normal security procedures for maintaining confidentiality and security of information constitutes fulfillment of our obligations to exercise due care.

With regard to the IBC Mobile Banking Services, you agree to the security procedures used by Bank in connection with such IBC Mobile Banking Services, including the security procedures in Section 6, above. Such security procedures offered by Bank are described herein and in related documentation applicable to such IBC Mobile Banking Services. As part of the security procedures, Bank may employ various authentication technologies, including, but are not limited to, use of User IDs, passwords and other "Additional Authentication Information" ("AAI") that Bank may require you to provide at Bank's sole discretion. Bank employs various security and authentication technologies to ensure that you are communicating directly with Bank, and also to ensure that your mobile device is communicating with a legitimate Bank computer. You are responsible for the establishment and maintenance of your internal procedures reasonably adapted to insure the confidentiality and security of security procedures. YOU UNDERSTAND AND AGREE THAT YOU WILL BE RESPONSIBLE FOR MAINTAINING SECURITY AND CONTROL OVER YOUR USER ID AND PASSWORD PROVIDED BY BANK, AND SHALL USE SECURITY FOR SUCH ITEMS COMPARABLE TO THE SECURITY AND CONTROL YOU WOULD USE FOR CASH, BUT IN NO EVENT LESS THAN REASONABLE SECURITY AND CONTROL IN THE CIRCUMSTANCES.

If you have reason to believe that any security procedure has or may have become known by unauthorized persons, you shall immediately notify the Bank by telephone and confirm such oral notification in writing to Bank within twenty-four (24) hours of the oral notification. Bank will replace the security procedures in accordance with the Bank's standard security requirements related to the IBC Mobile Banking Services. To the maximum extent permitted by applicable law, you will be solely liable for all transactions initiated before the Bank has received such notification and has had a reasonable opportunity to act on such notification. Bank reserves the right to change any or all of the security procedures offered and/or used at any time by giving oral or written notice to you. You agree that your use of the IBC Mobile Banking Services after the Bank provides notice of such changes constitutes your acceptance of the new security procedures. You acknowledge that the purpose of security procedures is to authenticate the identity of the person initiating the action, not to detect errors in any transmission or content. Bank is not agreeing to any security procedures or other procedure for the detection of errors. You represent that for MRDC Services, you consider the security procedures to be commercially reasonable with respect to the size, type, and frequency of deposits you anticipate submitting.

No Bank employee, nor any company affiliated with or a third-party service provider of Bank, will contact you via e-mail or phone requesting your User ID or mobile password. If you are contacted by anyone requesting this information, DO NOT GIVE ANY OF YOUR INFORMATION OUT, and please contact us immediately to report the details of the incident.

12.11 Maintenance and Support. Bank is solely responsible for providing any maintenance and support services with respect to the IBC Mobile Banking Services, as specified in this Agreement and under applicable law. Bank and you acknowledge that neither Apple, Inc. nor Google, Inc. (Android) has any obligation whatsoever to furnish any maintenance and support services with respect to the IBC Mobile Banking Services.

12.12 Copyrights and Other Intellectual Property; User Conduct. The license granted to you for the IBC Mobile Banking Services is a non-transferable license to use the IBC Mobile Banking Services on an iOS or Android Operating System product that you own or control and as permitted by the usage rules and terms of service governing the Apple, Inc. App Store or the Google, Inc. Android, as applicable.

Except where otherwise expressly noted or as noted below, all contents of the IBC Mobile Banking Services, including the graphics, icons and overall appearance of the IBC Mobile Banking Services, are the sole and exclusive property of Bank, its subsidiaries or affiliates, or third parties with whom Bank utilizes to provide any portion of the IBC Mobile Banking Services. Certain of Bank's trademarks and/or service marks are also included in the IBC Mobile Banking Services. The posting of the contents of the IBC Mobile Banking Services neither constitutes a waiver of any of Bank's proprietary rights nor any other party's proprietary rights, including but

not limited to, copyrights, trademarks, service marks, patents, and other intellectual property, nor a transfer by implication, estoppel, or otherwise of any such rights or of any license to the IBC Mobile Banking Services user or to any third party. Contents of the IBC Mobile Banking Services are protected by United States and international copyright laws, both as individual works and as a collection and by United States and international trademark laws. You agree not to delete any copyright, trademark or similar notice from any Contents you obtain from the IBC Mobile Banking Services.

The display of third-party trademarks within the IBC Mobile Banking Services does not grant you a license of any kind. Any downloading of material contained in the IBC Mobile Banking Services, or of any site linked to the IBC Mobile Banking Services may be a violation of federal trademark and copyright laws.

Bank and you acknowledge and agree that, in the event of any third-party claim that the IBC Mobile Banking Services or your possession or use of the IBC Mobile Banking Services infringes that third party's intellectual property rights, Bank and its third-party service providers are solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim.

12.13 Bank Responsibilities Bank will provide access to the processing equipment and software for the IBC Mobile Banking Services through the Bank's Mobile application. Bank will also provide maintenance and support for the IBC Mobile Banking Services to ensure the accurate delivery of the IBC Mobile Banking Services, including, but not limited to:

1. Corrections, contingent or alternate work methods, and repairs to any know system bugs or errors.
2. Modifications, enhancements, or updates that Bank elects to make generally available to its customers.
3. Telephone and e-mail support during Bank's normal business hours.

Bank will provide the required User ID and password to customer in order to engage in the IBC Mobile Banking Services. Bank will provide related documentation as well as training materials and support reasonably required for customer's use of the IBC Mobile Banking Services.

12.14 Third-Party Beneficiaries. You agree that our third-party service providers may rely upon your agreement and representations, and that such service providers are intended third-party beneficiaries to this Agreement, with the power to enforce this Agreement against you. Bank and you acknowledge and agree that Apple, Inc., and all of its subsidiaries, and Google, Inc. (Android) and all of its subsidiaries, are third-party beneficiaries of this Agreement and that, upon your acceptance of this Agreement, either Apple, Inc., or Google, Inc., as applicable, will have the right (and will be deemed to have accepted the right) to enforce this Agreement against you as a third-party beneficiary thereof.

12.15 Mobile Banking Service Contact Bank and any of its third party service providers are the developers of this Mobile Banking Service. If you have any questions, complaints or claims with respect to the Mobile Banking Service, you may contact Bank by phone at (210) 841-3000, or writing to us at this address: 2416 Cee Gee, San Antonio, TX 78217, Attn: Customer Service.

### 13. FEES AND CHARGES, CHANGE IN TERMS NOTICE

Bank may make applicable charges for enrollment to IBC Bank Online account access and Bill Payment Services. Additionally, you may be charged any applicable Monthly Fees and/or Usage Fees whether or not you use any of the available IBC Bank Online Services in any one month. Please refer to Bank's Schedule of Fees and Charges, and any supplementation or amendment thereof, for applicable enrollment, monthly and user fees. Your accounts remain subject to fees, interest charges and charges for services and penalties as listed in your deposit and/or loan account agreements, including balance requirements and other restrictions explained in your deposit and/or loan account agreements.

Fees for IBC Bank Online Services are subject to change. When changes are made to any fees, charges, or other material terms, we will update this Agreement, and either send a notice to you at the address shown on our records, or send you a secure message. The notice will be posted and/or sent to you at least thirty (30) days before the effective date of any additional fees for IBC Bank Online, or regarding any stricter limits on the type, amount or frequency of transactions or any increase in your responsibility for unauthorized transactions, unless an immediate change is necessary to maintain the security of the system. If such an immediate change is made, and it cannot be disclosed without jeopardizing the security of the system, we will provide you with electronic or written notice within thirty (30) days after the change.

You agree to promptly pay all fees and charges for services provided through the Bank Online Services and IBC Mobile Banking Services, and you authorize us to automatically deduct all applicable charges, interest charges, and fees from your designated Fee Payment Account. If you close a designated Fee or Payment Account, you must notify us and identify a new Fee or Payment Account. If you notify us when you close a Fee or Payment Account or you do not identify a new Fee or Payment account, Bank will deduct fees from any other of your accounts. If you do not notify us when you close a Bill Payment Account or you do not identify a new Bill Payment Account, Bank will not be responsible or obligated for scheduled payments not made. Additionally, if you close all your accounts with us, you agree to notify us to cancel your IBC Bank Online Services.

#### 14. OUR RESPONSIBILITY

IBC, or any third party acting as Bank's agent, is responsible only for performing services expressly provided for in this Agreement. If Bank does not properly complete a transfer to or from your account on time or in the correct amount according to your proper and timely Instructions, we will be liable for the amount of any actual losses or damages incurred by you resulting directly from such failure. However, neither the Service Provider nor IBC will be liable:

- If, through no fault of Bank, you do not have adequate money in the account to complete the transaction as instructed, or if account has been closed or has become dormant,
- If you close a payment account and do not identify a new payment account,
- If you have not properly followed software or procedural instructions on how to make a transfer,
- If you have not given complete, correct and current instructions so that a transfer can be made,
- If you do not authorize a bill payment soon enough for your payment to be made and properly credited by the payee by the time it is due,
- If the transfer or payment would go over the credit limit on your credit line and/or exceed any availability of your overdraft courtesy,
- If a timely bill payment is made but the payee nevertheless does not receive the payment or does not credit your payment promptly after receipt,
- If there is a hold on your account, or if access to your account is blocked, in accordance with banking policy,
- If withdrawals from your account have been prohibited by a court order, such as a garnishment, levy or other legal process which prevents Bank from making a transfer,
- If Bank or our agent reasonably believe that a transaction may be unauthorized and based thereon the transaction is not completed,
- If Bank's or Bank's agents' equipment and/or software were not working properly or were temporarily unavailable when you attempted to authorize a transfer or bill payment and this situation should have been apparent to you when you attempted the payment or transfer, or
- If circumstances beyond Bank or Bank's agent's control prevent making the transfer or payment, despite reasonable precautions that have been taken. Such circumstances include but are not limited to computer failure, telecommunication outages, delays caused by payees, strikes or delays and other labor or civil unrest, fires, floods, and other natural or man - made disasters.

You acknowledge that there are alternative methods for accessing the information and conducting the transactions provided by these Online Services, such as IBC Voice, deposits at any IBC Bank location, or payment by check. In the event you should experience problems in accessing Services, you will attempt to access such information and conduct such transactions by such alternative methods.

There may be other exceptions to our liability as provided in your Deposit Account Agreement and/or Account Disclosures or loan agreements as well as in the specific Terms of Use for additional products.

In no event will Bank be liable for damages in excess of your actual loss due to our failure to complete a transfer.

#### 15. DISCLOSURES TO THIRD PARTIES--CONFIDENTIALITY

Bank 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) if you give us your written permission, or (4) where it is necessary for activating additional services or (5) in order to comply with a governmental agency or court order. For more information about IBC Bank's Privacy Policy, [click here](#).

#### 16. REPORTING UNAUTHORIZED TRANSACTIONS, LOSS OF PASSWORD

The limitations on liability below apply to consumer accounts/transactions only. You may access your periodic statements for your accounts online. Otherwise, you may be mailed periodic statements for your account(s) with the regularity provided for in the deposit account agreements. You agree to review your statements upon receipt for accuracy. Tell us AT ONCE if you believe that an unauthorized transaction has been or may have been conducted from your account(s). Tell us AT ONCE if you believe an unauthorized transaction may be conducted from your account(s), if you believe another person has improperly obtained your User ID and Password, if you believe someone has transferred or may transfer money from your account without authorization, or you suspect fraudulent activity on your account.

If you have any such activity to report, you should contact Bank in person or by telephone.

If you do not report unauthorized transactions that appear on any of your periodic statements within 60 days after such statements are mailed or electronically transmitted to you, you risk unlimited losses on transactions made after the sixty (60) day period if we can prove that we could have prevented the unauthorized use had we been notified within the sixty (60) day period.

If your User ID and Password have been lost or stolen, someone has attempted to use your IBC Bank Online information without your consent, your accounts have been accessed, you have reason to believe someone has your User ID and Password information or someone has transferred money without your permission, you must notify us immediately.

When you give someone your User ID and password, you are authorizing that person to use your Banking Online Services, including any IBC Mobile Banking Services, and you are responsible for all transactions that person performs while using your Banking Online Services and IBC Mobile Banking Services. All transactions that person performs, even those transactions you did not intend or want performed, are authorized transactions. If you notify us that the person is no longer authorized, then only transactions that person performs after the time you notify us are considered unauthorized. Additional information regarding unauthorized transfers can be found in your Deposit Agreement. Transactions initiated by you, or by someone acting with you or at your instruction, with fraudulent intent are also deemed authorized transactions. For your protection, sign off after every Online Banking Services and IBC Mobile Banking Services session.

Advising us right away may help you reduce possible losses. You could lose all the money in your designated deposit accounts. To the extent a transaction is an electronic funds transfer, you can lose no more than \$50.00 if you notify us within two business days of discovering an unauthorized use of your Bank Online Services, IBC Mobile Banking Services, or User ID. However, you can lose as much as \$500.00 if you do not notify us within two business days of discovering the unauthorized use and we can prove that we could have stopped the unauthorized use had we been notified.

#### **17. ERRORS OR QUESTIONS ABOUT IBC BANK ONLINE**

In case of questions or errors about funds transfers or other activity from a checking, saving or money market account made through IBC Bank Online Services, contact us at a Bank location convenient to you. If you think your account statement or any other receipt is wrong or if you need more information about a transaction listed on the account statement or other receipt, you must do one of the following:

- **Tell us your name and account number (if any)**
- **Write us at 2416 Cee Gee, San Antonio, TX 78217, ATTN: Customer Service,**
- **Send us a message via Secure Messaging. We must hear from you no later than sixty (60) days after we sent the FIRST paper or online statement on which the problem or error appeared.**

To report an error you must:

- **Tell us your name and account number (if any).**
- **Describe the error or transfer you are unsure about, and explain as clearly as you can why you believe it is an error, or why you need additional information.**
- **Tell us the dollar amount of the suspected error.**
- **If you tell us orally, we may require that you send us information in writing within 10 business days.**

We will tell you the results of our investigation within 10 business days after we hear from you and will correct promptly any error that we confirm. If we need more time, however, we may take up to forty - five (45) days to investigate your complaint or question. If we decide we need more time, we will credit your account within ten (10) business days for the amount you think is in error, so that you will have use of the money during the time 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 ten (10) business days, we may not credit your account.

If we decide that there was no error, we will send you a written explanation within three business days after we finish our investigation and debit the amount of the error that we previously credited. You may ask for copies of documents that we used in our investigation.

If you are a new customer, for electronic fund transfers occurring during the first thirty (30) days after the first deposit is made to your account, the applicable time periods for action by us are up to twenty (20) business days (instead of ten (10)) and ninety (90) calendar days (instead of forty - five (45)).

#### **BUSINESS DAYS**

For purpose of these disclosures, Bank's business days are Monday through Friday. Federal Holidays are not included.

#### **18. RIGHTS TO TERMINATE THIS AGREEMENT**

We reserve the right to terminate this Agreement and your access to Bank Online Services, in whole or in part, at any time. If you do not access your account(s) through IBC Bank Online for any three-month period, we reserve the right to disconnect you from IBC Bank Online without any notice to you. If Bank terminates your access, Bank reserves the right to cancel any payment or payments or transfer or transfers that may still be pending. It is your responsibility to effect payment(s) due if your subscription with IBC Bank Online is canceled by us due to lack of activity or any other reason.

If you wish to cancel IBC Bank Online, please provide commercially reasonable notice. Call a location convenient to you or send us cancellation instructions in writing to 2416 Cee Gee, San Antonio, TX 78217. Any banking transactions or payments you have authorized prior to notice of cancellation will be completed as instructed until Bank has had a reasonable opportunity to effect the cancellation. Neither termination nor cancellation shall affect your liability or obligations under this Agreement for transactions initiated prior to termination or cancellation.

#### **19. ADDRESS CHANGES**

Promptly notify us of any change in your address by utilizing the change of address option available through IBC Bank Online or in writing via postal service or at any IBC Bank location.

#### **20. ASSIGNMENT**

You may not assign this Agreement or your right to IBC Bank Online to any other party. We may assign this Agreement to our parent corporation or to any now or future existing direct or indirect subsidiary of our parent corporation. We may also assign or delegate certain of our rights and responsibilities under this Agreement to independent contractors or third parties.

#### **21. DATA RECORDING**

Through your active participation in IBC Bank Online Services, you consent to the recording and/or Data Capturing of the information and transfers you enter.

#### **22. PROGRAM CHANGES/INTERRUPTIONS**

We may, from time to time, revise or update, or perform maintenance upon IBC Bank Online and/or related material, resulting in interrupted service or errors in the Services or rendering prior versions obsolete. We also may change the scope of IBC Bank Online from time to time. We will provide prior notice of such changes but cannot guarantee that such notice will be received. We reserve the right to terminate this Agreement as to all prior versions of IBC Bank Online, and/or related material.

#### **23. SEVERABILITY/WAIVER**

If one or more provisions of this Agreement are held to be invalid, illegal or unenforceable under applicable law, such provisions in their entirety or portions thereof, to the extent necessary, shall be severed from this Agreement, and the balance of this Agreement shall be enforceable in accordance with its terms to the extent possible. Waiver of any default under this Agreement shall not constitute waiver of any prior or subsequent default.

#### **24. LIABILITY FOR LOSS OR ERRONEOUS DATA**

Each party will bear the liability or risk of any error or loss of data, information, transactions or other losses that may be due to the failure of their respective computer system or third party communications provider on which each party may rely. We shall have no liability to you for any damage or other loss, direct or consequential, which you may incur by reason of your use of your computer system. The Bank will not be liable to you under any circumstances if account information is unavailable, delayed, or inaccurate, unless our conduct was grossly negligent or reckless or (ii) for any problems due to causes beyond our control, including without limitation, any Act of God, accident, equipment failure, system failure, labor dispute or failure of a third party to provide any electronic or telecommunications service used in connection with any bank service. Unless otherwise required by law, in no event will we be liable for any attorney's fees or for special, indirect or consequential damages, including, without limitation, loss or damage from subsequent wrongful dishonor resulting from our acts or omissions. For commercial customers, the bank's liability is further limited as provided herein. To the extent allowed by applicable law, IBC and any other party involved directly or indirectly in the planning, producing, maintaining or delivering this Website are not liable for any direct, indirect, incidental, consequential, punitive, or other damages of any kind arising out of your use of this Website and any Website accessed by linking from this Website, whether caused by the equipment, software, Bank or by an agent or subcontractor of Bank. Nor shall Bank or any associated service providers be responsible for any direct, indirect, special or consequential, economic or other damages arising in any way out of the installation, use or maintenance of any equipment, software, outline access serve, or internet browser or access software. Links to other Websites are provided as a courtesy to our users. IBC has no control over such Websites and makes no warranties as to the accuracy, completeness, reliability or suitability of their content. Other Websites accessed through this Website are independent of, and the responsibility of persons and entities other than, Bank, its employees and/or its agents and Bank does not endorse any opinions, ideas, products, information, or content of such Websites.

#### **25. DIGITAL SIGNATURE**

A Digital Signature is an electronic identifier, created by a computer, intended by Depositor to have the same force and effect as the use of Depositor's manual signature and satisfies the Statute Of Frauds. A Digital Signature involves the use of both private and public key encryption (i.e., use of a combination of private and public passwords to ensure that communication is authentic). All written electronic communications (including transmission of electronic data over telephone lines or fiber optic cables or stored on a computer disk) sent to Bank in connection with a transaction is considered signed if a Digital Signature is transmitted with such communication. The use of Digital Signatures is subject to criminal laws pertaining to fraud and computer crimes.

#### **26. TITLES AND SUBTITLES, FORM OF PRONOUNS**

The titles of the paragraphs and sections of this Agreement are for convenience only and are not to be considered in construing this Agreement. All pronouns used in this Agreement shall be deemed to include masculine, feminine and neutral forms, as applicable.

#### **27. NO DUTY TO MONITOR PAYMENTS**

We do not have any duty to monitor the payments that are made through the Bill Pay Service. If you are a business and an authorized

representative of yours uses your Bill Pay Account to pay bills which are not yours, you assume the entire risk of loss and indemnify and hold us, our directors, officers, employees and agents harmless from all loss, liability, claims, demands, judgments and expenses arising out of or in any way connected with such use.

#### **28. ACCOUNTS ACCESSIBLE BY MORE THAN ONE PERSON**

Joint account holders may use the same account as their funding account for their individual Bill Pay Service. As such, each account holder has the same right of access to account activity such as notifying IBC Bank Online Customer Service of suspected loss or fraud or canceling the Bill Pay Service, etc. Each such owner or authorized representative may individually enroll in the Bill Pay Service. Each user is required to have a unique User ID and password. Each user will have his/her own payee list payment history.

#### **29. LINKED ELIGIBLE ACCOUNTS**

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

#### **30. LEGAL COMPLIANCE**

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

#### **31. GOVERNING LAW**

This Agreement is subject to the provisions of all applicable circulars of the Federal Reserve Bank and any other provisions of Federal Law and regulations and will be governed by and interpreted in accordance with and the laws of the State of Texas, without reference to its conflict of law's provisions.

#### **32. NO WARRANTIES**

Although Bank attempts to provide accurate information, names, images, pictures, logos, icons, documents, and materials on the Bank Online Services, Bank makes no representation, endorsement, or warranty that such Contents are accurate or suitable for any particular purpose. In addition to any other warranty issues discussed in this Agreement, THE BANK ONLINE SERVICES AND ITS CONTENTS ARE PROVIDED ON AN "AS IS" BASIS. USE OF THE BANK ONLINE SERVICES AND CONTENTS IS AT YOUR SOLE RISK. THE SERVICES AND CONTENTS ARE PROVIDED WITHOUT ANY REPRESENTATIONS, ENDORSEMENTS, OR WARRANTIES OF ANY KIND WHATSOEVER, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF TITLE OR ACCURACY AND ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, WITH THE SOLE EXCEPTION OF WARRANTIES (IF ANY) WHICH CANNOT BE EXPRESSLY EXCLUDED UNDER APPLICABLE LAW. AS NOTED BELOW, BANK ALSO MAKES NO REPRESENTATIONS, ENDORSEMENTS, OR WARRANTIES, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY SERVICE OPERATED BY A THIRD PARTY WHICH MAY BE PART OF OR ACCESSED VIA THE BANK ONLINE SERVICES.

Finally without limitation as to the foregoing, in regard to limitation of liability, IN NO EVENT WILL BANK OR ITS SUBSIDIARIES, AFFILIATES, CONTRACTORS, OR THEIR RESPECTIVE EMPLOYEES BE LIABLE FOR ANY DAMAGES, INCLUDING, WITHOUT LIMITATION, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER UNDER A CONTRACT, TORT OR ANY OTHER THEORY OF LIABILITY, ARISING IN CONNECTION WITH ANY PARTY'S USE OF THE BANK ONLINE SERVICES OR IN CONNECTION WITH ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUS, LINE SYSTEM FAILURE, LOSS OF DATA, OR LOSS OF USE RELATED TO THE BANK ONLINE SERVICES OR ANY SERVICE OPERATED BY ANY THIRD PARTY WHICH MAY BE PART OF OR ACCESSED VIA THE BANK ONLINE SERVICES, OR ANY CONTENTS OF THE BANK ONLINE SERVICES OR ANY OTHER SERVICE, EVEN IF BANK IS AWARE OF THE POSSIBILITY OF SUCH DAMAGES.

If you download the Mobile Banking Service from Apple, Inc. via the Apple App Store, then in the event of any failure of the Mobile Banking Service to conform to the warranty as described in this Agreement, you may notify Apple, Inc., and Apple, Inc. will refund your purchase price for the Mobile Banking Service, if any. However, to the maximum extent allowed by applicable law, Apple, Inc. will have no other warranty obligation whatsoever with respect to the IBC Mobile Banking Services, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be the sole responsibility of Bank and any of its third party providers.

#### **33. SERVICE CLAIMS; OUR LIMITED LIABILITY FOR USE OF ONLINE BANKING SERVICES**

Bank and you acknowledge and agree that Bank, and not Apple, Inc., or Google, Inc. (Android), is responsible for addressing any claims (a) by you or any third party relating to the IBC Mobile Banking Services, or (b) relating to your possession and use of the IBC Mobile



Banking Services, including, but not limited to product liability claims or any claim that the IBC Mobile Banking Services fail to conform to any applicable law, including applicable consumer protection laws.

In addition to any other limitation on liability of the Bank and its third-party service providers as stated in this Agreement, IN NO EVENT WILL BANK, OR ANY OF ITS OFFICERS, DIRECTORS, SHAREHOLDERS, PARENTS, SUBSIDIARIES, AFFILIATES, AGENTS, LICENSORS, OR THIRD PARTY SERVICE PROVIDERS BE LIABLE FOR ANY CONSEQUENTIAL (INCLUDING, WITHOUT LIMITATION, LOSS OF DATA, FILES, PROFIT OR GOODWILL OR THE COSTS OF PROCUREMENT OF SUBSTITUTE OF GOODS OR MOBILE BANKING), INDIRECT, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH YOUR USE OF THE ONLINE BANKING SERVICES. THE AGGREGATE LIABILITY OF BANK AND OUR THIRD-PARTY SERVICE PROVIDERS UNDER THESE TERMS OF USE SHALL NOT EXCEED FIVE HUNDRED DOLLARS. Because some states do not allow the exclusion or limitation of liability for consequential damages, the above limitations may not apply to you.

### 34. INDEMNIFICATION

You understand that there are risks associated with using your mobile device, and that in the event of theft or loss, your confidential or personally identifiable information could become compromised. UNLESS CAUSED BY BANK'S INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE, You agree to indemnify, defend, and hold BANK and its affiliates, officers, directors, employees, consultants, agents, Mobile service providers, and licensors harmless from any and all third party claims, liability, damages and/or costs (including but not limited to reasonable attorneys' fees) arising from (a) a third-party claim, dispute, action, or allegation of infringement, misuse, or misappropriation based on information, data, files, or otherwise in connection with the MOBILE BaNKiNG service; (b) your violation of any law or rights of a third party; or (c) Your use, or use by a third-party, of the service.

### 35. BINDING ARBITRATION AGREEMENT

PLEASE READ THIS CAREFULLY. IT AFFECTS YOUR RIGHTS.

THE BANK, DEPOSITOR AND EACH AUTHORIZED SIGNATORY AGREE TO ARBITRATION AS FOLLOWS (hereinafter referred to as the Arbitration Provisions):

- **Special Provisions and Definitions applicable to both CONSUMER DISPUTES and BUSINESS DISPUTES:**

(a) Informal Resolution of Customer Concerns. Most customer concerns can be resolved quickly and to the customer's satisfaction by contacting your account officer, branch manager or by calling the Customer Service Department in your region. The region and numbers are:

1.	Laredo	956-722-7611
2.	Austin	512-397-4506
3.	Brownsville	956-547-1000
4.	Commerce Bank	956-724-1616
5.	Corpus Christi	361-888-4000
6.	Eagle Pass	830-773-2313
7.	Houston	713-526-1211
8.	McAllen	956-686-0263
9.	Oklahoma	405-841-2100
10.	Port Lavaca	361-552-9771
11.	San Antonio	210-518-2500
12.	Zapata	956-765-8361

In the unlikely event that your account officer, branch manager or the customer service department is unable to resolve a complaint to your satisfaction or if the Bank has not been able to resolve a dispute it has with you after attempting to do so informally, you and the Bank agree to resolve those disputes through binding arbitration or small claims court instead of in courts of general jurisdiction.

(b) **Sending Notice of Dispute.** If either you or the Bank intend to seek arbitration, then you or the Bank must first send to the other by certified mail, return receipt requested, a written Notice of Dispute. The Notice of Dispute to the Bank should be addressed to: Dennis E. Nixon, President, at International Bancshares Corporation, P.O. Drawer 1359, Laredo, Texas 78042-1359 or if by email, [ibcchairman@ibc.com](mailto:ibcchairman@ibc.com). The Notice of Dispute must (a) describe the nature and basis of the claim or dispute; and (b) explain specifically what relief is sought. You may download a copy of the Notice of Dispute at [www.ibc.com](http://www.ibc.com) or you may obtain a copy from your account officer or branch manager.

(c) **If the Dispute is not Informally Resolved.** If you and the Bank do not reach an agreement to resolve the claim or dispute within thirty (30) days after the Notice of Dispute is received, you or the Bank may commence a binding arbitration proceeding. During the binding arbitration proceeding, any settlement offers made by you or the Bank shall not be disclosed to the Arbitrator.

(d) **DISPUTE(S).** As used herein, the word DISPUTE(S) includes any and all controversies or claims between the PARTIES of whatever type or manner, including without limitation, any and all claims arising out of or relating to this Agreement, compliance with applicable laws and/or regulations, any and all services or products provided by the Bank, any and all past, present and/or future loans, lines of credit, letters of credit, credit facilities or other form of indebtedness and/or agreements involving the PARTIES, any and all transactions between or involving the PARTIES, and/or any and all aspects of any past or present relationship of the PARTIES, whether banking or otherwise, specifically including but not limited to any claim founded in contract, tort, fraud, fraudulent inducement, misrepresentation or otherwise, whether based on statute, regulation, common law or equity.

(e) **CONSUMER DISPUTE and BUSINESS DISPUTE.** As used herein, CONSUMER DISPUTE means a DISPUTE relating to an account (including a deposit account), agreement, extension of credit, loan, service or product provided by the Bank that is primarily for personal, family or household purposes. BUSINESS DISPUTE means any DISPUTE that is not a CONSUMER DISPUTE.

(f) **PARTIES or PARTY.** As used in these Arbitration Provisions, the term PARTIES or PARTY means the Bank, Depositor and each Authorized Signatory, and each and all persons and entities signing this Agreement or any other agreements between or among any of the PARTIES as part of this transaction. PARTIES or PARTY shall be broadly construed and include individuals, beneficiaries, partners, limited partners, limited liability members, shareholders, subsidiaries, parent companies, affiliates, officers, directors, employees, heirs, agents and/or representatives of any party to such documents, any other person or entity claiming by or through one of the foregoing and/or any person or beneficiary who receives products or services from the Bank and shall include any other owner and holder of this Agreement. Throughout these Arbitration Provisions, the term you and your refer to Depositor and each Authorized Signatory, and the term Arbitrator refers to the individual arbitrator or panel of arbitrators, as the case may be, before which the DISPUTE is arbitrated.

(g) **BINDING ARBITRATION.** The PARTIES agree that any DISPUTE between the PARTIES shall be resolved by mandatory binding arbitration pursuant to these Arbitration Provisions at the election of either PARTY. **BY AGREEING TO RESOLVE A DISPUTE IN ARBITRATION, THE PARTIES ARE WAIVING THEIR RIGHT TO A JURY TRIAL OR TO LITIGATE IN COURT** (except for matters that may be taken to small claims court for a CONSUMER DISPUTE as provided below).

(h) **CLASS ACTION WAIVER.** The PARTIES agree that (i) no arbitration proceeding hereunder whether a CONSUMER DISPUTE or a BUSINESS DISPUTE shall be certified as a class action or proceed as a class action, or on a basis involving claims brought in a purported representative capacity on behalf of the general public, other customers or potential customers or persons similarly situated, and (ii) no arbitration proceeding hereunder shall be consolidated with, or joined in any way with, any other arbitration proceeding. **THE PARTIES AGREE TO ARBITRATE A CONSUMER DISPUTE OR BUSINESS DISPUTE ON AN INDIVIDUAL BASIS AND EACH WAIVES THE RIGHT TO PARTICIPATE IN A CLASS ACTION.**

**I. FEDERAL ARBITRATION ACT AND TEXAS LAW.** The PARTIES acknowledge that this Agreement evidences a transaction involving interstate commerce. The Federal Arbitration Act shall govern (i) the interpretation and enforcement of these Arbitration Provisions, and (ii) all arbitration proceedings that take place pursuant to these Arbitration Provisions. **THE PARTIES AGREE THAT TEXAS SUBSTANTIVE LAW WILL APPLY IN ANY BINDING ARBITRATION PROCEEDING OR SMALL CLAIMS COURT ACTION REGARDLESS OF WHO INITIATES THE PROCEEDING, WHERE YOU RESIDE OR WHERE THE DISPUTE AROSE, UNLESS EXPRESSLY PROHIBITED BY LAW.**

## **II. Provisions applicable only to a CONSUMER DISPUTE:**

(a) Any and all CONSUMER DISPUTES shall be resolved by arbitration administered by the American Arbitration Association (AAA) under the Commercial Arbitration Rules and the Supplemental Procedures for Resolution of Consumer Disputes and Consumer Due Process Protocol (which are incorporated herein for all purposes). It is intended by the PARTIES that these Arbitration Provisions meet and include all fairness standards and principles of the American Arbitration Associations Consumer Due Process Protocol and due process in predispute arbitration. If a CONSUMER DISPUTE is for a claim of actual damages above \$250,000 it shall be administered by the AAA before three neutral arbitrators at the request of any PARTY.

(b) Instead of proceeding in arbitration, any PARTY hereto may pursue its claim in your local small claims court, if the CONSUMER DISPUTE meets the small claims courts jurisdictional limits. If the small claims court option is chosen, the PARTY pursuing the claim must contact the small claims court directly. **The PARTIES agree that the class action waiver provision also applies to any CONSUMER DISPUTE brought in small claims court.**

(c) For any claim for actual damages that does not exceed \$2,500, the Bank will pay all arbitration fees and costs provided you submitted a Notice of Dispute with regard to the **CONSUMER DISPUTE** prior to initiation of arbitration. For any claim for actual damages that does not exceed \$5,000, the Bank also agrees to pay your reasonable attorneys fees and reasonable expenses your attorney charges you in connection with the arbitration (even if the Arbitrator does not award those to you) plus an additional \$2,500 if you obtain a favorable arbitration award for your actual damages which is greater than any written settlement offer for your actual damages made by the Bank to you prior to the selection of the Arbitrator.

(d) Under the AAAs Supplemental Procedures for Consumer Disputes, if your claim for actual damages does not exceed \$10,000, you shall only be responsible for paying up to a maximum of \$125 in arbitration fees and costs. If your claim for actual damages exceeds \$10,000 but does not exceed \$75,000, you shall only be responsible for paying up to a maximum of \$375 in arbitration fees and costs. For any claim for actual damages that does not exceed \$75,000, the Bank will pay all other arbitrators fees and costs imposed by the administrator of the arbitration. With regard to a **CONSUMER DISPUTE** for a claim of actual damages that exceeds \$75,000, or if the claim is a non-monetary claim, the Bank agrees to pay all arbitration fees and costs you would otherwise be responsible for that exceed \$1,000. The fees and costs stated above are subject to any amendments to the fee and cost schedules of the AAA. The fee and cost schedule in effect at the time you submit your claim shall apply. The AAA rules also permit you to request a waiver or deferral of the administrative fees and costs of arbitration if paying them would cause you financial hardship.

(e) Although under some laws, the Bank may have a right to an award of attorneys fees and expenses if it prevails in arbitration, the Bank agrees that it will not seek such an award in a binding arbitration proceeding with regard to a **CONSUMER DISPUTE** for a claim of actual damages that does not exceed \$75,000.

(f) To request information on how to submit an arbitration claim, or to request a copy of the AAA rules or fee schedule, you may contact the AAA at 1-800-778-7879 (toll free) or at [www.adr.org](http://www.adr.org).

### III. Provisions applicable only to a **BUSINESS DISPUTE**:

(a) Any and all **BUSINESS DISPUTES** between the **PARTIES** shall be resolved by arbitration in accordance with the Commercial Arbitration Rules of the AAA in effect at the time of filing, as modified by, and subject to, these Arbitration Provisions. A **BUSINESS DISPUTE** for a claim of actual damages that exceeds \$250,000 shall be administered by AAA before at least three (3) neutral arbitrators at the request of any **PARTY**. In the event the aggregate of all affirmative claims asserted exceeds \$500,000, exclusive of interest and attorneys fees, or upon the written request of any **PARTY**, the arbitration shall be conducted under the AAA Procedures for Large, Complex Commercial Disputes. If the payment of arbitration fees and costs will cause you extreme financial hardship you may request that AAA defer or reduce the administrative fees or request the Bank to cover some of the arbitration fees and costs that would be your responsibility.

(b) The **PARTIES** shall have the right to (i) invoke self-help remedies (such as setoff, notification of account debtors, seizure and/or foreclosure of collateral, and non-judicial sale of personal property and real property collateral) before, during or after any arbitration, and/or (ii) request ancillary or provisional judicial remedies (such as garnishment, attachment, specific performance, receiver, injunction or restraining order, and sequestration) before or after the commencement of any arbitration proceeding (individually, and not on behalf of a class). The **PARTIES** need not await the outcome of the arbitration proceeding before using self-help remedies. Use of self-help or ancillary and/or provisional judicial remedies shall not operate as a waiver of either **PARTY**'s right to compel arbitration. Any ancillary or provisional judicial remedy which would be available from a court at law shall be available from the Arbitrator.

(c) Except to the extent the recovery of any type or types of damages or penalties may not be waived under applicable law, the Arbitrator shall not have the authority to award either **PARTY** (i) punitive, exemplary, special or indirect damages, (ii) statutory multiple damages, or (iii) penalties, statutory or otherwise.

(d) The Arbitrator may award attorneys fees and costs including the fees, costs and expenses of arbitration and of the Arbitrator as the Arbitrator deems appropriate to the prevailing **PARTY**. The Arbitrator shall retain jurisdiction over questions of attorneys fees for fourteen (14) days after entry of the decision.

### IV. General provisions applicable to both **CONSUMER DISPUTES** and **BUSINESS DISPUTES**:

(a) The Arbitrator is bound by the terms of these Arbitration Provisions. The Arbitrator shall have exclusive authority to resolve any **DISPUTES** relating to the scope or enforceability of these Arbitration Provisions, including (i) all arbitrability questions, and (ii) any claim that all or a part of these Arbitration Provisions are void or voidable (including any claims that they are unconscionable in whole or in part).

(b) These Arbitration Provisions shall survive any termination, amendment, or expiration of this Agreement, unless all of the **PARTIES** otherwise expressly agree in writing.

(c) If a **PARTY** initiates legal proceedings, the failure of the initiating **PARTY** to request arbitration pursuant to these Arbitration Provisions within 180 days after the filing of the lawsuit shall be deemed a waiver of the initiating **PARTY**'s right to compel arbitration with respect to the claims asserted in the litigation. The failure of the defending **PARTY** in such litigation to request arbitration pursuant to these Arbitration Provisions within 180 days after the defending **PARTY**'s receipt of service of judicial process, shall be deemed a waiver of the right of the defending **PARTY** to compel arbitration with respect to the claims asserted in the litigation. If a

counterclaim, cross-claim or third party action is filed and properly served on a **PARTY** in connection with such litigation, the failure of such **PARTY** to request arbitration pursuant to these Arbitration Provisions within ninety (90) days after such **PARTYS** receipt of service of the counterclaim, cross-claim or third party claim shall be deemed a waiver of such **PARTYS** right to compel arbitration with respect to the claims asserted therein. The issue of waiver pursuant to these Arbitration Provisions is an arbitrable dispute. Active participation in any pending litigation described above by a **PARTY** shall not in any event be deemed a waiver of such **PARTYS** right to compel arbitration. All discovery obtained in the pending litigation may be used in any subsequent arbitration proceeding.

(d) Any **PARTY** seeking to arbitrate shall serve a written notice of intent to any and all opposing **PARTIES** after a **DISPUTE** has arisen. The **PARTIES** agree a timely written notice of intent to arbitrate by either **PARTY** pursuant to these Arbitration Provisions shall stay and/or abate any and all action in a trial court, save and except a hearing on a motion to compel arbitration and/or the entry of an order compelling arbitration and staying and/or abating the litigation pending the filing of the final award of the Arbitrator.

(e) Any Arbitrator selected shall be knowledgeable in the subject matter of the **DISPUTE** and be licensed to practice law.

(f) For a one (1) member arbitration panel, the **PARTIES** are limited to an equal number of strikes in selecting the arbitrator from the AAA neutral list, such that at least one arbitrator remains after the **PARTIES** exercise all of their respective strikes. For a three (3) member arbitration panel, the **PARTIES** are limited to an equal number of strikes in selecting the arbitrators from the AAA neutral list, such that at least three arbitrators remain after the **PARTIES** exercise all of their respective strikes. After exercising all of their allotted respective strikes, the **PARTIES** shall rank those potential arbitrators remaining numerically in order of preference (with 1 designating the most preferred). The AAA shall review the **PARTIES** rankings and assign a score to each potential arbitrator by adding together the ranking given to such potential arbitrator by each **PARTY**. The arbitrator(s) with the lowest score total(s) will be selected. In the event of a tie or ties for lowest score total and if the selection of both or all of such potential arbitrators is not possible due to the required panel size, the AAA shall select the arbitrator(s) it believes to be best qualified.

(g) The **PARTIES** and the Arbitrator shall treat all aspects of the arbitration proceedings, including, without limitation, any documents exchanged, testimony and other evidence, briefs and the award, as strictly confidential; provided, however, that a written award or order from the Arbitrator may be filed with any court having jurisdiction to confirm and/or enforce such award or order.

(h) The **PARTIES** agree that the Arbitrator shall be required to allow, consider and rule on a dispositive motion filed by any **PARTY**.

(i) Any statute of limitation which would otherwise be applicable shall apply to any claim asserted in any arbitration proceeding under these Arbitration Provisions, and the commencement of any arbitration proceeding tolls such statute of limitations.

(j) If the AAA is unable for any reason to provide arbitration services, then the **PARTIES** agree to select another arbitration service provider that has the ability to arbitrate the **DISPUTE** pursuant to and consistent with these Arbitration Provisions. If the **PARTIES** are unable to agree on another arbitration service provider, any **PARTY** may petition a court of competent jurisdiction to appoint an Arbitrator to administer the arbitration proceeding pursuant to and consistent with these Arbitration Provisions.

(k) The award of the Arbitrator shall be final and Judgment upon any such award may be entered in any court of competent jurisdiction. The arbitration award shall be in the form of a written reasoned decision and shall be based on and consistent with applicable law.

(l) Unless the **PARTIES** mutually agree to hold the binding arbitration proceeding elsewhere, venue of any arbitration proceeding under these Arbitration Provisions shall be (i) for all Texas accounts, in the Texas county where the account was opened, and (ii) for all Oklahoma accounts, in the Oklahoma county where the account was opened.

(m) If any of these Arbitration Provisions are held to be invalid or unenforceable, the remaining provisions shall be enforced without regard to the invalid or unenforceable term or provision.

### **36. ENTIRE AGREEMENT**

THIS AGREEMENT AND THE OTHER IBC AGREEMENTS, SCHEDULES AND DISCLOSURES REFERRED TO HEREIN ARE A COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT BETWEEN THE PARTIES WHICH SUPERSEDES ALL PROPOSALS OR PRIOR AGREEMENTS, ORAL OR WRITTEN AND ALL OTHER COMMUNICATIONS BETWEEN PARTIES RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT AND MAY NOT BE CONTRADICTED OR VARIED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS BETWEEN THE PARTIES TO THIS AGREEMENT.

### **37. IBC IS A MEMBER OF THE FDIC.**

### **38. EQUAL HOUSING LENDER, MEMBER FDIC/INTERNATIONAL BANCSHARES CORPORATION.**