

## ONLINE BANKING TERMS AND CONDITIONS AGREEMENT

This Online Banking Terms and Conditions Agreement, including each of its Schedules (the "Agreement") describes your rights and obligations as a user of the Online Banking System (the "System") and all other related services made available online by earn.bank including, without limitation, eStatements, External Transfers, or Mobile Banking (each, a "Service" or collectively, the "Services"). It also describes the rights and obligations of earn.bank, a division of Silvergate Bank. Please read this Agreement carefully. As an authorized account holder, you must abide by the terms and conditions of this Agreement, and those provided to you at account opening, in order to use this Service. If you do not agree to these terms, do not complete your registration for the Services or use the Services.

### OTHER AGREEMENTS

Your use of the Online Banking System and related Services is governed by this Agreement and its Schedules, all Bank disclosures to you, and any other applicable agreements between you and us, including our Deposit Account Agreement and Regulatory Disclosure, any applicable loan agreements, or other account agreements that apply to the deposit or loan accounts accessed by you using a Service (collectively, "Other Agreements"). You acknowledge receipt of these Other Agreements, which may contain applicable fees, limitations on the number of transfers you may make or other restrictions which might impact the use of your accounts and one or more Services. This Agreement supplements applicable Other Agreements; provided, however, that where the terms of this Agreement differ from those of an Other Agreement, the terms of this Agreement shall supersede those of the Other Agreements (to the extent of the inconsistency). In addition, in the event of a conflict between this Agreement or any Other Agreements and statements made by one of our employees, this Agreement or the otherwise most applicable of the Other Agreements will prevail over any such statements.

### CUSTOMER DISCLOSURE AND AGREEMENT TO RECEIVE ELECTRONIC COMMUNICATIONS

By selecting the "I Accept" button below, you are (1) acknowledging your receipt of the information listed below, (2) agreeing that any contract you enter into with us for the provision of certain Online Banking Services may be in electronic form, and (3) agreeing that certain information that may be delivered in connection with the Services may also be in electronic form.

You further acknowledge and agree that:

- You will check your e-mail regularly for Notices from us.
- You will provide accurate, current and truthful registration information and contact information (including your e-mail address) and that you will keep this contact information up-to-date with us.
- We may provide you with this Agreement and any revisions and amendments thereto in electronic form (including without limitation information relating to applicable banking or financial services laws or regulations), and that, if you choose to accept the Agreement, you are consenting to enter into and are entering into an agreement electronically that will govern all future transactions you conduct using the Services.
- While you may print and retain a copy of the Agreement or any information provided to you in relation to the System or Services, we only provide these documents electronically.
- You have a right at any time to withdraw, without service charges, your consent to receive information electronically. However, because the Agreement and other information are provided only in electronic format, your withdrawal of consent will terminate your access to the System and all Services.
- If you wish to withdraw consent to receive information electronically, to terminate the Services, or to update your information, such as a change of postal mail address or email address, you may call us at 844-371-3276 (844-371-EARN) go to Customer Service – Manage Contact Information within Online Banking, or write a letter and send it to: earn.bank, P.O. Box 22881 San Diego, CA 92192
- You are able to access information that is provided in the same manner as the information and the Services via the Internet.

## DEFINITIONS

The following definitions apply in this Agreement.

**"Access ID"** means the unique user identification code that gives you access to the Online Banking System.

**"Account"** means one or more deposit or loan accounts, if applicable, held at the Bank in your name and from which you will be conducting transactions using a Service available through the System. In the case of the External Transfer Service described in Schedule A, account also means any account at another financial institution that you may designate as a Recipient Account for purposes of transferring funds from one of your accounts with the Bank.

**"ACH"** means an Automated Clearing House.

**"Business Day"** means every Monday through Friday, excluding Federal Reserve holidays (e.g., January 1, the third Monday in January, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, the fourth Thursday in November, or December 25. If January 1, July 4, November 11, or December 25 fall on a Sunday, the next Monday is not a business day). All online transaction requests received on a non-Business Day or after our regular business hours shown below will be processed immediately, but may not appear in the online history until the following Business Day.

earn.bank Regular Banking Hours are Business Days Monday through Friday, from 9:00 a.m. – 5:00 p.m. Pacific Time

**"Check"** means a draft, payable on demand and drawn on or payable through or at an office of a bank, whether or not negotiable, that is handled for forward collection, including a Substitute Check or traveler's check, and does not include a non-cash item payable in a medium other than United States dollars.

**"Customer"** along with the words "you," "your" and other similar terms means the customer of earn.bank that has accepted this Agreement to exercise control over the Customer's funds through one or more Services described in the Schedules to this Agreement.

**"Due Date"** means the date reflected on your Payee statement for which the Bill Payment is due; it is not the late date or grace period.

**"External Transfer Service"** means the services described in Schedule A to this Agreement, which allow you to transfer funds from one or more of your accounts with us to accounts you may have with other financial institutions.

**"Image Exchange Item"** means a digitized image of an Item cleared and settled directly with another financial institution without conversion to a Substitute Check.

**"Item"** means a Check that is payable on demand, drawn on or payable through or at an office of a United States Financial Institution and payable or endorsed to you, and includes Substitute Checks and Image Exchange Items.

**"Mobile Banking Service"** means the services described in Schedule B to this Agreement, which allow you to conduct a range of financial transactions remotely using a mobile device such as a mobile phone or tablet, and using software, usually called an app, provided by us for mobile banking purposes.

**"Password"** means a series of numbers, special characters and/or letters that you select after the initial System sign-on that establishes your connection to the Service(s). We will provide you with a temporary password for use during the initial sign-on process.

**"Product"** means, collectively, the procedures, protocols, and software used by us and our licensors and contractors in connection with the electronic processing of Items, and includes without limitation the Mobile Banking Service described in Schedule B to this Agreement.

**"Sender"** means you when you are making a Transfer using the External Transfer Service described in Schedule A to this Agreement.

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

“System” means the Online Banking System, an Internet-based system providing access to your account(s) under the terms set forth in this Agreement.

“Transfer” means a transfer of funds from one of your accounts with us to an account you maintain with our Bank or an account you maintain at another United States Financial Institution, as described in the External Transfer Service Schedule A to this Agreement.

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

“We,” “our,” “ours,” “us,” or “Bank” mean earn.bank, a division of Silvergate Bank, or any of our designated processors for any of the Services.

## ACCESS TO THE SYSTEM AND SERVICES

We will provide online instructions describing how to use the System and all related Services. To gain access to the System and its Services you will need your Access ID and your Password.

To use the Service, you must have access to one or more of the following browsers and operating systems:

Operating System	Microsoft Internet	Apple Safari®	Mozilla Firefox®	Google Chrome™
Windows 7	11.0	NA	45.0	50.0
Windows 8.1	11.0	NA	45.0	50.0
Windows 10	11.0, Edge	NA	45.0	50.0
Mac OS X10.10	NA	9.0	45.0	NA
Mac OS X10.11	NA	9.0	45.0	NA
iPad®	NA	8.0	NA	NA
iPad mini®	NA	7.1	NA	NA

Pop-up windows, session cookies and JavaScript must be enabled, and you must have an e-mail address. You can add or delete any of your accounts from access to the System by calling us at 844-371-3276. We have no obligation to monitor transactions through the System to determine that they are made on your behalf.

You will receive an Access ID and Password from us prior to your initial login to the System. Your initial Access ID and Password will be automatically generated, and for security purposes you may be required to change your initial Access ID and Password upon your initial login to the System. You may change your Access ID after your initial login to the System to a combination of at least eight and a maximum of no more than 32 characters. Access IDs must include at least two letters, upper and / or lowercase; at least two numbers, and may contain authorized special characters. You determine what Password you will use and your Password is not communicated to us. You agree that we are authorized to act on instructions received under your Password. You accept responsibility for the confidentiality and security of your Password and agree to change your Password at least every 90 days. Users must select Passwords that contain a combination of at least eight and a maximum of 32 characters. Passwords must include at least two letters, upper and / or lowercase, at least two numbers, must be different from your Access ID, and may contain authorized special characters. Passwords should not be easy to guess. You will be forced to change your Password at your next login when your Password expires; however, we have no obligation to verify that you have used a reasonable level of protection for your Password. Upon three unsuccessful attempts to use your Password, your access to the System will be locked. To re-establish your authorization to use the System, you must contact Customer Service at [support@earn.bank](mailto:support@earn.bank), or 844-371-3276 (844-371-EARN).

You acknowledge and agree that we issue to you the Access ID and Password to facilitate your exclusive access to the System as requested and that the Access ID and Password shall be kept absolutely confidential by you to ensure that unauthorized System access and therefore unauthorized access to your accounts does not occur. The System automatically signs off after 20 minutes of inactivity and stores the user's 16 previous passwords to prevent reuse.

You agree and acknowledge that your Access ID and Password are authentication tools or methods used by us to verify your identity and that we may require you to use additional authentication tools or methods at any time and from time to time. Such

additional authentication tools or methods may include, without limitations, challenge questions selected by you during enrollment or a one-time use password sent to your cellular phone number in our records. You further agree that if you do not use our additional authentication tools, if and when they become available, then your access and use of the System may be limited or you may not be able to use the Services.

## **HOURS OF OPERATION**

The System and Service(s) are generally available 24 hours a day, 7 days a week, except during special maintenance and upgrade periods. When this occurs the System and Services will not be available.

## **FEES**

Currently there is no associated fee to access the System. If and when fees are assessed, a minimum of 30 days' notice will be given to Online Banking customers.

## **USE OF YOUR SECURITY PASSWORD**

The safety of our customers' accounts and account information is of paramount importance to us. We go to great lengths to protect confidentiality and the security of your account, and urge you to do the same. You agree not to allow anyone to gain access to the System or to let anyone know your Access ID or Password. You agree to assume responsibility for all transactions initiated through the System with your Access ID, up to the limits allowed by applicable law. While we continue to provide our customers with the level of online security we believe necessary and appropriate, customers who share their Access IDs and Passwords are giving up the full benefit of our security measures and legal protections to which they may be entitled. No representative of ours will ever call or e-mail and ask for your Access ID or Password; however, if you contact us you may be asked for your Access ID and other personal information to verify your identity.

## **IF YOUR PASSWORD HAS BEEN LOST OR STOLEN**

If your Password has been lost or stolen, call us immediately at 844-371-3276 (844-371-EARN) – telephoning us is the best way of minimizing your losses – **DO NOT USE EMAIL TO NOTIFY US**. You may also restore the security of your account Services by immediately changing your Password. If you believe your Password has been lost or stolen and you notify us within two Business Days after you learn of the loss or theft, you can lose no more than \$50.00 if someone uses your Password to conduct unauthorized electronic funds transfers without your permission. If you do NOT notify us within two Business Days after you learn of the loss or theft of your Password, and we can prove we could have stopped someone from using your Password to conduct unauthorized electronic funds transfers without your permission if you had told us, you could lose as much as \$500.00.

## **BANKING TRANSACTIONS WITH ONLINE BANKING**

In addition to viewing account information, you may use the Online Banking System to conduct the following transactions:

- Transfer funds among your linked checking and savings accounts,
- Stop Payment Authorizations – You may complete a stop payment request online. A fee will apply to each stop payment request placed. Please refer to our Disclosure of Products and Fees. Stop payment requests placed after regular banking hours may not be processed until the next Business Day. Your online request to place a stop payment will be your electronic signature authorization to complete the stop payment order.
- Send ACH payments to other bank accounts owned by you by External Transfers
- View e-Statements

**NOTE:** Because regulations require us to limit pre-authorized transfers (including Online Banking transfers), the following limitations apply to transfers made from savings or money market accounts. You may make unlimited in-person withdrawals and transfers by mail or by courier. You are limited to six transactions per month from among the following: preauthorized Online Banking transfers and telephone transfers. If you exceed the number of transaction limits on more than an occasional basis, we may convert your account to another type of account or close your account. A fee may be assessed for each transaction that exceeds the limitations.

New services may be introduced for Online Banking from time to time. We will notify you of the existence of these new services. By using these services when they become available, you agree to be bound by the rules that will be made available to you concerning these services.

## STATEMENTS

You will continue to receive your regular account statement either monthly or quarterly, depending on the type of account, even if you elect to use our eStatement service. Our eStatement service will notify you by email when your statement is ready to be viewed and/or printed.

### IF YOUR STATEMENT SHOWS TRANSFERS THAT YOU DID NOT MAKE

If your statement shows transfers that you did not make, notify us immediately at 844-371-3276 (844-371-EARN), or write a letter and send it to earn.bank, P.O. Box 22881, San Diego, CA 92192.

If you do not notify us within sixty (60) days after the statement was sent to you, you may not recover any money lost after the sixty (60) days, if we can prove that we could have prevented the loss if we had been notified in time.

### ERRORS AND QUESTIONS

In case of errors or questions regarding Online Banking or any of its Services, you may call us at 844-371- 3276 (844-371-EARN), or write a letter and send it to: earn.bank, P.O. Box 22881, San Diego, CA 92192.

We must hear from you at the specified telephone number or address no later than sixty (60) calendar days after we sent you the first statement on which the problem or error appeared. We will need:

- Your name and account number.
- A description of the error or the transfer in question, and an explanation concerning why you believe it is an error or need more information.
- The dollar amount of the suspected error.
- The date on which it occurred.

If the report is made orally, we may require that you send the complaint or question in writing within ten (10) Business Days from your initial contact. We will notify you with the results of the investigation within ten (10) Business Days after you contact us and will correct any error promptly. If more time is needed, however, we may, at our sole discretion, take up to forty-five (45) calendar days to investigate a complaint or question. If this occurs, we will credit your account within ten (10) Business Days for the amount you think is in error, plus interest. This will allow you to use the money during the time it takes us to complete our investigation. If your complaint or question is not received in writing within ten (10) Business Days from your original contact, we may not credit your account until the investigation is completed.

If your notice of error concerns a transaction that occurred during the first thirty (30) days after the first deposit to the account was made, the applicable time periods are twenty (20) Business Days instead of ten (10) Business Days and ninety (90) calendar days instead of forty-five (45) calendar days.

If we determined that no error occurred, we will send you a written notice within three (3) Business Days after our decision on the matter. You may request copies of the documents that were used in the investigation.

You agree that we may respond to you by e-mail with regard to any claim of unauthorized electronic fund transfer related to the Service. Any such electronic mail sent to you by us shall be considered received within three Business Days of the date sent by us, regardless of whether or not you sign on to the System within that time frame.

### LIMIT OF OUR RESPONSIBILITY

We agree to make reasonable efforts to ensure full performance of Online Banking. We will be responsible for acting only on those instructions sent through Online Banking which are actually received, and cannot assume responsibility for circumstances over which we have no direct control. This includes but is not limited to, the failure or malfunction of communication facilities, which may affect the accuracy or timeliness of messages you send. We are not responsible for any losses should you give incorrect instructions, or if your payment instructions are not given sufficiently in advance to allow for timely payment or delays in mail service.

Any information you receive from us is believed to be reliable. However, it can only be provided on a best-efforts basis for your convenience and is not guaranteed. We are not liable for any deficiencies in the accuracy, completeness, availability, or timeliness of such information, or for any investment or other decision made using this information.

We are not responsible for any fees incurred for Internet access, or for any computer virus or related problems that may be attributable to services provided by any Internet service provider.

You are responsible for obtaining, installing, maintaining, and operating all computer hardware and software necessary for performing Online Banking. We will not be responsible for any errors or failures from the malfunction or failure of your hardware or software.

The limit of our liability shall be as expressly set forth herein. Under no circumstances will we be liable in contract, tort, or otherwise for any special, incidental, or consequential damages, whether or not foreseeable.

By consenting to use the Services, you agree to waive any and all rights to any of the aforesaid, and you acknowledge that the limit of your remedy is as otherwise expressly set forth herein.

## OUR RESPONSIBILITY

We will be responsible for your losses, as allowed by law, if they were directly caused by our failure to:

- Complete an Electronic Funds Transfer as properly requested.
- Cancel an Electronic Funds Transfer as properly requested.

However, we will **NOT** be responsible for your losses if:

- Through no fault of ours, you do not have enough money in your account to make the transfer.
- Through no fault of ours, the transaction would have caused you to exceed your available credit.
- Circumstances beyond our control (e.g., fire, flood, power outage, mail delivery delays, equipment or technical failure or breakdown) prevent the transfer, despite reasonable precautions that we have taken.
- There is a hold on your account, or if access to your account is blocked in accordance with our policy.
- Your funds are subject to legal process or other encumbrance restricting the transfer.
- Your transfer authorization terminates by operation of law.
- You believe someone has accessed your accounts without your permission and you fail to notify us immediately.
- You have not properly followed the scheduling instructions, included in this Agreement, to make a transfer or the Payee refuses the Service.
- For the failure of any Payee to correctly account for or credit the payment in a timely manner.
- We have received incomplete or inaccurate information from you or a third party involving the account or transfer.
- For changes to the Payee's address or account number (unless you have advised us of the change within three (3) Business Days in advance).
- We have a reasonable basis for believing that unauthorized use of your Access ID, Password or account has occurred or may be occurring, or if you default under this Agreement or any of the Other Agreements with us, or if we or you terminate this Agreement.

There may be other exceptions stated in this agreement and in other agreements with you. In no event shall we be liable for damages in excess of your actual loss due to our failure to complete a transfer, and we will not be liable for any incidental or consequential damages.

If any of the circumstances listed above shall occur, we shall assist you, with reasonable efforts, in taking appropriate corrective action to reprocess the transactions that may not have been completed or to correct incorrect transactions that have been processed.

## ELECTRONIC MAIL (EMAIL)

**If you send us an electronic mail message through the Service, we will be deemed to have received it on the following Business Day.**

Emails will be answered within a reasonable timeframe.

**You should not rely on electronic mail if you need to communicate with us immediately (e.g., if you need to report an unauthorized transaction from one of your accounts, or if you need to stop a payment that is scheduled to occur).**

You agree that we may respond to you by electronic mail with regard to any matter related to the Service, including responding to any claim of unauthorized electronic funds transfer that you make. Any such electronic mail sent to you by us shall be considered received within three (3) days of the date sent by us, regardless of whether or not you sign on to the Service within

07.20.2018

that time frame.

## **ALERTS / MESSAGES**

Online Banking alerts allow you to set up automated alert events based on your own criteria. Alerts may be sent by email or in an online message box within Online Banking, or both. Email alerts will be sent to the email address you provide in creating the alert.

- We may add or remove types of alerts from time to time.
- If you change your email address you are responsible for changing this in the alerts you have already set up.
- You agree that alerts may be delayed or prevented for a variety of reasons.
- We do not guarantee the delivery or validity of the contents of any alert.
- You agree that we shall not be liable for any delays, delivery failure or misdirected delivery of any alert.
- You agree that we shall not be liable for any actions taken or not taken by you or anyone else in reliance of an alert.
- We will never include your password or full account number in an email alert, however you understand that alerts may include your name and some information about your accounts.
- Unfulfilled events (events that do not happen) will only remain on the system for 999 days. You will not be notified when they are removed.
- Distributed events (events that have happened and have been viewed) will remain on the system for 30 days.

## **MODIFICATIONS TO THIS AGREEMENT**

We may modify the terms and conditions applicable to either the System or any Service from time to time upon mailing or delivering a notice of the modifications to you at the address shown on our account records, and the revised terms and conditions shall be effective at the earliest date allowed by applicable law. We may send any notice to you by electronic mail and you will have been deemed to have received it three (3) days after it is sent. We reserve the right to terminate this Agreement and your use of the System and Services in whole or in part at any time without prior notice.

## **DISCLOSURE OF INFORMATION TO THIRD PARTIES / PRIVACY POLICY**

A copy of our Privacy Policy is available on our website, or can be mailed to you upon request by calling us at 844-371-3276, or writing a letter and sending it to: earn.bank, P.O. Box 22881, San Diego, CA 92192.

By registering to use the System, registering for a new Service, or continuing to use the System and Services following your registration, you authorize the collection, use, and disclosure of personal information by us as provided under our then-current Privacy Policy.

## **INACTIVITY / TERMINATION**

You are responsible for complying with all the terms of this Agreement and with the terms of the Other Agreements governing the deposit accounts which you access using the Online Banking System. We can terminate your Online Banking privileges (including the Bill Payment Service) under this Agreement without notice to you for any reason; if you do not comply with this Agreement or the Other Agreements governing your deposit or loan accounts, or your accounts are not maintained in good standing. We will promptly notify you if we terminate this Agreement or your use of the services for any other reason.

We may convert your account to inactive status if you do not sign on to the System or have any transaction scheduled through the System during any consecutive 365 day period. If your account is considered inactive, you must contact us to have the System activated before you will be able to use any Service to schedule any transaction through the System.

To cancel the Online Banking you must notify us in writing. Your notification should include your name, address and the effective date to stop the Service(s), and should be mailed to: earn.bank, P.O. Box 22881, San Diego, CA 92192.

## **GOVERNING LAW**

This Agreement is governed by the laws of the State of California and applicable federal law(s).

## **FEE SCHEDULE**

We offer the benefits and convenience of the Online Banking service to you at no monthly charge. Account research and other

service charges will be assessed and deducted from your account at the rates published in our Schedule of Fees and Charges included in our Disclosure of Products.

These fees are subject to change. We will notify you in writing regarding any adverse fee changes at least thirty (30) days in advance of the effective date of these changes.



## **SCHEDULE A – EXTERNAL TRANSFER SERVICE TERMS AND CONDITIONS**

The following terms and conditions apply to the Customer's use of the External Transfer Service.

### **1. External Transfers**

a. Within the Online Banking System, you have the option to participate in the External Transfer Service, which allows you to transfer funds between your money market accounts with us and checking or savings accounts owned by you at other United States Financial Institutions, assuming that the transfer is permitted by your other financial institution and by law. Accounts with us you select for this Service are referred to as "Internal Accounts," and accounts you select from among accounts you own at other financial institutions are referred to as "External Accounts." You may only transfer funds between accounts where you are an owner of both accounts and the terms and conditions of the accounts allow deposits and/or withdrawals of the type you are initiating. Transfers from an Internal Account to an External Account are referred to as "Outgoing Transfers" and Transfers from an External Account to an Internal Account are referred to as "Incoming Transfers."

b. In order to use the External Transfer Service, you will need to register the External Accounts that you wish to access and provide certain identifying information about each of those accounts. For Incoming Transfers, you agree that you will only attempt to register External Accounts that you own or for which you have the authority to transfer funds. You acknowledge and agree that each External Account you seek to register will be subject to a two-deposit validation process, a fraud mitigation feature that requires you to confirm account ownership by validating the amounts of two small deposits made to an External Account before Transfers can be made to or from the account.

c. The External Transfer Service is only available for domestic (U.S.) transfers. International transfers cannot be performed through the External Transfer service. International funds transfers may be processed through a wire transfer request.

d. **Outgoing Transfers:** For Outgoing Transfers, funds will be debited from your Internal Account on the Business Day for which you request the Transfer to be made (the "Scheduled Date"), and typically will be credited to the External Account on the second to third Business Day after the Transfer's Scheduled Date.

e. **Incoming transfers:** For Incoming transfers, the funds typically will be debited from your External Account at your other financial institution on the Business Day or next Business Day after its Scheduled Date, and will be credited to your Internal Account with us on the second to third Business Day after the Transfer's Scheduled Date.

f. We are not responsible for any failure of another financial institution to act in a timely manner as described above. As a result, we cannot guarantee the timely delivery or return of funds as a result of the failure of another financial institution to act in a timely manner.

g. You agree to have sufficient available funds in your designated Internal Account(s) to cover all Recurring Transfers on the Scheduled Date. If the applicable Internal Account does not have sufficient available funds on the Scheduled Date, we may elect not to initiate one or more of the Transfers. If we do elect to initiate the Transfer, it may cause an overdraft in your Internal Account, in which case you will be liable for the overdraft and any overdraft fees and interest thereon, as set forth in your Other Agreements, and you agree to pay all related applicable fees.

h. You acknowledge and agree that Transfers made through the Automated Clearing House ("ACH") processor selected by us or directly to another financial institution, and you agree that you will be subject to the National Automated Clearing House Association ("NACHA") rules or our agreement with the other financial institution, as applicable.

i. It is your responsibility to ensure the accuracy of any information that you enter into the System, and for informing us as soon as possible if you become aware that this information is inaccurate. You may not use a P.O. Box as a postal address. We will make a reasonable effort to stop or recover a Transfer made to the wrong Account once informed, but we do not guarantee such recovery and will bear no responsibility or liability for damages resulting from incorrect information you enter in the System. It is your sole responsibility and you agree to ensure that your contact information in the System is current and accurate. We are not responsible for any Transfer processing errors or fees incurred if you fail to accurately provide information required for this Service.

### **2. Initiating and Scheduling Transfers**

a. **Cut-Off Time:** The "Cut-Off Time" for initiating Transfers is 5:55 p.m. Pacific Time, subject to change by us. Any

07.20.2018

Transfer initiated after the applicable Cut-Off Time will be considered as being initiated on the next Business Day.

b. Transfers can be scheduled on either a one-time or on a recurring basis. The processing of one-time Transfers may be initiated immediately or scheduled for initiation on a future date. Recurring Transfers may be scheduled for up to one year in advance. The Recurring Transfer feature may be used when a set amount is transferred at regular intervals. For example, you could schedule a \$200 transfer from an account you own at another financial institution to an Internal Account every two weeks.

c. Immediate, one-time future-dated Transfers and Recurring Transfers are available for both Incoming and Outgoing Transfers. In addition to choosing the delivery time, as described above, you will be asked to pick the date that you want us to initiate the Transfer. For example, if you direct us to initiate processing an Outgoing Transfer immediately, the funds will be debited from your Internal Account on the Business Day you schedule the Transfer (as long as the Transfer is initiated prior to the Cut-Off Time for that Business Day), and typically will be credited to the External Account on the second or third business day after the Transfer is initiated.

d. One-time future-dated or Recurring Transfers scheduled for a weekend or a non-Business Day will be processed on the next Business Day.

### **3. Cancelling Transfers**

a. Subject to the limitations in Section 7 below, you can cancel one-time future-dated Transfer and Recurring Transfers up until the Cut-Off Time on the Scheduled Date. After you cancel a future-dated Transfer, the status changes to Canceled.

b. If you direct us to begin processing a Transfer immediately or a Transfer's status is in process or has been completed, you no longer have the right to cancel it. However, we, at our option, may attempt to cancel the Transfer, subject to the limitations in Section 7 below.

c. The easiest and most convenient way to cancel a Transfer is through our Online Banking System. However, you also may request to cancel a one-time future-dated Transfer or Recurring Transfer by calling us at 1-844-371-3276 (844-371-EARN) (only during regular business hours). If you call, we may also require you to put your request in writing and get it to us within 14 days after you call. You may not call and cancel a Transfer whose status is In Process or Processed.

d. If you attempt to cancel a Transfer using one of the methods cited above and we do not do so, we will be liable for your losses or damages, subject to the limitations in Section 7 below.

### **4. External Transfer Fees**

a. There is no fee for making Transfers from or into your Internal Accounts.

b. Fees may be charged for each rejected or reversed Transfer, as disclosed in the System or in your Other Agreements. You agree to pay such charges and authorize us to deduct the calculated amounts from the applicable Internal Account you hold with us for these amounts and any additional charges that may be incurred by you. Any financial fees associated with your standard deposit accounts will continue to apply.

### **5. Dollar Limits**

a. Transfers will generally be limited to the lesser of (i) available funds in the Internal Account or External Account from which you have requested the Transfer, or (ii) such different limits as may be set by us and are indicated for you within the Service; we may change these limits at any time, subject to any notice of any decreases if required by law, but you agree that we may reduce your limits below the amounts stated above without prior notice upon occurrence of a "Disqualifying Event," as defined below. In addition, all Transfers are subject to our internal review. This review will be based on the particular accounts to and from which the Transfer is requested, the amount of the Transfer, your relationship with us, a successful fraud screening and such other factors that we may determine to apply from time to time. In the event we determine that there are risks associated with the Transfer request or if we determine you are subject to a Disqualifying Event, we may delay or cancel the Transfer and notify you, or direct you to contact us to provide additional details on the Transfer before it is initiated or funds are released.

b. Any Transfer initiated on a day that is not a business day begins processing on the following business day and counts toward the applicable dollar limit for the next business day.

## 6. Processing Transfers and Disqualifying Events

- a. A Transfer remains in process until the close of business on the applicable Scheduled Date.
- b. A 2 to 3 Business Day delivery time is available to Customers participating in the External Transfer Service. However, you agree we may cancel a Transfer, without prior notice, upon the occurrence of a Disqualifying Event.
- c. Each of the following is a "Disqualifying Event":
  - Any of your deposit or loan accounts with us are not current or are not in good standing.
  - You have had an overdraft, an over-limit item, or an item returned for insufficient funds with respect to any account with us during the current or 3 prior calendar months.
  - You have had any prior Transfer canceled, revoked, or uncompleted due to insufficient funds, revoked authorization, stopped payments, frozen accounts, past due loans or, charged off balances with us, or any similar reason.
- d. We will use our best efforts to provide oral, written or electronic notice to you of rejection of a Transfer on its Scheduled Date; provided, however, that we will not be liable to you for interest for its failure to give such notice.

## 7. Liability for All Outgoing Transfers

- a. By using the External Transfer Service, you acknowledge and agree that this Agreement sets forth security procedures for Transfers initiated through this Service that are commercially reasonable. You agree to be bound by instructions, whether authorized or unauthorized, which we implement in compliance with these procedures, unless you have given us prior notice of possible unauthorized use of your Access ID and Password and we had a reasonable opportunity to act on such notice.
- b. If we fail or delay in making a Transfer pursuant to your instructions, or if we make a Transfer in an erroneous amount that is less than the amount per your instructions, unless otherwise required by law or as otherwise provided in this Agreement, our liability will be limited to interest on the amount that we failed to timely pay or transfer, calculated from the date on which the Transfer was to be made until the date it was actually made or you canceled the instructions. We may pay such interest either to you or the intended recipient of the Transfer, but in no event will we be liable to both parties, and our payment to either party will fully discharge any obligation to the other. If we make a Transfer in an erroneous amount that exceeds the amount of your instructions, or if we permit an unauthorized Transfer after we have had a reasonable time to act on a notice from you of possible unauthorized use of your Access ID or Password as described in this Section, unless otherwise required by law or as otherwise provided in this Agreement, our liability will be limited to a refund of the amount erroneously paid or transferred, plus interest thereon from the date of the Transfer to the date of the refund, but in no event to exceed 60 days' interest. If we become liable to you for interest under this Agreement or applicable law, such interest will be calculated based on the interest rate in effect for the account from which the funds were withdrawn. Unless otherwise required by law, in no event will we be liable to you for special, indirect or consequential damages including, without limitation, loss or damage from subsequent wrongful dishonor resulting from our acts or omissions or lost profits, even if we are advised in advance of the possibility of such damages. We will not be liable for your attorney's fees, except as required by law.
- c. You expressly agree that we will be liable to you only for our negligent performance or non-performance of the services provided pursuant to the External Transfer Service, and that our responsibility will be limited to the exercise of reasonable and ordinary care. Unless otherwise required by law, we will not be liable for any error or delay on the part of any third party or for any other act or omission of any third party, including without limitation third parties used by us in executing any payment order relating to a Transfer or performing a related act, and no such third party shall be deemed to be our agent. Further, we will not be liable to you or any third party for failure to execute any Transfer or perform a related act if such a failure is due to causes or conditions beyond our reasonable control, including without limitation strikes, riots, insurrection, war, military, or national emergencies, acts of God, natural disasters, fire, outages of computers or associated equipment, or failure of transportation or communication methods or power supplies. Except as may be limited by applicable law, you agree to indemnify and hold us and our officers, directors, employees and representatives harmless (including payment of reasonable attorney's fees) against any and all liability to third parties arising out of, or in connection with, this Agreement, the External Transfer Service or any actions taken by us pursuant to your instructions.
- d. Please examine your account statements carefully. We will not be liable for interest except as otherwise set forth in this Agreement, unless we are notified of the discrepancy within 30 days from the date of your account statement that reflects the

Transfer.

e. You acknowledge and agree that if a payment order relating to a Transfer describes a beneficiary inconsistently by name and account number, payment might be made by the beneficiary's bank on the basis of the account number, even if it identifies a person different from the named beneficiary, and that your obligation to pay the Transfer issued by you to us shall not be excused by such payment.

f. We may at our option accept your cancellations or amendments to a Transfer. You acknowledge that if we attempt to cancel or amend a Transfer, then the reversal request or amendment must be agreed to by each financial institution which has accepted a payment order related to the Transfer at issue before it will be acted upon and you further agree that we will have no liability if a cancellation or amendment is not effected. You agree that you will indemnify and hold us and our officers, directors, employees, and representatives harmless from and against any and all claims, demands, losses, liabilities, and expenses, including attorney's fees and costs, resulting directly or indirectly from our compliance with your cancellation or amendment request.

**8. Service Cancellation by You.** In the event you wish to cancel the Service, you may telephone us at 844-371-3276 during business hours; and/or write us at earn.bank, P.O. Box 22881, San Diego, CA 92192.

## **SCHEDULE B – MOBILE BANKING SERVICE TERMS AND CONDITIONS**

The following terms and conditions apply to the Customer's use of the Product and the Mobile Banking Service.

**1. Access.** We will provide to you the Product and Mobile Deposit Service as described in the Mobile Banking Service Agreement and this Schedule B of the Agreement to enable you to transmit Imaged Items to us or our designated processor to be cleared as Substitute Checks or Image Exchange Items. We and you will comply with the terms and provision of the Mobile Banking Service Agreement with respect to the use of the Product and performance of the Mobile Banking Service.

**2. The Mobile Banking Service** provides wireless access to your linked Accounts to do the following:

a. Obtain Account Information. Balances may include funds that are not finally collected or available for immediate withdrawal. Account information allows you to view Account summary data. You may also access Account histories.

b. Transfer funds between linked Accounts (excluding Certificates of Deposit).

c. Deposit Checks to your linked Money Market Account.

**3. Terms and Conditions.**

a. The Mobile Banking Service is separate and apart from any other charges that may be assessed by your wireless carrier for text messages sent to or received from us. You are responsible for any fees or other charges that your wireless carrier may charge for any related data or message services, including without limitation for short message service. You give us permission to use your phone number and other contact information for purposes of any out-of-band authentication.

b. The Mobile Banking Service is provided by us and not by any other third party. You and we are solely responsible for the content transmitted through the text messages sent to and from us. You must provide source indication in any messages you send (e.g., mobile telephone number, "From" field in text message, etc.)

c. We reserve the right to alter charges and/or these Terms and Conditions from time to time and to discontinue the Mobile Banking Service at any time. In addition, we may suspend or terminate the Service to you if it believes you are in breach of these Terms and Conditions. The Service is also subject to termination in the event your wireless service terminates or lapses.

d. You agree that we are entitled to act upon instructions we receive under your Authorized User Credentials and that you are liable for all activities and transactions made or authorized with the use of your Credentials.

e. Services you are able to conduct through your mobile device may not include all services available to you through the Online Banking System. In the event that any terms contained in this Schedule B conflict with any other terms governing your accounts in the Deposit Account Agreement and Regulatory Disclosure, the terms contained in this Schedule B shall govern. Use of the Mobile Banking Service is dependent on broadband internet connectivity, and you are responsible for trouble shooting internet connectivity issues with your internet service provider.

f. You should only access this Service from a mobile device that you own. Your mobile device and login information should be kept secure. In the event that your mobile device is lost or stolen, or if you believe your login information has been compromised, you can deactivate this service by contacting us at the phone number or post office box address provided in the Agreement. We shall not be liable for any losses caused by mobile service interruptions or mobile device malfunctions.

g. Additional terms and conditions for the mobile remote deposit capture service are set forth immediately below.

### **MOBILE DEPOSIT**

The mobile remote deposit capture service ("Mobile Deposit") is a part of the Mobile Banking Service and allows you to make deposits of the electronic image of a Check or Substitute Check (as defined by federal law) (each an "Item") to your Money Market Accounts held with us by capturing an electronic image of the Item with the capture device (such as a camera on your mobile device) and submitting images and associated information to us for processing.

**Eligible Items.** All Items deposited using Mobile Deposit must be endorsed as "Mobile Deposit Only at earn.bank" to your account, and any loss we incur from a delay or processing error resulting from an irregular endorsement or other markings by you will be your responsibility. In addition, you agree that you will not use Mobile Deposit to deposit any of the following Items:

1. Items payable to any person or entity other than you;
2. Items containing a restrictive endorsement, except what is required by earn.bank;

3. Items payable to you and another party who is not a joint owner on the account;
4. Items that are Substitute Checks or image replacement documents;
5. Items drawn on a financial institution located outside the United States;
6. Items dated more than 6 months prior to the date of deposit;
7. Items that are post-dated and deposited prior to the date on that item;
8. Items containing obvious alteration to any of the fields on the front of the Item, or which you know or suspect, or should know or suspect, are fraudulent; or
9. Items prohibited by our current procedures relating to Mobile Deposit or which are otherwise not acceptable under the terms of your checking, savings or Money Market Account.

**Image Quality and Duplicate Deposit.** The image of an Item transmitted using Mobile Deposit must be legible and clear to us. It must not be altered. It must capture all pertinent information from both sides of the Item. Image quality must comply with industry requirements established and updated by the Federal Reserve Board or any other regulatory agency.

**Endorsement.** You agree to properly endorse all Items captured and submitted using Mobile Deposit, including required signature(s) and the account number into which you want the check deposited. You **must** also include the following restrictive endorsement: **"Mobile Deposit Only at earn. bank" Checks** received that are not endorsed in accordance with this provision may be rejected. Any loss we incur from a delay or processing error resulting from an irregular endorsement or other markings by you will be your responsibility.

**Processing Time and Availability of Funds.** If we receive the image of an Item for deposit on or before 4:00 p.m. Pacific Time on a Business Day, we will consider that day the day of deposit. If we receive the image of an Item for deposit after 4:00 p.m. Pacific Time or on a weekend or on a non-Business Day, we will consider the next Business Day as the day of deposit. Funds deposited using Mobile RDC, and accepted by us for deposit, will be made available to you in accordance with the agreement governing your deposit account.

**Item Review and Rejection.** Items we receive may be reviewed for image quality, duplicate presentment, endorsement, and any other factors that may prevent forward collection of the Item. You agree that all deposits received by us are subject to verification and final inspection and may be rejected by us in our sole discretion, and you shall be liable to us for any errors, inaccuracies, breach of warranties and any other loss sustained by, or claim made against the Bank relating to such deposits. We are not liable for any service or late charges that may be imposed against you due to rejection of any Item that you transmit for deposit through Mobile Deposit. In all cases, you are responsible for any loss or overdraft plus any applicable fees to your account due to a Check being returned. You acknowledge and agree that while we normally provide notice of rejected deposits, we may reject any Item transmitted through Mobile Deposit in its sole discretion without notice to you, and will not be liable for any such rejection or failure to notify you of such rejection. If we reject an Item for remote deposit, or if Mobile Deposit is otherwise not available due to equipment failure, telecommunications failure or outages, or other system problems that may arise, you must deposit the original Check with us by mail at the post office box address provided in the Agreement.

**Disposal of Transmitted Items.** Once you have received notice from us that your transmission was successful, you agree to securely retain and keep the original Item for five (5) Business Days after you have transmitted the Item. During this time, you agree to make the original Item available to us within 10 calendar days on our request and at your expense. If you do not provide a requested Check to us in a timely manner, we may reverse any credit we have provided for the Item. After five (5) Business Days following the deposit using Mobile Deposit, if you have verified that the funds have been credited to your account, you agree to mark the item as "VOID" and properly dispose of it by using a crosscut shredding or other reliable method to ensure it is not presented for deposit again. After destruction of the original Item, the image will be the sole evidence of the original Item. You agree that you will never re-present the original Check. You understand that you are responsible if anyone is asked to make a payment based on an original Check that has already been paid.

**Restrictions and Limitations.** You agree:

1. only Items that originated as paper Items and no third party or electronic Checks may be deposited using Mobile Deposit;
2. after you submit an Item for deposit using Mobile Deposit you will not redeposit or otherwise transfer or negotiate the original Item;
3. not to deposit Items into your account unless you have authority to do so;

4. to abide by any per-day, per-week, per Item, or any other limitation that we establish in connection with Mobile Deposit;
5. after you submit an Item for deposit you are solely responsible for the storage or destruction of the original Items;
6. you may only utilize Mobile Deposit if you and your mobile device are located in the United States;
7. to comply with any additional instructions or requirements that we communicate to you, including for example any help screens or user guides;
8. the electronic image of the Item will become the legal representation of the Item for all purposes; and
9. any image we receive accurately and legibly represents all of the information on the front and back of the original Item as originally drawn.

**Minimum Hardware and Software Requirements.** In order to use Mobile Deposit, you must obtain and maintain, at your expense, compatible hardware and software as specified by us, including an Internet enabled mobile device as approved by us. Without limiting the preceding sentence, you are responsible for all telephone and internet service charges. You agree to implement and maintain specific security controls to protect your hardware and software and client information from unauthorized persons. You agree to implement any additional security procedures or controls that we communicate to you from time to time.

**Eligibility, Termination and Changes.** You must meet the eligibility requirements in order to use Mobile Deposit. We have the right to suspend or terminate Mobile Deposit at any time if you or your accounts(s) do not meet the eligibility requirements for the service. We also reserve the right to change Mobile Deposit at any time. You may terminate Mobile Deposit by calling us at 844-371-3276.

**Applicable Laws and Rules.** You must comply with any applicable Check 21 and ACH rules and federal and state laws, rules and regulations.

**No Waiver.** In the event we accept an Item for deposit through Mobile Deposit that is otherwise in violation of any applicable term or condition, we shall not be obligated to accept similar deposits in the future.

**Errors.** You agree to notify us of any suspected errors related to your deposits through Mobile Deposit immediately and no later than sixty (60) days after the applicable account statement is provided.

**Interruptions.** Mobile Deposit is provided for your convenience and does not replace your monthly account statement, which is the official record of your account. Mobile Deposit may be delayed, interrupted or otherwise negatively impacted by factors relating to your mobile device, your Internet service provider, wireless provider or other parties, or due to other reasons outside of our control. We will not be liable for any such delays, interruptions or negative impacts to Mobile Deposit and you agree that neither we nor our service providers will be liable for any errors or delays in the content, or for any actions taken in reliance thereon.

**Investigations.** You agree to cooperate with us in the investigation of unusual transactions, poor quality transmissions, and resolutions of client claims, including by providing, upon request and without further cost, any originals or copies of Items in your possession and your records relating to Items and transmissions.

**Indemnification.** Notwithstanding any other provision contained herein, you agree to indemnify, defend and hold us harmless from and against any claims, losses, liability, cost and expenses (including reasonable attorneys' fees) arising from your use of Mobile Deposit, including, for example, a subsequent deposit of any previously deposited item.

#### **AUTHORIZED USER LICENSE AGREEMENT TERMS FOR THE DOWNLOADABLE MOBILE DEPOSIT APP**

To be agreed to by each Authorized User prior to use of the Downloadable Mobile Deposit App.

1. **Ownership.** You acknowledge and agree that a third party provider or licensor to your financial services provider ("Licensor") is the owner of all right, title and interest in and to the downloaded software to be used for access to mobile banking services from your financial services provider and the computer programs contained therein in machine readable object code form as well as any accompanying user documentation along with all subsequent copies, updates or versions thereof which are made available to you (if any), regardless of the media or form in which they may exist (collectively the "Software").
2. **License.** Subject to the terms and conditions of this Agreement, you are hereby granted a limited, nonexclusive license

to use the Software in accordance with the terms of this Agreement. All rights not expressly granted to you by this Agreement are hereby reserved by the owner of the Software. Nothing in this license will entitle you to receive hard-copy documentation, technical support, telephone assistance, or updates to the Software. This Agreement may be terminated at any time, for any reason or no reason. Upon termination, you agree to immediately destroy all copies of the Software in your possession or control.

3. **Restrictions.** You shall not: (i) modify, revise or create any derivative works of the Software; (ii) decompile, reverse engineer or otherwise attempt to derive the source code for the Software; (iii) redistribute, sell, rent, lease, sublicense, or otherwise transfer rights to the Software; or (iv) remove or alter any proprietary notices, legends, symbols or labels in the Software, including, but not limited to, any trademark, logo or copyright.
  4. **Disclaimer Warranty.** THE SOFTWARE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON- INFRINGEMENT. NO WARRANTY IS PROVIDED THAT THE SOFTWARE WILL BE FREE FROM DEFECTS OR VIRUSES OR THAT OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED. YOUR USE OF THE SOFTWARE AND ANY OTHER MATERIAL OR SERVICES DOWNLOADED OR MADE AVAILABLE TO YOU THROUGH THE SOFTWARE IS AT YOUR OWN DISCRETION AND RISK, AND YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE RESULTING FROM THEIR USE.
  5. **Limitations of Warranty.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL LICENSOR, THE PROVIDER OF ANY FINANCIAL SERVICES AVAILABLE THROUGH OR RELATED TO THE SOFTWARE, ANY OF THEIR CONTRACTORS OR PROVIDERS OR ANY OF EACH OF THEIR AFFILIATES BE LIABLE FOR ANY DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE, INCLUDING BUT NOT LIMITED TO ANY GENERAL, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH ANY CLAIM IS BASED. IN ANY CASE, LIABILITY OF LICENSOR OR ANY OF THE OTHER PERSONS OR ENTITIES DESCRIBED IN THE PRECEDING SENTENCE ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE SHALL NOT EXCEED IN THE AGGREGATE THE LESSER OF \$10.00 OR THE SUM OF THE FEES PAID BY YOU FOR THIS LICENSE.
  6. **U.S. Government Restricted Rights.** The Software is commercial computer software subject to RESTRICTED RIGHTS. In accordance with 48 CFR 12.212 (Computer software) or DFARS 227.7202 (Commercial computer software and commercial computer software documentation), as applicable, the use, duplication, and disclosure of the Software by the United States of America, its agencies or instrumentalities is subject to the restrictions set forth in this Agreement.
  7. **Miscellaneous.** This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof. This Agreement will be governed by and construed in accordance with the laws of the state of California excluding that body of laws pertaining to conflict of laws. If any provision of this Agreement is determined by a court of law to be illegal or unenforceable, such provision will be enforced to the maximum extent possible and the other provisions will remain effective and enforceable. All disputes relating to this Agreement are subject to the exclusive jurisdiction of the courts of California and the parties expressly consent to jurisdiction and venue thereof and therein. The parties confirm that this Agreement and all related documentation is and will be in the English language. The application of the United Nations Convention on Contracts for the International Sale of Goods is hereby expressly waived and excluded.
  8. **Content and Services.** Neither Licensor nor the provider of the wireless network is the provider of any financial services available through or related to the Software, and neither Licensor nor the provider of the wireless network or any contractor of the provider of the financial services available through or related to the Software, is responsible for any of the materials, information, products or services made available to you via the Software.
- 4. Your Responsibilities.** In connection with Product and the Mobile Banking Service, you shall comply with the following:
- a. **Maintenance.** You agree to maintain your mobile device by ensuring Software updates are applied in a timely fashion, mobile device software updates are applied and the device is password protected.
  - b. **Lost or Stolen Device.** If your mobile device has been lost or stolen, immediately log into your online banking account and de-register the lost device from the account settings menu or call us at 844-371-3276 (844-371-EARN) - telephoning us is



the best way of minimizing your losses.

- c. You will notify us in writing of any addition or deletion of a user.