



earn.bank

## **Deposit Account Agreement and Regulatory Disclosure**

**DEPOSIT ACCOUNT AGREEMENT AND REGULATORY DISCLOSURE (Effective 12.17.2018)**

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## **Introduction**

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Thank you for opening and maintaining an account with earn.bank, a division of Silvergate Bank, an FDIC insured state chartered financial institution. Deposits are insured by the FDIC up to the maximum allowed by law, with earn.bank and Silvergate Bank treated as the same entity for the purposes of calculating FDIC insurance limits on deposits. This agreement contains information about your rights and obligations for your deposit account relationship with us.

In opening an account with us, you agree to the terms and conditions described in this Regulatory Disclosure and Deposit Account Agreement, the signature card, the Disclosure of Products and Fees, the Rate Schedule, and the application (collectively, "Agreement"). In the event of a conflict between this Agreement and a statement made by one of our employees, this Agreement will prevail.

Throughout this agreement, the words "you" and "your" refer to each account owner. The earn.bank division of Silvergate Bank is referred to as "we," "us," "our," or "Bank."

Other agreements may apply to other services you obtain from us.

## **Customer Identification Program**

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### **Important Information about Procedures for Opening a New Account**

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

What this means for you, the customer, is that when you open an account, we will ask you for your name, address, date of birth, and other information that allows us to identify you. We may also ask you to provide to us identifying documentation, such as a driver license or other identifying documents. We may refuse to open an account or provide services if you fail to provide adequate documentation or if we are unable to verify the information provided.

## **Customer Information**

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### **Information You Provide Us**

When you open an account with us, you provide us with information about yourself and confirm that it is correct. We keep this information in our records. We may rely on that information until you notify us of a change and we have had a reasonable amount of time to act on the new information.

### **Account Information Services**

If we close your account because of your unsatisfactory handling, we generally report to account information services such as ChexSystems, Inc. We may report your name, address, Taxpayer Identification Number, driver license number, and the date and reason the account was closed. The account information service may disclose this information to others. This may adversely affect your ability to establish an account at any financial institution for five years from the date of the report.

### **Credit Reports and Other Inquiries**

We may make any inquiries that we consider appropriate to help us determine if we should open, maintain, or close your account. This may include verification of employment and credit reports or other reports from account information services and credit reporting agencies.

You may request we tell you whether we requested a credit report and, if we did request a credit report, we will tell you the name, address, and telephone number of the reporting agency or account information service.

We may report information about your account to credit bureaus. Late payments, missed payments or other defaults on your account may be reflected in your credit report. This includes any balance owing in the account at the time the account is closed.

### **Release of Information**

We offer you several methods by which you can obtain information on your account(s). We have established reasonable security measures for these various methods but we cannot ensure against unauthorized inquiries. You agree that we are

not responsible for the release of information to anyone who has gained access to your personal identification code, account number, or other code or access device, or who has learned information about you (for example, your social security number), even if you have not authorized them to obtain the information.

## **Funds Availability (Regulation CC)**

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### Your Ability to Withdraw Funds

Our policy is to make funds from electronic direct deposits and incoming wire transfers available to you on the day we receive the deposit. Our general policy is to make funds from your cash and check deposits available to you no later than the first business day after the day we receive your deposit.

Once they are available, you can withdraw the funds.

For determining the availability of your deposits, every day is a business day except Saturdays, Sundays, and federal holidays.

Federal Regulation CC does apply when you transmit electronic images of items (paper checks or other paper source documents payable in U.S. dollars) to us for deposit through mobile deposit ("Services"). Funds from deposits made via the Services generally will be available for withdrawal by the second business day after the day of deposit. The first \$200 of your deposits will generally be available no later than the first business day after the day of deposit. However, we may apply additional delays on the availability of funds based on any other factors as determined by us in our sole discretion.

Common reasons we may delay availability of your funds include: a large deposit amount, frequent overdrafts, deposited items return unpaid and indications that a deposited item may not be paid. If you deposit checks totaling more than \$5,000 in any one business day, availability of the amount over \$5,000 may be delayed until the seventh business day after the day of deposit. If funds will be delayed beyond the second business day on any part of your deposit, we will mail you information about when your funds will be available.

If you submit an item via the mobile banking platform on or before 4:00 p.m. PST or by Office Deposit on or before 5:00 p.m. on a business day we are open, we will consider that to be the day of deposit. If you submit an item via the Services after these times or on a weekend or a federal holiday, we will consider that the deposit was made on the next business day. In some cases, the Bank may reject a deposit made via the Services. Common reasons include poor image quality, incorrect payee, or missing endorsement. In the event the Bank rejects a deposit made through the Services, we will notify you and the deposit will not be credited to your account.

### Government, Official, and Other Special Types of Checks

Our policy is to make funds from U.S. Treasury checks that are payable to you available no later than the first business day after the day of the deposit.

If you make the deposit in person to one of our employees and meet the conditions described below, our policy is to make funds from the following types of deposits available no later than the first business day after the day of your deposit:

- State and local government checks that are payable to you and are deposited in an account in the same jurisdiction that issued the check.
- Cashier's, certified, or teller's checks that are payable to you.
- Federal Reserve Bank checks, Federal Home Loan Bank checks, and postal money orders that are payable to you.

If you do not make your deposit of these checks in person to one of our employees (for example, by mail), our policy is to make funds from these deposits available no later than the second business day after the day of deposit.

### Longer Delays May Apply.

In some cases, we will not make all of the funds that you deposit by check available to you on the first business day after the day of your deposit.

Depending on the type of check that you deposit, funds may not be available until the second business day after the day of your deposit. However, the first \$200 of your deposits will be available no later than the first business day. If we are not going to make all of the funds from your deposit available on the first business day after the day of your deposit, we will notify you at the time you make your deposit. We will also tell you when the funds will be available. If your deposit is not made directly to one of our employees (for example, by mail), or if we decide to take this action after you have left the premises, we will mail you the notice by the next business day after we receive your deposit. We do not mail this notice for deposits referred to in the section titled Government, Official, and Other Special Types of Checks.

If you need the funds from your deposit right away, you should ask us when the funds will be available.

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

- We believe a check you have deposited will not be paid;
- You deposit checks totaling more than \$5,000 on any one (1) business day;
- You redeposit a check that has been returned unpaid;
- You have overdrawn your account repeatedly in the last six (6) months; or
- There is an emergency such as a failure of communications or computer equipment.

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

#### Special Rules for New Accounts

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

Funds from electronic direct deposits to your account are available on the day we receive the deposit. Funds from deposits of cash, wire transfers, and the first \$5,000 of a day's total deposits of cashier's checks, certified, teller's, traveler's, and federal, state, and local government checks are available no later than the first business day after the day of your deposit, if the deposit meets certain conditions. For example, the checks must be payable to you and deposited in person to one of our employees. The excess over \$5,000 is available by the ninth business day after the day of your deposit. If your deposit of these checks (other than a U.S. Treasury check) is not made in person to one of our employees, the first \$5,000 will not be available until the second business day after the day of deposit. Funds from all other check deposits are generally available by the ninth business day after the day of your deposit. However, we may place longer holds on certain items for other reasons, such as large deposits.

#### Holds on Other Funds

If we cash a check for you that is drawn on another financial institution, we may withhold the availability of a corresponding amount of funds that are already in your account. If we accept for deposit a check that is drawn on another financial institution, we may make funds from the deposit available for withdrawal immediately but delay your ability to withdraw a corresponding amount of funds that you have on deposit in another account with us. In either case, we make these funds available in accordance with our policy described elsewhere in this disclosure for the type of check that you deposited.

#### Miscellaneous Provisions

The fact that we make funds available to you does not waive any of our rights under the law or this Agreement. For example, although we made funds from a check you deposited available to you and you withdrew the funds, you are still responsible for problems with the deposit. If the check is returned to us unpaid for any reason, we may charge your account for the amount of the check.

#### **Interest on Your Funds**

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You may obtain current rates by calling us at the number for Customer Service on your statement or emailing us at [support@earn.bank](mailto:support@earn.bank).

## Money Market Accounts

Funds in a Money Market Account earn a variable rate. Your interest rate and annual percentage yield may change.

Interest rates are set at the discretion of earn.bank. At our discretion, we may change your interest rate and annual percentage yield at any time. We compound interest daily and credit interest monthly. Interest is accrued daily and is posted monthly in the Bank's nightly processing order.

We use the daily balance method to calculate the interest on your account. The daily rate is  $1/365$ -or in a leap year, we may use  $1/366$ -of the interest rate. For interest-bearing Money Market Accounts, this method applies a daily rate to the collected balance in the account each day.

The rate we pay on some accounts depends on the tier into which the balance in your account falls following nightly processing and after all that day's transactions have posted but before any service charges are deducted and any interest is paid. Rate tiers are updated the next business day following nightly processing. A tier is a range of account balances.

We may change the tiers that apply to an account at any time without notice. Different tiers may apply to different types of accounts. Different rates may apply to different tiers.

Interest-Bearing Money Market Accounts: Funds from items deposited other than cash or checks drawn on the Bank begin to accrue interest on the business day that the Bank receives credit for the items. Cash and funds from items drawn on the Bank begin to accrue interest on the business date of deposit.

If the account is closed before interest is credited, you will not receive the accrued interest.

## Time Deposits

Your funds earn interest during the term of the account. Interest rates vary. Different rates may apply to different amounts or terms. Rates for new deposits may change daily. For terms of 28 days or more, we compound interest daily. Interest rates are set at the discretion of earn.bank.

All time deposits earn interest at a fixed rate. Fixed rate means that the interest rate in effect on the day that we open your time deposit remains fixed throughout the term of your time deposit.

We use the daily balance method to calculate the interest on your account. This method applies a daily rate to the ledger balance in the account each day. The daily rate is  $1/365$ -or in a leap year we may use  $1/366$ -of the interest rate.

We credit interest to your account monthly or disburse it to you according to the option you selected at account opening. Accrued interest does not reflect in an account until it has been credited to the account after nightly processing has been performed.

Interest accrues daily and begins to accrue on the business day both cash and non-cash items are deposited to the account.

The annual percentage yield that applies to your time deposit account assumes interest will remain on deposit until maturity. Withdrawals will reduce earnings and may subject you to an early withdrawal penalty.

If the account is closed before interest is credited, including during the grace period, you will not receive the accrued interest.

You may not make additional deposits into the time deposit account. You may not make withdrawals until the maturity date.

## Balance Information

For some accounts, you can avoid a monthly maintenance fee for each statement cycle during which you maintain the minimum required balance for one of the balances listed for your account below. Balance requirements generally vary for different types of accounts and may include the following:

- Ledger balance is the beginning balance in the account each day.
- Collected Balance is the ledger balance for the account minus that portion of the funds deposited for which we have not received credit based on the availability schedule we apply to the account.
- Minimum daily balance is the lowest end-of-day balance in the account during a statement cycle. The end-of-day

balance is the amount of funds on deposit in the account after we finish processing that day's transactions.

- Average Daily Balance is the average ledger balance in the account during a statement cycle. We calculate it by adding the end-of-day ledger balances for each day in the statement cycle and dividing by the number of days in the statement cycle.

### **Transaction Limitations for Money Market Accounts**

This Agreement and federal regulation limit you to six transactions each monthly statement cycle (or each month if you receive statements less frequently than monthly) from among the following:

- Preauthorized transfers from your Money Market Account,
- Telephone / PC transfers from your Money Market Account (telephone transfers include instructions received by facsimile or data transmission), and
- Online banking transfers from your Money Market Account.

Requests to withdraw funds within the first 90 days will be completed by returning funds by the method in which they were received. After 90 days, withdrawals can only be made by:

- Calling Customer Service at 1-844-371-3276 (844-371-EARN) to request
  - A cashier's check payable as the account is titled and mailed to the account holder's address of record.
  - Electronic transfer (wire or ACH) back to the original funding account only.
- Internal Transfer between accounts you own at the bank.
- This account is not eligible for BillPay, Debit card access and personal checks will not be issued.

Our practice is to monitor the number of limited transactions. We count an item on the date it posts to your Money Market Account. This date may be different than the date you authorize, transfer, or write the item, which means the item may not be counted until a later statement cycle.

If you exceed the transaction limits on more than an occasional basis, we may revoke your privileges on that account, charge an excessive transaction fee, close your account, or we may convert your account to another type of account. Your funds may no longer earn interest after we convert or close your account.

These transaction limitations do not apply to withdrawals from your Money Market Account and transfers made to your other Bank accounts by mail. A fee may apply to some withdrawals or transfers. Please refer to the Schedule of Fees and Charges included in our separate Disclosure of Products.

### **Account Conversions**

We may either close or convert your account to another type of account when we consider it appropriate or necessary to do so. For example, we may close, revoke privileges, or convert your account to another type of account if we think another type of account would better suit the way you use your account, if you make frequent transactions on a Money Market Account, if your account is frequently overdrawn or has debits against insufficient or uncollected funds, if you have excessive deposit activity, or if you use a personal account for business purposes. If we convert your account, we will send you information about the features and benefits of your new account.

### **Electronic Funds Transfer Agreement and Disclosure**

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#### **General Information**

The following provisions apply only to accounts established primarily for personal, family, or household purposes. They generally apply to funds transfers, deposits, and withdrawals, and to direct deposits and some types of preauthorized and telephone- initiated transfers involving consumer accounts.

These provisions do not apply to debits that we are authorized to make from your account for service charges and other fees, to preauthorized transfers you have instructed us to make to another of your (or a family member's) accounts, and to certain other types of consumer transactions that are excluded from federal Regulation E.

#### **Online Banking**

You may use your computer to obtain account information and make certain transfers. When you subscribe to these services,

we provide you with an agreement and disclosures for the service and link your eligible accounts. Refer to the Online Banking Terms and Conditions Agreement.

### **Automated Clearing House (ACH) Transactions**

From time to time, originators that you authorize may send automated clearing house (ACH) credits or debits for your account. For each ACH transaction, you agree that the transaction is subject to the National Automated Clearing House Association (NACHA) Operating Rules and any local ACH operating rules then in effect. You agree we may rely on the representations and warranties contained in these operating rules and either credit or debit your account, as instructed by the originator of the ACH transaction.

You should be careful about giving someone your account number to help prevent unauthorized transactions on your account. You must notify us immediately of unauthorized activity.

For information about stopping payment of an ACH transaction, refer to the section of this Agreement titled "Stop Payment Orders".

### **Electronic Banking Disclosures**

#### Consumer's Liability for Unauthorized Transfers

Tell us AT ONCE if you believe your personal identification number (PIN), Online Banking password, or similar code has been lost, stolen, or learned by an unauthorized person, or if you believe that an electronic funds transfer has been made without your permission. Telephoning is the best way of keeping your possible losses down – your losses could include all of the money in your account.

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

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

If you believe your access code has been learned by an unauthorized person, or that someone has transferred or may transfer money from your account without your permission, you must notify us immediately by calling the number listed below. If unauthorized activity occurs, you agree to cooperate during the investigation and to complete an affidavit.

Telephone: 844-371-3276 (844-371-EARN)

Write to: earn.bank, P.O. Box 22881, San Diego, CA 92192

#### Business Days

For purposes of these electronic banking disclosures, our business days are Monday through Friday. Holidays are not included.

**Preauthorized Credits.** If you have arranged to have direct deposits made to your account at least once every 60 days from the same person or company, you can call us at 844-371-3276 (844-371-EARN), or email us at [support@earn.bank](mailto:support@earn.bank) to find out whether the deposit has been made.

**Periodic Statements.** We will send you a monthly account statement (unless there are no transfers in a particular month). In any case, we will send you a statement at least quarterly.

#### Preauthorized Payments.

**Right to Stop Payment and Procedure for Doing So.** If you have told us in advance to make regular payments out of your account or you have authorized someone to debit your account through the ACH system, you can stop any of these payments. Here is how: Call us at 844-371-3276 (844-371-EARN), or email us at [support@earn.bank](mailto:support@earn.bank). You must notify us in time for us to receive your request three business days or more before the payment is scheduled to be made. If you call, we may also require you to put your request in writing and get it to us within 14 days after your call. You must tell us the exact amount of the payment you want stopped, as well as other identifying information which we will request. We may charge you a fee for each stop payment order you give. If we require additional information and do not receive it, we may remove the stop payment order after 14 days.

**Notice of Varying Amounts.** If these regular payments may vary in amount, the person you are going to pay will tell you, 10

days before each payment, when it will be made and how much it will be. (You may choose instead to get this notice only when the payment would differ by more than a certain amount from the previous payment, or when the amount would fall outside certain limits that you set.)

Liability for Failure to Stop Payment. If you order us to stop a preauthorized payment three business days or more before the transfer is scheduled, and you have given us the information we requested, including the exact amount of the payment, we will be liable if we fail to stop the payment for your damages directly caused by our failure to stop the payment.

Liability for Failure to Make Transfers. If we do not complete a transfer to or from your account on time or in the correct amount according to our agreement with you, we will be liable for your losses or damages. However, there are some exceptions. We will not be liable, for instance:

- If, through no fault of our own, you do not have enough money in your account to make the transfer.
- If the transfer would go over the amount of overdraft protection available to you.
- If circumstances beyond our control (such as power outages, equipment failures, fire or flood) prevent the transfer, despite reasonable precautions that we have taken.
- If the funds are subject to legal process or other encumbrance restricting the transfer.
- If an account becomes dormant, in which case we may terminate Card or code access to that account.
- If your Card or code has been revoked due to inactivity or at our discretion.

There may be other exceptions stated in our agreement with you or permitted by law.

#### Confidentiality – Account Information Disclosure

We will disclose information to third parties about your account or transactions as stated in the Banks Privacy Policy. The Privacy Policy can be viewed on the Banks website at: [earn.bank.com](http://earn.bank.com)

#### Error Resolution Procedures

In case of errors or questions about your electronic transfers, call us 844-371-3276 (844-371-EARN), email us at [support@earn.bank](mailto:support@earn.bank), write us at earn.bank, P.O. Box 22881, San Diego, CA 92192, or visit us at 4250 Executive Square, Suite 300, La Jolla, CA 92037.

Call or write to us as soon as you can if you think your statement or receipt is wrong or if you need more information about a transfer listed on the statement or receipt. We must hear from you no later than 60 days after we have sent you the FIRST statement on which the problem or error appeared.

1. Tell us your name and account number.
2. Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.
3. Tell us the dollar amount of the suspected error.

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

We will determine whether an error occurred within 10 business days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 days to investigate your complaint or question. If the alleged error involves a transfer resulting from a point-of-sale transaction, or a transaction initiated outside a state, territory, or possession of the United States, we may take up to 90 days (instead of 45) to investigate. If we decide to do this, we will credit your account within 10 business days for the amount you think is in error, so that you will have use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within 10 business days, we may not credit your account.

We will tell you the results within three business days after completing our investigation. If we decide that there was no error, we will send you a written explanation. You may ask for copies of any documents that we used in our investigation.

If you are a new customer and the error or question concerns an electronic transaction that occurred within 30 days after the first deposit to the account was made, we will tell you the results of our investigation within 20 business days after we hear from you. If we need more time, we may take up to 90 days to investigate. In this case, we will credit your account within 20 business days for the amount you think is in error, so that you have use of the money during the time it takes us to complete our investigation.

#### Change in Terms/Termination

We may change the terms of this Agreement from time to time by sending a written notice, or an amended agreement. Mailings will be made to the last address shown in our records for your account. You will receive at least thirty (30) calendar days written notice of any change that adversely affects you, unless an immediate change is necessary to protect the security of your account(s). Your continued use of any service or maintenance of your account shall indicate your agreement to the change. We reserve the right to terminate this Agreement with or without cause.

### **Funds Transfer Services**

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The following provisions apply to funds transfers you send or receive through us, but do not apply to electronic fund transfers governed by federal Regulation E. If you have a specific agreement with us for these services, these provisions supplement that agreement to the extent these provisions are not inconsistent with the specific agreement.

The Uniform Commercial Code includes provisions relating to funds transfers. These provisions define the following terms: funds transfer, payment order, and beneficiary. These terms are used here as they are defined in Article 4A of the Uniform Commercial Code-Funds Transfers as adopted in the State of California. In general: a funds transfer is the process of carrying out payment orders that lead to paying a beneficiary. The payment order is the set of instructions given to us to transfer funds. The beneficiary is the person or business who receives the payment.

We may charge fees for sending or receiving a funds transfer. We may deduct our fees from your account or from the amount of the transfer. For current fees, refer to the Disclosure of Products and Fees.

#### **Fedwire**

Fedwire is the electronic funds transfer system of the Federal Reserve Banks. When you send a payment order or receive a funds transfer, we or other banks involved in the funds transfer may use Fedwire. If any part of a funds transfer is carried out by Fedwire, your rights and obligations are governed by the federal Regulation J.

#### **Sending Funds Transfers**

You may subscribe to certain services we offer or you may give us other instructions to pay money or have another bank pay money to a beneficiary. This section applies to wire transfers and transfers we make from accounts you maintain with us.

#### Cutoff Times for Payment Orders

We have cutoff times for processing payment orders. Cutoff times vary depending on the particular office of our Bank and the type of payment order. We may treat payment orders we receive after a cutoff time as if received on the next business day. We will tell you our cutoff times upon request.

#### Amending or Canceling Payment Orders

You may not amend or cancel a payment order after we receive it. If you ask us to do this, we may make a reasonable effort to act on your request. But, we are not liable to you if, for any reason, a payment order is not amended or canceled. You agree to reimburse us for any costs, losses or damages that we incur in connection with your request to amend or cancel a payment order.

#### Inconsistency with Name or Number

The beneficiary's bank may make payment to the beneficiary based solely on the account or other identifying number, even if the name on the payment order differs from the name on the account. We or an intermediary bank may send a payment order to an intermediary bank or beneficiary's bank based solely on the bank identifying number, even if the payment order indicates a different bank name.

We may select any intermediary bank, funds transfer system, or means of transmittal to send your payment orders. Our selection may differ from that indicated in your instructions.

#### Notice of Rejection

We may reject payment orders. We notify you of any rejection orally, electronically, or in writing. If we send written notices by mail, we do so by the end of the next business day.

We are not liable to you for the rejection or obligated to pay you interest for the period before you receive timely notice of rejection.

#### Errors or Questions about Your Payment Orders

We notify you about funds transfers by listing them on your account statement. In some cases, we may also notify you electronically, in writing, or by a report produced through one of our information reporting services.

You must notify us at once if you think a funds transfer shown on your statement or notice is incorrect. You must send us written notice, including a statement of relevant facts, no later than 14 days after the date you receive the first notice or statement on which the problem or error appears.

If you fail to notify us within this 14-day period, we are not liable for any loss of interest because of an unauthorized or erroneous debit or because your statement or notice is incorrect. We are not required to compensate you, and we are not required to credit or adjust your account for any loss of interest or interest equivalent.

#### Calculations

If we are obligated to pay for loss of interest that results from our error or delay regarding your payment order, we calculate compensation based on the rate applicable to the account. If we have a separate agreement with you specifying a different calculation method, we use that method instead.

#### **Receiving Funds Transfers**

We may receive instructions to pay funds to your account. We may receive funds transfers directly from the sender, through a funds transfer system or through some other communications system. This includes wire transfers, ACH transfers that may be sent through an ACH system or processed directly to an account with us, and transfers between accounts you maintain with us.

#### ACH Provisional Payment Rule

Under ACH rules, funds transfers sent through an ACH system are provisional and may be revoked prior to final settlement. You agree to these rules.

If the funds transfer is revoked before final settlement, we may charge your account for the amount credited. The person who sent the payment order is considered not to have paid you. If this happens, we do not send a separate notice; we report the information on your account statement.

#### Notice of Funds Transfer

We notify you that we have received funds transfers by listing them on your account statement. We send statements by mail. If you use one of our information reporting services, you may receive notice through that service. We are not obligated to send you a separate notice of each incoming funds transfer. While we generally do not provide separate notices, we may do so on occasion, in which case we send the notice within two business days after we credit your account.

We are not obligated to pay you interest for the period before you receive notice.

If you are expecting a funds transfer and want to find out if it has been credited to your account, call us at the number for Customer Service on your statement.

#### Posting Your Customer's Payments

We credit to your account electronic payments (such as bill payments) that we receive from your customers. If you do not apply a payment to an account of your customers, you must promptly return the payment to us.

## ACH Debits and Credits

From time to time, originators that you authorize may send automated clearing house transactions (ACH) credits or debits to your account. For each ACH transaction, you agree that the transaction is subject to the National Automated Clearing House Association (NACHA) Operating Rules and any local ACH operating rules then in effect. You agree that we may rely on the representations and warranties contained in these operating rules and either credit or debit your account, as instructed by the originator of the ACH transactions.

You should be careful about giving someone your account number to help prevent unauthorized transactions on your account. You must notify us immediately of unauthorized activity.

## Ownership of Accounts

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We may determine ownership of accounts from the information in our records. We may rely on information you give us. Changes you ask us to make to your account are not effective until we have had a reasonable time to act on the new information.

## Joint Accounts

If more than one person's name appears in the title of an account (without a fiduciary, beneficiary, or other designation), the account is a joint account. All persons whose names appear on a joint account are co-owners of the account, regardless of whose money is deposited or who makes the deposits. Each co-owner acts as the agent of each other co-owner. Each co-owner authorizes each other co-owner to operate the account without the consent of any other co-owner. This includes the authority to add additional persons as co-owners, deposit funds and withdraw or transfer funds from the account, endorse for deposit to the joint account on behalf of any other co-owner an item payable to another co-owner, instruct us to stop payment on any item drawn on the account by any co-owner, obtain information about the account, including transactions conducted by other co-owners, pledge the account as security for any debts, and close the account. We may rely on the instructions of any co-owner without liability to any other co-owner.

Each co-owner is jointly and severally liable to us for all fees and charges assessed against the account, all amounts owed to us on the account, such as overdrafts, and all costs, losses or liabilities related to this Agreement or the account.

All joint accounts with us are presumed to be joint accounts with the right of survivorship, unless we have otherwise agreed with you in writing that the account is owned in another capacity. If the signature card you signed when you opened the account indicates the capacity in which your account is held, we may rely on that designation. **Right of survivorship means that when a co-owner dies, the balance in the account belongs to the surviving co-owner(s), subject to our right to charge the account for any amount the deceased co-owner or a surviving co-owner owes us.** Applicable state law may impose obligations on the surviving co-owner(s), such as an obligation to pay claims against or expenses of the deceased co-owner's estate.

A joint account is governed by the applicable provisions of the laws of the State of California. You are solely responsible for meeting the requirements for establishing your account as a joint account with rights of survivorship.

## California Uniform Transfers to Minors Act (CUTMA)

The transferor of the funds to a CUTMA account and the CUTMA account custodian understand and agree that upon creation of the account, the funds in the account, including any additions thereto and interest accruing thereon, are transferred irrevocably to the minor beneficiary of the account. The custodian agrees to maintain the account pursuant to the responsibilities described in the California Uniform Transfers to Minors Act. The custodian has the sole authority to transact business on the account. Each CUTMA account may have only one custodian and one minor beneficiary. If the custodian resigns, is removed or dies, we will recognize a designated successor custodian or guardian of the minor if no successor custodian is designated.

## Payable-on-Death Accounts

You may designate an account to be payable on your death to a designated payable on death ("POD") or in-trust-for ("ITF") payee or payees. Regardless of how it is designated, an account which is payable on your death (or the death of the last surviving co-owner) to one or more named payees is a POD or ITF account. A POD or ITF account may be alternatively described in the account documentation as "payable on death," "POD," "in trust for," "ITF," "as trustee for," "ATF," "transfer on death," "TOD," a "Totten Trust," or otherwise.

During your lifetime, a POD or ITF account belongs to you. You may close the account, remove or add a payee, change the account type or account ownership, and withdraw all or part of the account balance. Upon the death of the owner or, if there are co-owners, upon the death of the last surviving co-owner, any sums remaining on deposit belong to the then-surviving (if any) payee(s), subject to our right to charge the account for any amount the deceased owner, co-owner or payee owes us. The applicable state law may also impose obligations on the surviving payee, such as an obligation to pay claims against or expenses of the deceased owner's or co-owner's estate. A payee will acquire an interest in the account only after the death of all account owners and then only if the payee is alive.

A POD or ITF account is governed by applicable provisions of the laws of the State of California. You are solely responsible for meeting the requirements for establishing your account as a POD or ITF account. If the applicable requirements are not met, we may treat your account as though the payee or payees have no interest in the account.

### **Fiduciary Accounts**

A fiduciary account is one opened under court authority by an executor(s), administrator(s), conservator(s), guardian(s), or by a trustee(s) under a written revocable or irrevocable trust agreement. The Bank may require that a fiduciary execute a document certifying their powers as trustee, a certified copy of the court order or trust agreement be provided to the Bank, or provide other documents evidencing the person(s) opening the account is/are a designated fiduciary(ies), evidencing the powers of the fiduciary(ies), provisions for succession, and other specific provisions.

### **Transferring Ownership**

Your account is for your use only. Ownership of your account is transferable only on our records. You may not transfer or assign ownership of your account to another party without our written consent. Even if we consent, we may require that you close the account and that the new account holder open a new account in their name. We may refuse to acknowledge or accept attempted pledges or assignments of an account or purported security interests in an account.

### **Authorized Signers**

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The following terms apply to individual accounts and those with multiple signers.

- We may endorse checks for you that we receive for deposit.
- We may transfer funds between your accounts, transfer your accounts, and take other actions per the written instructions of any signer.
- We may rely on the information that you give us and we enter into our records, until you notify us in writing of a change.
- If we believe there is a dispute about ownership or control of the account, we may place a hold on the funds and not release the funds until we receive either a court order or instructions signed by all persons claiming interest in the account.
- We may deduct amounts you owe us, such as fees and charges, from your account.

The following terms apply only to accounts with more than one signer.

- We may require the signature of all signers if there are any conflicts among you.
- We may cash or deposit all checks payable to any signer when endorsed by any other signer.
- Each signer is individually liable for debts owed to the Bank, regardless of which signer incurred the debt.

### **Statements and Notices**

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Our statements and notices are in English. If you have difficulty reading English, please call us at the number for Customer Service on your statement.

#### **Statements**

We provide you with a statement when there is activity on your account. When there is no activity on your account, we may choose not to provide a statement. You must promptly review all statements we provide to you and any accompanying items

and notify us immediately of any dispute, error, or other problem. You assume full responsibility for monitoring and reviewing the activity of your account and the work of your employees, agents, and accountants. Unless you notify us promptly of a dispute, error, or other problem, we will assume the statement is correct.

We mail your statement to you at the address we have in our records for your account unless we have agreed to provide statements to you electronically. You agree to notify us if you change your address. If one or more statements are returned to us, we may stop sending statements until a new address is provided to us.

We may destroy statements that are sent to you and returned to us as being undeliverable, along with any accompanying checks and other items. We are not responsible for checks or statements lost while not in our possession.

We provide a single statement. You may generally obtain an additional copy of your statement for a fee.

For Money Market Accounts, we provide a monthly statement, and for time deposit accounts, we provide a quarterly statement. However, if you have an electronic funds transfer (such as a direct deposit or ACH transaction) to or from your account during any month, we provide a statement for that month.

### **Notices**

We inform you of changes affecting your rights and obligations by providing a notice to you. In some cases, we may post a notice of a change on our website. Otherwise, we either mail the notice to you at the address in our records or, if we have agreed on this method, we may provide it to you electronically. We may include a notice with your statement.

If notices we mail to you are returned to us, we may destroy them. If one or more notices are returned to us, we may stop sending notices until a new address is provided to us and you agree that changes covered in these notices are still effective and binding on you.

For accounts with more than one owner, we may send notices to any one co-owner. A notice sent to one owner is effective for all. Notices may be sent to you from either earn.bank or Silvergate Bank.

### **Insufficient Funds-Overdrafts**

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#### **Non-Sufficient Funds and Returned Item Fees**

When you do not have enough available funds in your account to cover any item, we consider the item a non-sufficient funds item. An overdraft occurs when you do not have enough money in your account to cover a transaction but we pay it anyway.

Non-sufficient funds items include all orders and instructions for the payment, transfer, or withdrawal of funds from your account. As examples, a non-sufficient funds item includes an electronic item (such as an ACH instruction to withdraw funds), preauthorized payment, automatic transfer, telephone-initiated transfer, Online Banking transfer, or withdrawal instruction.

Whether we return or pay a non-sufficient funds item depends on a number of factors, including the type of transaction, the amount of the item, and the past activity in your account. An overdraft occurs when you do not have enough money in your account to cover a transaction but we pay it anyway. We may without notice to you and in our sole discretion, authorize and pay overdrafts for ACH transactions. We pay overdrafts at our discretion, which means we do not guarantee that we will always authorize and pay any type of transaction. If we do not authorize and pay any type of transaction, it will be declined or returned unpaid. We will charge you a fee each time we return transactions made using your account number (e.g., an ACH transaction). Refer to the Disclosure of Products and Fees. If we overdraw your account, you agree to repay us immediately. We may use deposits you or others make to your account to pay any overdraft you owe us. If we pay non-sufficient funds items by overdrawing your account on one or more occasions, we are not obligated to continue paying any future non-sufficient funds items, and we may stop paying your non-sufficient funds items and return them unpaid without notice to you.

#### **Order of Payment**

To manage your account, it is important that you are aware of the order in which we pay transactions drawn on your account. The order in which we pay your transactions is important if there is not enough money in your account to pay all of the transactions presented on one day. In the normal course of business, we generally pay transactions presented for payment from your account in a single banking day in the following manner: (1) Generally, most transactions are posted to your account according to the date and time in which these transactions are presented to the Bank. (2) Certain transactions may be posted after regular bank business hours, during our nightly processing ("Nightly Processing"). The current order of our

processing is described below in detail.

### Nightly Processing Order

Daily transactions will be processed as part of Nightly Processing include: scheduled sweep transfers, ACH debits, checks and service charges. These transactions will normally be posted to your account in the following order:

1. All deposits
2. Internal transfers
3. Teller withdrawals, telephone transfers, wire transfer debits, and loan payments
4. Scheduled sweep debits to other earn.bank accounts
5. ACH debits (posted in time stamp order)
6. Service charges
7. Interest payments

The order in which transactions are processed is important if there is not enough money in your account to pay all the charges that are presented. However, there is no payment processing order that may be deemed favorable to you in every instance. There are advantages and disadvantages for any order of payment on any given day. In some cases this may help you and in some cases this may hurt you. If the smallest items are always paid first, you may have fewer non-sufficient funds (NSF) or overdraft fees, but the largest – and perhaps the most important – items (such as rent or mortgage payments) might not be paid. We think our policy attains a reasonable balance between minimizing additional cost to you and paying your more important items. Using the order method described above is our way of trying to be neutral. We reserve the right to change the order of payment without notice to you under circumstances we deem necessary and appropriate, including if we suspect fraud or possible illegal activity affecting your account. We shall be excused from posting transactions in the order described above if a failure or delay to post transactions in the order described above is caused by legal constraint, interruption of transmission, or communication facilities, equipment failure, war, emergency conditions or other circumstances beyond our control. In the event of any of the foregoing failure or delays, you acknowledge that transactions may be posted in a different order.

### **Returned Items**

If we decide not to pay an item drawn on your account, we may return the original or a copy of the item or we may send an electronic notice of return and keep either the original or a copy of the item in our records. If we send an electronic notice of return, you agree that any person who receives that electronic notice may use it to make a claim against you to the same extent and with the same effect as if we had returned the original item.

### **Deposits, Withdrawals, and Cashed Items**

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#### **Deposits**

We may accept a check or other item for deposit to your account from anyone. We do not have to question the authority of the person making the deposit. If your account is overdrawn, we may apply the deposit to the overdraft and any applicable fees.

Any credit to an account is subject to final verification, payment and adjustment by us.

We may refuse, accept on for collection only, or return all or a part of any deposit. We may refuse to accept for deposit to your account items payable to a third party. In receiving checks or other items for deposit or collection, we act only as your collecting agent and assume no responsibility beyond the exercise of due care, including care in selecting collecting banks. We are not responsible for errors and delays made by others in the collection process. If we have given you credit for an item and it is not paid for any reason, we may revoke the credit and charge the amount of the item back to your account, even if this causes your account to be overdrawn. When you send us deposits by mail, we may treat them as received at the time we receive their actual delivery.

You agree that you will not knowingly deposit items into your account that do not have either a true original signature of the person on whose account it is drawn or an authorized mechanical reproduction of that person's signature.

You warrant that all endorsements on items deposited to your account are genuine. In the event that you fail to endorse an item deposited to your account, you agree that we may supply your missing endorsement. You agree to reimburse us for any loss, cost, or expense we incur as a result of your failure to endorse an item exactly as drawn. If we receive an affidavit stating

that one or more endorsements on a check or other item deposited into your account is/are forged, we may freeze the account for the amount of the forged item or charge back the amount of the item to your account, without prior notice to you, even though you may have already used the funds and/or even if it makes the account be overdrawn. In the case of a certificate of deposit, the account may be closed and all interest earned forfeited.

We may refuse to accept items for deposit that are payable to and/or bear more than one endorsement or the endorsement of individuals not known to us. We may require all payees and/or endorsers to be present before we accept the item or that their endorsements be guaranteed by their financial institutions.

Unless you have instructed us to the contrary, we may, but are not required, to send a returned deposited item back for payment a second time before notifying you. At our option, we may re-present the check for payment electronically.

You must correctly identify the account to which you want funds deposited.

You are responsible for any claim, cost, loss, or damage caused by your failure to properly identify the account to which a deposit is made or intended to be made. We may credit an account based solely on the account number provided in your instruction to credit an account, even if the name on the instruction differs from the name on the account.

### **Collection Items**

We may accept certain items, such as items payable in foreign currencies, on a collection basis only. We route and process collection items separately. We normally credit your account for collection items only after we receive payment for them. But if we do credit your account and then do not receive payment, we may debit your account for the amount of the item. We charge fees for processing collection items. These fees apply even if the collection item is not paid. Refer to Disclosure of Products and Fees.

The bank on which the collection item is drawn may charge additional fees for processing the collection item. If the other bank requires payment of a fee prior to processing the collection item, we may charge your account for the amount of the fee and pay it to the bank on which the collection item is drawn. In some cases, the other bank may subtract the fee from the amount of the payment we receive. These fees may apply even if the item is returned unpaid.

When another bank submits a collection item to us drawn on your account, we may charge the other bank a fee. When you do not have enough funds in your account for us to process the collection item, we may charge you a non-sufficient funds item fee.

### **Demand Drafts or Remotely Created Checks**

If you voluntarily give information about your account (such as our routing number and your account number) to a party who is seeking to sell you goods or services and you do not physically deliver a check to the party, any debit to your account initiated by the party to whom you gave the information is deemed authorized.

You agree not to deposit demand drafts or remotely created checks to your account without a written agreement with us. If we agree to accept demand drafts or remotely created checks for deposit to your account, you warrant and guarantee that the draft or remotely created draft is authorized according to the terms on its face by the person identified as the drawer.

### **Deposit Errors**

When we accept or receive your deposits, we may give provisional credit to your account for the amount indicated on the deposit instructions, subject to verification by us at a later time. You must ensure that the amount shown on the deposit instructions is correct even if you did not prepare it. If we later determine the amount of the deposit is incorrect, we may debit or credit your account. We report corrections on your statement. If you believe there is an error in the amount of your deposit, you must notify us of the error within one year of the date of your statement that shows the deposit. If you do not notify us within this notice period, the deposit amount indicated on your statement will be considered finally settled. That is, if the actual amount of the deposit was less than the amount shown on the deposit instructions, the difference will become your property and if the actual amount deposited was more than the amount shown on the deposit instructions, the difference will become our property.

### **Endorsements**

We may accept checks for deposit that are payable to any signer on the account when endorsed by any other signer. We may endorse checks for you that we receive for deposit.

We restrict both how you endorse checks that you ask us to cash or deposit and what you may place or have printed on the

back of the checks. If you place or imprint information on the back of the check, it may overlap into the area reserved for bank endorsements. If it becomes necessary for us to return one of your checks, the material placed on the back of the check may interfere with the bank endorsements and cause delays in returning the item. You agree to reimburse us for all claims, costs, losses, and damages that result from the late return of a check due to material entered on the back of the check that obscured or interfered with our or another bank's endorsement.

You must endorse checks in the area that extends 1 1/2 inches from the trailing edge of the back of the check. The trailing edge is the left side of the check when you look at it from the front. If your endorsement obscures our bank's endorsement, you are liable for checks that are returned late and unpaid.

Certain checks, such as government, insurance, and title company checks, may require the personal endorsement of all payees. You authorize us to accept transfers, checks, and other items for deposit to your account if they are made payable to you or to the order of any one or more owner(s) of the account, whether or not they are endorsed by you. You authorize us to supply missing endorsements and you warrant and guarantee that all endorsements are genuine.

### **Foreign Currency / Foreign Instruments**

You agree that you may not write checks or other withdrawal orders on your account, which order payment in a foreign currency.

The processing and collection of foreign instruments are not subject to United States laws or regulations. We may refuse to accept for deposit or collection a check, draft, or other item that is payable in a currency other than U.S. dollars or that is drawn on a bank or branch of a bank located outside the U.S. (a "foreign instrument"). If we accept a foreign instrument for deposit or collection, you bear all the risks associated with the collection process and foreign currency fluctuation (exchange rate risk). A foreign instrument may be returned unpaid many months later after we process the item. You bear all risks of a late return. We may decide not to credit a foreign instrument to your account until we receive the proceeds in cleared funds from the paying bank. If we do provide credit, such credit is provisional and we may reverse the credit at any time if the foreign instrument is returned unpaid or is initially paid but subsequently returned for any reason, including fraud. You agree that we may use the then current exchange rate and we may charge your account for the full value of the foreign instrument, including any applicable fees, which may result in a loss to you.

If you deposit an item which is later determined to be a foreign instrument, it may or may not need to be sent for collection. If we determine the instrument needs to be sent for collection, we may reverse any provisional credit given for the item at our then current exchange rate and mail the foreign instrument to you at the address we have on file for you. You may then ask us to send the item on collection.

You understand that foreign instruments sent for collection are sent solely for you and at your risk and we are not liable for any event in the collection process that is beyond our control, such as a default by banks or agents involved in the collection process, or for the loss of the foreign item in transit. We may send the foreign instruments directly or through a correspondent to any bank. We may deduct both our fees and the charges assessed by the payor bank and any agents involved in the collection process from your account, even if the collection is unpaid. If the collection is returned unpaid, we may mail the item to you at the address we have on record for you. We may also charge your account for the item at our then current exchange rate and for a collection fee together with any charges assessed by any other parties to the collection process. You should be aware that a foreign instrument that has been sent for collection and paid may be returned later, sometimes much later, for fraud, and we may debit your account at the then current exchange rate, including fees assessed by the foreign bank for any instrument returned for fraud.

At your request, we will try to determine the status of a collection. You agree to pay any fees associated with the request. We may refuse your request if more than thirty (30) days have passed since the collection was first processed.

### **Lost Checks**

When we accept a check for deposit to your account, we are acting as your agent in collecting the check. We are not responsible if a check is lost or delayed during the collection process. If a check is lost during the collection process, we may charge your account for the amount of the check. If the financial institution on which the check is drawn gives us a photocopy of the check or a replacement document representing the check, we may charge your account for the amount of the check.

A lost check may not be returned to us for some time. Despite any delay, we may charge your account when we receive either the returned check, a copy of the check, or a notice of return.

### **Returned Deposit Cashed Items**

This section applies to items that you deposit, and includes items drawn on us and items drawn on other banks.

If a deposited item is returned to us at any time for any reason, including for breach of warranty claims, or according to any law, regulation, or rule (including a clearinghouse rule), by the bank on which it is drawn or any collecting bank, we may accept the return and charge the item back against your account without regard to whether the other bank finally paid the item or returned the item in accordance with any applicable midnight deadline or clearinghouse rule. We may debit your account for any interest you may have provisionally earned on the item. We may charge you a fee for each returned item. Refer to the Disclosure of Products and Fees. Different fees may apply to domestic and foreign items. We may debit your account for a returned item, including an indemnified copy of the original item or an image replacement document ("IRD"), at any time on or after the day it is returned to us by electronic, automated clearinghouse ("ACH") or other means or on the day we receive notice that the item is being returned to us – whichever is earlier. We are not liable for any action or inaction to recover payment of a returned item. If one of your deposited items have been paid by the financial institution on which it is drawn and is later returned to us with a claim there is a breach of warranty (for example, it is forged or bears a missing endorsement), that the item is counterfeit, bears an unauthorized signature, contains an encoding error or should not have been paid for any reason, we may debit your account for the amount of the item, including any applicable fees, and pay the amount to the claiming party.

We are not obligated to question the truth of the facts that are asserted, to assess the timeliness of the claim or to assert any defense. We do not need to notify you in advance of our actions related to the claim. If you do not have sufficient funds to cover a returned item, we may overdraw your account and charge a non-sufficient funds fee. We are not liable to you if there are insufficient funds to pay your items because we withdraw funds from your account in connection with a returned item. You agree to immediately repay an overdraft caused by a returned deposited or cashed item.

In some cases, the bank on which the returned check or other item is drawn may send us an electronic notice of return, an indemnified copy of the original, or an image replacement document ("IRD"), instead of returning the item. We may act on, and you agree to be bound by, the electronic notice of return, or indemnified copy or IRD just as if the original item had been returned.

If we receive advance notice from another financial institution that it is returning to us a check of \$2,500 or more unpaid, we will generally send you a notice. We may not send notices for items of less than \$2,500.

### **Account Corrections**

If funds to which you are not entitled are deposited to your account by mistake or otherwise, we may deduct these funds from your account. If there are not enough funds in your account, we may overdraw your account and charge an overdraft fee. If the funds were transferred from your account, we may reverse the transfer. We can do this without prior notice or demand.

### **Substitute Checks**

You agree that you will not deposit "substitute checks," as defined by federal law or Image Replacement Documents ("IRDs") that purport to be substitute checks and have not been previously endorsed by a bank, unless we enter into an agreement to do so. If you deposit such an item, you give us the same warranties and indemnities that we, as a reconverting bank, would give under applicable law or regulation, and you agree to reimburse us for claims, losses, costs, and damages we may incur. If you provide us with an electronic representation of a substitute check for deposit into your account instead of an original check, you agree to reimburse us for all claims, losses, costs, and damages we incur because the substitute check resulting from the electronic representation does not meet applicable substitute check standards or causes duplicate payments.

### **Multiple Signatures**

Your signature card identifies who is authorized to make withdrawals, transfer funds, place stop payments, obtain ancillary services, and otherwise give us instructions regarding your account. We do not offer accounts on which two or more signatures are required for withdrawal. Although your account may indicate that more than one signature is required for the withdrawal or transfer of funds, that notation is principally for your own purposes. We do not assume a duty to support multiple signature requirements. As such, we assume no duty to confirm that two or more (or any combination) of authorized signers have approved any transaction and we may act upon the instructions of any one authorized signer. Although we may attempt on occasion to enforce the multiple signature requirement shown on your card (for example, by refusing to permit a transaction by other than the stated number and/or combination of authorized signers), we may cease doing so at any time and without notice. We may pay out funds from your account if the item or other withdrawal instruction is signed or approved by any one of the persons authorized to sign on the account. We are not liable to you if we do this.

### **Item Processing**

We may accept, pay, certify, or charge checks and other items to the appropriate account in any order we choose. An “item” refers to checks, substitute checks, purported substitute checks, electronic items or transactions, drafts, demand draft, remotely created items, image replacement documents, indemnified copies, preauthorized payments, automatic transfers, telephone-initiated transfers, ACH transactions, online banking transactions, or other instructions or orders for the payment, transfer, or withdrawal of funds, and an image or photocopy of any of the foregoing.

### **Facsimile Signature**

If you use a facsimile signature, you are responsible for any withdrawal from your account that bears or appears to us to bear a facsimile signature that resembles or purports to be the signature of a person authorized to withdraw funds. We will not be liable to you if use of the facsimile device (or similar device utilized to affix your signature) was unauthorized. You are responsible even if the size, or color, of the facsimile signature is different from any signature previously presented to us. We may pay the withdrawal and may charge your account for it. You agree to reimburse us (and we may charge your account) for all claims, costs, losses, and damages, including attorneys’ fees, that result from our payment of a withdrawal bearing either a facsimile that resembles or purports to bear your signature or a facsimile we believe you authorized.

### **Restricting Transactions on Your Account**

As part of our loss prevention efforts, if we suspect that irregular, unauthorized, or unlawful activities may be involved with your account, we may restrict access or transactions (“freeze”) or place a hold on your account and on other accounts you maintain with us, without any liability to you, pending an investigation of such suspected activities. If we restrict your account as described, we will provide any notice required by the laws governing your account.

### **Voluntary Disclosure of Account Information**

If you voluntarily disclose your account number to another person orally, electronically, in writing or by other means, you are deemed to have authorized each item, including electronic debits that result from your disclosure. We may pay these items and debit your account.

## **Miscellaneous Terms and Services**

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### **Automatic Transfer Service**

With this service, you may arrange to have funds transferred automatically from a Money Market Account to other Bank accounts.

Federal regulation and this Agreement limit the number of automated transfers you may make from Money Market Accounts to six per month.

In most cases, we will make transfers periodically on the days and for the amounts that you specify. A scheduled transfer that falls on a weekend or bank holiday is made the next business day. If we are unable to complete a transfer because you do not have enough funds available in your account, we may cancel the service.

### **Business Days**

Our business days are Monday through Friday, excluding bank holidays. We may switch from one business day to the next business day before the end of the calendar day.

### **Claims / Conflicts to Your Account**

If we receive notice that another person or entity makes a claim against funds in your account or if we believe that a conflict exists between signers on the account or that there is a dispute over matters such as account ownership or transaction authority, we may take one or more of the following actions without being liable to you. We may continue to rely on current signature cards and other account documents; we may honor the competing claim upon receipt of what we deem to be acceptable documentation to justify such claim; we may freeze all or a part of the funds until the dispute is resolved to our satisfaction; we may close the account and issue a check for the balance in the account, either payable to you or to you and each claimant; or pay the funds to an appropriate court for resolution. You agree that you are liable for all expenses and fees we incur, including attorneys’ fees, and we may charge them to your account.

## **Currency Exchange Rates**

If we receive a transaction denominated in a foreign currency for credit to your account (such as a wire denominated in a foreign currency), we may determine and assign a currency exchange rate to your transaction without notice to you. You agree to this arrangement and accept our determination of the currency exchange rate. We may consider many other factors in setting the currency exchange rate, including and without limitation, exchange rates charged by other parties, desired rates of return, market risk, and credit risk. You understand and agree that the exchange rates for retail and commercial transactions, and for transactions effected after regular business hours and on weekends, are different from the exchange rates for large inter-bank transactions effected during the business day, as reported in the Wall Street Journal or elsewhere. Exchange rates offered by other dealers, or shown at other sources may be different from our rates. You agree that we are not liable to you if our rates are different from rates offered or reported by third parties, or offered by us at a different time, through a different channel, for a different transaction amount, or involving a different mode of payment. You also understand and agree that exchange rates are highly volatile. You assume all risks relating to or arising from fluctuations in the exchange rates between currencies involved in each of these transactions.

## **Cutoff Time**

The cutoff time for receipt of a stop payment order, restraining order, writ of attachment or execution, levy, garnishment, or similar order relating to your account is 10:00 a.m. Pacific Time. The cutoff time establishes our obligation to pay or return items. If we receive an order before this cutoff time, we may review items presented for payment against your account on the previous business day to determine whether we need to return any of them to comply with the order. If we receive the order after the cutoff time, we may not review items presented on the previous business day.

For example, if we receive a stop payment order from you after our cutoff time and the item you wanted to stop was presented for payment the previous day or otherwise before we had the opportunity to act on your request, your order was received too late to stop payment on the item. Or, if we receive a levy before the cutoff time and you do not have enough funds in your account to cover both the levy and all items presented against your account the previous business day, we may return one or more items and apply the funds to the levy.

## **Death or Incompetence**

You agree to notify the Bank promptly if any owner or authorized signer on your account dies or is declared incompetent by a court of appropriate jurisdiction. We may place a hold on an account and refuse to accept deposits or requests for withdrawal upon receipt of notice that the owner or signer has died or has been declared incompetent by a court of appropriate jurisdiction. We will not release funds to a successor, or to a representative of a deceased owner's estate, or to a conservator for an owner except upon submission of documentation demonstrating the death or incompetence of the customer and the authority of the representative, successor, or conservator to take possession or delivery of the funds. Where a non-owner signer on an account dies or is declared incompetent, our general rules regarding changing signers on accounts will apply. Until the Bank has received written notice of the death or incompetence of any account signer, it may rely and act upon the signature of each such deceased signer. We may suspend, refuse, and reverse any transactions or deposits (for example, automatic federal direct deposits of benefit payments belonging to the decedent) if any owner or authorized signer dies or is declared by a court to be incompetent.

Upon the death of an accountholder, the manner in which we release the account or any interest in the account will depend on the vesting of the account, the size of the estate, and/or the state of residence at the time of death. To determine how the account or your interest in an account must be released upon your death, we may require your successor or personal representative to submit a certified copy of your death certificate and any other documents we deem necessary, at our sole discretion, to establish who is entitled to delivery of your account or your share of the account.

## **Examining Statements and Reporting Problems**

This section applies to any problem or unauthorized transaction on your account, except electronic transactions that are subject to Regulation E.

You must exercise reasonable control over your statements, personal identification numbers (PINs) and other access devices. It is your responsibility to keep them safe and secure and to promptly discover and report if any of them are missing in time to prevent misuse. You assume full responsibility for monitoring and reviewing the activity of your account and the work of any agents or accountants you may engage.

We may deny a claim for losses due to forged, altered, or unauthorized transactions, items, or signatures if you do not guard against improper access to your statements and account information.

You agree to promptly and carefully review your account statement and any accompanying items. You must report problems or unauthorized transactions to us immediately, by calling the number for Customer Service on your statement. We may require written confirmation of your claim, including an affidavit signed by you on a form acceptable to us. Problems or unauthorized transactions include: suspected fraud; missing deposits; unauthorized electronic transfers; unauthorized withdrawal orders; withdrawal orders bearing an unauthorized signature, endorsement or alteration; illegible images; encoding errors made by you or us; and counterfeit checks. You agree that 60 days after we send a statement and items (or otherwise make them available) is the maximum reasonable amount of time for you to review your statement or items and report any problem or unauthorized transaction related to a matter shown on the statement or items. In addition, if you do not notify us in writing of suspected problems or unauthorized transactions within 60 days after we send your statement or items, or otherwise make them available, you agree that you cannot make a claim against us relating to the unreported problems or unauthorized transactions, regardless of the care or lack of care we may have exercised in handling your account. In addition, if you fail to report an unauthorized transaction on your account within 30 days (or such lesser period as is specified in the state law applicable to your account) following the closing date of the statement containing information about the first unauthorized transaction, we are not liable to you for subsequent unauthorized transactions on your account by the same person. You may not bring any legal proceeding or action against us to recover any amount alleged to have been improperly paid out of your account unless you have given us the notice described above.

If there are any unauthorized transactions on your account, we recommend that you close your current account and open a new one. If you do not do so, we are not liable to you for subsequent losses or damages on the account due to forgery, fraud or other unauthorized use. When you open a new account, you are responsible for notifying any third parties that need to know your new account number.

If you report to us that a forgery, alteration or other unauthorized transaction has occurred on your account, you agree to cooperate with us in the investigation and prosecution of your claim and any attempt to recover funds.

You agree to provide us with an affidavit containing the information we require concerning the transaction. We may deny your claim if you fail to provide us with any affidavit we require. You also agree to assist us in identifying and prosecuting the suspected wrongdoer(s).

You agree that we have a reasonable period of time to investigate the facts and circumstances surrounding any claimed loss and that we have no obligation to provisionally credit your account. Our maximum liability is the lesser of your actual damages proved or the amount of the missing deposit or the forgery, alteration or other unauthorized withdrawal, reduced in all cases by the amount of the loss that could have been avoided by your use of ordinary care. We are not liable to you for special or consequential losses or damages of any kind, including loss of profits and opportunity or for attorneys' fees incurred by you.

### **Legal Processes**

If we receive any legal process relating to your account, we may accept and act on any legal process we believe to be valid without any liability by us to you, whether served in person, by mail, by facsimile, or other means, at locations other than our headquarters where your account, property or records are held. A legal process includes subpoenas, restraining orders, injunction, writ of attachment or execution, levy, garnishment, tax withholding order, search warrant, forfeiture, or other similar order relating to your account. You agree to this and direct us not to contest the legal process.

We will hold and turn over funds or other property to the court or creditor as directed by the legal process. We do not pay interest on the funds during the period we hold them. If the funds are held in a time deposit, we may impose an early withdrawal penalty. We may impose a legal process fee for each order. We may deduct the fee from your account. You agree to pay any fees and expenses we incur for research and copying of documents and all other expenses, including attorneys' fees, which we may incur in responding to any legal process related to your account. We may deduct these fees and expenses from any of your accounts without prior notice. Any garnishment, attachment or other levy against your account is subject to our right of setoff and any security interest we have in the account.

You agree that we are not liable to you for not paying items because we have held or withdrawn funds from your account or in any way restricted access to funds because of a legal process. If we receive a subpoena or other legal process for information about your account and we believe it requires our compliance, we may release the information. If the legal process directs us to release information about an account that is reported on a combined statement, we may release the entire combined statement, even if other accounts on the combined statement are not subject to the legal process. If the legal process requests information about one account owner or signer, we may release information about other co-owners or signers on the account, even if the other co-owners or signers are not covered by the legal process.

## **Notice of Withdrawal**

Federal regulation requires the Bank to reserve the right to require seven (7) days prior written notice of withdrawal from any Money Market Account. While the Bank must reserve this right, it is not our general policy to exercise it.

## **Power of Attorney**

If you want to grant someone power of attorney over your account, we ask that you complete our power of attorney form, which is available by calling the number for Customer Service on your statement. We may also generally accept a state's statutory form power of attorney. We may, in our sole discretion, accept any form we believe was executed by you and act on instructions we receive under that form without any liability to you. You agree to reimburse us for any claims, costs, losses, and damages that we incur in accepting and acting on any power of attorney form that we believe you executed. In some cases, we may require that the attorney-in- fact confirm in an affidavit that the power of attorney designation has not been revoked or terminated. We may restrict the types or sizes of transactions we permit an attorney-in-fact to conduct. For example, we may not allow an attorney-in-fact to open new accounts on your behalf.

We may require a separate form for each attorney-in-fact and for each account for which you grant power of attorney. If your attorney-in-fact does not present the original form, we may refuse to honor any power-of-attorney you grant for any reason and you agree that we are not liable to you. When we accept a power of attorney designation, we may continue to recognize the authority of your attorney- in-fact until we receive written notice of revocation from you and have reasonable time to act upon it.

You agree that you are bound by, and responsible for, the actions of your agent.

## **Right of Setoff**

We reserve the right to take funds on deposit in your account that you or others deposit and apply them to amounts you owe us. This is called the right of setoff. Our rights of setoff are different than other rights we have under this Agreement to deduct from or charge your account for amounts you owe us (for example, fees and charges).

There are limitations to our ability to take or setoff funds from your accounts with us and from accounts you may own with others. To the extent that you may do so by contract, you waive those conditions and limits and authorize us to apply funds in your accounts and accounts you own with others to amount that you owe us.

We may exercise our right of setoff and deduct funds from any account you have with us without notice to you, except that this provision does not apply to any consumer credit covered by Truth in Lending regulations. If you are a sole proprietor, we may deduct funds from any of your personal or business accounts. If your account is a partnership, we may deduct funds from the personal accounts of any general partner.

We may use funds from a joint account to satisfy the debts for which any one of you is liable, whether liable jointly or individually, or with another person. We may deduct funds at any time, without regard to the origin of the funds in the account or the beneficial ownership of the funds.

Funds held in individual accounts may be used to satisfy the debts for which you are liable, even if such debts are owed jointly with another person. Such debts include monies owed by you arising out of another joint account of which you are a co-owner, even if they are not directly incurred by you; those on which you are secondarily liable; or any amounts for which we become liable to any governmental agency or department or any company as a result of recurring payments credited to any of your accounts after the death, legal incapacity, or other termination of entitlement of the intended recipient of such funds.

If we use funds from a time deposit account, we may impose an early withdrawal penalty.

You agree that we are not liable to you for dishonoring items where withdrawals described herein result in any overdraft or returned item fee to your account.

Some government payments (for example, Social Security, Supplemental Security Income, Veterans, and other federal or state benefits) may be protected from attachment, levy, or other legal process under federal or state law. If such protections would otherwise apply to funds we take or setoff from your accounts, to the extent that you may do so by contract, you waive these protections and agree that we may take or setoff funds, including federal and state benefit payments, from your accounts to pay amounts you owe us.

## **Stop Payment Orders**

You may place a stop payment order on an item if it has not already been paid.

You may request a stop payment order by mail, telephone, or email to our customer service team.

We may require you to put your request in writing and we may request that you complete a form to request the stop payment. If you do not provide your request in writing, your stop payment order will expire after 14 days. You agree that you must give us sufficient notice so that we have a reasonable period of time to act on your request. Your stop payment request will be effective only after we have had a reasonable period of time to act on your request and to verify that the item has not paid. We may charge you a fee for each stop payment order you request and for each renewal. Refer to the Disclosure of Products and Fees.

You agree that you must provide us with the following information to place a stop payment: account number, exact amount of the item, and item number. We may also require that you tell us the date of the item, the name of the person who signed or authorized the item, and the name of the party to whom the item was made payable. We may use only a portion of the required information to identify an item.

We use a computer system to identify items. Therefore, in order for your stop payment order to be effective, you agree that you will provide us with the exact amount of the item, including dollars and cents. If you give us the wrong amount or are unsure of the amount, the item may be paid and you agree we are not liable to you.

There may be cases in which we pay an item even if a stop payment order is in effect.

Stop payment orders are effective for six months, at which time you must renew them or they will no longer be effective. We may, in our sole discretion, decide to honor a stop payment order for a longer period without notice to you. In order for your stop payment order to remain effective after six months has passed, you must renew the order. Each renewal is treated as a new order. If an item is presented after an order is expired, we may pay it.

You may cancel the order at any time before expiration. You may notify us of your intention to cancel the order by calling us at 844-371-EARN (844-371-3276), or emailing us at [support@earn.bank](mailto:support@earn.bank). Your request to cancel the order is not effective until we have had a reasonable opportunity to act on it. A stop payment order is cancelled automatically upon account closing.

Our liability for paying an item subject to a proper and timely stop payment order is limited to the actual loss suffered, up to the amount of the item. You must prove the loss to our satisfaction. You agree that we are not liable to you for any special, incidental, or consequential loss or damage of any kind.

### **ACH Stop Payment Orders**

From time to time, we may receive ACH debits to your account from senders you previously authorized to debit your account. You may ask us to stop payment on a future ACH debit to your account if the item has not already been paid.

You are responsible for notifying the originator that you have revoked prior authorization for ACH debits.

To place an ACH stop payment order, you will need to provide us with the information detailed in the section titled Stop Payment Orders, which immediately precedes this section. We also need your name, telephone number, and type of account. We may also request the date of prior ACH debits from the same originator posted to your account so we can obtain information about the debit, such as the company name and company identification number used by your originator and printed on your statement. Otherwise, you must provide us with the company name and company identification number.

If you cannot tell us the amount of the ACH debit, we may still be able to stop payment based on the company name and company identification number, but this may stop all ACH items from this sender. If you give us the wrong identification number or if the sender changes the identification number, we may pay the item.

ACH stop payment orders take effect within three business days. If you give us oral instructions, we may require you to put them in writing. If you do not, we may remove the stop payment order after 14 days. Otherwise, your order will be effective for 6 months.

### **Dormant / Inactive Accounts**

An account on which there has been no activity for a period of time as provided by applicable state or federal law may be considered inactive or dormant. Your account is considered inactive or dormant if you do not perform at least one of the following activities for a period of time specified in California's unclaimed property law: make a deposit or withdrawal, write to us about the account, or otherwise show an interest in the account. Please be aware that you need to personally perform the activity, which means that automatic withdrawals and deposits will not be considered under California Unclaimed Property laws.

State law requires us to turn over dormant property to the state. Before we turn over an account, we may send a notice to the address currently in our records. If mail we previously sent to this address was returned to us, we may not send the notice.

If you have not made a deposit to or withdrawal from your account for a period that we consider substantial, we may also refuse to pay items drawn on or payable out of the account. If you re-establish contact with us, we do not have to reimburse you for interest lost and we are not liable to you for any interest that would otherwise have accrued on your account.

### **Transaction Verification**

All transactions, including those for which we provide a receipt, are subject to our final verification. Any online or mobile deposit acknowledgement you receive is not proof of verification, but is provisional until the deposit has been verified. We may reverse or otherwise adjust any transaction (debit or credit) that we believe we made to your account in error at any time without notice to you.

### **Taxpayer Information**

In general, the Bank is required to report annually to accountholders and to the Internal Revenue Service (IRS), and to any applicable state tax agencies, the interest payments that total \$10.00 or more during a calendar year on your accounts.

Accordingly, when you open an account, we are required to obtain from each accountholder, and you must give us, a valid, verified U.S. taxpayer identification number (TIN) and information regarding your backup withholding status. When you apply for an account, you certify that you have provided the correct TIN for the accountholder and the correct backup withholding status.

If you fail to furnish us your certified Social Security Number or TIN, or if the IRS notifies us that you gave us an incorrect number, or if you failed to report all of your interest and dividends, we may be required to withhold at the current rate interest earned on your account and pay it to the IRS. Backup withholding is not an additional tax. You should claim amounts withheld and paid to the IRS as a credit on your federal income tax return.

### **Cashier's Checks, Teller's Checks, and Certified Checks**

You do not automatically have the right to stop payment on cashier's checks you purchase from us. In the event that a cashier's check is lost, stolen, or destroyed, please contact us for the procedures to follow to obtain reimbursement or have the cashier's check reissued. In general, you will have to complete a Declaration of Loss form, describing the cashier's check and how it came to be lost, stolen, or destroyed, and sign the Declaration of Loss under penalty of perjury. We may require your signature to be notarized. We must then wait 90 days from the date the check was issued before we can pay your claim. If 90 days has already passed, then we will act on your claim within a reasonable time. If the check is presented during the 90-day waiting period, we may pay the item to a person entitled to enforce the check. If this happens, we will not pay your claim.

### **Waivers**

We may delay enforcing our rights under this Agreement without losing them. No delay in enforcing our rights will affect your obligation to pay us fees and other amounts you owe us under this Agreement. If we waive a provision of this Agreement, the waiver applies only in the specific instance in which we decide to waive the provision and not to future situations or other provisions.

If any part of this Agreement is inconsistent with any applicable law, then to the extent the law can be amended by contract, you and we agree that this Agreement governs and the law is amended by this Agreement. A determination that any part of this Agreement is invalid or unenforceable will not affect the remainder of the Agreement.

You waive diligence, demand, presentment, protest, and notice of every kind, except as otherwise set forth in this Agreement.

### **Attorney Fees**

You agree to be liable to us, to the extent permitted by law, for any loss, costs, or expenses that we may incur as a result of any dispute or legal proceeding involving your Account. You authorize us to deduct any such loss, cost, or expenses from your account without prior notice to you or to bill you separately. This obligation includes disputes between you and us involving your account in situations where we become involved in disputes between you and an authorized signer, a joint owner, or a third party claiming an interest in your account. It also includes situations where any action taken on your account by you, an authorized signer, a joint owner, or third party causes us to seek the advice of an attorney, whether or not we actually become

involved in a dispute.

### **Disputes**

We try to resolve our customers' problems or disputes as quickly as possible. In most cases, we can resolve a problem by telephone or email. Any dispute or controversy regarding your account will be decided by either arbitration or a referee. Under the procedures, the dispute is submitted to a neutral person for determination in place of trial before a judge or jury. A dispute or controversy involving one deposit account relationship, or two or more deposit account relationships with at least one common owner, is decided by arbitration under the Consumer Arbitration Rules of the American Arbitration Association. Any other dispute or controversy is decided by reference under California Code of Civil Procedure Section 638 and related sections or any other similar governing state law. A referee, either an active attorney or a retired judge, is selected according to the procedures by selecting arbiters of the American Arbitration Association and is then appointed by the court in which the action regarding the dispute or controversy is pending.

### **Unlawful Internet Gambling**

In compliance with the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA) and implementing regulations (Regulation GG), certain transactions are prohibited within your account.

"Unlawful internet gambling" is defined in UIGEA as placing, receiving, or otherwise knowingly transmitting a bet or wager by any means that involves the use, at least in part, the Internet where such bet or wager is unlawful under any applicable federal or state law in the state or tribal lands in which the bet or wager is initiated, received, or otherwise made.

A restricted transaction is defined under Regulation GG to be transactions in which funds are unknowingly accepted by gambling businesses in connection with the participation by others in unlawful internet gambling. Internet gambling will generally be considered to be unlawful unless verifiable authorization is obtained by an appropriate state or tribal authority.

As a customer of the Bank, these restricted transactions are prohibited from being processed through your account or banking relationship with us. If you do engage in an internet gambling business and open an account with us, we will ask that you provide evidence of your legal capacity to do so.

Banks are required to block unlawful internet gambling debit and credit card transactions. Systems provided by card operators may not be able to distinguish lawful from unlawful internet items. Therefore, lawful internet gambling transactions could be blocked. The Bank is protected under this regulation and assumes no liability in the event such lawful transactions are blocked.

### **Information about Fees and Charging Your Account Fees**

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You agree to pay us for our services in accordance with the fees that apply to your account and your deposit relationship with us.

#### **Account Fees**

Your account is subject to the fees described in the Schedule of Fees and Charges that applies to your account, which is included in the Disclosure of Products provided to you, and is part of the binding contract between you and us.

#### **Fees of Other Services**

In addition to deposit accounts, we offer many services such as wire transfers and cashier's checks. You can obtain current information about these services and the corresponding fees by calling us at the customer service number shown on your account statement. The Disclosure of Products and Fees that applies to your account may contain fees for some of these services.

#### **Charging Fees to Your Account**

We may deduct fees, overdrafts and other amounts that you owe us under this Agreement from your accounts with us, except that this provision does not apply to any consumer credit covered by the federal Truth in Lending law. We may make these deductions at any time without prior notice to you or request from you. If there are not enough funds in your account to cover the amounts you owe us, we may overdraw the account, without being liable to you. You agree to pay immediately all fees, overdrafts, and other amounts you owe us. We may use deposits you or others make to your account to pay fees, overdrafts, and other amounts you owe us.