

## I. Introduction

### A. Applicability

This Agreement and Initial Disclosures (the agreement) governs your use of the Small Business Online<sup>®</sup> service (the service(s)). By subscribing to the service or using the service, you agree to the terms of this agreement. Please read this agreement carefully and in its entirety. We suggest you print a copy of this agreement. We also suggest you print a copy of the software license agreements included with the personal financial management software.

### B. Small Business Online description

Small Business Online is a suite of electronic banking services available to business entities, such as corporations, partnerships, limited liability companies and sole proprietors, which enable you to conduct financial transactions on your business accounts (the service(s)). You may also elect to access eligible consumer accounts linked to eligible business accounts to perform certain types of transactions. You must maintain at least one eligible business account to use the service.

### C. Access to the service

You may use an electronic device to access the service through our Small Business Online Internet application or personal financial management software, which you must purchase from the software manufacturer or a retailer of your choice. Your use of the personal financial management software is governed by the software license agreements included with each software application. Please refer to Customer Service within Small Business Online to view the personal financial management software we support. You are responsible for the selection, installation, maintenance, operation and security of your computer and any software.

## II. Definitions

The following definitions apply in this agreement.

Account(s) refers to your eligible checking, savings, money market, loan, line of credit, credit card, prepaid card account or mortgage account you have with THE BANK. Some of your accounts may not be eligible for certain transactions using the service.

Account agreement(s) means any account agreement, such as the bank services agreement (for consumer accounts) and the commercial bank services agreement (for business accounts), or other applicable agreement relating to a deposit account, loan or other relationship you have with us.

ACH or Automated Clearing House means a funds transfer system governed by the NACHA rules which provide for the interbank clearing of electronic entries for participating financial institutions.

Administrator means an individual designated by you who has the same access rights to use the services as you.

Affiliate means, with respect to any person, another person that directly or indirectly owns or controls such person, is owned or controlled by such person, or is under common ownership or control with such person; and the term also includes each of such persons' senior executive officers, directors, executives, managers, members or partners.

Applicable law means, as to any person, a requirement imposed by any federal, state, local or other law, regulation, rule, ordinance, determination of an arbitrator, order of a court or determination, order, finding, advisory opinion, guideline or requirement of any other governmental authority, which is applicable to and binding upon such person, including without limitation, the laws, regulations and orders administered by the Office of Foreign Assets Control (OFAC) and the Financial Crimes Enforcement Network (FinCEN). The term also includes the NACHA rules, as defined below.

Authentication token means: (i) a code, soft token or other virtual version of a security device or measure; or (ii) a hard token or other hardware key or physical security device; and either or both of the foregoing may be used to authenticate and authorize a user or the device used to access a service and to conduct transactions, and may or may not be used in connection with a password.

THE BANK refers to Branch Banking and Trust Company and its depository institution affiliates.

THE BANK Small Business Online means the Internet application through which you may access the Small Business Online service.

Business account means an account established by a sole proprietor, corporation, limited liability company or partnership for a business purpose.

Business day(s) means Monday through Friday, except Federal Reserve holidays.

Company means any entity enrolling in or using the service, such as a corporation, partnership, limited liability company and sole proprietor.

Deliver By date refers to the date on which your payment will be delivered to the recipient.

Consumer account means an account established by an individual for a personal, family or household purpose.

Effective entry date means the date on which an ACH debit or credit entry posts to your account.

NACHA rules means the operating rules, operating guidelines and any other official publications in the nature of rules, regulations, guidelines and the like, published by the National Automated Clearing House Association, and also known as the ACH rules, as amended from time to time.

Originating Depository Financial Institution (ODFI) acts as the interface between the Federal Reserve or ACH network and the Originator

Originator is a person who has authorized an ODFI to transmit from the account of that person to a Receiver's account at a RDFI

Third Party Sender is an organization other than an Originator, ODFI, or RDFI that performs a function of ACH processing on behalf of the Originator, ODFI or the RDFI

Receiving Depository Financial Institution (RDFI) is a financial institution qualified to receive ACH entries. These institutions should abide by the NACHA Rules

Password means any of the confidential, unique user IDs, PINs, codes, marks, signs, public keys, letters, numbers, combinations of letters and numbers or other information composed of a string of characters and used as a means of accessing a service, authenticating the use of a service or conducting any transaction through the service. A password may or may not be used in conjunction with an authentication token.

Payment delivery date refers to the date on which your payment will be delivered to the recipient.

Personal financial management software means the version of the following software through which you may access the service: QuickBooks® Quicken®.

Recipient refers to any business, merchant, professional or person with a valid five-digit US Postal Service ZIP code address that generates a bill or invoice for services, or services provided on your behalf.

Recipient account refers to the account to which the recipient will credit your payment.

Recipient information refers to information about a recipient used to properly direct payment to the recipient and permit the recipient to identify the correct recipient account.

Security keys means one or more authentication measures or procedures you must use to access the service, including but not limited to, user ID, password, authentication questions, authentication tokens or codes and dual authorization procedures.

Send On date refers to the business day on which a payment is sent to the recipient.

Service(s) refers to collectively, any or all of THE BANK Small Business Online services, described in this agreement, which allows you to electronically access account and transaction information, transfer funds, originate transactions and pay bills on an electronic device.

Service charge account means the account you have designated to be charged for all applicable fees and charges associated with the services, or if not designated through the enrollment process, your primary account.

Software license agreement(s) means the software license agreements governing your use of the personal financial management software.

User means an individual other than an administrator who has been authorized to access the service.

Withdrawal date refers to the business day on which the funds are withdrawn from your account for a scheduled bill payment.

We, us or our refer to THE BANK and any agent, independent contractor, designee or assignee THE BANK may, in its sole discretion, involve in the provision of the service.

You or your refers to the individuals, corporations, partnerships, limited liability companies and sole proprietorships subscribing to or using the service.

### III. Security

You must use a combination of security measures when using the service(s), such as user IDs, passwords, authentication questions, authentication tokens or codes and other security procedures or measures we may from time to time advise or require you to use to access the service or conduct specific transactions (collectively the security keys). You agree these security measures are commercially reasonable. The failure to use such measures, or the loss, theft, disclosure or unauthorized or fraudulent use of any security keys could cause you to incur monetary or other losses or damages. Unless otherwise expressly provided in this agreement, you assume all risks such potential losses or damages, whether any such loss, theft, disclosure or unauthorized or fraudulent use was accidental or inadvertent, was caused by your negligence, was caused by someone you have authorized to access the service and who has exceeded that authority or was due to other causes. While a listing of security measures is informative, it does not carry or imply a guarantee. For more information on how to protect your identity, visit Security Central.

#### A. User ID and password requirements

You will be asked to choose your personal user ID consisting of 8 - 15 alpha-numeric characters and a password consisting of 8 - 28 alpha-numeric characters, which you will use to obtain access to your account(s) at THE BANK. The password must contain at least three of the following: one uppercase letter, one lowercase letter, one number, or an allowed symbol. An allowed symbol can be any of the following: !#%()\*;,;:@\_\$. The password must not have a character consecutively repeated more than twice (e.g., AAA or 333 are not allowed) nor can your User ID or your 3 previous passwords be used. If you request combined services, you will use one user ID and password to access both your commercial and consumer accounts. You authorize us to follow any instructions entered through the service using your user ID and password. You agree not to give or make available your user ID and password to any person. Sharing this information constitutes a misuse and therefore, all transactions initiated by those with whom you shared information will be considered as authorized by you, regardless of whether you intended those transactions to be made. We may ask you to change your user ID and password from time to time for security reasons. You agree not to use any language that is abusive, harassing, libelous, defamatory, obscene or threatening when defining your user ID or any other personalization of your account(s).

#### B. Authentication questions/authentication tokens or codes

In addition to your user ID and password, you will be presented with authentication questions and prompted for responses when you initially access the service. You will be asked to create these questions and responses annually and presented with a question and prompted for a response at random when you access the service and/or make certain transactions using the service. If you access the service from a computer other than the one initially used, you will be required to correctly respond to these questions. These questions and your correct responses help us to provide stronger protection

of your account information and your transactions. In addition, we may use, or we may require you to use, one or more types of authentication tokens or codes to verify your identity and the device you use to access the service, or to verify a specific transaction. We reserve the right to prevent access to the service and/or refuse to process any payment or transfer for security reasons, or if we suspect fraud.

#### C. Confidentiality and security of security keys

You agree to establish and maintain commercially reasonable procedures to protect the confidentiality and security of all security keys and information relating to their use. Such procedures may include some or all of the following requirements: (i) maintain security keys and related information in a secure location with access limited to only those persons authorized to use the services; (ii) provide initial and ongoing instructions concerning confidentiality and security to such authorized persons; (iii) ensure that security keys are used only in a secure environment and only by such authorized persons; (iv) do not disclose information concerning security keys to anyone who is not authorized to use the services; (v) periodically change your security keys as we may require or as may otherwise be prudent; (vi) deactivate, cancel or change security keys whenever you terminate or restrict the right of a person to use any of them (e.g., when you terminate an employee or limit authority previously given relating to a service); (vii) notify us immediately by phone if you believe any security keys or information concerning it has been lost, forgotten or is in the possession of an unauthorized person, and upon our request, you will promptly confirm your call in writing; and (viii) to the extent, if any, you have given us a list of persons to whom you have provided security keys, notify us in writing of any changes in such list, which changes will not be effective until we actually receive the notice and have a reasonable time to act on it.

#### D. Limitation of liability related to security keys and unauthorized transactions

Except as otherwise provided in this agreement for consumer accounts, absent our actual knowledge of an attempted unauthorized use, we: (i) will allow any person using your security keys to access and use the service; and (ii) may receive information from, provide information to, and rely upon, act on and follow any instructions from any person using your security keys, and such instructions will be deemed effective as your instructions. Our records regarding the security keys used to access any service will be deemed conclusive and binding upon you, absent manifest error. If an unauthorized person obtains access to any service through the use of your security keys, we will not be liable to you or any other person for permitting such access or for receiving information from, providing information to or relying upon, acting on or following instructions from such person (including, without limitation, instructions resulting in the loss of funds), unless you provided adequate prior notice to us of the actual or suspected loss or theft of or unauthorized access to your security keys or we otherwise had actual prior knowledge thereof, or unless the facts of the situation otherwise show we did not act in good faith. If we believe your security keys may have been breached or an attempt to access any service or conduct any transaction may be unauthorized, we may deactivate, cancel or change security keys as we deem necessary, and we may block access to services and refuse to effect any transaction(s), all without prior notice to you. You agree to reasonably cooperate with us in the investigation and, if appropriate, prosecution of any person who has disclosed, obtained or used any of your security keys without your consent.

Please see section XVII of this agreement for important information about your rights and responsibilities in connection with unauthorized transfers from consumer accounts.

#### E. Computer security

You acknowledge we are unable to determine whether your computer has been infected with malicious software or compromised by unauthorized individuals. You are responsible for keeping current virus protection to protect your electronic device, operating system, web browser and any other device that may be used to access the service, and for regularly scanning your computer or other device for spyware or other malware. We are not responsible for any losses, errors, failures or malfunctions arising in connection with any unauthorized intrusion into your computer system, computer virus, spyware or other malware that may affect your computer, unless we had actual prior knowledge thereof.

#### F. Transaction authentication

Transaction authentication is designed to increase security for ACH & Wire payments, if you have enrolled in our online payments service. When you first log onto Small Business Online, you will be required to provide a valid email address. In addition, should you choose to add additional users to your account through the multiple user access service, you must also provide an active email account for each user. When you first subscribe to the payments service, you must register at least two phone numbers you or your entitled users will use to authorize transactions. If you, or any of your entitled users, initiate an ACH or wire payment through Small Business Online, you/they will be required to complete a phone verification process with one of your registered numbers before your payment can be successfully processed.

#### G. Other security measures

From time to time, we may require you to use additional procedures, such as transaction authentication codes, dual authorization procedures and other measures to verify your identity or the validity of certain transactions. There may also be security measures applicable only to certain services. Such procedures will be explained to you within Small Business Online.

### IV. Bill payment service

#### A. General

You may make payments through the service to any business, merchant or professional with a valid address that generates a bill or invoice for services or services provided on your behalf. We reserve the right to refuse to allow you to designate any particular recipient or class of recipient. You may also make payments through the service to individuals, family or friends for non-business purposes. Payments may be made only to recipients with a 5-digit US Postal Service ZIP code address, including APO/FPO

addresses. You may not make a payment of alimony, child support, taxes or other governmental fees or court-ordered payments through the service. Any user of this service shall comply with all applicable laws and regulations including the laws and regulations administered by the US Treasury Office of Foreign Assets Control (OFAC). We reserve the right to refuse to process any bill payment we reasonably believe violates applicable law or we believe is made in connection with any unlawful transaction or activity, including without limitation, gaming, gambling, lottery or similar activities. We will notify you if we do not process a bill payment.

#### B. Your recipients list

You must provide sufficient information about each recipient as we may request from time to time, to properly direct a payment to that recipient and permit the recipient to identify the correct recipient account to credit with your payment. This information may include, among other criteria, the name, address and phone number of the recipient and your recipient's account number. You agree we may obtain information regarding your recipient accounts to facilitate proper handling and crediting of your payments, and you authorize your recipients to release such information to us. You further authorize us to confirm and standardize a recipient's address at our discretion and without notice to you. You can enter your recipient information directly on your electronic device. Additions, deletions and modifications to recipient information are entered directly on your electronic device and are communicated to us the next time you log in to the service. For THE BANK Small Business Online, the change will be immediate upon confirmation of the change. Refer to Frequently Asked Questions for additional information about retrieving your account data.

#### C. Scheduling bill payments

To electronically schedule a payment, follow the simple instructions in Frequently Asked Questions or the personal financial management software online help file. Payments may range in amounts up to \$100,000 except as limited by account type and applicable account agreements. If you would like a written confirmation or confirmation by email of the payment information for any payment you have scheduled, please call THE BANK at 888-BBT-ONLINE (888-228-6654), or send us a message through our Secure Message Center with your request. When you schedule a bill payment, you authorize us to withdraw the amount of your payment from your account(s).

#### D. How bill payments are delivered

We may remit your payments by mailing your recipient a paper check, by electronic funds transfer or by other means. Recipients who have a relationship established to receive electronic delivery of payments by us will receive your payment information by a computer link. The Deliver By date will depend on how the payment is sent. The Deliver By date for electronic payments is generally 2-business days after the Send On date. For recipients unable to receive electronic payments, we may send payments by a paper draft drawn on your account. You agree all paper drafts issued on your authorized instructions will be the same as if actually signed by you.

We send all checks through the US mail. The Deliver By date for paper drafts is approximately 5 business days after the Send On date. We are not responsible for postal delays or processing delays by the recipients. Occasionally, a recipient chooses not to participate in the service, or may be unable to process payments in a timely manner. In such cases, we may decline to make future payments to these recipients.

#### E. Processing your bill payments

You will be asked to specify the Send On date. For electronic payments, we will reduce the available balance in your account on the Send On date by the amount of the bill payment you have scheduled. For electronic payments, the withdrawal date will be 2 business days after the Send On date you specified. For bill payments in the form of paper drafts, the withdrawal date will be the date on which the paper draft is presented for payment against the account. If the Send On date falls on a weekend or a Federal Reserve holiday, your payment will be processed on the next business day. Although you may schedule bill payments by using the service 24 hours a day, 7 days a week, payments will be withdrawn from your account only on business days, subject to system availability. We may refuse to process your payment if sufficient funds, including funds available under any overdraft plan, are not available in your account(s).

#### F. Same day bill payments

You may schedule a payment send date for a bill payment for the same day you schedule the payment if we receive your instructions before 7 pm ET on a business day.

#### G. Future bill payments

You may schedule a payment for a future business day, up to 1 year in advance.

#### H. Repeating bill payments

You may establish repeating bill payments for a fixed amount to be delivered based on predefined frequency options. Upon establishing your first bill payment, all future bill payments are calculated on the initial Deliver By date. Both the Send On date and Deliver By date must occur on a business day to allow for appropriate delivery time to the requested recipient.

If the Deliver By date falls on a holiday or a weekend, the Deliver By date will be adjusted to the preceding business day.

If the Deliver By date does not exist in a certain month, the Deliver By date will be adjusted to the last business day of that month.



Send On dates can vary depending on where the Deliver By date falls within the payment delivery cycle.

Changes to the payment delivery method can also affect the Send On date.

#### I. Guarantee for bill payments

THE BANK will reimburse you for any late payment fees or penalties you are charged, up to a maximum of \$50 per scheduled payment, as a result of our failure to deliver a permissible payment made to a business by the payment delivery date if you meet each of the following conditions:

You must properly schedule the payment send date to include adequate time for your payment to be processed and delivered on or before the date the payment is due to the recipient. This means you must schedule your payments before 7 pm ET on a business day at least 5 business days prior to the date the payment is due to the recipient. Mortgage payments differ from other repeating payments in the following manner: If your mortgage payment is due on the first of each month with a 15-day grace period, then you must schedule the payment send date for your mortgage payment on or before the third calendar day of each month or the payment guarantee will not apply.

You must provide us with the correct recipient name, address, due date, account information and the correct payment amount.

Your account(s), including any overdraft plan, line of credit or other account established for overdraft protection, must contain sufficient funds to complete the payment or transfer.

The payment must be made to a business.

The late payment fee or penalty, or the method of calculation, must be published by the recipient prior to the date the payment is due to the recipient.

Your electronic device's hardware, software, telephone line and Internet service provider, if applicable, must be functioning properly.

You must provide us with a copy of the statement identifying the late fee.

We are not responsible for failure to deliver any payment that we have reserved the right to refuse to process as provided in this agreement.

If you schedule a future-dated or repeating transfer to occur on a day of the month that does not exist (e.g., the 31st of the month), the transfer request will be submitted on the last business day of the month and will be credited to your account on the third business day after the transfer request is submitted.

#### J. Stopping or modifying bill payments

You may use your electronic device to electronically change both the payment amount and the Send On date of any scheduled payment at any time prior to 7 pm, ET on the Send On date. You may also delete any payment at any time prior to 7 pm ET on the Send On date. You may also stop any payment by calling 888-BBT-ONLINE (888-228-6654), or by writing to THE BANK Bill Payment Research, 127 W Webster St, 4th floor, Whiteville, NC 28472, in time for us to receive your request 3 or more business

days before the Send On date. If you call, we may also require you to put your request in writing and send it to us within 14 days after you call. Stop payment fees may apply.

#### K. Reviewing payments and payment information

For customers using personal financial management software, payment information and records of past and future scheduled payments are stored on your electronic device. The number of records that can be stored depends on the amount of your electronic device's memory. For THE BANK Small Business Online users, payment information and records of past and future scheduled payments are stored within Small Business Online. Refer to Frequently Asked Questions for additional information about retrieving your payment history.

#### L. Incomplete bill payments

If we remit your payment to a recipient by mailing your recipient a check, and the check has not been presented for payment, you may contact THE BANK if you require assistance in researching your payment by calling 888-BBT-ONLINE (888-228-6654), or by writing to THE BANK Bill Payment Research, 127 W Webster St, 4th floor, Whiteville, NC 28472.

#### V. ACH transfer services

##### A. General

If you have enrolled in the payments service, you may use the service to initiate ACH entries only from your business accounts. You may initiate instructions to us to make credit entries to accounts of other persons on your behalf through the nationwide Automated Clearing House (ACH) payment system (or in the case of on-us entries to THE BANK accounts, through internal processing). The most common examples of ACH credit entries are direct deposit of payroll to employees' accounts and business-to-business payments.

##### B. NACHA rules

ACH transactions are governed by the NACHA rules. In the event of any conflict between the NACHA rules and any provision of this agreement, the NACHA rules will prevail. Use of the service requires you to understand and comply with the NACHA rules, and you agree to do so with respect to all originated entries. You may obtain a copy of the NACHA rules, which is revised quarterly, through [NACHA.org](https://nacha.org) (opens in a new tab) or [ePay.org](https://epay.org) (opens in a new tab), and book subscribers may then access an online version at [ACHRulesOnline.org](https://achrulesonline.org) (opens in a new tab).

The Originator must authorize the ODFI to (a) originate entries on behalf of the Originator to recipient's accounts, (b) must agree to be bound by the NACHA Rules, and (c) must agree not to originate entries that violate the laws of the United States.

The ODFI has the explicit right to (a) terminate or suspend the agreement for breach of the NACHA Rules in a manner that permits the ODFI to comply with the NACHA Rules and, (b) to audit the Originator's compliance with the Origination Agreement and the NACHA Rules.

### C. Definitions

Under the NACHA rules, the parties to a typical ACH transaction are defined as: (i) the receiver (the person who authorizes you to credit or debit its account); (ii) the originator (you, or the person who initiates ACH entries); (iii) the originating depository financial institution or ODFI (THE BANK, or the bank that transmits your entries to the ACH system); (iv) the ACH operator (the central clearing facility that transmits entries and performs settlement functions between the financial institutions involved); and (v) the receiving depository financial institution or RDFI (the receiver's bank which posts entries to the receiver's account).

The term entry or entries under the NACHA rules means an electronic order or request for the transfer of funds, and for purposes of this agreement, also may refer to the data you send us from which you initiate such transfers of funds. Any other capitalized terms used in this section that are not defined herein or elsewhere in this agreement will have the meanings set forth in the NACHA rules.

### D. Security procedures

When transmitting entries and other information to us in connection with the service, you agree to follow all security procedures we establish. You acknowledge the purpose of the security procedures is to verify the authenticity of your instructions and not to detect any errors in the content or transmission thereof. In our discretion, our verification procedures in any instance may include contacting you or your administrator, and for your protection we may choose not to carry out or we may delay implementing any instructions if we are unable to obtain verification satisfactory to us.

Any entry or other instruction purporting to have been transmitted or authorized by you, but, which in fact was not authorized, will be deemed effective as your entry or instruction, and you will be obligated to us for the amount thereof, provided we acted in good faith and in compliance with the security procedures. With respect to any entry or other instruction, which was in fact transmitted or authorized by you, you will be obligated to us for the amount thereof, whether or not we complied with the security procedures and whether or not the entry was erroneous in any way or the error would have been detected had we complied with such procedures.

#### E. Processing your ACH entries

The types of ACH entries you may initiate will be limited to the ACH standard entry class (SEC) codes assigned based on the ACH entry types selected with the service. Except as provided below with respect to on-us and rejected entries, we will: (i) process properly formatted entries conforming to the specifications in the NACHA rules; (ii) transmit the entries as an ODFI to any ACH operator we select; and (iii) settle for such entries as provided in the NACHA rules. Refer to Section VIII regarding funding obligations.

Except for any rejected entries as provided below, an on-us entry received for credit or debit to a receiver's account at THE BANK will be posted to that account on the date you request (the effective entry date), provided it complies with all the requirements of this agreement and is received by the applicable processing deadline. If such entry is received after the deadline, we will use reasonable efforts to credit or debit the receiver's account on the next business day after the effective entry date.

#### F. Processing schedule for ACH entries

ACH entries received within the current business day's published processing timeframes and/or before the final deadline of 8 pm ET will be transmitted to the ACH operator on the same day. You may submit ACH entries by using the service 24-hours a day, 7 days a week; however, ACH entries will be processed only on business days. ACH entries will not be processed on standard Federal Reserve holidays. Please refer to the Federal Reserve's website [FRBServices.org](https://www.frb.org/services/ach) (opens in a new tab) to view the current year's holiday schedule.

#### G. Errors and ambiguities

If an entry describes the recipient inconsistently by name and account number (i.e., the name and account number do not match our records), the entry may be processed and posted based solely on the account number you supplied, even if the account belongs to a person who is not the recipient and your obligation to pay us the amount of the entry is not excused in such circumstances.

#### H. Reversal requests

A request to reverse an ACH entry may be submitted to correct an erroneous or duplicate credit or debit entry previously initiated to a recipient's account. ACH reversals must be submitted within 5 days of the effective entry date and are not guaranteed. ACH reversal requests are subject to the receiving depository financial institution's right of return. You must reimburse us for any expenses, losses or damages we may incur in implementing or attempting to implement any such request. Refer to the NACHA rules for specific obligations and instructions. To request an ACH reversal, please call THE BANK Online Banking Support at 888-BBT-ONLINE (888-228-6654).

#### I. Rejected entries, returned entries, notifications of changes

We may reject any entry that does not comply with any requirement of this agreement, the NACHA rules or any applicable law, including, without limitation, for any of the following reasons: (i) your failure to transmit entries of the type and manner prescribed by the agreement, the NACHA rules, or any related agreements; (ii) your failure to follow all applicable security procedures, or our inability to verify the authenticity of any entries or instructions using the security procedures; or (iii) your failure to comply with any of your funding obligations set forth in Section VIII (Funding Obligations). Additionally, we may reject any on-us entry for any reason for which an entry may be returned under the NACHA rules. We will promptly notify you of any rejected entries, and such notice may be by through the service. We will have no liability to you or any other person by reason of the rejection of any entry, unless such rejection is caused solely by our gross negligence, willful misconduct or criminal conduct.

We will promptly notify you through the service of any entries returned to us by the ACH operator. Except for entries you retransmit in accordance with the requirements of this agreement and the NACHA rules, we will have no obligation to retransmit a returned entry to the ACH operator, provided we complied with the agreement and the NACHA rules with respect to the original entry. You are responsible for correcting and resubmitting any rejected or returned entries, except we will do so if the rejection or return was caused by our error, provided sufficient data is available to us to effect such resubmission.

We will promptly notify you through the service of rejected or returned entries and any notifications of changes (NOC, as defined in the NACHA rules) we receive related to your entries, except for NOCs we refuse as provided in the NACHA rules. You must correct any entry information required by a NOC prior to the initiation of the next such entry to the same recipient's account or within 6 business days of your receipt of the NOC information, whichever is later.

#### J. Daily caps and thresholds

The maximum aggregate amount of ACH entries you may initiate in any rolling 3 business days is the lesser of your collected and available balance or \$75,000. We may establish and change at any time in our discretion ACH daily caps on the dollar amount of ACH entries you may initiate, and we will have no liability to you or any other person if we reject or suspend processing any entries that would exceed such limits.

#### K. Payments of debits and credits

You will pay us the settlement amount of each credit entry file on the business day prior to the effective entry date. We will pay you on the settlement date the amount of each returned credit entry. All of the foregoing types of payments will be made by our crediting or debiting, as appropriate, the account(s)

you designate for use with ACH services. Any credits to your account related to ACH services will be subject to our normal policies concerning when deposited funds are available for withdrawal.

#### L. Representations and warranties

Each time you or any person you authorize transmits an entry to us, you represent and warrant to us and agree: (i) the types of entries transmitted are limited to those standard entry class codes you and we have agreed to; (ii) each person shown as recipient has authorized the initiation of the entry and the crediting of its account in the amount shown and on the designated effective entry date; (iii) such authorization is in writing and is operative and has not been revoked; (iv) you have complied with applicable law with respect to consumer credit entries; (v) you have performed your obligations under this agreement in accordance with all applicable law; (vi) you make additional warranties to us, which are the same warranties we, as an ODFI, make under the NACHA rules, and (vii) all ACH transactions conducted through the service are being conducted by you, or by an authorized user or administrator on your behalf, and not on behalf of any other person or entity that has not enrolled in the service.

#### M. Indemnification

You agree to bear all liability for, and to indemnify and hold us harmless against fines, penalties or other liabilities relating to ACH services which may be imposed on us by anyone, including NACHA's national system of fines, and which are assessed due to your failure to comply with applicable law, and any losses or costs we may incur arising in connection with a breach of your representations and warranties. You further agree we may collect any such fines, penalties or other liabilities from you through our normal processes for collecting fees, by debiting any of your accounts with us or our affiliates, or by setting off such amounts against any amounts we may owe to you.

#### N. Record retention

You agree to retain data adequate to permit the remaking of entries for at least 5 business days following the date of transmittal to us, and to provide such data to us upon request. You also agree to comply with all record retention requirements set forth in the NACHA rules including, without limitation, requirements relating to the retention of recipient authorization records and any source documents. We have the right to review any of your authorization records or source documents at any time, which you agree to provide to us promptly upon request.

#### O. Third-party service providers or third-party senders

You may not use the service to initiate ACH transactions on behalf of another entity or person unless you are initiating such transactions as an authorized user or administrator, permissioned by the THE

BANK Small Business Online client/Originator, who has enrolled in the ACH payment service and granted permission through the Multiple User Access service.

## VI. Wire transfer service

### A. General

If you have enrolled in the payments service, you may use the service to initiate wire transfers from your eligible business or personal accounts. Only the authorized account owner may initiate wire transfers from their personal accounts.

### B. Applicable law

All wire transfer orders (including any rights to modify or cancel such orders) are governed by UCC Article 4A, except where modified by this agreement or superseded by any applicable funds transfer system rule, pursuant to UCC section 4A-501. You agree to comply with and be bound by all of the foregoing, as applicable.

### C. Acceptance and execution of wire transfer orders

We will use our best efforts to execute any wire transfer instruction, which we agree to accept pursuant to this agreement, on the same business day it is received (or on the business day requested for future-dated wires), provided it requests a debit from an account you have designated for wire transfers, and we receive it in the required manner prior to any cut-off hour we may establish from time to time. Requests received after the established cut-off time, weekends or bank holidays will be deemed received on the next business day. We may handle transfer orders in any order in our sole discretion. We may choose any means, intermediaries or transfer systems to execute any wire transfer order. We will use reasonable efforts to send a written confirmation of each transfer order, and you must promptly review and report any problems to us.

We will be deemed to have accepted a transfer order only when we have fully executed it. We may return or reject any wire transfer request, or impose conditions that must be satisfied before we will accept it, for any reason in our sole discretion and without any liability to you or any other person. In addition, a receiving bank, or the Federal Reserve Bank, may return or reject a wire transfer. We will have no liability to you or any other person by reason of the rejection of any wire transfer, unless such rejection is caused solely by our gross negligence, willful misconduct or criminal conduct.

#### D. Cancellations and return wire requests

If you subsequently request cancellation or return of any wire transfer, we may, but are not obligated to, attempt to implement your instructions, but will have no liability to you or any other person for our inability or failure to do so, and in such case, you will remain obligated to us for the full amount of the original transfer order. You must reimburse us for any expenses, losses or damages we may incur in implementing or attempting to implement any such request. To request a wire transfer cancellation or return wire request, please call THE BANK Online Banking Support at 888-BBT-ONLINE (888-228-6654).

#### E. Processing schedule for wire transfers

Wire transfers are executed real-time throughout the business day, assuming the wire transfer has not been rejected by the service or returned/suspended by us due to insufficient, inaccurate or inappropriate wiring instructions. You acknowledge our right to reverse, adjust, stop payment or delay any transfer order subject to the rules, regulations, laws and operating circulars of any transfer system. Final cut-off for same day wire through the service are as follows:

International wire transfers: 5 pm ET

Domestic wire transfers: 5:30 pm ET

Although you may submit wire transfers by using the service 24-hours a day, 7 days a week, wire transfers will be processed only on business days, subject to system availability.

#### F. Errors or ambiguities

You are solely responsible for accurately identifying in your transfer instructions the beneficiary and beneficiary's bank. If your instructions inconsistently identify a beneficiary by name and account number (i.e., if the name and account number at the beneficiary's bank do not match), you acknowledge the beneficiary's bank may credit payment based on the account number alone, notwithstanding the discrepancy. Similarly, if your instructions inconsistently identify the beneficiary's bank by name and bank routing/transit number, we may rely solely on the routing/transit number in executing the order. In either of the foregoing situations, we have no obligation to detect errors in or to question your instructions, and you assume all risks of any losses resulting there from. If we believe your instructions are ambiguous or may contain errors, in our sole discretion we may, but are not obligated to, delay the execution of any wire pending receipt of clarification from you.

#### G. Foreign wires and fees

If you request a wire transfer in US dollars to a beneficiary in a foreign country, we may make the transfer in the currency of that country pursuant to our normal procedures at our buying rate of exchange on or before the transfer date. Such exchange rate may differ from rates offered or published by other sources. You accept all risks of currency exchange rate fluctuations between the time you



initiate a foreign wire request and the time it is completed. In addition to paying THE BANK's foreign wire transfer fees, you shall be responsible for paying any and all fees charged by our correspondent banks, intermediary banks and paying agents for handling or forwarding an international wire transfer from THE BANK, some, if not all of which, may be deducted from the wire transfer proceeds. Foreign wires are not allowed from personal accounts.

#### H. Daily caps and thresholds

The maximum aggregate amount of wire transfer entries you may initiate in any rolling 3 business days is the lesser of your collected and available balance or \$75,000. We may establish and change at any time in our discretion wire transfer daily caps on the dollar amount of wires you may initiate, and we will have no liability to you or any other person if we reject or suspend processing any entries that would exceed such limits.

#### I. Liability related to wire transfer services

If we fail or delay in executing a proper transfer order, or if we make a transfer in an amount greater or less than the amount requested, our liability to you will be governed and limited by UCC section 4A-305.

#### J. Representations and warranties

Each time you, or any person you authorize, submit a wire transfer order to us, you represent and warrant that each transfer order complies with your obligations under this agreement and with all other applicable law.

#### K. Duty to examine statements

You must promptly review and reconcile all statements pertaining to transfers orders, transfers, and your accounts, and shall report in writing promptly, but in no event later than 30 days after the date of such statement any unauthorized transfer, erroneous or improperly executed transfer order, and any other objections pertaining to the transfer. You agree 30 days is a reasonable time for the detection and reporting of any errors. After that time, all items on the statement will be considered correct and you will be precluded from recovering such items from us.

### VII. Transfers among your THE BANK accounts

#### A. General

You may use the service to transfer funds between any of your eligible accounts held by us or one of our affiliates, subject to any limits or restrictions we may impose from time to time.

#### B. Cut-off times for transfers (approximate time)

Transfers between account(s) initiated through the service and received by THE BANK by 9 pm ET Monday through Friday will be effective on the current business day. Transfers between account(s) initiated through the service and received after 9 pm ET Monday through Friday, or all day Saturday, Sunday and Federal Reserve holidays will be effective the following business day.

Transfers between account(s) initiated through the service to a business loan account and received by THE BANK by 7 pm ET Monday through Friday will be effective on the current business day. Transfers to business loan accounts initiated through the service and received after 7 pm ET Monday through Friday, or all day Saturday, Sunday and Federal Reserve holidays will be effective the following business day.

Availability of funds is dependent upon the receiving account type, refer to the applicable account agreement.

#### C. Limitations on frequency of transfers

The number of transfers between your eligible accounts may be subject to the limitations that apply to the maximum number of automatic or repeating withdrawals from certain types of accounts. Refer to the account agreement for details.

#### D. Limitations on dollar amount of transfers/bill payments

Except as limited by account type and applicable account agreements:

Each transfer between eligible accounts may range in amounts up to \$1,000,000. The maximum aggregate amount that can be transferred between eligible accounts per day is unlimited. Each bill payment from an account may range in amounts up to \$100,000. The maximum aggregate bill payment amount that can be paid per day is unlimited.

#### E. Future transfers

Transfers scheduled for a future date will be effective at midnight ET on the requested date of transfer. For example, a transfer scheduled to occur on Sept. 3, will be effective at midnight ET on Sept. 3. The transfer will be viewable through the service in the available balance on the date of the scheduled

transfer. The transfer will be viewable through the service in the transaction history the day following the transfer.

#### F. Stopping or modifying a scheduled transfer

A scheduled transfer may be stopped or modified at any point prior to the scheduled transfer date. For example, a transfer scheduled for Sept. 3 may be modified or stopped at any time up to 11:59 pm ET on the previous business date.

### VIII. Funding obligations

It is your sole responsibility to ensure you have on deposit sufficient available (including, if required, collected) funds to cover all transactions and fees at the time they are presented for payment or are scheduled to be made. We may refuse to process any transaction if sufficient funds are not available in your account to fund the transaction, or sufficient funds are not available in your service charge account to pay all fees. You agree to accept our procedures for calculating available and collected balances, and you acknowledge our records regarding the same will be deemed conclusive. Available funds may include funds available in any line of credit or other account or credit facility formally established with us for overdraft protection purposes, or pursuant to which we have otherwise agreed to make advances in connection with a service. However, nothing in this agreement will be deemed a commitment by us to extend credit to you or to grant you overdraft privileges. Any commitment to extend credit must be set forth in a separate agreement with us through a person authorized to make credit decisions on our behalf. Please see the applicable account agreement for additional information concerning available balances, collected funds and when deposits are generally available for withdrawal.

### IX. Additional services

#### A. Online statement service

You may elect to stop or resume the mailing of paper statements for eligible accounts by changing your statement delivery preferences in the statements service.

Only eligible accounts accessible through the service may be enrolled for online statement delivery. If you currently receive a consolidated periodic statement that includes multiple accounts and you select online statement delivery, all accounts shown on the consolidated statement will be automatically enrolled for online statement delivery. For joint accounts, only one account owner need enroll for online statement delivery.

If you receive canceled checks with your periodic statement and choose to receive your periodic statement through online statement delivery, you will no longer receive canceled checks in the mail.

Your statement will be available within 24 hours after the statement cut-off date. The statement cut-off date for your online statement is the same as your paper statement. You may view, print and download your current statement and up to 24 months of statement history.

We may deliver information to you about your eligible accounts through the Secure Message Center, within the service, email, US Postal Service or within the online statement itself. It is your responsibility to notify us if your contact information changes. To notify us of a change in your contact information, contact THE BANK Online Banking Support at 888-BBT-ONLINE (888-228-6654).

We may continue to mail information to you, including any information you have authorized us to provide to you electronically. We may discontinue the online statement service at any time at our discretion and resume mailing paper statements to you. We may also add, modify or delete any feature of the online statements service at our discretion. We will provide you with notice of any change or termination in the online statement service.

#### B. Check and deposit images

You may view digital images of recent canceled (paid) checks, deposit slips and accompanying items and returned deposited checks. Online images may be viewed only for such periods of time as we may establish, after which copies are normally available from our archives upon request (we may charge a fee for such copies).

As is common industry practice with various check truncation or safekeeping services, we destroy the original items but retain the images for at least the number of years required by law. If an image of a check is missing or is illegible, we will attempt to provide you with a legible copy upon your request, if you give us adequate information to identify the specific check. However, we will have no liability to you if we are unable to provide a copy within your requested timeframe, or at all, due to any reason other than our gross negligence, willful misconduct or criminal conduct. We reserve the right to charge a fee for such requests in some circumstances, such as when the image is missing or illegible due to circumstances beyond our control.

#### C. Stop payments

You may initiate stop payment requests or cancellations by following the instructions in the service. For your instructions to be implemented, you must accurately supply all the information we require. We must receive your instructions between 8 am ET and 9 pm ET on a business day to process the order that day; orders received during other hours will be held for processing after 8 am ET on the next business day. Our normal stop payment fee will be charged against the account on which the item was drawn. Unless we have agreed with you otherwise, stop payment orders are effective only for 6 months, and unless the order is properly renewed before it expires, we may pay the item if it is subsequently presented for payment.

All stop payment orders are subject to verification that the check has not been paid before we have received and had a reasonable time to act on your request. Any cancellation request is subject to verification that a valid stop order existed prior to our receiving and having a reasonable time to act on your request. We will not be liable in any way for any check paid before we have had a reasonable time to implement your stop order, or for any check on which payment was stopped that we refuse to pay before we have had a reasonable time to implement your cancellation request.

We will have no liability to you or any other person in the event you are unable to place any given stop order or cancellation request through the service due to system outages or any other reason. In such event, you may use an alternate method such as calling to make your request. We will also have no liability for paying any check on which a stop order has been placed if our inability to implement your request is due to events beyond our control, such as incorrect encoding by another financial institution, or if the check contains no serial number or we are unable to identify it for some other reason.

If we pay any check on which you have placed a valid and current stop payment order, our liability will be limited to your actual loss incurred, up to the amount of the item, and we will not be liable for any indirect, special, incidental or consequential damages of any kind. If we have any liability to you pursuant to the foregoing sentence, you hereby assign to us any claim or rights you may have against the recipient of the check in connection with the transaction out of which the check arose.

#### D. Balance inquiries

You may use the service to check the balance of your accounts. The balances shown may differ from your records because they may not include deposits not available for withdrawal, outstanding checks or other withdrawals, payments or charges.

#### E. Mobile banking service

General. The mobile banking service allows you to perform various functions, including viewing account balances and transaction information, bill payments and transferring funds through a wireless device.

Equipment Requirements. You must have email access and/or mobile text messaging capability. Expanded functionalities are available to users with web-enabled wireless devices, or through third-party software, which may be downloaded to compatible wireless devices or which is pre-loaded on certain devices available through select wireless providers. You are solely responsible for your choice of equipment, wireless carriers, Internet or email service providers, web browsers, voice/data plans, etc., and for resolving any issues concerning operation, performance, availability, costs, etc., relating to any of the foregoing with the appropriate provider. Your wireless or Internet service provider may charge additional fees.

Security. We do not store confidential or sensitive information such as your passwords or account numbers on your wireless device in connection with the services. However, user IDs may be stored on your wireless device based on the personal setting you establish on your device. You should safeguard your wireless device, user ID and password against loss or theft. If your device is lost or stolen, report it immediately to your wireless provider. Except as provided in the agreement, we have no responsibility or liability if someone else learns your user ID and password and uses it to access the service.

Licensing Terms for Users of Third-Party Software. If you access the mobile banking service through software downloaded to or pre-loaded on your wireless device (software), you agree to the following licensing terms (licensing terms): THE BANK and the third-party software providers reserve all rights to the copyrighted software not expressly granted herein. You may use the software solely for accessing the service subject to the licensing terms. You may not do any of the following to the software: (i) modify, revise or create any derivative works; (ii) decompile, reverse engineer or otherwise attempt to derive the source code; (iii) redistribute, sell, rent, lease, sublicense or otherwise transfer rights; or (iv) remove or alter any proprietary notices, legends, symbols or labels, including, but not limited to, any trademark, logo or copyright. Neither the software licensor nor the wireless network provider is responsible for any of the materials, information and financial products or services made available to you through the software. For more information about mobile security, please visit our mobile security page.

#### F. Alerts service

General. The alerts service allows you to receive various types of alerts concerning the accounts you select through email and/or text message to your wireless device and where applicable, notification methods available with the THE BANK Mobile App for your smartphone. You are responsible for providing accurate contact information to receive alerts. Some types of alerts are optional, and some are mandatory. To cancel optional alerts, you may text stop to 69228 (MYBBT) at any time or visit the THE BANK website. For support information, text help to 69228 (MYBBT) or visit the THE BANK website.

Equipment Requirements. You must have email access and/or mobile text messaging capability. You are solely responsible for your choice of equipment, wireless carriers, Internet or email service providers, web browsers, voice/data plans, etc. and for resolving any issues concerning operation, performance, availability, costs, etc., relating to any of the foregoing with the appropriate provider.

Security. We do not store confidential or sensitive information such as user IDs, passwords or account numbers on your wireless device in connection with the services. You should safeguard your wireless device, user ID and password against loss or theft. You should delete any alerts or other text messages sent or received in connection with any service. We have no responsibility or liability to you or any other person in connection with any such messages you choose to save on your wireless device. If your device is lost or stolen, report it immediately to your wireless provider.

Disclaimer. The information in any alert may be subject to certain lag times or delays in transmission and we make no representation concerning either the currency or accuracy of any alert. Frequency of alerts is based on your account settings. Alerts are provided as a convenience only and should never be considered as an official bank record or as a substitute for the information contained in your periodic statements. We may provide important information to you through other methods, including electronic messaging within the service.

THE BANK Fraud Alerts. THE BANK Fraud Alerts is a free service that automatically notifies you of suspicious activity on your debit and/or credit card accounts via text, email and/or automated phone call. Message frequency varies and is dependent upon card use. You may opt out of receiving texts at any time by sending STOP to 22848. For help send HELP to 22848. Mobile carriers are not liable for delayed or undelivered messages.

#### G. Electronic messaging

The service provides you with the ability to send and receive secure messages to and from us. Please remember, we will not immediately receive a secure message sent by you. No action will be made on any secure message you send to us until we actually receive your message and have a reasonable opportunity to act on it.

Secure messaging CANNOT be used to notify us of lost or forgotten security keys or unauthorized transactions. Notification of these occurrences must be done as specified in the Contact in Event of Unauthorized Transfer section in this agreement. From time to time, we may send important notices to you concerning your use of the service by secure messaging. The Secure Message Center may not be used to send or receive email messages to or from the general public.

#### X. Multiple user access service

##### A. Creating administrators

If you have enrolled in our multiple user access service, you may designate one or more administrators. If you designate an administrator, your administrator will have the same rights to access and conduct transactions on your accounts as you do in the service. In addition, an administrator can change or delete other users and conduct transactions on your business and consumer accounts that you have linked. See Section XI. Therefore, you should carefully select and oversee your administrators and limit the number of administrators you designate even though the administrator's authority is established in and only resides in the service.

Your administrator can perform the following tasks on your behalf: (i) add and delete additional users; (ii) assign and re-set passwords; (iii) assign and modify limits to transaction levels (both daily and transactional) for all administrators and users; (iv) assign ability to view accounts; (iv) assign ability to conduct transactions; (v) make users inactive or active; (vii) modify/add/delete alerts and other services; (viii) view and conduct transactions on all accounts, including personal, business, and multiple entities. You represent and warrant all administrators and users have been authorized by all necessary action to act on behalf of the company. You must immediately inform us of a change in the persons authorized to act on behalf of the company. Such notice must be given separately from any other notices given to other THE BANK department or banking centers, by calling THE BANK Online Banking Support at 888-BBT-ONLINE (888-228-6654). You may also write us at:

THE BANK Online Banking Support

2586 James B White Hwy North

Whiteville, NC 28472

Except as otherwise provided in this agreement for consumer accounts, THE BANK will have no liability to you for unauthorized payments and transfers made using the security keys you or your administrator assign that occur before you have notified us of possible unauthorized use and we have had a reasonable opportunity to act on that notice.

#### B. Creating and terminating users

You and your administrator(s) may add up to 25 total users to your Small Business Online account and provide each with unique security keys. For each user, you may designate the activity level for each linked account. You must immediately notify us if you terminate or restrict an administrator's or a user's access to the service for any reason, such as a termination of employment or a change in job roles. We will not be responsible for any losses you may incur resulting from a failure to notify us of such change, and your failure to deactivate any security keys in such person's possession.

#### XI. Linking eligible accounts

Only eligible accounts can be linked and that may only be done by the owner of the account. For example, you may link a business account and a consumer account if you are an owner and authorized signer on both accounts you, your administrators, and users will be able to view and conduct transactions on any linked consumer and business accounts through the service unless you specifically set their entitlements to deny them access to the account.



## XII. Records of transactions

### A. Reviewing transaction information

For customers using the personal financial management software, transaction information and records of past and future scheduled transactions are stored on your electronic device. The number of records that can be stored depends on the amount of your electronic device's memory. For THE BANK Small Business Online users, transaction information and records of past and future scheduled transactions are stored on the THE BANK computer. Refer to Frequently Asked Questions for additional information about retrieving your transaction history.

### B. Periodic statements

All of your transactions made through the service will appear on your periodic account statement. The recipient name, payment amount and date funds were withdrawn from your account will be reflected for each payment made through the service.

## XIII. Your representation and warranties

You agree each use of a service by you will constitute a continuing representation and warranty by you to us that you: (i) are duly authorized to enter into this agreement as a valid, binding and enforceable legal obligation, and have obtained all internal and, if applicable, external (such as third-party or governmental) approvals and authorizations necessary to permit the execution and delivery of this agreement and any other required documentation, and to permit your performance of your obligations under this agreement and the transactions contemplated under each service we provide to you; (ii) are not and will not become a person whose property or interest in property is blocked or subject to blocking pursuant to section 1 of Executive Order 13224 of September 23, 2001 (Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism) (66 Federal Register 49079), do not and will not engage in any dealings or transactions prohibited by section 2 of such Executive Order, and are not and will not otherwise become associated with any such person in any manner violative of section 2; (iii) are not and will not become a person on the list of Specially Designated Nationals and Blocked Persons or subject to limitations or prohibitions under any other US Treasury Department Office of Foreign Assets Control regulation or executive order; (iv) are and will remain in compliance in all material respects with the Trading with the Enemy Act, as amended, and any regulations or executive orders relating thereto; (v) are and will remain in compliance in all material respects with the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA Patriot Act of 2001); (vi) have not used and will not use, directly or indirectly, any part of any monetary or non-monetary value transmitted through or otherwise connected with any of the services for any payment to a government official or employee, a political party or official thereof, a candidate for political office, or anyone else acting in an official capacity, for the purpose of obtaining, retaining or directing business or obtaining any improper advantage, in violation of the US Foreign Corrupt Practices Act of 1977, as amended; and (vii) are and will remain in compliance in all material respects with all other applicable law applicable to you, and will not violate

any applicable law in your performance of your obligations under this agreement or in conducting any transactions in connection with the services.

#### XIV. Indemnification

You agree to indemnify us and hold us harmless, as well as our affiliates and each of our and their shareholders, directors, officers, employees, agents and independent contractors (collectively, the indemnified parties), against any losses we or any of the other indemnified parties may incur that arise as a direct or indirect result of: (i) your material default under or breach of this agreement; (ii) your errors, negligent acts or omissions, willful misconduct or criminal conduct in connection with this agreement or any of the services; (iii) your improper or illegal use or intentional misuse of any of the services, including the use of any service by you in violation of any applicable law or NACHA rules; (iv) any material breach by you of any of the representations or warranties you make to us at any time relating to the services; and (v) the use of your security keys by persons you have authorized to access and conduct transactions through the service; and (vi) the unauthorized use of your security keys unless you have provided adequate prior notice to us of the loss or theft of your security keys. The foregoing indemnification responsibilities will extend to losses arising from the acts or omissions of any of your employees, agents, independent contractors or any other persons acting at your direction or on your behalf. You are not responsible for any indirect, special, incidental, consequential, punitive or exemplary damages including, without limitation, for loss of profits, business or data, even if you have been advised of the possibility of such damages.

#### XV. Contact in event of unauthorized transfer

If you believe your security keys (user ID and password) have been lost or forgotten, or someone to whom you have granted authority to use your security keys has exceeded such authority, or someone has transferred or may transfer money from your account(s) without your permission, call 888-BBT-ONLINE (888-228-6654), or write:

THE BANK Online Banking Support

2586 James B White Hwy North

Whiteville, NC 28472

#### XVI. Liability provisions applicable to business accounts

Except as may be specifically provided in Section XVII (Liability Provisions Applicable to Consumer Accounts), and as provided below, you will use the services at your sole risk, including the risk of erroneous or fraudulent transactions. Please refer to the applicable account agreement for other important disclosures regarding your rights and responsibilities.

We will be responsible for performing the services we agree to provide to you as described in this agreement, using substantially the same degree of skill and care we generally apply in performing services for our other clients. Our liability will be limited to: (i) restoration, as soon as reasonably practicable, of any interrupted service; (ii) re-performance of the affected service at our expense e.g., correcting, reversing or otherwise making accurate any errors in performance; or (iii) failing (i) and (ii) above, compensation to you for any actual monetary damages you incur as a result of our material breach of this agreement, or our gross negligence, willful misconduct or criminal conduct in performing or failing to perform the affected service. Except as otherwise expressly provided in this agreement, our liability will not exceed the lesser of: (i) the actual amount of such damages or (ii) the aggregate amount of fees you paid to us for the affected service during the 12 month period immediately preceding the date on which such damages occurred or such lesser number of months that you have received the service.

#### XVII. Liability provisions applicable to consumer accounts only

The following provisions apply in the event you believe there has been an unauthorized transfer from your consumer account. Please refer to the applicable account agreement for other important disclosures regarding your rights and responsibilities.

##### A. Your liability

Tell us at once if you believe your security keys (user ID and password) have been lost or forgotten. Calling is the best way of keeping your possible losses to a minimum. You could potentially lose all the money in your account plus your maximum overdraft line of credit. If you believe your user ID and password have been lost or forgotten, and you tell us within 2 business days after you learn of the loss or theft, your loss is capped at \$50.

If you do not tell us within 2 business days after you learn of the loss or theft of your user ID and password, and we can prove we could have stopped someone from using your user ID and password without your permission if you had told us, you could lose as much as \$500.

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

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

## B. Bank liability for transfers

If we do not complete a transfer to or from your account on time or in the correct amount according to our agreement with you, we will be liable for your actual losses or damages. This liability is in addition to the payment guarantee for bill payments. However, there are some exceptions. We will not be liable, for instance:

If, through no fault of ours, you do not have enough money in your account to make the transfer or payment.

If the transfer or payment would go over the credit limit on your overdraft line.

If the funds in your account are subject to legal process or other encumbrance restricting such transfer.

If the service, your electronic device or modem is not working properly and you know about the malfunction when you started the transfer or payment.

If a recipient mishandles or causes delays in handling payments sent by us.

If you have not provided us with the correct recipient name, address, account information, or payment amount.

If circumstances beyond our control prevent the proper completion of the transaction despite reasonable precautions by us to avoid these circumstances. Such circumstances include, but are not limited to, fire, flood, delay in US Mail, interruption in your electrical power or telephone, the disconnecting of your telephone line by your local telephone company or from deficiencies in your line quality or any defect or malfunction of your electronic device, operating software, modem or telephone line.

If you have not properly followed the instructions for using the service or the personal financial management software.

If we have the right to refuse to process a payment or transfer as provided in this agreement.

## C. Liability for failure to stop payments

If you order us to stop a repeating payment 3 business days or more before the processing date, and we do not do so, we will be liable for your actual losses or damages.

## D. Error resolution notice

In case of errors or questions about your electronic transfers, call us at 888-BBT-ONLINE (888-228-6654), or write:

THE BANK Online Banking Support

2586 James B White Hwy North

Whiteville, NC 28472

Contact THE BANK as soon as you can if you think your statement or information regarding a transaction is wrong or you need more information about a transfer listed on the statement. We must hear from you no later than 60 days after we sent the first statement on which the problem or error appeared. When contacting THE BANK regarding an error resolution, please be prepared to communicate the following information:

Your name and Social Security number or tax identification number.

The error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.

The dollar amount of the suspected error.

If you tell us verbally, we may require you send us your complaint or question 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 any error promptly. If we need more time, however, we may take up to 45 days to investigate your complaint or question. If we decide to do this, we will credit your account within 10 business days for the amount you think is in error, so 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 10 business days, we may not credit your account.

If we conclude there was no error, we will send you a written explanation within 3 business days after we finish our investigation. You may ask for copies of the documents we used in our investigation.

#### XVIII. Disclaimer of warranty; exclusion of damages

##### A. Disclaimer of warranty

UNLESS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT OR UNDER APPLICABLE LAW, THE SERVICES ARE PROVIDED ON AN AS IS, AS AVAILABLE BASIS, AND WE MAKE NO WARRANTY, WHETHER STATUTORY, EXPRESS OR IMPLIED, TO YOU OR ANY OTHER PERSON REGARDING ANY SERVICES OR ANY SOFTWARE OR EQUIPMENT USED IN CONNECTION THEREWITH, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT.

##### B. Exclusion of damages

EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT OR BY LAW, WE ARE NOT RESPONSIBLE FOR ANY LOSS, INJURY OR DAMAGE WHETHER DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL, CAUSED BY

THE SERVICE OR THE USE THEREOF OR ARISING IN ANY WAY OUT OF THE INSTALLATION, USE OR MAINTENANCE OF THE PERSONAL FINANCIAL MANAGEMENT SOFTWARE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES. WE ARE NOT RESPONSIBLE FOR ANY LOSS, DAMAGE OR INJURY RESULTING FROM AN INTERRUPTION IN THE AVAILABILITY OF THE SERVICE, ERRORS, FAILURES OR MALFUNCTIONS OF YOUR COMPUTER AND SOFTWARE, OR ANY COMPUTER VIRUS, SPYWARE OR OTHER MALWARE THAT MAY YOUR AFFECT YOUR COMPUTER. YOU ARE SOLELY RESPONSIBLE FOR THE MAINTENANCE AND OPERATION OF ANY COMPUTER OR SOFTWARE USED TO ACCESS THE SERVICE.

#### XIX. Termination, suspension, discontinuance and restrictions

You may terminate this agreement or your participation in any one or more of the services upon at least 30 calendar days prior written notice to us. In our sole discretion, we may permit you to terminate a particular service with less than 30 days notice. For some services, you may be charged fees if you terminate before a date specified when you sign up for the service.

We may terminate this agreement or your right to use any given service at any time and for any reason in our sole discretion. We will normally try to give you at least 30 days advance notice of any such termination, but we will have no liability to you or any other person if we do not do so. Without limiting the generality of the foregoing, we may terminate this agreement immediately and without prior notice: (i) upon your default or material breach of any obligation to us under this agreement, including without limitation your representations and warranties to us, or your default under or material breach of any other present or future obligation you may owe to us; (ii) if we believe you are or may be using, or have or may have used, any service in a fraudulent, dishonest, unethical, immoral or illegal manner; (iii) if we become aware of a material adverse change in your financial condition that in our opinion might impair your ability to fulfill your payment or other obligations to us, or if you are liquidated or become the subject of proceedings under any bankruptcy, insolvency or receivership law; or (iv) if for any other reason we reasonably believe continuation of this agreement will or may expose THE BANK to undue risk of loss.

We may also temporarily suspend or permanently discontinue any service, and we may place any restrictions we deem necessary or desirable on your use of a service. We will normally try to give you prior notice of any suspension, discontinuance or restrictions, but if we do not do so before the effective date thereof, it will not affect the suspension, discontinuance or restrictions, and it will not impose any liability on us to you or any other person.

Any transactions initiated prior to the effective date of the suspension or discontinuance of a service or the termination of this agreement or the right to use a given service will not be affected by such suspension, discontinuance or termination. Such transactions will continue to be subject to the terms and conditions of this agreement. Your indemnification and payment obligations, including your

obligation to pay fees related to the services, will survive the suspension or discontinuance of a service or the termination of this agreement or the right to use a given service, as will any other provisions in this agreement, which either by their terms or the inherent nature thereof should be interpreted as being intended to survive suspension, discontinuance or termination.

Upon termination of this agreement or your use of any service, or earlier upon demand by us for any reason in our discretion, you must promptly return to us, or at our option destroy and certify such destruction to us, all software, material and other documentation, data and materials related to the agreement or service which we notify you to return or destroy.

## XX. Fees

You agree to pay the fees specified in the current THE BANK Small Business Online Fee Schedule as amended from time to time, which is available in the customer service section within the service, and which is incorporated herein by reference. Fees may be changed with advance notice. In addition, other service charges may apply. For example, there may be additional fees charged against your accounts if a transaction you initiate using the service causes any of your accounts to be overdrawn, exceed the maximum permissible number of transactions for the accounts, or exceed any other qualifiers for the accounts. See the applicable account agreements, as amended from time to time, for these fees. There may also be a charge for upgrades to the personal financial management software. You will be notified in advance of any fee payable for software upgrades. There may also be fees charged by your wireless or internet service provider.

You authorize THE BANK to deduct all applicable fees for the service from your service charge account. If we are unable to deduct all applicable fees from your service charge account for any reason (e.g., the account has been closed or there are insufficient funds in the account), you authorize THE BANK to deduct all applicable fees for the service from any of your other accounts. You may designate a different account for service charge deductions, by notifying a local branch or calling THE BANK Online Support at 888-BBT-ONLINE (888-228-6654).

## XXI. General

### A. Entire agreement

This agreement, together with the software license agreements, the account agreement(s) and any other agreement or disclosure related to your accounts constitutes the complete and exclusive agreement related to the service. In the event of a conflict between this agreement and any other agreement or disclosure related to your accounts or any statement by our employees or agents, this agreement shall control as to the subject matter addressed herein.

#### B. Waivers

No delay or omission by us in exercising any rights or remedies hereunder shall impair such right or remedy or be construed as a waiver of any such right or remedy. Any single or partial exercise of a right or remedy shall not preclude further exercise or the exercise of any other right or remedy. No waiver shall be valid unless in writing and signed by us.

#### C. Assignment

You may not assign this agreement to any other party. We may assign this agreement or delegate any or all of our rights and responsibilities under this agreement to any third parties.

#### D. Governing law

This agreement shall be governed by and construed in accordance with the laws of North Carolina, without regard to that state's conflict of law provisions.

#### E. Compliance with applicable laws

Any user of this service shall comply with all applicable laws. We reserve the right to refuse to process any transaction we reasonably believe violates applicable law, or we believe is made in connection with any unlawful transaction or activity, including without limitation, gaming, gambling, lottery or similar activities. We will notify you if we do not process a transaction.

#### F. Amendments

We may amend this agreement and the fee schedule from time to time by posting a notice or by any other reasonable notification method, including electronic means. You may obtain the most recent version of this agreement by visiting our website or calling 888-BBT-ONLINE (888-228-6654) to request a copy. Continued use of the service following notice of amendment constitutes acceptance of any amendments to this agreement.

#### G. Severability

If any provision of this agreement is determined to be void or invalid, the remainder of this agreement shall remain in full force and effect.

#### H. Service hours

The services are available 24-hours a day, 7 days a week, except during maintenance periods, for the scheduling, modification or review of payment orders and for initiation of funds transfers and balance



inquiries. Bill payments and ACH & Wire transfers can be processed only on business days. Please refer to the description of each service for specific processing schedules and cut-off times for a particular service.

#### I. Business days

Our business days are Monday through Friday excluding Federal Reserve holidays.

#### J. Changes in service/service unavailability.

We may add, modify or discontinue any service at any time, including placing or changing restrictions/limits on the types or amounts of transfers or payments, or changing the terms and conditions governing the service. We will provide notice to you of any change or termination of the service. We may also temporarily suspend your use of the service at any time for security reasons or any other reason in our discretion. We have no responsibility or liability for service unavailability, interruptions or delays due to any cause.

#### K. Confidentiality

Subject to applicable law, we will disclose information to third parties about you and your accounts or the transfers you make: (i) where it is necessary for completing transfers; or (ii) to verify the existence and condition of your account for a third party, such as a credit bureau or merchant; (iii) to comply with government agency or court orders; (iv) if you give us permission; (v) as stated in the THE BANK Corporation Consumer Privacy Notice as it applies to consumer accounts; and (vi) as otherwise required or permitted by law or government regulation.

#### L. Access to other products and services

THE BANK may provide you access to other financial products and/or services offered by THE BANK, its affiliates, or third parties with whom we have contracted through the use of hyperlinks within the service. You agree when you use these other services, you will be subject to any terms and conditions applicable to the particular product or service. In the event of a conflict between this agreement and any terms and conditions applicable to other services, this agreement shall control as to the subject matter addressed herein.

#### M. Arbitration agreement

Any dispute arising from or relating to your account, this agreement, or any transaction conducted through the service will at your election or our election be resolved by binding arbitration in accordance with the arbitration agreement contained in the applicable account agreement.