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Gate City Bank

Online & Mobile Banking Agreement and Disclosure

This Online & Mobile Banking Agreement and Disclosure (the “Agreement”) describes your rights and obligations as a user of the Online & Mobile Banking service (the “Service”). It also describes the rights and obligations of Gate City Bank (the “Bank”).

Please read this Agreement carefully. By requesting and using the Service, you agree to comply with the terms and conditions of this Agreement.

1. Definitions

- a. “Account” means your Bank account that you access through the Service or any feature of the Service. Accounts may include deposit accounts, loan accounts, and lines of credit.
- b. “Account Agreement” means your Gate City Bank Terms of Conditions of Your Account Deposit Agreement and Disclosures.
- c. “ACH Network” means the funds transfer system, governed by the NACHA Rules, that provides funds transfer services to participating financial institutions.
- d. “Affiliates” are companies related by common ownership or control.
- e. “Alerts” means preferences that you set for debit card usage including location, transaction, merchant types, spend limits, and declined purchases.
- f. “Authorized User” means individuals whom you authorize to access the Service on your behalf.
- g. “Biometric Authentication” is the process by which you use your fingerprint, eyes, or other similar attributes to log in.
- h. “Bill Capture” is a feature of Bill Pay that allows you to utilize your mobile phone to take pictures of your paper bills and input them for payment through Bill Pay.
- i. “Bill Discovery” is a feature of Bill Pay that automatically searches, identifies, and retrieves information about your Billers and bills based on matching information about your identity.
- j. “Bill Pay” is a service that enables you to receive, view, and pay bills from the website.

- k. “Biller” is the person or entity to which you wish a payment to be directed through Bill Pay or is the person or entity from which you receive electronic bills, as the case may be.
- l. “Billing Account” is the checking account from which all Service fees will be automatically debited.
- m. “Business Day” is every Monday through Friday, excluding Federal Reserve holidays or other days that banks are legally closed.
- n. “Communications” means each disclosure, notice, agreement, fee schedule, periodic statement, record, document, and other information we provide to you, or that you sign, submit, or agree to at our request.
- o. “Controls” means preferences that you set for debit card usage including location, transaction, merchant types, spend limits, and card on/off.
- p. “Device” is the electronic equipment connected to the Internet through which you access your Account, such as a personal computer or Mobile Device.
- q. “Due Date” is the date reflected on your Biller statement for which the payment is due, not the late payment date or the date beginning or a date during any grace period.
- r. “External Account” is your account at another financial institution (i) to which you are transferring funds from your Account; or (ii) from which you are transferring funds to your Account.
- s. “External Funds Transfer” is the external funds transfer service.
- t. “Exception Payments” means payments to deposit accounts or brokerage accounts, payments to settle securities transactions (including, without limitation, stocks, bonds, securities, futures (forex), options, or an investment interest in any entity or property).
- u. “Gate City Product” means each and every account, product, or service we offer that you apply for, own, use, administer or access, either now or in the future. Gate City Products include Electronic Services.
- v. “General Terms” refers to the terms of this agreement which apply to all services and products.
- w. “Images” means digital images of checks that you capture with your Mobile Device for submission through the Mobile Deposit Service feature of the Service.
- x. “ISP” refers to your Internet Service Provider.
- y. “Mobile Device” is a portable Device, such as a smartphone or tablet computer, that can connect to the Internet and through which you access the Service.
- z. “Online Banking” is the internet-based service providing access to your Bank account(s).
- aa. “Password” is the personal identification code that you establish and use to log in.
- bb. “Payment” is when your funds are used to cover a service, good, or other fees.
- cc. “Payment Instruction” is the information provided for a payment to be made under the applicable Service, which may be further defined and described below in connection with a specific Service.
- dd. “Payment Network” means a debit or credit network (such as the ACH Network or ACCEL / Exchange payment network) through which funds may be transferred.
- ee. “Periodic Statement” is a statement that is sent to you on a specific interval.
- ff. “Scheduled Payment Date” is the day you want your Biller to receive your bill payment unless the Scheduled Payment Date falls on a non-Business Day, in which case it will be considered to be the previous Business Day.
- gg. “Scheduled Payment” is a payment that has been scheduled through the Service but has not begun processing.

- hh. "Service" is our Online and Mobile Banking platform, including any mobile application, web application, or website that you use to access any of the features of Online and Mobile Banking.
- ii. "Service Provider" means companies that we have engaged (and their Affiliates) to render some or all the Service to you on our behalf.
- jj. "Site" refers to the Gate City Bank website.
- kk. "We", "us", or "Bank" refers to Gate City Bank, which offers the Services, and which holds the accounts accessed by the Services; and
- ll. "You" or "your" refers to the owner of the Account or an Authorized User of the Account.

2. About This Agreement

a. What This Agreement Covers

This document, along with any other documents we give you pertaining to your account(s), is a contract that establishes rules which control your account(s) with us. Please read this carefully and retain it for future reference. If you use the Service, you agree to these rules. If you have any questions, please call us.

As used in this document, the words "you" and "your" means the account holder(s) and anyone else with the authority to deposit, withdraw, or exercise control over the funds in the account. However, this agreement does not intend, and the terms "you" and "your" should not be interpreted, to expand an individual's responsibility for an organization's liability. Individual liability is determined by the laws generally applicable to that type of organization.

b. What This Agreement Does Not Cover

Links to other sites may be provided on the portion of the Site through which the Service is offered for your convenience. By providing these links, we are not endorsing, sponsoring or recommending such sites or the materials disseminated by or services provided by them, and are not responsible for the materials, services or other situations at or related to or from any other site, and make no representations concerning the content of sites listed in any of the Service web pages. Consequently, we cannot be held responsible for the accuracy, relevancy, copyright compliance, legality or decency of material contained in sites listed in any search results or otherwise linked to the Site. For example, if you "click" on a banner advertisement or a search result, your "click" may take you off the Site. This may include links from advertisers, sponsors, and content partners that may use our logo(s) as part of a co-branding agreement. These other sites may send their own cookies to users, collect data, solicit personal information, or contain information that you may find inappropriate or offensive. In addition, advertisers on the Site may send cookies to users that we do not control. You may link to the home page of our Site. However, you may not link to other pages of our Site without our express written permission. You also may not "frame" material on our Site without our express written permission. We reserve the right to disable links from any third-party sites to the Site.

c. Relationship to Other Agreements

If there is a conflict between the terms of this Agreement and your Account Agreement, the terms of your Account Agreement will prevail unless otherwise specified in this Agreement.

If there is a conflict between the terms of this Agreement and something stated by an employee or contractor of ours (including but not limited to its customer care personnel), the terms of this Agreement will prevail.

d. Modification of Agreement

We may amend this Agreement and any applicable fees and charges for the Service at any time by posting a revised version on the Site. The revised version will be effective at the time it is posted unless a delayed effective date is expressly stated in the revision. Any use of the Service after a notice of change or after the posting of a revised version of this Agreement on the Site will constitute your agreement to such changes and revised versions. Further, we may, from time to time, revise, update, upgrade or enhance the Service and/or related applications or material, which may render all such prior versions obsolete. Consequently, we reserve the right to terminate this Agreement as to all such prior versions of the Service, and/or related applications and material, and limit access to only the Service's more recent revisions, updates, upgrades or enhancements.

e. Termination of this Agreement

We, in our sole discretion, reserve the right to suspend or terminate Mobile Deposit at any time without prior notice to you, except as may be required by law. You may terminate Mobile Deposit by providing written notice of such termination to us together with sufficient time to process such request. Any termination will not affect obligations, representations or warranties arising prior to termination, such as the obligation to process any Original Checks that were in the process of being transmitted or collected prior to the termination date. On the termination date, all licenses and/or sublicenses granted to you pursuant hereto shall terminate immediately, and you shall cease using Mobile Deposit. In addition, you will keep your Account with us open until the latter of (i) sixty (60) days after the date of termination, or (ii) final payment with respect to all processing fees and will keep in such Account an amount sufficient to cover any remaining obligations pursuant hereto. If any such outstanding obligations pursuant hereto exceed the amount in the Account, you will pay such excess to us upon demand.

f. Our Software and Proprietary Information

In connection with the Service, you will have a non-exclusive, non-transferable license to use system software or mobile applications related to the Service ("Platforms") solely for the purpose of using the Service in accordance with this Agreement. You acknowledge that any Platforms provided by the Bank for use with the Service include software owned and copyrighted by third parties and is sublicensed to you by the Bank, subject to the terms, conditions and limitations of the Bank's license from such third parties. You acknowledge that you are not purchasing the title to any Platform, that such Platform may not be copied or used independently of the Service, and that no third party provides any support services, upgrades or technical assistance in connection with the software owned by it. You agree not to decompile or reverse engineer any code contained in the Platforms.

g. Our Privacy Practices

Your privacy is important to us. We conduct regular assessment reviews and abide by commercially reasonable privacy standards to ensure personal information we collect, use and share in connection with your business deposit account and the Service is protected. To protect personal information from unauthorized access and use, we use security measures that comply with applicable federal and state laws. These measures may include device safeguards and secured files and buildings as well as oversight of our third-party providers to ensure personal information remains confidential and secure. In the event of a data breach, we provide timely notification, in accordance with applicable laws and regulations.

Please note that the Service may provide links to non-affiliated third-party sites, such as credit bureaus, service providers, or merchants. If you follow links to sites not affiliated with, or controlled by the Bank, you should review their privacy and security policies and other terms and conditions, as they may be different from those of the Service. The Bank does not guarantee and is not responsible for the privacy or security of these sites, including the accuracy, completeness or reliability of their information.

3. Contacting Us

In case of errors or questions regarding Online Banking transactions, you may contact the bank using the following methods:

- By sending an e-mail to onlinebanking@gatecity.bank
- By sending an internal message inside your Online Banking/Contact Us
- By calling 800-423-3344
- By visiting one of our Banking Locations
- By writing a letter and sending it to the following address:

Gate City Bank
Attention: Digital Banking
500 2nd Ave N
Fargo, ND 58102

Errors and unauthorized transactions will be investigated and handled in accordance with the terms of your Business Deposit Account Agreement.

4. Accessing the Service

a. Enrolling in the Service

i. How to Enroll

The Bank will provide you with separate instructions with how to enroll in the Service and create access credentials.

ii. Authorized Accounts

You may designate Accounts that you wish to be able to access through the Service. If you designate the accounts of your parent company, subsidiaries, or affiliates as Accounts, you warrant and represent that those business entities have authorized you to access those accounts through the

Service in the same manner as your own accounts. If you designate a consumer account as an Account, you warrant and represent that you are authorized to transact on such account. You further agree that you will not request any transactions through the Service involving a consumer account that would violate the terms of any deposit account agreements or other documents governing the account, including any restrictions limiting the use of such account only for personal, family or household purposes.

For certain features, you will need to designate specific Accounts to be used in connection with that feature. For example, you may be required to specify the Account from which wire or ACH transfers requested through the Service should be made. If you designate an Account to be used in connection with a feature that permits you to request withdrawals or the transfer of funds from that account, you understand that we may, subject to the terms of this Agreement, act upon any instructions submitted through the Service provided you follow the applicable Security Procedures. This means that we may, subject to the terms of this Agreement, act upon the Instructions of any one person to whom you have given access to the Service, even if the signature card, resolution of authority, or other account documents related to the Account otherwise requires two more signatures for withdrawals, or you have otherwise instructed us to require two or more signatures for any Service. We do not honor, and we have no obligation to comply with, any requests to require us to obtain two or more signatures for any use of the Service under any circumstance. You are solely responsible for verifying and ensuring that any signatures provided to us comply with your internal company requirements. As long as the Security Procedures are followed, all Instructions submitted through the Service will be deemed properly authorized by you.

iii. Authorized Users

Authorized Users are individuals who you authorize to access the Services on your behalf. You may designate Authorized Users through the Service. Unique login credentials will be established for each User consistent with our Security Procedures. Each Authorized User must use the login credentials assigned to them.

You will be able to designate Online Banking Administrators that have full permissions to the Service. All other Authorized Users will have more limited permissions to the Service.

Unless otherwise limited by you or us, each Authorized User will be given “administrator” access to the Services. This means they will be able to perform or request any action that you are authorized to perform or request under this Agreement. This includes, but is not limited to the ability to: (i) view all Account and other information made available to you; (ii) request funds transfers and other transactions from or to Accounts; (iii) update or change customer and Account information; (iv) add, delete, or change other Authorized Users; (v) apply for new accounts or close existing accounts; and (vi) add, discontinue or change the features of the Service that you utilize. You can choose not to provide an Authorized User administrator access and limit an Authorized User’s access to certain features of the Service, Authorized Accounts or transactions, or establish limits on the number, frequency, or dollar amount of certain transactions an Authorized User may request.

You agree that each Authorized User is your agent with respect to their use of the Service and their appointment constitutes your authorization for the Bank to rely on any Instructions made using any Authorized User's login credentials as if such Instructions were received directly from you.

b. Acceptable Use of the Service

You agree that you are independently responsible for complying with all applicable laws in all your activities related to your use of the Service, regardless of the purpose of the use, and for all communications you send through the Service. We and our Service Providers have the right, but not the obligation to monitor and remove communications content that we find in our sole discretion to be objectionable in any way. In addition, you are prohibited from using the Service for communications or activities that: (i) violate any law, statute, ordinance or regulation; (ii) promote hate, violence, racial intolerance, or the financial exploitation of a crime; (iii) defame, abuse, harass or threaten others; (iv) include any language or images that are bigoted, hateful, racially offensive, vulgar, obscene, indecent or discourteous; (v) infringe or violate any copyright, trademark, right of publicity or privacy or any other proprietary right under the laws of any jurisdiction; (vi) impose an unreasonable or disproportionately large load on our infrastructure; (vii) facilitate any viruses, trojan horses, worms or other computer programming routines that may damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or information; (viii) constitute use of any robot, spider, other automatic device, or manual process to monitor or copy the Service or the portion of the Site through which the Service is offered without our prior written permission; (ix) constitute use of any device, software or routine to bypass technology protecting the Site or Service, or interfere or attempt to interfere, with the Site or the Service; or (x) may cause us or our Service Providers to lose any of the services from our internet service providers, payment processors, or other vendors. We encourage you to provide notice to us by the methods described in Section 3 above of any violations of the Agreement.

c. Prohibited or Restricted Uses of the Service

In addition, you agree that you will not modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile the technology or service, copy or reproduce all or any part of the technology or service; or interfere, or attempt to interfere, with the technology or service. We and our technology partners, inclusive of, but not limited to, Alkami and Vertifi Software, LLC, retain all rights, title, and interests in and to the Service, including but not limited to the Mobile Deposit feature made available to you.

d. Security

i. Use of Your Password

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

- Do not give out your account information, password, or username;
- Do not leave your device unattended while you are using Online & Mobile Banking;
- Never leave your account information within the range of others; and

- Do not send privileged account information (account number, password, etc.) in any public or general e-mail system.
- Upon five (5) unsuccessful attempts to use your Password, your access to the Services will be revoked. To re-establish your Password to use the Services, you must follow the instructions in the Service or contact customer service.

If you believe your password has been lost or stolen, or if you suspect any fraudulent activity on your account, call Gate City Bank immediately at 800-423-3344. Calling is the best way of minimizing your losses and liability. If you believe your Password has been compromised, we recommend changing your Password.

ii. Biometric Authentication

You may access the Service using Biometric Authentication (Face ID, Touch ID, or Fingerprint) to log into the Mobile Banking App securely instead of entering your username and password. Your username and password will not be stored on your device.

Fingerprints and facial recognition are only stored on your device. Gate City Bank does not see or store your fingerprint or facial recognition information.

iii. Security Procedures

In addition to taking the security precautions described in this Agreement, you agree to comply with any security procedures that we may establish from time to time. By complying with any such security procedures and using the Service, you agree that such security procedures are commercially reasonable.

Our security features may require special hardware, software or third-party services. They may also include the activation of certain internet browser software features, plug-ins or add-ons. You agree to take every precaution to ensure the safety, security and integrity of your account and transactions when using the Service.

You agree not to leave your Device unattended while logged into the Service and to log off immediately at the completion of each access by you. You agree not to provide your username, password, or other access information to any unauthorized person. If you permit other persons access to your Device or to use your Device, login information, or other means to access the Service, you are responsible for any transactions they authorize, and we will not be liable for any damages resulting to you. You agree not to use any personally identifiable information when creating shortcuts to your accounts.

If you believe your Device, login information, or other means to access the Service has been lost, stolen or otherwise compromised, or that someone has transferred or may transfer funds from your account without your authorization, please contact us immediately by calling 800-423-3344.

The terms of this Agreement, your applicable deposit agreement(s) and other applicable agreements with us, and applicable law, shall govern loss allocation under such circumstances.

You will complete each transaction that you execute through the Service promptly. If you are unable to complete your transaction promptly, you will ensure that your Device remains securely in your possession until the transaction has been completed. It is your responsibility to establish and maintain procedures to safeguard against unauthorized transactions.

If warranted in our reasonable judgment, we may audit and monitor you, and you agree to cooperate with us to permit such monitoring, to confirm that you have satisfied your obligations under this Agreement.

e. Availability of the Service

You acknowledge and agree that certain functionality with the Service feature may not be available for all transactions. For example, features based upon the location of the Mobile Device through which you access the Service may not apply appropriately to certain types of transactions.

You acknowledge and agree that neither Gate City Bank nor its third-party services providers (including the developer of the technology enabling any notifications) are responsible for performance degradation, interruption or delays due to conditions outside of its control. You acknowledge that neither Gate City Bank nor its third-party service providers shall be liable to you if you are unable to receive Notifications on your Mobile Device in your intended area. Gate City Bank, for itself and its third-party service providers, disclaims all liability for: any delays, misdelivery, loss, or failure in the delivery of any Notification; any form of active or passive filtering.

The Service, including Mobile Deposit and any other feature that you access through the Service, may be unavailable temporarily due to system maintenance or technical difficulties, including those of the Bank, cellular service provider and Internet software. In the event that communications, equipment, or software failures prevent you from using the Service whether the fault of you, us, or a third party, you may, at your option, attempt to access the Service at a later date or conduct your banking transactions through a branch or any other method described in your Agreement. We shall not be liable for any losses incurred as a result of any failure of the Service.

f. Communications About the Service

i. Notices to Us Regarding the Service

Except as otherwise stated below, notice to us concerning the Service must be sent by postal mail to: Gate City Bank, 500 2nd Ave N, Fargo, ND 58103. We may also be reached at 701-293-2400 for questions and other purposes concerning the Service.

ii. Notices to You

You agree that we may provide notice to you by posting it on the Service, sending you an in-product message within the Service, emailing it to an email address that you have provided us, mailing it to any postal address that you have provided us, or by sending it as a text message to any mobile

phone number that you have provided us, including, but not limited to, the mobile phone number that you have listed in your Service setup or customer profile. For example, users of the Service may receive certain notices (such as notices of processed Payment Instructions, alerts for validation, and notices of receipt of payments) as text messages on their mobile phones.

All notices by any of these methods shall be deemed received by you no later than twenty-four (24) hours after they are sent or posted.

You agree to allow us to communicate with you via push notification, SMS and/or email, with respect to the activities performed via the Services. Data fees may be imposed by your mobile provider for the transmission and receipt of messages and Alerts from the Bank. Gate City Bank reserves the right to send administrative and service notifications via emails and/or SMS messages to the email address and/or phone number provided upon enrollment in the Service.

iii. Text Messages, Calls and/or Emails to You

By providing us with a telephone number (including a wireless/cellular, mobile telephone number and/or email address), you consent to receiving calls from us and our Service Providers at that number INCLUDING THOSE MADE BY USE OF AN AUTOMATIC TELEPHONE DIALING SYSTEM (“ATDS”), and/or emails from us for our everyday business purposes (including identify verification). You acknowledge and agree that such telephone calls include, but are not limited to, live telephone calls, prerecorded or artificial voice message calls, text messages, and calls made by an ATDS from us or our affiliates and agents.

iv. Address or Banking Changes

It is your sole responsibility, and you agree to ensure that the contact information in your user profile is current and accurate. This includes, but is not limited to, name, physical address, phone numbers and email addresses. Depending on the Service, changes may be able to be made within the user interface of the Service or by contacting customer care for the Service. We are not responsible for any payment processing errors or fees incurred if you do not provide accurate Account information, Payment Instruction(s), or contact information.

v. Information Authorization

Your enrollment in the applicable Service may not be fulfilled if we cannot verify your identity or other necessary information. Through your enrollment in, or use of each Service, you agree that we reserve the right to request a review of your credit rating at our own expense through an authorized bureau. In addition, and in accordance with our Privacy Policy, you agree that we reserve the right to obtain personal information about you, including without limitation, financial information and transaction history regarding your Accounts. You further understand and agree that we reserve the right to use personal information about you for our and our Service Providers' everyday business purposes, such as to maintain your ability to access the Service, to authenticate you when you log in, to send you information about the Service, to perform fraud screening, to

verify your identity, to determine your transaction limits, to perform collections, to comply with laws, regulations, court orders and lawful instructions from government agencies, to protect the personal safety of subscribers or the public, to defend claims, to resolve disputes, to troubleshoot problems, to enforce this Agreement, to protect our rights and property, and to customize, measure, and improve the Service and the content and layout of the Site. Additionally, we and our Service Providers may use your information for risk management purposes and may use, store and disclose your information acquired in connection with this Agreement as permitted by law, including (without limitation) any use to effect, administer or enforce a transaction or to protect against or prevent actual or potential fraud, unauthorized transactions, claims or other liability. We and our Service Providers shall have the right to retain such data even after termination or expiration of this Agreement for risk management, regulatory compliance, or audit reasons, and as permitted by applicable law for everyday business purposes. In addition, we and our Service Providers may use, store and disclose such information acquired in connection with the Service in statistical form for pattern recognition, modeling, enhancement and improvement, system analysis and to analyze the performance of the Service. The following provisions in this Section apply to certain Services:

1) Mobile Subscriber Information

You authorize your wireless carrier to disclose information about your account, such as subscriber status, payment method and device details, if available, to support identity verification, fraud avoidance and other uses in support of transactions for the duration of your business relationship with us. This information may also be shared with other companies to support your transactions with us and for identity verification and fraud avoidance purposes.

2) Device Data

We may share certain personal information and device-identifying technical data about you and your devices with third party service providers, who will compare and add device data and fraud data from and about you to a database of similar device and fraud information in order to provide fraud management and prevention services, which include, but are not limited to, identifying and blocking access to the applicable service or Web site by devices associated with fraudulent or abusive activity. Such information may be used by us and our third-party Service Providers to provide similar fraud management and prevention services for services or Web sites not provided by us. We will not share with Service Providers any information that personally identifies the user of the applicable device.

3) Fees

You are responsible for paying all fees associated with your use of the Service. Applicable fees will be disclosed in the user interface for, or elsewhere within, the Service or Site. Any applicable fees will be charged regardless of whether the Service was used, except for fees that are specifically use-based. Use-based fees for the Service will be charged against the Account that is debited for the funds transfer. There may also be charges for additional transactions and

other optional services. Any fees otherwise associated with your Accounts will continue to apply.

If applicable, you authorize us to charge you Online/Mobile Banking fees identified in our current fee schedule disclosed with the Account Agreement, the Loan Agreement, or in the Fee Schedule, which may be amended by us from time to time. All such fees will be charged to your Billing Account, which you will designate through the Service.

You are responsible for any and all telephone access fees and Internet service fees that may be assessed by your telephone and Internet service provider.

g. Termination of Access

We may terminate the use of your Debit Card and Preauthorized Transfers at any time by sending you notice to the last address shown in our records. You will still have the same rights and responsibilities for transactions initiated before the termination.

5. Account Management Services

a. Accessing Your Electronic Documents

You will access your electronic documents within the Service. For accounts with multiple owners, only one account owner needs to enroll the account in the Service. However, each account owner must view and consent to the terms of use in order to view the account document online.

When you enroll for Online documents, Gate City Bank will no longer mail paper documents to you. It is your sole responsibility to protect your password from unauthorized persons. You agree that it is your responsibility to ensure that the electronic documents cannot be intercepted or viewed by others. The Bank will not be liable for any access you authorized to your electronic device or your passwords.

You must promptly access/review your documents and any accompanying items and notify us in writing within the applicable time period specified in your Business Deposit Account Agreement of any error, unauthorized signature, lack of signature, alteration or other irregularity. If you allow someone else to access/review your statement, you are still fully responsible to access/review the statement for any errors. Any applicable time periods within which you must notify us of any errors in your account statement shall begin on the email date regardless of when you receive and/or open the statement.

b. Card Manager

The Service may allow you to initiate certain payment card related activities for your enrolled Gate City Bank card(s) through a card management feature. Those activities may include, but are not limited to, the ability to:

- Activate and deactivate the card;
- Set Controls and Alerts;
- View transaction history including cleansed and enriched merchant information (e.g., merchant name, address, and contact information);

- Report your card as lost or stolen;
- Review your spending by merchant type and/or by month; and/or
- View a list of merchants storing your card information for recurring or card-on-file payments.

The card management feature may enable access to Gate City Bank and third parties' services and web sites, including GPS locator websites, such as Google. Use of such services may require internet access and you accept additional terms and conditions applicable thereto. To the extent the card management feature allows you to access third party services, Gate City Bank and those third parties, as applicable, reserve the right to change, suspend, remove, limit, or disable access to any of those services at any time without notice and without liability to you.

You acknowledge that the actual time between the occurrence of an event triggering a selected Control or Alert and the time the notification of such an event is sent to your mobile device is dependent on a number of factors including, without limitation, your wireless service and coverage within the area in which you are located at that time. You acknowledge that notifications of events may be delayed, experience delivery failures, or face other transmission problems. Similarly, selection of Controls and Alerts is likewise affected by the same or similar factors, and problems could arise with use of Controls or Alerts. Notifications of events, controls, and alerts may not be available to be sent to your mobile device in all areas.

If you registered to receive notifications to your mobile device, the card management feature is available when you have your mobile device within the operating range of a wireless carrier with an appropriate signal for data services. The card management feature is subject to transmission limitations and service interruptions. Gate City Bank does not guarantee that the card management feature (or any portion thereof) will be available at all times or in all areas.

c. Risk Management Services

We may offer risk management services designed to allow you to reduce the risk of loss that could result from the payment of checks and ACH transfers not authorized by you or checks that are lost, stolen or altered after issuance. These risk management services are generally optional. However, we may condition your access to other services or to maintain accounts with us on your use of the risk management services in the event one or more of your accounts with us experience a high degree of check fraud claims or unauthorized transactions. Risk management services available through the Service may include Positive Pay Service and ACH Verification Service. If you are given access to risk management services through the Service, such features will be governed by the terms of Section 11 of the Treasury Management Services Agreement.

6. Mobile Deposit Service

a. Mobile Remote Deposit Feature

Mobile Deposit is designed to allow you to make deposits of checks to your accounts from home or other remote locations by taking a picture of the Original Checks and delivering the digital images and

associated deposit information to us with your supportable Device and any related Software provided by us. After you log in to the Service, you may apply for Mobile Deposit.

Mobile Deposit is offered as a convenience and supplemental service. Mobile Deposit is not intended to replace access to the Service from your personal computer or other methods you use for managing your Accounts and services with us.

b. Operation

You agree to accept responsibility for learning how to use Mobile Deposit in accordance with any instructions provided and agree that you will contact us directly if you have any problems with Mobile Deposit. In the event of any modifications, you are responsible for making sure you understand how to use Mobile Deposit as modified. You also accept responsibility for making sure that you know how to properly use your Device, and we will not be liable to you for any losses caused by your failure to properly use Mobile Deposit or your Device.

We reserve the right to limit the types and number of accounts eligible and the right to refuse to make any transaction you request through Mobile Deposit. We, in our sole discretion, may also modify the scope of Mobile Deposit at any time without prior notice to you, except as may be required by law. Mobile Deposit may not be accessible or may have limited utility over some network carriers. In addition, Mobile Deposit may not be supportable for all Devices. We cannot guarantee and are not responsible for the availability of data services provided by your mobile carrier, such as data outages or “out of range” issues. You represent that you are an authorized user of the Device you will use to access Mobile Deposit.

c. Limits

We will establish limits on the dollar amount and/or number of items or deposits from time to time. If you attempt to initiate a deposit in excess of these limits, we may reject your deposit. If we permit you to make a deposit in excess of these limits, such deposit will still be subject to the terms of this Agreement, and we will not be obligated to allow such a deposit at other times.

d. Eligible Items

You agree to submit and deposit only checks (i.e., drafts drawn on a credit union, savings and loan or bank and payable on demand). You agree that you will not use Mobile Deposit to deposit:

- Checks payable to any person or entity other than you (i.e., payable to another party and then endorsed to you).
- Checks payable to you and another party who is not a joint owner on the account.
- Checks that contain evidence of alteration, or that you know or suspect, or should know or suspect, are fraudulent or otherwise not authorized by the owner of the account on which the check is drawn.
- Requirements: Each Image must provide all information on the front and back of the original check at the time presented to you by the drawer, including, but not limited to, information about the drawer and the paying bank that is preprinted on the original check, MICR information, signature(s),

any required identification written on the front of the original check and any endorsements applied to the back of the original check. The Image quality must meet the standards established by the American National Standards Institute, the Board of Governors of the Federal Reserve, and any other regulatory agency, clearing house or association. Endorsements must be made on the back of the share draft or check within 1½ inches from the top edge, although we may accept endorsements outside this space. Your endorsement must include your signature and “mobile deposit only”. Any loss we incur from a delay or processing error resulting from an irregular endorsement or other markings by you will be your responsibility.

A check payable to two payees must be endorsed by both payees. If the check is payable to you or your joint owner, either of you can endorse it. If the check is made payable to you and your joint owner, both of you must endorse the check, and you agree to obtain such endorsements prior to submitting the Original Check through Mobile Deposit.

e. Receipt of Deposit

All Images processed for deposit through Mobile Deposit will be treated as “Deposits” under your current Account Agreement with us and will be subject to all terms of the Account Agreement. When we receive an Image, we will confirm its receipt via email to you. We shall not be deemed to have received the Image for deposit until we have confirmed receipt to you. Confirmation does not mean that the Image contains no errors.

We are not responsible for such errors or any Image that we do not receive. Following receipt, we may process the Image by preparing a “substitute check” or clearing the item as an Image.

We reserve the right, at our sole and absolute discretion, to reject any Image for remote deposit into your account and shall have no liability for such rejection. We will notify you of rejected Images. We are not liable for any Images that we do not receive or for any Images that are dropped during transmission. We are not liable for any alterations made to Images after they are transmitted by you to us. Returned or rejected checks will be charged to the account to which they were originally deposited. The returned check or corresponding Image will be delivered to you after being charged to the deposit account unless the account balance is drawn negative. If the account balance is negative, the check or corresponding Image will be retained by us until the account balance is positive, after which it will be returned to you. We reserve the right to redeposit dishonored checks and attempt collection again.

f. Original Checks

You agree to keep confidential all account and other personal information obtained from Original Checks processed through Mobile Deposit. After you receive confirmation that we have received an Image, you must securely store the original check for ten (10) calendar days after transmission to us and make the Original Check accessible to us at our request. Upon our request from time to time, you will deliver to us within ten (10) calendar days, at your expense, the requested Original Check in your possession. If not provided in a timely manner, such an amount will be reversed from your account. Promptly after such period expires, you must destroy the Original Check by first marking it “VOID” and then destroying it by cross-cut shredding or another commercially acceptable means of destruction.

After destruction of an Original Check, the Image will be the sole evidence of the Original Check. You agree that you will never re-present the Original Check. You understand that you are responsible if anyone is asked to make a payment based on an Original Check that has already been paid.

g. Returned Deposits

Any credit to your account for checks deposited using Mobile Deposit is provisional. If Original Checks deposited through Mobile Deposit are dishonored, rejected or otherwise returned unpaid by the drawee bank, or are rejected or returned by a clearing agent or collecting bank, for any reason, including, but not limited to, issues relating to the quality of the Image, you agree that an Original Check will not be returned to you, but that we may charge back the amount of the Original Check and provide you with an Image of the Original Check, a paper reproduction of the Original Check or a substitute check. You will reimburse us for all loss, cost, damage or expense caused by or relating to the processing of the returned item. Without our approval, you shall not attempt to deposit or otherwise negotiate an Original Check if it has been charged back to you.

We may debit any of your accounts with us to obtain payment for any item that has been rejected or returned, for any adjustment related to such item or for any warranty claim related to such item, whether or not the rejection, return, adjustment or warranty claim was made timely.

h. Your Warranties

You make the following warranties and representations with respect to each Image:

- Each Image is a true and accurate rendition of the front and back of the Original Check, without any alteration, and the drawer of the check has no defense against payment of the check.
- The amount, payee(s), signature(s), and endorsement(s) on the Image and on the Original Check are legible, genuine, and accurate.
- You will not deposit or otherwise endorse to a third party the Original Check and no person will receive a transfer, presentment, or return of, or otherwise be charged for, the Original Check or a paper or electronic representation of the Original Check such that the person will be asked to make payment based on an item that has already been paid.
- There are no other duplicate Images of the Original Check.
- The Original Check was authorized by the drawer in the amount stated on the Original Check and to the payee(s) stated on the Original Check.
- You are authorized to enforce and obtain payment of the Original Check.
- You have possession of the Original Check, and no party will submit the Original Check for payment.

Additionally, with respect to each Image, you make to us all representations and warranties that we make or are deemed to make to any party pursuant to law, regulation or clearinghouse rule. You agree that files and Images transmitted to us will contain no viruses or any other disabling features that may have an adverse impact on our network, data, or related systems.

i. Compliance with Law

You will use Mobile Deposit for lawful purposes and in compliance with all applicable laws, rules and regulations. You warrant that you will only transmit acceptable items for deposit and have handled the original items in accordance with applicable laws, rules and regulations.

j. Funds Availability

For purposes of funds availability, Mobile Deposits are considered deposited at a branch. Mobile Deposits confirmed as received before the close of business on a business day will be credited to your account within twenty-four (24) hours of receipt. Deposits confirmed received after close of business, and deposits confirmed received on holidays or days that are not business days will be credited to your account within twenty-four (24) hours of the following business day. Funds will be available as described in our Funds Availability Disclosure.

k. Your Responsibilities

You agree that you will maintain with us at least one demand deposit or checking account (the "Account(s)") for the purpose of providing available funds and for deposit of received funds in connection with the use of Mobile Deposit. You agree to maintain sufficient available funds in the Account(s) to cover all returned and rejected items and any fees you are obligated to pay hereunder. If at any time there are not sufficient collected funds in the Account(s) to cover your payment obligations hereunder, you agree to immediately pay us, on demand, the amount of any deficiency and we may, without prior notice or demand, obtain payment from you for any of your obligations hereunder by debiting any of your accounts with us. You are solely responsible for the quality, completeness, accuracy, validity and integrity of the Image.

You are solely responsible if you, intentionally or unintentionally, submit fraudulent, incorrect or illegible Images to us or if Mobile Deposit is used, by authorized or unauthorized persons, to submit fraudulent, unauthorized, inaccurate, incorrect or otherwise improper or unusable Images to us.

If you believe or suspect that any Original Checks or related information is known or may be accessed by unauthorized persons, or that any unauthorized person has transmitted or attempted to transmit one or more checks, you agree to notify us immediately, followed by written confirmation within twenty-four (24) hours. Unauthorized transactions will not affect the validity of transactions made in good faith by us prior to receipt of such written notification and we shall not be liable for any such transactions. You acknowledge that the security procedures are for verification of authenticity and not to detect errors. No security procedure for the detection of any such error has been agreed upon between us and you; such errors are the sole responsibility of you. See Accountholder's Indemnification Obligation.

7. Transaction and Payment Services

a. Electronic Funds Transfer Provisions

The terms of any Electronic Funds Transfers that you initiate through the Service are governed by the provisions of Section 4(f) of your Deposit Account Agreement.

b. Prohibited Payments

The following types of payments are prohibited through the Service, and we have the right but not the obligation to monitor for, block, cancel and/or reverse such payments:

- Payments to or from persons or entities located in prohibited territories (including any territory outside of the United States);
- Payments that violate any law, statute, ordinance or regulation;
- Payments that violate the Acceptable Use terms in Section 4(b) above;
- Payments related to: (i) tobacco products, (ii) prescription drugs and devices; (iii) narcotics, steroids, controlled substances or other products that present a risk to consumer safety; (iv) drug paraphernalia; (v) ammunition, firearms, or firearm parts or related accessories; (vi) weapons or knives regulated under applicable law; (vii) goods or services that encourage, promote, facilitate or instruct others to engage in illegal activity; (viii) goods or services that are sexually oriented; (ix) goods or services that promote hate, violence, racial intolerance, or the financial exploitation of a crime; (x) goods or services that defame, abuse, harass or threaten others; (xi) goods or services that include any language or images that are bigoted, hateful, racially offensive, vulgar, obscene, indecent or discourteous; (xii) goods or services that advertise, sell to, or solicit others; or (xiii) goods or services that infringe or violate any copyright, trademark, right of publicity or privacy, or any other proprietary right under the laws of any jurisdiction;
- Payments related to gambling, gaming and/or any other activity with an entry fee and a prize, including, but not limited to, casino games, sports betting, horse or dog racing, lottery tickets, other ventures that facilitate gambling, games of skill (whether or not it is legally defined as a lottery) and sweepstakes; and
- Payments relating to transactions that (i) support pyramid or Ponzi schemes, matrix programs, other “get rich quick” schemes or multi-level marketing programs, (ii) are associated with purchases of real property, annuities or lottery contracts, lay-away systems, off-shore banking or transactions to finance or refinance debts funded by a credit card, (iii) are for the sale of items before the seller has control or possession of the item, (iv) constitute money-laundering or terrorist financing, (v) are associated with the following “money service business” activities: the sale of traveler's checks or money orders, currency dealers or exchanges, or check cashing, (vi) provide credit repair or debt settlement services; and (vii) tax payments and court ordered payments.

Except as required by applicable law, in no event shall we or our Service Providers be liable for any claims or damages resulting from your scheduling of prohibited payments. We encourage you to provide notice to us by the methods described in Section 3 above of any violations of the Agreement.

c. Internal Account Transfers

You may be provided the ability to use the Service to request internal transfers of funds from any Account in an amount up to the available balance in that account to any other Account. The terms of this transfer feature are defined in the Gate City Bank Treasury Management Services Agreement.

d. Account to Account Transfer Service

i. Description of Service, Authorization and Processing

The Account to Account Transfer Service enables you to transfer funds between your Account(s) that you maintain with us on the one hand, and your External Account(s), on the other hand. You represent and warrant that you are either the sole owner or a joint owner of the Account and the External Account and that you have all necessary legal rights, power and authority to transfer funds between the Account and the External Account. If you are a joint owner of the Account, External Account, or both, then you represent and warrant that (i) you have been authorized by all of the other joint owners to operate such Accounts without their consent (including without limitation to withdraw or deposit any amount of funds to such Accounts or to even withdraw all funds from such Accounts); and (ii) we may act on your instructions regarding such Accounts without liability to such other joint owners. Further, you represent and warrant that the External Account is located in the United States.

When you initiate a transfer of funds through the Service, you authorize us to: (i) debit your Account and remit funds on your behalf to the External Account designated by you and to debit your applicable Account as described below; or, as applicable, to (ii) credit your Account and remit funds on your behalf from the External Account designated by you and to debit your applicable Account as described below. You also authorize us to reverse a transfer from the applicable Account or External Account if a debit is returned for any reason, including but not limited to nonsufficient funds.

We will make reasonable efforts to make all your transfers properly. However, we shall incur no liability if we are unable to complete any transfers initiated by you because of the existence of anyone or more of the following circumstances:

- If, through no fault of ours, the Account or External Account does not contain sufficient funds to complete the transfer, or the transfer would exceed the credit limit of your overdraft account;
- The Service is not working properly, and you know or have been advised by us about the malfunction before you execute the transaction;
- The transfer is refused as described below;
 - You have not provided us with the correct information, including but not limited to the correct Account or External Account information; and/or,
 - Circumstances beyond our control (such as, but not limited to, fire, flood, network or system down time, issues with the financial institution(s), or interference from an outside force) prevent the proper execution of the transfer and we have taken reasonable precautions to avoid those circumstances.

It is your responsibility to ensure the accuracy of any information that you enter into the Service, and to inform us as soon as possible if you become aware that this information is inaccurate. You may not use a P.O. Box as a postal address. We will make a reasonable effort to stop or recover a transfer made to the wrong Account once informed, but we do not guarantee such recovery and

will bear no responsibility or liability for damages resulting from incorrect information entered by you.

ii. Transfer Methods and Amounts

We may make various transfer methods available to you via the EFT Service. The limits on any transfers that appear in your Deposit Account Agreement apply to all transfers that you make through the EFT Service. In addition, we may impose different or supplemental limits on your ability to use the EFT Service to make any transfers; such different or supplemental limits relate only to your use of the EFT Service and not your use of your Account overall.

iii. Transfer Cancellation Requests and Refused Transfers

You may cancel a transfer at any time until it begins processing (as shown in the EFT Service). We will, to the extent permitted by law, make reasonable attempts to return any unclaimed, refused, refunded, prohibited, or denied transfer to your Account that we debited for the funds transfer. If this is unsuccessful (for example, the Account has been closed) we will make reasonable attempts to otherwise return the funds to you.

iv. Stop Payment Requests

If you desire to stop any transfer that has already been processed, you must contact customer care for the Service. Although we will make a reasonable effort to accommodate your request, we will have no liability for failing to do so. We may also require you to present your request in writing within fourteen (14) days. The charge for each request will be the current charge for such service as set out in the applicable fee schedule.

v. Refused Transfers

We reserve the right to refuse any transfer. As required by applicable law, we will notify you promptly if we decide to refuse to transfer funds.

vi. Returned Transfers

In using the EFT Service, you understand transfers may be returned for various reasons such as, but not limited to, the External Account number is not valid. We will make reasonable efforts to research and correct the transfer to the intended Account or void the transfer and credit your Account from which you attempted to transfer funds. You may receive notification from us.

e. Wires

You may be offered the ability to initiate wire transfers through the Service. Any wire transfers made available to you through the Service will be limited to U.S. Dollar transactions. If you are given this ability, the provisions of your initiation of wire transfers through the Service will be governed by the terms of Section 8(e) of the Treasury Management Services Agreement.

f. Failed or Returned Payment Instructions

In using the Service, you are requesting that we or our Service Provider attempt to make payments for you from your Account. If the Payment Instruction cannot be completed for any reason associated with your Account (for example, there are insufficient funds in your Account, or the Payment Instruction would exceed the credit or overdraft protection limit of your Account, to cover the payment), the Payment Instruction may or may not be completed. In certain circumstances, our Service Provider may either advance funds drawn on their corporate account or via an electronic debit, and in such circumstances will attempt to debit the Account a second time to complete the Payment Instruction. In some instances, you will receive a return notice from us or our Service Provider. In each such case, you agree that:

- You will reimburse our Service Provider immediately upon demand the amount of the Payment Instruction if the payment has been delivered but there are insufficient funds in, or insufficient overdraft credits associated with, your Account to allow the debit processing to be completed;
- You may be assessed a late fee equal to one-and-a-half percent (1.5%) of any unpaid amounts plus costs of collection by our Service Provider or their third-party contractor if the Payment Instruction cannot be debited because you have insufficient funds in your Account, or the transaction would exceed the credit or overdraft protection limit of your Account, to cover the payment, or if the funds cannot otherwise be collected from you. The aforesaid amounts will be charged in addition to any NSF charges that may be assessed by us, as set forth in your fee schedule from us (including as disclosed on the Site) or your account agreement with us. You hereby authorize us and our Service Provider to deduct all these amounts from your designated Account, including by ACH debit; and
- Service Provider is authorized to report the facts concerning the return to any credit reporting agency.

8. Bill Pay Service

a. Description of Service

Bill Pay service enables you to receive, view, and pay bills from the Site.

b. Payment Scheduling

The earliest possible Scheduled Payment Date for each Biller will be designated within the portion of the Site through which the Bill Pay is offered when you are scheduling the payment. Therefore, the Bill Pay will not permit you to select a Scheduled Payment Date less than the earliest possible Scheduled Payment Date designated for each Biller. When scheduling payments, you must select a Scheduled Payment Date that is no later than the actual Due Date reflected on your Biller statement unless the Due Date falls on a non-Business Day. If the actual Due Date falls on a non-Business Day, you must select a Scheduled Payment Date that is at least one (1) Business Day before the actual Due Date. Scheduled Payment Dates must be prior to any late date or grace period. Depending on the method of payment, your Account may be debited prior to the Scheduled Payment Date. For example, if the selected method of payment is a draft check drawn on your account, the draft check arrives earlier than the Scheduled Payment Date due to expedited delivery by the postal service, and the Biller immediately deposits the draft check, your Account may be debited earlier than the Scheduled Payment Date.

c. Bill Pay Guarantee

Due to circumstances beyond the control of Bill Pay, particularly delays in handling and posting payments by Billers or financial institutions, some transactions may take longer to be credited to your account. Bill Pay will bear responsibility for any late payment related charges up to \$50.00 should a payment post after its Due Date so long as the payment was scheduled in accordance with the Payment Scheduling provisions of this Agreement.

d. Payment Authorization and Payment Remittance

By providing Bill Pay with names and account information of Billers to whom you wish to direct payments, you authorize Bill Pay to follow the Payment Instructions that it receives through the Site. In order to process payments more efficiently and effectively, Bill Pay may edit or alter payment data or data formats in accordance with Biller directives.

When Bill Pay receives a Payment Instruction, you authorize Bill Pay to debit your Account and remit funds on your behalf so that the funds arrive as close as reasonably possible to the Scheduled Payment Date designated by you. You also authorize Bill Pay to credit your Account for payments returned to Bill Pay by the United States Postal Service or Biller, or payments remitted to you on behalf of another authorized user of the Bill Pay service.

Bill Pay will attempt to make all your payments properly. However, we shall incur no liability, and any Bill Pay Guarantee (as described above) shall be void if we are unable to complete any payments initiated by you because of the existence of one or more of the following circumstances:

- If, through no fault of ours, your Account does not contain sufficient funds to complete the transaction or the transaction would exceed the credit limit of your overdraft account;
- The payment processing center is not working properly and you know or have been advised by us about the malfunction before you execute the transaction;
- You have not provided us with the correct Account information, or the correct name, address, phone number, or account information for the Biller; and/or
- Circumstances beyond our control (such as, but not limited to, fire, flood, or interference from an outside force) prevent the proper execution of the transaction and we have taken reasonable precautions to avoid those circumstances.

Provided none of the foregoing exceptions are applicable, if we cause an incorrect amount of funds to be removed from your Account or causes funds from your Account to be directed to a Biller which does not comply with your Payment Instructions, we shall be responsible for returning the improperly transferred funds to your Account, and for directing to the proper Biller any previously misdirected transactions, and, if applicable, for any late payment related charges.

e. Payment Cancellation Requests

You may cancel or edit any Scheduled Payment (including recurring payments) by following the directions within Bill Pay. There is no charge for canceling or editing a Scheduled Payment. Once we

have begun processing a payment it cannot be cancelled or edited; therefore, a stop payment request must be submitted.

f. Stop Payment Requests

Our ability to process a stop payment request will depend on the payment method and whether or not a check has cleared. We may also not have a reasonable opportunity to act on any stop payment request after a payment has been processed. If you want to stop any payment that has already been processed, you must contact us as directed through Bill Pay. Although we will attempt to accommodate your request, we will have no liability for failing to do so. We may also require you to present your request in writing within fourteen (14) days. The charge for each stop payment request will be disclosed to you in the fee schedules applicable to your Account or via Bill Pay.

g. Exception Payments Requests

Exception Payments may be scheduled through Bill Pay; however, Exception Payments are discouraged and must be scheduled at your own risk. Except as required by applicable law, in no event shall we be liable for any claims or damages resulting from your scheduling of Exception Payments. The Bill Pay Guarantee does not apply to Exception Payments.

h. Bill Delivery and Presentment

Bill Pay includes a feature that electronically presents you with electronic bills from select Billers. Electronic bills may not be available from all of your Billers. Electronic bills are provided as a convenience only, and you remain solely responsible for contacting your Billers directly if you do not receive their statements. In addition, if you elect to activate one of Bill Pay's electronic bill options, you also agree to the following:

i. Presentation of Electronic Bills

You will receive electronic bills from a Biller only if both:

- You have designated it in Bill Pay as one of your Billers, and
- The Biller has arranged with our Service Provider to deliver electronic bills. Bill Pay may then present you with electronic bills from that Biller if either: (i) you affirmatively elect online within Bill Pay to receive electronic bills from the Biller, or (ii) the Biller chooses to send you electronic bills on a temporary "trial basis." In either case, you can elect online within Bill Pay to stop receiving electronic bills from a Biller. Electing to receive electronic bills, automatically receiving trial electronic bills, and declining further elected or trial electronic bills all occur on an individual Biller basis. Bill Pay does not include an option to prevent ever participating in the automatic trial electronic bill feature. When affirmatively electing to receive electronic bills from a particular Biller, you may be presented with terms from that Biller for your acceptance. We are not a party to such terms.

ii. Paper Copies of Electronic Bills

If you start receiving electronic bills from a Biller, the Biller may stop sending you paper or other statements. The ability to receive a paper copy of your statement(s) is at the sole discretion of the

Biller. Check with the individual Biller regarding your ability to obtain paper copies of electronic bills on a regular or as-requested basis.

iii. Sharing Information with Billers

You authorize us to share identifying personal information about you (such as name, address, telephone number, Biller account number) with companies that you have identified as your Billers and which we have identified as offering electronic bills for purposes of matching your identity on the Bill Pay's records and the Biller's records to: (a) activate your affirmative request for electronic bills, and/or (b) confirm your eligibility for "trial basis" electronic bills.

iv. Information Held By the Biller

We are unable to update or change your personal information such as, but not limited to, name, address, phone numbers and email addresses, that is held by the Biller. Any changes will require you to contact the Biller directly. Additionally, it is your responsibility to maintain all usernames and passwords for all electronic Biller sites. You also agree not to use someone else's information to gain unauthorized access to another person's bill. We may, at the request of the Biller, provide to the Biller your email address, service address, or other data specifically requested by the Biller for purposes of the Biller matching your identity against its records or informing you about the Biller's services and/or bill information.

v. Activation

We will notify the Biller of your request to receive electronic billing information. The presentment of your first electronic bill may vary from Biller to Biller and may take up to sixty (60) days, depending on the billing cycle of each Biller. While your electronic bill feature is being activated it is your responsibility to keep your accounts current. Each electronic Biller reserves the right to accept or deny your request to receive electronic bills.

vi. Authorization To Obtain Bill Data

You authorize us to obtain bill data from your Billers that you have requested to send you electronic bills, and from your Billers that wish to send you trial electronic bills. For some Billers, you will be asked to provide us with your username and password for that Biller. By providing us with such information, you authorize us to use the information to obtain your bill data.

vii. Notification

We will attempt to present all of your electronic bills promptly. In addition to notification within Bill Pay, we may send an e-mail notification to the e-mail address listed for your account. It is your sole responsibility to ensure that this information is accurate. In the event you do not receive notification, it is your responsibility to periodically log on to Bill Pay and check on the delivery of new electronic bills. The time for notification may vary from Biller to Biller. You are responsible for ensuring timely payment of all bills.

viii. Cancellation of Electronic Bill Notification

The electronic Biller reserves the right to cancel the presentment of electronic bills at any time. You may cancel the electronic bill presentment at any time. The timeframe for cancellation of your electronic bill presentment may vary from Biller to Biller. It may take up to sixty (60) days, depending on the billing cycle of each Biller. We will notify your electronic Biller(s) as to the change in status of your account and it is your sole responsibility to arrange an alternative form of bill delivery. We will not be responsible for presenting any electronic bills that are already in process at the time of cancellation.

ix. Non-Delivery of Electronic Bill(s)

You agree to hold us harmless should the Biller fail to deliver your statement(s). You are responsible for ensuring timely payment of all bills. Copies of previously delivered bills must be requested from the Biller directly.

x. Accuracy and Dispute Of Electronic Bill(s)

We are not responsible for the accuracy of your electronic bill(s). We are only responsible for presenting the information we receive from the Biller. Any discrepancies or disputes regarding the accuracy of your electronic bill summary or detail must be directly addressed and resolved with the Biller by you. This Agreement does not alter your liability or obligations that currently exist between you and your Billers.

xi. Disclosure of Account Information to Third Parties

It is our general policy to treat your account information as confidential. However, we will disclose information to third parties about your account or the transactions you make in the following situations pursuant to our Privacy Policy:

- Where it is necessary for completing transactions;
- Where it is necessary for activating additional services;
- In order to verify the existence and condition of your account to a third party, such as a credit bureau or Biller;
- To a consumer reporting agency for research purposes only;
- In order to comply with a governmental agency or court orders; or
- If you give us your written permission.

xii. Biller Limitation

Bill Pay reserves the right to refuse to pay any Biller to whom you may direct a payment. As required by applicable law, Bill Pay will notify you promptly if it decides to refuse to pay a Biller designated by you.

xiii. Returned Payments

In using Bill Pay, you understand that Billers and/or the United States Postal Service may return payments to Bill Pay for various reasons such as, but not limited to, Biller's forwarding address expired; Biller account number is not valid; Biller is unable to locate account; or Biller account is

paid in full. Bill Pay will attempt to research and correct the returned payment and return it to your Biller or void the payment and credit your Account. You may receive notification from Bill Pay.

xiv. Bill Capture

We may make Bill Capture available to you through Bill Pay. If Bill Capture is available to you, the following terms apply to your use of it.

Your use of Bill Pay may include the ability to add Bill Pay payees through Bill Capture. Once you take the picture, Bill Capture extracts and prefills Biller information such as the name, address and account number of the Biller into our mobile banking app for use with Bill Pay or matches the bill to an existing Biller and prefills the amount due and due date. Bill Capture is subject to the following terms:

- You shall use Bill Capture only for your own use in accordance with the terms of this Agreement;
- We do not guarantee that your mobile device will be compatible with Bill Capture; and
- You bear sole responsibility for confirming that the information captured by Bill Capture matches the information on the applicable bill pay stub, and in no event will we be liable for any results from your use of extracted data from Bill Capture with the Services, including, without limitation, any late fees for payments sent to an improper Biller or improper account.

xv. Bill Discovery

We may make Bill Discovery available to you through Bill Pay. If Bill Discovery is available to you, the following terms apply to your use of it:

1) Bill Discovery Overview

Bill Discovery enables the automatic searching, identification, and retrieval of information about your Billers and bills based on matching information about your identity. In order to enable Bill Discovery, you will need to authorize Bill Pay to access and use information from your consumer report from a credit bureau and/or our Biller network in order for Bill Discovery to identify potential matches. By providing your consent within the Bill Discovery portion of the Site, you authorize Bill Pay to access and use such information until you withdraw your consent. You may withdraw your consent within the Bill Discovery portion of the Site at any time. If Bill Discovery has identified Biller matches, Bill Pay will allow you to add these Billers to your user profile. New Billers added through Bill Discovery are subject to the other provisions of this Agreement related to Bill Delivery and Presentment.

2) Bill Discovery Payment Methods

Certain Bill Pay payments may be processed using a prepaid, single-use virtual card. Single-use cards provide a fast and secure way for your payment to be delivered. Please note in the event your payment is processed using a virtual card, you will not recognize the payment method and/or card numbers on any payment confirmation communication you may receive from your Biller.

9. Liability

a. Release

You release us and our Affiliates and Service Providers and the employees and contractors of each of these, from any and all claims, demands and damages (actual and consequential) of every kind and nature arising out of or in any way connected with any dispute that may arise between you or one or more other users of the Site or the applicable Service. In addition, if applicable to you, you waive California Civil Code §1542, which states that a general release does not extend to claims which the creditor does not know or suspects to exist in his favor at the time of executing the release, which if not known by him must have materially affected his settlement with the debtor.

b. Limitation of Liability

THE FOREGOING SHALL CONSTITUTE YOUR EXCLUSIVE REMEDIES AND THE ENTIRE LIABILITY OF US AND OUR AFFILIATES AND SERVICE PROVIDERS AND THE EMPLOYEES AND CONTRACTORS OF EACH OF THESE, FOR THE SERVICE AND THE PORTION OF THE SITE THROUGH WHICH THE SERVICE IS OFFERED. YOU ACKNOWLEDGE AND AGREE THAT FROM TIME TO TIME, THE SERVICE MAY BE DELAYED, INTERRUPTED OR DISRUPTED PERIODICALLY FOR AN INDETERMINATE AMOUNT OF TIME DUE TO CIRCUMSTANCES BEYOND OUR REASONABLE CONTROL, INCLUDING BUT NOT LIMITED TO ANY INTERRUPTION, DISRUPTION OR FAILURE IN THE PROVISION OF THE SERVICE, WHETHER CAUSED BY STRIKES, POWER FAILURES, EQUIPMENT MALFUNCTIONS, INTERNET DISRUPTION OR OTHER REASONS. IN NO EVENT SHALL WE OR OUR AFFILIATES OR SERVICE PROVIDERS OR THE EMPLOYEES OR CONTRACTORS OF ANY OF THESE, BE LIABLE FOR ANY CLAIM ARISING FROM OR RELATED TO THE SERVICE CAUSED BY OR ARISING OUT OF ANY SUCH DELAY, INTERRUPTION, DISRUPTION OR SIMILAR FAILURE. IN NO EVENT SHALL WE OR OUR AFFILIATES OR SERVICE PROVIDERS OR THE EMPLOYEES OR CONTRACTORS OF ANY OF THESE, BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING LOSS OF GOODWILL OR LOST PROFITS (EVEN IF ADVISED OF THE POSSIBILITY THEREOF) ARISING IN ANY WAY OUT OF THE INSTALLATION, USE, OR MAINTENANCE OF THE SERVICE OR THE PORTION OF THE SITE THROUGH WHICH THE SERVICE IS OFFERED, EVEN IF SUCH DAMAGES WERE REASONABLY FORESEEABLE AND NOTICE WAS GIVEN REGARDING THEM. IN NO EVENT SHALL WE OR OUR AFFILIATES OR SERVICE PROVIDERS OR THE EMPLOYEES OR CONTRACTORS OF ANY OF THESE BE LIABLE FOR ANY CLAIM ARISING FROM OR RELATED TO THE SERVICE OR THE PORTION OF THE SITE THROUGH WHICH THE SERVICE IS OFFERED THAT YOU DO NOT STATE IN WRITING IN A COMPLAINT FILED IN A COURT OR ARBITRATION PROCEEDING AS DESCRIBED IN SECTIONS 13 BELOW WITHIN TWO (2) YEARS OF THE DATE THAT THE EVENT GIVING RISE TO THE CLAIM OCCURRED. THESE LIMITATIONS WILL APPLY TO ALL CAUSES OF ACTION, WHETHER ARISING FROM BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY. OUR AGGREGATE LIABILITY, AND THE AGGREGATE LIABILITY OF OUR AFFILIATES AND SERVICE PROVIDERS AND THE EMPLOYEES AND CONTRACTORS OF EACH OF THESE, TO YOU AND ANY THIRD PARTY FOR ANY AND ALL CLAIMS OR OBLIGATIONS RELATING TO THIS AGREEMENT SHALL BE LIMITED TO DIRECT OUT OF POCKET DAMAGES UP TO A MAXIMUM OF \$500 (FIVE HUNDRED DOLLARS). SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF

INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

10. Disclaimer of Warranties

DISCLAIMER OF WARRANTIES. YOU AGREE THAT YOUR USE OF ANY REMOTE BANKING SERVICE AND ALL INFORMATION AND CONTENT (INCLUDING THAT OF THIRD PARTIES) IS AT YOUR RISK AND IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. WE DISCLAIM ALL WARRANTIES OF ANY KIND AS TO THE USE OF ANY REMOTE BANKING SERVICE, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. WE MAKE NO WARRANTY THAT ANY REMOTE BANKING SERVICE WILL MEET YOUR REQUIREMENTS OR WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE. WE MAKE NO WARRANTY THAT THE RESULTS THAT MAY BE OBTAINED WILL BE ACCURATE OR RELIABLE OR THAT ANY ERRORS IN ANY REMOTE BANKING SERVICE OR TECHNOLOGY WILL BE CORRECTED. LIMITATION OF LIABILITY. YOU AGREE THAT WE WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER LOSSES INCURRED BY YOU OR ANY THIRD PARTY ARISING FROM OR RELATED TO THE USE OF, INABILITY TO USE, OR THE TERMINATION OF THE USE OF ANY REMOTE BANKING SERVICE, REGARDLESS OF THE FORM OF ACTION OR CLAIM (WHETHER CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EVEN IF WE HAVE BEEN INFORMED OF THE POSSIBILITY THEREOF, EXCEPT AS OTHERWISE REQUIRED BY LAW.

a. No Waiver

We shall not be deemed to have waived any rights or remedies hereunder unless such a waiver is in writing and signed by one of our authorized representatives. No delay or omission on our part in exercising any rights or remedies shall operate as a waiver of such rights or remedies or any other rights or remedies. A waiver on any one occasion shall not be construed as a bar or waiver of any rights or remedies on future occasions.

b. Exclusions of Warranties

THE SERVICE AND RELATED DOCUMENTATION ARE PROVIDED “AS IS” WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. IN PARTICULAR, WE DO NOT GUARANTEE CONTINUOUS, UNINTERRUPTED OR SECURE ACCESS TO ANY PART OF OUR SERVICE, AND OPERATION OF OUR SITE MAY BE INTERFERED WITH BY NUMEROUS FACTORS OUTSIDE OF OUR CONTROL. SOME STATES DO NOT ALLOW THE DISCLAIMER OF CERTAIN IMPLIED WARRANTIES, SO THE FOREGOING DISCLAIMERS MAY NOT APPLY TO YOU. THIS PARAGRAPH GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY ALSO HAVE OTHER LEGAL RIGHTS THAT VARY FROM STATE TO STATE.

11. Indemnification

You understand and agree that you are required to indemnify us and hold us harmless against any and all claims, actions, damages, liabilities, costs, and expenses, including reasonable attorneys’ fees and expenses

arising from your use of the Service and/or breach of this Agreement. You understand and agree that this paragraph shall survive the termination of this Agreement.

You understand and agree that you are required to indemnify our technology partners, including but not limited to Alkami and Vertifi Software, LLC (Vertifi), and hold harmless Alkami, its affiliates, officers, employees and agents, as well as Vertifi, its affiliates, officers, employees, and agents, from and against any third party claims, suits, proceedings, actions or demands, including to claims of another financial institution, business entity or governmental authority, and all losses, liabilities, damages, fines, penalties, costs and expenses, including court costs and reasonable attorney fees and expenses, arising from such claims, to the extent such claim is related to FI or End User's use of the Service, Vertifi or Alkami Applications, unless such claim directly results from an action or omission made by Alkami or Vertifi in bad faith. You understand and agree that this paragraph shall survive the termination of this Agreement.

12. Other Applicable Terms and Conditions

a. Our Business Days

For purposes of this Agreement, our "business days" are Monday through Friday, excluding federal holidays.

b. Our Relationship with You

By providing you with the Services, we are establishing a banking relationship with you and committing to act in good faith and to the exercise of ordinary care in our dealings with you as defined by the Uniform Commercial Code as adopted by the State of North Dakota. This Agreement and your use of the Services does not create a fiduciary, advisory, or any other special relationship between you and us.

c. Force Majeure

We will have no liability to you for our failing to comply with, or delaying in complying with, our obligations under this Agreement due to a computer malfunction, interruption of communication facilities, labor difficulties, acts of God, war, flood, fire, riot, pandemic, terrorist attack, or any other cause, in each case beyond the Bank's reasonable control.

d. Default

The occurrence of any of the following will be deemed, the Bank's sole discretion, a default under this Agreement:

- Any breach or default by you under the terms of this Agreement;
- Any breach or default under the terms of any other note, obligation, mortgage, assignment, guaranty, other agreement, or other writing to which you and the Bank are parties;
- The insolvency, death, dissolution, liquidation, merger or consolidation of the customer;
- Any appointment of a receiver, trustee or similar officer of any property of the customer;
- Any assignment for the benefit of creditors of the customer;
- Any commencement of any proceeding under any bankruptcy, insolvency, receivership, dissolution, liquidation or similar law by or against the customer;

- The issuance or levy of any writ, warrant, attachment, garnishment, execution or other process against any property of the customer;
- The attachment of any tax lien to any property of the customer;
- Any statement, representation or warranty made by the customer (or any representative of the customer) to the Bank at any time is determined to have been incorrect or misleading in any material respect when made;
- There is a material adverse change in the condition (financial or otherwise) of the business or property of the customer;
- The Bank in good faith believes that the prospect of due and punctual payment or performance of the customer's obligations under this Agreement is impaired; or
- The Bank believes in good faith that the customer is using the Services for any purpose that is illegal, fraudulent or exposes the Bank to an unacceptable risk of financial, legal or reputational harm.

e. Right of Set-Off; Remedies Cumulative

You acknowledge and agree that we have the right of set-off against any deposit account you have with us with respect to the amount of any and all fees, returns and refunds owed to the Bank by you under this Agreement or other agreement related to the Services without providing any notice to you or incurring any related liability therefor (including to the extent exercising our right of set-off results in the dishonor of any payments). Our rights and remedies under this Agreement or any other documents or instruments pursuant to or in connection with the Services are cumulative and not exclusive of any other rights or remedies.

f. Third-Party Institutions and Service Providers

We may work with one or more third-party financial institutions or service providers in connection with the Service. By using the Service, you authorize us to share your corporate, financial, or other information with such third parties as necessary to provide you with the Services or to complete transactions you have requested. You also license and authorize us to access information maintained by such third parties, on your behalf as your agent, and you expressly authorize such third parties to disclose your information to us. We disclaim any liability for your use of any third-party financial institutions or service providers. Unless stated expressly otherwise in writing, we do not endorse or make any representations or warranties regarding any third-party financial institutions or service providers.

g. Monitoring, Recording and Use of Communications

You acknowledge and agree that all telephone or electronic conversations, or any other communications among or between you, the Bank, any third parties used by you or the Bank, and any of your or our respective employees and agents, may be monitored and recorded and retained by us or our third-party service providers by use of any reasonable means unless prohibited by law. We may use any recording for reasonable business purposes, including security and quality assurance. However, we are under no obligation to make or maintain any such recording. We will not remind you that we may be monitoring or recording a telephone or electronic conversation unless required by law to do so.

h. Choice of Law and Venue

Except as otherwise specified, this Agreement will be construed in accordance with and governed by the laws of the United States and the State of North Dakota, without regard to conflicts-of-laws principles that would result in the application of the substantive laws of another jurisdiction. You agree that any dispute arising under this Agreement or relating in any way to the Services or your relationship with us, to the extent not arbitrated pursuant to Section 13, will be exclusively resolved in a federal or state court located in Fargo, North Dakota and that you will be subject to such court's jurisdiction. You waive any objection that you may have based upon improper venue or forum *non conveniens* as to the conduct of any such proceeding.

i. Notices

Unless we provide to you an alternate or different address, all notices to the Bank must be in writing and sent to:

Gate City Bank
500 2nd Avenue North
Fargo, ND 58102

We may send notices to you by telephone, email, through the Online Service, or any other form of commercially reasonable communication based on the contact information you provide to us. You agree to keep us informed of any changes to your contact information at all times.

j. Term, Termination and Modification of Agreement and Services

Subject to our acceptance and approval, this Agreement shall be effective the earlier of your signing (including electronically) of this Agreement or any application for Services, or your first attempt to access the Services.

You may terminate this Agreement (or any or all of the individual Services) for any reason upon at least thirty (30) days' advance written notice to us. While we will generally endeavor to provide you with advance notice, we reserve the right to terminate or modify this Agreement or any or all of the Services, or limit, suspend or discontinue your access to any or all Services, at any time without notice and for any reason, including (i) for security reasons; (ii) as may be required by law, regulation, any Governing Rules or a government authority; (iii) your default under this Agreement or any other agreement with us; (iv) if you have not used any of the Services at least once in the last six (6) months; or (v) you otherwise present undue risk to the Bank as determined by us in our sole discretion. You will be responsible for paying any fees and charges related to the Services that have accrued on or before the date of termination.

Subject to Section 13(m), which pertains to amending the Arbitration Agreement, we may change this Agreement at any time by posting a revised version on our website or otherwise making the revised Agreement available to you. For example, we may add, delete, or modify terms. These terms include, but are not limited to, fees and charges for the Services.

k. Severability

In the event that any court or tribunal of competent jurisdiction determines that any provisions of this Agreement are illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected. To the extent permitted by law, you and we waive any provisions of law which prohibit or renders unenforceable any provisions of this Agreement, and to the extent such waiver is not permitted by law, you and we agree that such provision will be interpreted as modified to the minimum extent necessary to render the provisions enforceable.

l. Limitations of Assignment

You may not assign, transfer, or otherwise delegate, whether by operation of law or otherwise, your rights or obligations, in whole or in part, under this Agreement without the Bank's prior written consent. Any assignment, transfer, or delegation or attempted assignment, transfer, or delegation in violation of the foregoing shall be void. The Bank may assign, transfer, or otherwise delegate its rights or obligations, in whole or in part, under this Agreement in our sole discretion, including through the use of the Bank's subcontractors and service providers.

m. No Third-Party Beneficiaries

This Agreement is for the benefit only of you and is not intended to, and shall not be construed as, granting any rights to or otherwise benefiting any other person or entity.

n. Entire Agreement

This Agreement (and the other documents referenced herein) constitute the entire agreement and understanding between you and the Bank relating to the subject matter of this Agreement and supersedes all prior agreements (if any).

o. Survival

Sections 2, 4, 7, 9-12 and any other terms that expressly or are intended by their nature to survive termination of this Agreement, including any disclaimers of warranties and limitations of liability, shall survive the termination of this Agreement.

p. Statute of Limitations

Any claim, action or proceeding by you to enforce the terms of this Agreement or to recover for any Service-related loss must be commenced within one year from the date that the event giving rise to the claim, action or proceeding first occurs.

q. Interpretation

For purposes of this Agreement, the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation," the word "or" is not exclusive, and the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Words defined in the singular include the plural, and vice versa. Headings are included for convenience only and shall not affect the interpretation of this Agreement.

13. Arbitration Agreement

PLEASE READ THE PROVISIONS OF THIS SECTION 13 (THIS “ARBITRATION AGREEMENT”) CAREFULLY. IT REQUIRES ALL CLAIMS BETWEEN YOU AND US TO BE RESOLVED BY BINDING ARBITRATION WHENEVER YOU OR WE CHOOSE TO SUBMIT A CLAIM TO ARBITRATION. BY ACCEPTING THIS ARBITRATION AGREEMENT, YOU WAIVE YOUR RIGHTS TO TRY ANY CLAIM IN COURT BEFORE A JUDGE OR JURY (EXCEPT FOR MATTERS THAT MAY BE TAKEN TO A SMALL CLAIMS COURT) AND TO BRING OR PARTICIPATE IN ANY CLASS OR OTHER REPRESENTATIVE ACTION.

a. Agreement to Arbitrate

Either you or we may elect, without the consent of the other, to arbitrate any Claim (as defined below) through the binding arbitration process set forth in this Arbitration Agreement. For purposes of this Arbitration Agreement, “we,” “our,” and “us” include Gate City Bank and its employees, officers, directors, parents, agents, controlling persons, subsidiaries, affiliates, predecessors, acquired entities, successors, and assigns.

b. Claims Covered By Arbitration

“Claims” subject to this Arbitration Agreement include all of the following: (i) claims related to or arising out of this Agreement or any prior or later versions of the Agreement, as well as any changes to the terms of the Agreement; (ii) claims related to or arising out of any aspect of any relationship between you and us that is governed by the Agreement; (iii) claims related to or arising out of your account or any services provided to you under the Agreement; and (iv) claims related to the interpretation, scope, applicability, or enforceability of the Agreement or Arbitration Agreement. Claims are subject to arbitration whether they are based in contract, tort, federal or state statute, constitution, regulation, or any other legal theory, or whether they seek legal or equitable remedies (except as provided in the “Public Injunctive Relief Waiver” section below). All claims are subject to arbitration whether they arose in the past, may currently exist, or may arise in the future. Claims include claims or disputes that arose before the parties entered into the Agreement (such as claims related to advertising) or after termination of the Agreement or your account is closed.

c. Claims Not Covered By Arbitration

Claims filed by you or by us in a small claims court are not subject to arbitration, so long as the dispute remains in such court and advances only an individual claim for relief. The “Class and Representative Action Waiver” and “Public Injunctive Relief Waiver” sections below set forth additional claims not subject to arbitration.

d. Pre-Arbitration Demand

You agree that before filing any claim in arbitration, you must first submit an individualized request regarding your Claim (a “Pre-Arbitration Demand”) by sending us a notice, in writing, to the address specified in (and otherwise in accordance with) Section 12(i), at any time. A Pre-Arbitration Demand is only valid when it pertains to, and is on behalf of, a single individual.

Your Pre-Arbitration Demand must include: (i) your name, (ii) the telephone number(s) associated with your account(s), (iii) the email address(es) associated with your account(s), (iv) a factual description of

your Claim and the amount that you are seeking in order to fully resolve the Claim, and (v) the name, related firm, telephone number, mailing address, and email address of your counsel, if any. You agree to promptly notify us if, at any time during the Pre-Arbitration Demand process, you subsequently become represented by counsel, change counsel, or are no longer represented by counsel.

The informal dispute resolution process described in this subsection (d) is a condition that must be fulfilled before commencing arbitration. If your Claim is not resolved within sixty (60) calendar days of submitting a Pre-Arbitration Demand, a demand for arbitration can be made in accordance with this Arbitration Provision, unless we and you mutually agree to extend or shorten that 60-day period. You and we agree that the arbitrator shall dismiss any arbitration demand filed prior to the end of that period.

e. Commencing an Arbitration

Unless the parties agree to select a different arbitration administrator, the arbitration shall be administered by the American Arbitration Association (“AAA”) under AAA’s Commercial Arbitration Rules, except as modified by this Arbitration Agreement. AAA’s rules may be obtained from www.adr.org or 1-800-778-7879 (toll-free).

If AAA is for any reason unable to serve and the parties are unable to agree on an alternative arbitration administrator, then a court of competent jurisdiction shall appoint an arbitration administrator.

Either you or we may start an arbitration by giving written notice to the other party; provided, that you are required to first comply with the Pre-Arbitration Demand process set forth in subsection (d). This notice may be given before or after a lawsuit has been filed concerning the Claim and it may be given by papers filed in the lawsuit such as a motion to compel arbitration. The party asking for arbitration must file a notice with the arbitration administrator pursuant to its rules.

If you are represented by counsel, the demand for arbitration must include the counsel’s name, telephone number, mailing address, and email address. Your counsel must also sign the demand for arbitration.

By signing a demand for arbitration, you and/or your counsel shall be deemed to have certified to us, to the best of you (and/or your counsel’s knowledge), information, and belief, formed upon its due and reasonable inquiry, that (i) the demand for arbitration is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of dispute resolution, (ii) the claims and other legal contentions in the demand for arbitration are warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law (or for establishing new law), and (iii) the factual contentions made in the demand for arbitration have evidentiary support (or will likely have evidentiary support) after a reasonable opportunity for further investigation or discovery. The arbitrator shall be authorized to afford any relief or impose any sanctions available under Federal Rule of Civil Procedure 11 or any applicable state law for either party’s violation of this paragraph.

f. Arbitration Procedure

Unless you and we agree otherwise in writing, the arbitration shall be decided by a single, neutral arbitrator, who shall be a retired judge or a lawyer with at least ten years of experience, selected in accordance with the chosen arbitration administrator's rules.

The arbitrator will decide the Claim or Claims in accordance with the terms of the Agreement and applicable substantive law, including the Federal Arbitration Act, 9 U.S.C. § 1 et seq. (the "FAA"), and applicable statutes of limitation (subject to Section 12(p)). The arbitrator shall honor claims of privilege recognized at law. Except as provided in the "Public Injunctive Relief Waiver" section below, the arbitrator may award damages or other relief (including injunctive relief) available to the individual claimant under applicable law.

The arbitrator will not have the authority to award relief to, or against, any person or entity who is not a party to the arbitration. An award in arbitration shall determine the rights and obligations between the named parties only, and only in respect to the Claim(s) in arbitration and shall not have any bearing on the rights and obligations of any other persons, or on the resolution of any other dispute.

The arbitrator will take reasonable steps to protect customer account information and other proprietary or confidential information.

You irrevocably consent to and agree that any arbitration hearing or other proceeding hereunder shall take place in the State of North Dakota, unless we, in our sole and absolute discretion, expressly agree otherwise in writing.

At your or our request, the arbitrator will issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. The arbitrator's award shall be final and binding except that any party may appeal any award relating to a Claim for more than \$500,000 (exclusive of claimed interest, arbitration fees and costs) or for injunctive relief to a three-arbitrator panel appointed by the arbitration administrator, which will reconsider de novo any aspect of the appealed award. The panel's decision will be final and binding.

g. Costs and Expenses

Each party agrees to bear its own costs and expenses in connection with initiating any arbitration proceeding; provided that, a party that does not agree to submit to arbitration after a lawful demand by the other party must pay all of the other party's costs and expenses for compelling arbitration. The arbitrator may award the payment of costs and expenses to the extent permitted by applicable AAA rules.

h. JURY WAIVER AND LIMITATION OF RIGHTS

YOU AND WE AGREE THAT, BY ENTERING INTO THIS ARBITRATION AGREEMENT, THE PARTIES ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR A TRIAL BEFORE A JUDGE IN COURT (EXCEPT FOR

MATTERS THAT MAY BE TAKEN TO A SMALL CLAIMS COURT). YOU AND WE ACKNOWLEDGE THAT ARBITRATION WILL LIMIT OUR LEGAL RIGHTS, INCLUDING THE RIGHT TO PARTICIPATE IN A CLASS ACTION, THE RIGHT TO A JURY TRIAL, THE RIGHT TO CONDUCT FULL DISCOVERY, AND THE RIGHT TO APPEAL.

i. CLASS ACTION AND REPRESENTATIVE ACTION WAIVER

YOU AND WE AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN AN INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. FURTHER, UNLESS MUTUALLY AGREED TO BY YOU AND US, CLAIMS OF TWO OR MORE PERSONS MAY NOT BE JOINED, CONSOLIDATED, OR OTHERWISE BROUGHT TOGETHER IN THE SAME ARBITRATION (UNLESS THOSE PERSONS ARE JOINT ACCOUNT HOLDERS OR BENEFICIARIES ON YOUR ACCOUNT OR RELATED ACCOUNTS, OR PARTIES TO A SINGLE TRANSACTION OR RELATED TRANSACTION). THE ARBITRATOR SHALL HAVE NO AUTHORITY TO CONDUCT ANY CLASS, PRIVATE ATTORNEY GENERAL OR OTHER REPRESENTATIVE PROCEEDING. THIS SECTION DOES NOT APPLY TO REQUESTS FOR PUBLIC INJUNCTIVE RELIEF, WHICH ARE ADDRESSED IN THE SECTION BELOW ENTITLED “PUBLIC INJUNCTIVE RELIEF WAIVER.”

ii. PUBLIC INJUNCTIVE RELIEF WAIVER

NEITHER YOU NOR WE WILL HAVE THE RIGHT TO SEEK PUBLIC INJUNCTIVE RELIEF AS A REMEDY FOR ANY CLAIM AGAINST ONE ANOTHER (A “PUBLIC INJUNCTIVE RELIEF REQUEST”) IN ARBITRATION, IF SUCH A WAIVER IS PERMITTED BY THE FAA. IF SUCH A WAIVER IS DEEMED UNENFORCEABLE, YOU AND WE AGREE THAT THE PUBLIC INJUNCTIVE RELIEF REQUEST SHALL BE SEVERED FROM ANY OTHER CLAIMS OR REMEDIES YOU HAVE. THE PUBLIC INJUNCTIVE RELIEF REQUEST MUST BE ADJUDICATED BY A COURT AFTER ALL YOUR OTHER CLAIMS TO BE DECIDED IN ARBITRATION UNDER THIS ARBITRATION AGREEMENT ARE RESOLVED IN ARBITRATION. THE VALIDITY, ENFORCEABILITY, AND EFFECT OF THIS SECTION SHALL BE DETERMINED EXCLUSIVELY BY A COURT, AND NOT BY ANY ARBITRATION ADMINISTRATOR OR ARBITRATOR.

i. Governing Law

You and we agree that you and we are participating in transactions that involve interstate commerce and that this Arbitration Agreement and any resulting arbitration are governed by the FAA. Notwithstanding any section in the Agreement to the contrary, to the extent state law applies, the laws of North Dakota apply. No state statute pertaining to arbitration shall apply.

j. Severability

Notwithstanding any section in the Agreement to the contrary, if any section of this Arbitration Agreement (except for the “Class Action and Representative Action Waiver” above) is deemed invalid or unenforceable for any reason, it shall not invalidate the remaining portions of this Arbitration Agreement. However, if the “Class Action and Representative Action Waiver” section is deemed invalid or unenforceable in whole or in part, then this entire Arbitration Agreement shall be deemed invalid and unenforceable.