

## **MISSION BANK'S MOBILE BANKING AGREEMENT**

**You acknowledge that your mobile service provider may charge for sending and receiving text messages on your mobile device. You acknowledge that you should check with your service provider for details on specific fees and charges that may apply.**

[Link to our Privacy Policy](#)

This Mobile Banking Agreement ("Mobile Agreement") states the terms and conditions that you agree to by using our Mobile Banking service. The Mobile Agreement supplements Mission Bank's Online Banking Agreement ("Online Agreement"), Understanding Your Deposit Account ("Customer Agreement") and Schedule of Fees, which you received when you opened your account, and any other agreements applicable to your account(s) (collectively the "Customer Agreements"), as amended from time to time.

The terms "you" and "your" refer to any person subscribing to the Mobile Banking service. The terms "we", "us", "our", and "Bank" refer to Mission Bank. The term "Mobile Banking" refers to our service that allows you to access your Mission Bank accounts and perform transactions via your mobile device with web browsing/internet capabilities.

Please read this entire Mobile Agreement prior to using the Mobile Banking service. By using Mobile Banking, you acknowledge your receipt and understanding of this disclosure and agree to all terms and conditions of this agreement.

Mobile Banking is offered as a convenience and supplemental service to our online banking services. It is not intended to replace access to online banking from your personal computer or other methods you use for managing your accounts and services with us. Mobile Banking allows you to view your account information (the amount of history depends on your settings in Online Banking), use bill pay to manage payments and payees, transfer funds between your linked accounts, manage your ATM/debit card, and conduct other banking transactions. To use our Mobile Banking service, you must be enrolled in Mission Bank Online Banking.

Any deposit account, loan or other banking product accessed through mobile banking is also subject to the account agreements and disclosures provided at the time of account opening. You should review the account disclosures carefully, as they may include transaction limitations and fees which might apply to your use of mobile banking.

This Mobile Agreement applies to personal accounts and certain business accounts. Personal accounts may be afforded additional protections under the Electronic Funds Transfer Act ("EFTA"), some personal accounts will be governed both by the rules of the EFTA and this Mobile Agreement. If the EFTA applies to the account and there is a conflict between the rules of the EFTA and this Mobile Agreement, EFTA's provisions will control. Please see the Electronic Fund Transfers section of the Customer Agreement for special rules applicable to personal accounts. You may request copies of the Customer Agreements from any one of our offices.

### **EMAIL MESSAGING**

**By accepting these terms you expressly authorize us to send emails to you regarding your accounts and financial transactions, in connection with the Mobile Banking services. We may send these messages to any email address we have in our records for you or your account.**

## **ACCOUNT ELIGIBILITY AND ENROLLMENT**

Mobile Banking is available to most subscribers of our online banking service with a web-enabled mobile device whose network allows secure SSL traffic. When enrolling, you choose which accounts you wish to access on your mobile device. If you wish to add or remove accounts at a later time, you can do so through Online Banking.

It is your responsibility to notify us immediately if any of your information changes, including but not limited to your cell phone number and email address.

## **SECURITY**

You agree to take every precaution to ensure the safety, security and integrity of your account and transactions when using Mobile Banking. You agree not to leave your mobile device unattended while logged into mobile banking and to log off immediately at the completion of each access. We highly recommend using password protection on your mobile device. You are responsible for keeping your banking ID and password private; anyone to whom you give this information to will have access to your accounts. You are liable for all transactions that you or anyone to whom you reveal your online banking ID and password perform. If your online banking ID and password have been lost, stolen or compromised, immediately notify our Customer Support Department at (888) 965-7783 during business hours of 9:00 am – 5:00 pm Pacific Time.

## **HOURS OF ACCESSIBILITY**

In general, mobile banking is accessible 24 hours per day, seven days a week; however, we do not guarantee that mobile banking will be available at all times. Occasionally, due to system maintenance or reasons beyond our control, the mobile banking service may be unavailable.

Transactions, which are more fully described in the Online Agreement, are processed the same as if initiated through online banking.

## **MOBILE DEPOSIT FEATURE**

The mobile deposit feature ("Mobile Deposit") allows you to present checks for deposit to your linked accounts, using your mobile device. The Mobile Deposit service enables you to use a software application together with your mobile device to create electronic images of the front and back of certain Original Checks (defined below) and transmit those images and other information, including, without limitation, information captured from the magnetic ink character recognition ("MICR") line, to us for review and processing in accordance with this Mobile Agreement.

*Definitions.* Capitalized terms defined in this Mobile Agreement shall have the meaning indicated in this Mobile Agreement, including the following:

*"Business day"* means a calendar day other than a Saturday or a Sunday, or our observed holidays.

*"Check"* means an Original Check, as defined in Regulation CC.

*"Documentation"* means all documentation, the user manual, any other manuals, all instructions (including on-line instructions) relating to the Mobile Deposit service which Bank may provide to you from time-to-time in connection with the Mobile Deposit services.

*"Endpoint"* means any Federal Reserve Bank, financial institution, local clearing house, courier or other entity or location for the delivery of cash letters or other presentment of Imaged Items or Substitute Checks.

*"Imaged Item"* means the digitized image of a Check that is created by you and transmitted to Bank using the Mobile Deposit service.

*"Image Exchange Item"* means a digitized image of an Item cleared and settled directly with a Payor Financial Institution without conversion to a Substitute Check.

*"Item"* means a Check that is payable on demand, drawn on or payable through or at an office of a United States Financial Institution and payable or indorsed to you, and includes Original Checks, Substitute Checks and Image Exchange Items. Such term does not include Non-cash Items or Items payable in a medium other than United States money.

*"Mobile Deposit" services* means the Mobile Deposit services described in this Mobile Agreement, to be provided by Bank to you to enable the processing of Items digitally as Image Exchange Items through image exchange networks or through creation of Substitute Checks and presentment to established Endpoints, including collectively the procedures, protocols, and software used by Bank and its licensors and contractors in connection with the electronic processing of Items.

*"Non-cash Item"* means an Item that would otherwise be an Item, except that: (i) a passbook, certificate or other document is attached; (ii) it is accompanied by special instructions, such as a request for special advice of payment or dishonor; (iii) it consists of more than a single thickness of paper, except an Item that qualifies for handling by automated check processing equipment; or (iv) it has not been preprinted or post-encoded in magnetic ink with the routing number of the Payor Financial Institution.

*"Non-qualifying Item"* means Non-cash Items, Items payable in a medium other than United States money, currency, warrants, Items payable to third parties, Items payable to joint payees (unless payable to the payees alternatively and deposited into an account in the name of all payees), drafts or remotely created checks as defined by the UCC and Regulation CC, respectively, Items that are stale dated by six months or more or post-dated, savings bonds, Items payable to "cash," Substitute Checks, non-negotiable Items, Items that have been returned unpaid for any reason and any Item that exceeds your transaction limitations as established by us from time to time.

*"Original"* with respect to a Check means the first paper Item issued with respect to a particular payment transaction.

*"Payor Financial Institution"* means the United States Financial Institution ordered in an Item to make payment to the payee(s) named on the Item.

*"Regulation CC"* means 12 C.F.R. Part 229, as it may be amended from time to time.

*"Substitute Check"* means a paper reproduction of an Item that satisfies the requirements and definition of "substitute check" set forth in Regulation CC.

*"UCC"* means the Uniform Commercial Code as enacted and amended in California.

*"United States Financial Institution"* means (i) any person, located in the United States, engaged in the business of banking; (ii) a Federal Reserve Bank; (iii) a Federal Home Loan Bank; and (iv) to the extent it acts as a payor, the U.S. Treasury, the U.S. Postal Service, or a State or local government.

*Your Responsibilities.* In connection with the Mobile Deposit services, you agree to comply with the following:

1. Each processed Imaged Item must be transmitted in compliance with the terms and conditions of this Mobile Agreement;
2. The Imaged Item is a digitized image of the front and back of the Original Check and accurately represents all of the information on the front and back of the Original Check as of the time you converted the Original Check to an Imaged Item;
3. The Imaged Item contains all indorsements applied by parties that previously handled the Original Check in any form for forward collection or return;
4. There will be no duplicate presentment of a Check in any form, including as a digitized image, as a paper negotiable instrument or otherwise and you will be liable for and otherwise assume responsibility for any such duplicate presentment of any Check. You agree to indemnify and defend us against any and all claims, causes of action or demands arising out of or directly or indirectly related to the duplicate presentment of any Check;
5. Except as otherwise specifically disclosed in writing to us, you are not now engaged, and will not during the term of this Mobile Agreement engage, in any business that would result in you being or becoming a “money service business” as defined in the Federal Bank Secrecy Act and its implementing regulations;
6. You will not engage in any activity directly or indirectly related to the use of the Mobile Deposit service that is illegal or fraudulent;
7. You will only submit Checks for processing to us that meet the definition of “Item” as provided in this Mobile Agreement and will ensure that the Items scanned meet the standards for image quality established by the American National Standard Institute (ANSI) required by Regulation CC, or other standards established or required by us or applicable law, as amended from time to time. You will not process any Non-qualifying Items. Our processing of any Non-qualifying Items shall not constitute a waiver by us or obligate us to process such Non-qualifying Items in the future. You agree that we may discontinue processing of Non-qualifying Items at any time, without cause or prior notice;
8. You will not attempt to scan and transmit to us any third-party checks, or any Item which is drawn on a deposit account of yours with us or any other financial institution, or a deposit account of any business entity of which you are a principal, officer or authorized signer;
9. You will not attempt to scan and transmit to us any previously truncated and reconverted Substitute Check. Any previously truncated and reconverted Substitute Check must be physically deposited with us. Notwithstanding the foregoing, we may redeposit any returned Substitute Check or Image Exchange Item consistent with the terms of the Customer Agreement;
10. You will (i) ensure that Items are restrictively indorsed or otherwise processed to permit only financial institutions to acquire rights of a holder in due course in the collection process of Items, (ii) handle, process, maintain and destroy Original Checks as set forth in this Mobile Agreement and in the Documentation, and (iii) ensure that no financial institution (depository, collecting or payor), drawee, drawer or indorser receives presentment or return of, or otherwise is charged for an Item more than once in any form;

11. You will balance the dollar amount of each deposit to the sum of Checks prior to transmitting to us;
12. You will: (i) maintain a daily control record of all Checks, including transaction counts and dollar amounts; and (ii) balance transactions transmitted from the previous day and immediately notify us of any error or discrepancy discovered;
13. You will not use the Mobile Deposit service to deposit any Check or Checks that exceed the transaction limits established by us from time to time. You acknowledge that, at this time, there is a per check dollar limit of \$2,500, a maximum aggregate amount per business day of \$2,500, and a maximum aggregate monthly limit of \$7,500;
14. You shall be responsible for verifying our receipt of your transmission(s) by verifying that deposits have been posted to the appropriate accounts, in addition to cooperating with us in any investigation and resolving any unsuccessful or lost transmissions;
15. You shall be responsible for installing and implementing any changes and upgrades to the Mobile Deposit service as required by us within 5 days to ensure compliance with regulatory changes or developments, or to protect the integrity and security of the Mobile Deposit services. You will ensure that your mobile device is clean and operating properly, and inspect and verify the quality of images and ensure that the digitized images of Items are legible for all posting and clearing purposes;
16. You agree to indicate that the Item has been deposited via the Mobile Deposit service by writing the word "Processed," the phrase, "mobile deposit XX/XX/XX (date)," or similar on the front of the Item, once the Check has been scanned and transmitted. If not directed otherwise by us, you will store Original Checks in a safe and secure environment for 15 days after such Item has been digitized and processed. You shall take appropriate security measures to ensure that: (a) only authorized personnel shall have access to Original Checks, (b) that the information contained on such Original Checks or on any corresponding Imaged Items are not disclosed to third parties; (c) such Checks will not be duplicated or scanned more than one time; and (d) such Checks will not be re-deposited or renegotiated in any form. You will promptly (but in any event within 5 business days) provide any retained Original Check (or, if the Original Check is no longer in existence, a sufficient copy of the front and back of the Original Check) to us as requested to aid in the clearing and collection process to resolve claims by third parties with respect to any Item or as we otherwise deem necessary. You will use a commercially reasonable method which is consistent with any requirements of Regulation CC and the Bank to securely and permanently destroy Original Checks after your retention period has expired;
17. You understand and agree that an Item that is not paid by a Payor Financial Institution, or is otherwise returned for any reason, will in our discretion be: (i) re-presented to the Payor Financial Institution; or (ii) returned to you and your account charged for the amount of the Item plus any associated fees as disclosed in our applicable fee schedule, which may be changed from time to time in our discretion. You agree that Items may be returned as Image Exchange Items, rather than Substitute Checks. Our right to charge your account will apply without regard to whether the Item is timely returned to us or whether there is any other claim or defense that the Item has been improperly returned to us; and
18. You agree to make all encoding, transfer, presentment and other warranties made under applicable law as we are deemed to make under applicable law, including without limitation those under the UCC, Regulation CC and the rules of any image exchange network.

*Cutoff Hour.* If we receive a scanned Original Check on or before the applicable cutoff hour on a business day we are open, we will consider that day to be the day of deposit. If we receive a scanned Item after the applicable cutoff hour or on non-business day, we may consider that the deposit was made on the next business day. At our option, however, we may treat the Original Check as received the same day as the day of receipt. Your account will be provisionally credited upon our acceptance of Imaged Items for deposit which are received by us from you through the Mobile Deposit service.

*Processing.* For all Imaged Items processed pursuant to this Mobile Agreement, either: (i) digitized images will be converted to Substitute Checks and presented for payment to established Endpoints, or (ii) Imaged Exchange Items will be presented for payment through image exchange networks. We may in our sole discretion determine the manner of processing.

We will process any returned Items in accordance with applicable law and the Customer Agreement. Availability of credit from Items processed under this Mobile Agreement will be subject to our then current availability schedule, which may be amended by us from time to time. We may at our sole option, with or without cause, at any time and from time to time, refuse to process any Imaged Items. We may from time to time establish and amend exposure limitations and assign them to you.

Notwithstanding any provisional credit that may be applied to an account in connection with your transmitted Imaged Items, Imaged Items processed for deposit through the Mobile Deposit service will be deemed to have been received by us for deposit at the time the Imaged Items are actually received and accepted at the location where we or our designated agent posts the credit to the account. A deposit of Imaged Items will be deemed to have been received and accepted by us for deposit when all of the following have occurred: (i) we have preliminarily verified that the image quality of the Imaged Item is acceptable to us in our discretion, all Item information is complete and the deposit totals are balanced to the Item information provided for the deposit; and (ii) we have successfully performed all further validation routines with respect to the deposit. Notwithstanding the foregoing, Imaged Items received by us for deposit may be rejected by us in our sole discretion.

You agree to view the images of each scanned Item that is sent to us. If Item information received by is not complete or cannot be processed by us for any reason, we may reject the Imaged Item, notwithstanding any transmission confirmation and charge the amount back against any provisional credit to your account. You will be responsible for verifying our receipt of your transmissions by verifying that deposits have been posted to your account.

If an Imaged Item is not accepted for deposit, you may then submit the Original Check to us for processing or contact the maker to reissue the Check. If you submit the Original Check for processing, we reserve the right to refuse to process the Check for deposit and presentment to the Payor Financial Institution and may instead require you to have the maker reissue the Check.

*Compliance with Law.* You shall comply with all laws, rules, and regulations applicable to you, to your business and operations, and to the Mobile Deposit services, including, without limitation, Regulation CC, the Uniform Commercial Code and any rules established by an image exchange network through which Image Exchange Items are processed pursuant to this Mobile Agreement. You shall have the responsibility to fulfill any compliance requirement or obligation that Bank and/or you may have with respect to the Mobile Deposit service under all applicable U.S. federal and state laws, regulations, rulings, including sanction laws administered by the Office of Foreign Assets Control, and other requirements relating to anti-money laundering, including but not limited to, the federal Bank Secrecy Act, the USA PATRIOT Act and any regulations of the U.S. Treasury Department to implement such Acts, as amended from time to time.

*Reserves; Security Interest; Held Funds.* You acknowledge that we may from time to time establish minimum amounts to be funded by you as reserve amounts. We will provide notice to you of any reserve requirement, and you shall immediately fund the reserve amount with good funds. We may withhold and use any amounts due to you to maintain any reserve amounts at levels specified by us. To secure all of your obligations to us arising from this Mobile Agreement, you grant to us a security interest in all of your accounts with us, all funds in those accounts, any reserve accounts or funds therein, all Items, whether now or hereafter established by or for your benefit, and all proceeds of the foregoing. Our security interest will survive after termination of this Mobile Agreement. This security interest is supplemental to and not in lieu of the security interest granted by you to us under any other agreement. In addition to any other rights we may have with regards the accounts of yours, we may hold and use funds in any account following termination of this Mobile Agreement for such time as we reasonably determine that any Item processed by us prior to termination may be returned, charged back or otherwise a cause for any loss, liability, cost, exposure or other action for which we may be responsible. Without limitation, you recognize that under the UCC, Regulation CC, the Electronic Check Clearing House Organization™ (“ECCHO”) Rules (as applicable), and the rules of any image exchange network, our representations and warranties with regards to Image Exchange Items and Substitute Checks may expose us to claims for several years following processing of the Image Exchange Item or Substitute Check.

*Availability.* We may cause the Mobile Deposit service to be temporarily unavailable to you, either with or without prior notice, for site maintenance, security or other reasons, and you acknowledge that factors beyond our reasonable control, such as telecommunications failure or equipment failure, may also cause the Mobile Deposit service to be unavailable to you. You may deposit Original Checks and other items to any deposit account with us in person or in any other manner permitted by agreement between you and us, and you will be responsible for maintaining procedures and facilities to enable you to do so if the Mobile Deposit service is unavailable to you.

#### **TERMINATION OF ACCOUNT ACCESS**

We reserve the right to terminate mobile banking, in whole or in part, at any time with or without cause and without prior written notice. In that event, or in the event that you give us a termination notice, we may (but are not obligated to) immediately discontinue making previously authorized transfers, including recurring transfers and other transfers that were previously authorized but not yet made. We also reserve the right to temporarily suspend the services in situations deemed appropriate by us, in our sole and absolute discretion, including when we believe a breach of system security has occurred or is being attempted. We may consider repeated incorrect attempts to enter your online banking ID or password as an indication of an attempted security breach. Termination of the service does not affect your obligations under the Mobile Agreement with respect to occurrences before termination.

#### **EQUIPMENT**

Bank does not guarantee that your mobile device/mobile service plan will be compatible with our mobile banking service. You are responsible for understanding the operation and maintenance of your mobile device. You agree that, when you use mobile banking, you remain subject to the terms and conditions of your existing agreements with any unaffiliated service providers, including, but not limited to, your mobile service provider and that this Mobile Agreement does not amend or supersede any of those agreements. You understand that those agreements may provide for fees, limitations and restrictions which might impact your use of mobile banking (such as data usage or text messaging charges imposed on you by your mobile service provider for your use of or interaction with mobile banking), and you agree to be solely responsible for all such fees, limitations and restrictions. You agree that only your mobile service provider is responsible for its products and services. Accordingly, you agree to resolve any problems with your provider directly without involving us.

Mobile devices with internet capabilities are susceptible to viruses. You are responsible for making sure that the mobile device you are using to access mobile banking is protected from and free of viruses, worms, Trojan horses, or other similar harmful components (collectively, referred to as “viruses”), which could result in damage to programs, files, and/or your device or could result in information being intercepted by a third party. Bank will not be responsible or liable for any indirect, incidental, special or consequential damages that may result from such harmful components being present on the mobile device, nor will we be responsible or liable if sensitive information accessed via our mobile banking service is intercepted by a third party due to any of the above named “viruses” residing or being contracted by the customer’s mobile device at any point or from any source.

We are not responsible for errors or delays or your inability to access the service caused by your equipment. We are not responsible for the cost of upgrading your equipment to stay current with the services nor are we responsible, under any circumstances, for any damage to your equipment or the data resident thereon.

MISSION BANK WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE INCURRED OR SUFFERED BY YOU AS A RESULT, DIRECTLY OR INDIRECTLY, OF ANY FAILURE, INTERRUPTION, SUSPENSION OR TERMINATION OF SUCH SERVICES OR SYSTEM FOR WHATEVER REASON, INCLUDING BUT NOT LIMITED TO THE ACTS OR OMISSIONS OF THE SERVICE OWNER OR ANY THIRD PARTY.

#### **YOUR INDEMNIFICATION OBLIGATION**

In addition to any indemnification obligations you have under the Online Agreement, and except to the extent expressly prohibited by applicable law, you agree that you will indemnify and hold us harmless, including our licensors and providers of the Mobile Banking services, and our respective directors, officers, shareholders, employees and agents, against any and all third party suits, proceedings, claims, demands, causes of action, damages, expenses (including reasonable attorneys' fees and other legal expenses), liabilities and other losses that result from or arise out of: (i) your wrongful acts or omissions, or any person acting on your behalf, in connection with your use of the Mobile Banking service, including without limitation (a) the breach by you of any provision, representation or warranty of this Mobile Agreement, (b) your negligence or willful misconduct (whether by act or omission) or any third party acting on your behalf, (c) any misuse of the Mobile Banking service by you, or any third party within your control or on behalf of you, (d) your failure to comply with applicable state and federal laws and regulations, or (e) any fine, penalty or sanction imposed on us by any clearing house, or any governmental entity, arising out of or connected with any Imaged Item processed by us for you or at your instruction; (ii) any act or omission of ours that is in accordance with this Mobile Agreement or instructions from you; (iii) actions by third parties, such as the introduction of a virus that delay, alter or corrupt the transmission of an Imaged Item to us; (iv) any loss or corruption of data in transit from you to us; (v) any claim by any recipient of a Substitute Check corresponding to a Check processed by you under this Mobile Agreement, that such recipient incurred loss due to the receipt of the Substitute Check instead of the Original Check; or (vi) any claims, loss or damage resulting from your breach of, or failure to perform in accordance with, the terms of this Mobile Agreement.

#### **OUR LIABILITY**

In addition to any limitations on liability provided for in the Online Agreement and the Customer Agreement, and except to the prohibited by applicable law or regulation, we will not be liable to you for any of the following: (i) any damages, costs or other consequences caused by or related to our actions that are based on information or instructions that you provide to us; (ii) any unauthorized actions initiated or caused by you or your agents; (iii) the failure of third persons or vendors to perform satisfactorily, other than persons to whom we have delegated the performance of specific obligations provided in this Mobile Agreement; (iv) any refusal of a Payor Financial Institution to pay an Image Exchange Item or Substitute Check for any reason (other than our breach of contract, gross negligence or willful misconduct), including without limitation, that the Original Check, Image Exchange Item

or Substitute Check was allegedly unauthorized, was a counterfeit, had been altered, or had a forged signature; (v) you or any other party's lack of access to the Internet or inability to transmit or receive data; (vi) failures or errors on the part of Internet service providers, telecommunications providers or any other party's own internal systems, (vii) if you do not follow or comply with the representations or warranties set forth in this Mobile Agreement; or (viii) our acting as a "reconverting bank" under the Check 21 Act through the creation of Substitute Checks or purported substitute checks using an electronic image or an illegible electronic image or an Image Exchange Item.

To the fullest extent allowed by law, and subject to our limitations on liability provided otherwise in this Mobile Agreement, we will only be liable for damages that are solely and proximately caused by our gross negligence or willful misconduct. Our liability for errors or omissions with respect to the data transmitted or printed by us in connection with this Mobile Agreement will be limited to correcting the errors or omissions. With respect to the Mobile Deposit service, correction will be limited to reprocessing, reprinting and/or representing the Image Exchange Items or Substitute Checks to the Payor Financial Institution.

Notwithstanding anything to the contrary in this Mobile Agreement, and except to the extent expressly prohibited by applicable law or regulation, our aggregate liability for claims related to this Mobile Agreement, whether for breach, negligence, infringement, in tort or otherwise, arising during any 6-month period shall be limited to an amount equal to the amount of fees paid by you to us under this Mobile Agreement for such 6-month period.

Except as otherwise specifically provided in this Mobile Agreement, in no event will either party be liable to the other for any consequential, indirect, incidental, special, exemplary or punitive damages, including without limitation any loss of use or loss of business, revenue, profits, opportunity or good will, under any theory of tort, contract, indemnity, warranty, strict liability or negligence, even if such party has been advised or should have known of the possibility of such damages.

Without limiting the foregoing, we shall be excused from failing to act or delay in acting if such failure or delay is caused by legal constraint, interruption of transmission, or communication facilities, equipment failure, war, emergency conditions or other circumstances beyond our control. In the event of any of the foregoing failure or delays, you acknowledge that you may instead deposit directly with us any Original Items for processing and presentment, provided such Original Items have not been previously imaged and processed in connection with the Mobile Deposit services. In addition, we shall be excused from failing to transmit or delay in transmitting an Item for presentment if such transmittal would result in our having exceeded any limitation upon its intraday net funds position established pursuant to Federal Reserve guidelines or our otherwise violating any provision of any risk control program of the Federal Reserve or any rule or regulation of any other U.S. governmental regulatory authority.

You and we acknowledge and agree that the limitations of liability in this Section are a bargained for allocation of risk and liability, and agree to respect such allocation of risk and liability. Each party agrees and acknowledges that the other party would not enter into this Mobile Agreement without the limitations of liability set forth in this Section.