

**Abacus Federal Savings Bank**  
**Online Business Banking Agreement**

This Online Business Banking Agreement (as amended from time to time, this "Agreement") governs your use of the Online Business Banking Services (individually sometimes referred to in this Agreement as a "Service" and collectively referred to in this Agreement as the "Services") that have been made available to you by or through Abacus Federal Savings Bank (sometimes referred to in this Agreement as the "Bank," "Abacus," "we," "us" or "our") for your eligible enrolled deposit accounts (individually sometimes referred to in this Agreement as an "Account" and collectively referred to in this Agreement as the "Accounts") held at the Bank. In this Agreement, "Customer," "you" and "your" refer to the business organization(s) and/or natural person(s) named in the Bank's records as the owner(s) of the Accounts enrolled in the Services. Unless the context requires otherwise, capitalized terms that are not otherwise defined in this Agreement have the meanings given to them on the Bank's Services-related Internet site (Services-related web pages) and/or the Business Deposit Account Application and Agreement.

**1. General Definitions.**

In addition to other terms defined in this Agreement, the following terms have the following meanings:

**Accounts** - All eligible enrolled deposit and loan accounts of the Customer that share the same tax identification number and are linked on the Service. Each Customer having one or more Accounts linked together must agree to be bound by the terms of this Agreement and the Guides, as each may be amended from time to time by the Bank. If an Account accessible through Business Online Banking requires two or more authorized signatures on checks, drafts, or negotiable orders of withdrawal written against such Account, such Account shall not be eligible for the Bill Pay or Wire Transfer Services and funds transfers from such Account using the Internal Transfer Service will not be permitted. Notwithstanding the above, if your Administrator designates an account that requires more than one signature for the withdrawal or transfer of funds, you agree that we may act upon an Instruction for withdrawal or transfer of funds for such account. This means that you authorize that we may act upon an Instruction of only ONE person, even though the signature card for the account may require two or more signatures on withdrawals or transfers of funds.

**Business Day** - Monday through Friday, excluding federal and New York State holidays and any other weekday on which the Bank is not open for business.

**Online Business Banking Guides (or Guides)** - The welcome notification (which may be an e-mail from the Bank), the Online Banking Commercial Customer User Guide and the Online Business Banking Reference Booklet document and all other related Online Business Banking guides, help or support text or similar documents (whether in hard copy or in electronic format) issued by us to you from time to time for use with the Services, including without limitation the terms or instructions that appear on a web page when you use a Service (as such terms or instructions may be amended from time to time).

**Banking Service Center** - Online Business Banking telephone support is available through our Banking Service Center on Business Days between the hours of 8:30AM Eastern Time (ET) and 5:30PM ET by calling: 1-800-969-8423, or by e-mail at: [onlinebanking@abacusbank.com](mailto:onlinebanking@abacusbank.com) (or such other telephone number or location as we may advise from time to time). You and your Delegates may use the Banking Service Center to obtain help or certain information on Accounts by telephone.

**Funds Transfer Agents** - Correspondents, agents, sub-agents, funds transfer and communications systems we use to process a funds transfer requested using the Bill Pay or Wire Transfer Services.

**Instruction** - Any request or instruction that is received by us through the Services or related to the Services.

**Password** - Any confidential password, phrase, code and/or number, or any other identification whether issued to the Customer or any Delegate by the Bank or adopted by the Customer or any Delegate (including any Online Business Banking ID/User ID) which may be used to access the Website and/or Online Business Banking and/or the Services and/or to effect Instructions under the Security Procedures.

**Scheduled Payment Date and Value Date** - The requested processing date (which must be a Business Day) for a funds transfer initiated from an eligible Account using the Bill Pay or Wire Transfer Service (as Indicated in the Instructions received by the Bank for the transaction). (The Bill Pay Service uses the term "Scheduled Payment Date" and the Wire Transfer Service uses the term "Value Date" to refer to the requested Business Day on which funds for a specific, requested Bill Pay or Wire Transfer transaction are to be debited from the applicable Account by the Bank.)

**Security Procedures** - The combination of Customer controls over which Account(s) and Services are accessible through Online Business Banking, Customer controls over which individuals are authorized Administrators, Customer controls over authorization requirements for Account access, Administrator controls over additional authorized Users, and Password, Token, and other authentication requirements set forth in this Agreement, the Guides, and on the Website (as such requirements may change from time to time).

**Token** - A fob or similar hardware device issued by us to a Delegate for use together with a computer or mobile device in order to access certain Services.

**Users and Delegates** - The Administrator you designate pursuant to Section 2.3 below may designate additional Users of a Service in accordance with the procedures set out in the Online Business Banking Guides. (Such Users and Administrator are sometimes referred to as “Delegates” in this Agreement.) An individual User’s authorities and limits must be established by your Administrator(s). All Delegates must be specifically identified and authorized natural persons (individuals).

**Website** - [www.abacusbank.com](http://www.abacusbank.com) and any other Services-related web pages of the Bank.

## 2. General Agreement and Authorization

2.1 By completing and submitting the Bank’s Enrollment Form for Online Business Banking Services (“Enrollment Form”), and/or any supplement to the Bank’s Enrollment Form for Business Online Banking Services (“Supplement”), and/or by using the Bank’s Online Enrollment process or by logging into and using a Service, you (a) agree to be bound by the Guides and by the terms of this Agreement as amended from time to time, and (b) represent to the Bank that you are authorized by appropriate resolution or consent of the owner(s) of the Account(s) (or, if applicable, as the owner or authorized representative or agent of the owner of the Account(s) to accept the terms of this Agreement for all applicable Services.

2.2 Your authorized Delegate(s) (your Administrator(s) and any additional authorized User(s) as designated by you from time to time on the Application, any applicable Supplements, and on any other applicable Services-related forms and Services-related web pages pursuant to which the Bank has specifically agreed to accept Administrator and/or User authorizations) may access applicable Services online through the Website.

2.3 You will designate the Administrator on the Enrollment Form and/or Supplement, or as the Bank may otherwise agree from time to time, in the Bank’s sole discretion, pursuant to applicable Security Procedures. The Enrollment Form must be executed or approved by one or more authorized owners or principals of your business or one or more individuals who are authorized (based on the Bank’s records, including without limitation any applicable copies of business resolutions or authorizations you provide to the Bank from time to time, which must be in form and content acceptable to the Bank) to withdraw funds from the Account and to close the Account. The Administrator(s) may establish additional Users and their authorities and limits.

An Administrator or other specifically authorized User will be able to view, print, and download electronic Account statements and certain Account transaction information on your behalf by electronic means using the Bank’s Electronic Statement Delivery and Account Transaction Information Services. You authorize the Bank to execute all Instructions received by the Bank from any of your Delegates under the Security Procedures contained in the Online Business Banking Guides.

2.4 You acknowledge and agree that limitations on Account access can only be controlled by you and the Administrator, not the Bank. The Bank will not be liable to you or any third party for any loss, damage, or expense arising from access to an Account by any Delegate. **You agree to indemnify and keep the Bank harmless against all actions, claims or demands arising from or relating to any action of a Delegate under the Security Procedures. Your obligations under this Section 2.4 shall survive termination of this Agreement and termination of your participation in Online Business Banking (or any applicable Service).**

## 3. The Services

3.1 Online Business Banking includes the following Services (certain Services, such as Wire Transfer Services, may require that you apply separately and/or be approved by the Bank for the Service):

(a) Bill Pay Service: The ability to transfer funds from Accounts to eligible payees located within the United States;

(b) Internal Transfer Service: The ability to transfer funds between eligible Accounts and enrolled Loan Accounts with the Bank. You can authorize one-time recurring transfers between your eligible Accounts and/or certain of your specifically enrolled Loan Accounts with the Bank;

(c) Wire Transfer Service: The ability to transfer funds in United States dollars from Accounts to eligible Payees located within or outside the United States using wire transfer services available through the Federal Reserve Banks (e.g., Fedwire Funds Service) or another wire transfer service(s) selected or agreed-to by the Bank;

(d) Secure Messaging Service: The ability to have secure electronic messages sent by you to the Bank and by the Bank to you (in response to a Secure Message received by the Bank from you) concerning the Services and/or your Accounts. There are certain risks associated with the transmission of electronic messages through the Secure Messaging Service, including but not limited to unauthorized access, system outages, delays, disruption in telecommunications services and the Internet. Electronic messages sent through the Secure Messaging Service are contained within the Service;

(e) Electronic Statement Delivery Service (or E-Statement): Allows an authorized User to view, download and print copies in the format designated by such Service of at least the last six months Account statements made available by the Bank. We may send you any notification (by e-mail or otherwise)

after we make a new monthly Account statement available for viewing, downloading and printing through the E-Statement. You agree to maintain access to Business Online Banking in a manner that gives you continuous ability to access, review and download or print your electronic Account statements;

(f) Account Transaction Information Service: Allows an authorized User to view, download and print certain Account-related transaction information). The Account Transaction Information Service includes the following features:

- View, download and print Account balance and Account transaction information for certain amount of period;
- View, download and print check images;
- View, download and print certain summary information (such as available balance information) for Accounts; and
- View, download and print certain summary information for certain specifically approved and enrolled Loan accounts;

Account balance, transaction, and summary information may not reflect then-pending or in-process transactions (including then-pending or in-process debits and credits). We will not send you any notification (by e-mail or otherwise) after we make Account transaction information available for viewing, downloading and printing through the Account Transaction Information Service. You agree to maintain access to Online Business Banking in a manner that gives you continuous ability to access, review and download or print your Account transaction information;

(g) Mobile Banking Service (including Mobile Deposit Service): The ability to access your Account(s) via an application designed specifically for your mobile device such as a smart phone or tablet. With Mobile Banking, you can perform some of the same functions as you can perform using regular online banking. With Mobile Deposit, you will be able to make deposits, subject to limitations, using your mobile device and a camera. Important features that are not available on Mobile Banking Service include initiating Bill Pay Service (or setting up a new vendor in the Bill Pay Service), Wire Transfer Service, temporarily increasing debit card increase limit, and making any changes to your account information.

(h) Debit Card Limit: The ability to temporarily increase their debit card limit up to a maximum additional amount of \$1,000. The User can also deactivate his/her debit card (once it has been issued) to help manage usage of such card .

(i) Alert Notifications: The ability to subscribe to a variety of notifications to one or more of a User's email addresses, alerting such User of about certain aspects of their Accounts.

(j) QuickBooks™: A bookkeeping application offered by an outside vendor which has an integrated sign-on to your Online Banking account. Data from your account can be imported directly into your QuickBooks™ account. You will need to separately set an account with QuickBooks™ before using this Service .

(k) Loan Payment – The ability to make a payment on your loan account at Abacus using your Accounts. The borrower on the loan account must have the same tax identification number as the accountholder on your Accounts.

3.2 Administrator Permissions. An Administrator is able to take the following actions using the Services (to the extent Customer has qualified for a specific Service):

(a) Setup and delete Users and define which Accounts and Services Users may access and the daily and/or other transaction limits (if applicable) within which Users may initiate and authorize funds transfers using Wire Transfer and Internal Funds Transfer Services. These limits can be amended by the Administrator(s) up to the maximum limits established by the Bank. The Administrator(s) and User(s) (to the extent authorized by the Administrator(s)) will be able to view and access each Account and each applicable Service in any manner and for any purpose available through Online Business Banking (whether now available or available at some time in the future), subject to the limitations and restrictions of this Agreement. All daily and transaction limits (whether per Customer, per Account, per User, or per Administrator) are subject to approval and limits established by the Bank, and the Bank reserves the right to modify all such daily and transaction limits from time to time at the Bank's discretion, without advance notice.

(b) View and change the permissions of the Users created.

(c) Download transaction information to certain spreadsheet-compatible formats for use in connection with certain commercially available third-party accounting software.

3.3 Credit Information. We may investigate your credit record and obtain any credit report we consider necessary or appropriate in connection with any aspect of our dealings with you and your Account(s) with respect to Online Business Banking (including, but not limited to, considering whether to cancel or suspend your right to use Business Online Banking and investigating any dispute concerning any funds transfer requested through Business Online Banking). We may furnish information concerning any aspect of our dealings with you and your Account(s) with respect to Online Business Banking to other financial institutions and credit reporting agencies, before or after termination of this Agreement and before or after termination of your participation in Business Online Banking (or any applicable Service).

#### **4. Accounts**

4.1 Each of your Accounts at the Bank will continue to be subject to all other agreements otherwise governing them, except where it is specifically noted to the contrary in this Agreement or any Guides. Additionally, your Accounts and the Services will be subject to the Bank's rules, procedures and policies applicable to your Accounts, and the rules and regulations of any Funds Transfer Agents used by the Bank in connection with the Services, and applicable state and federal laws and regulations.

4.2 Not all of your Accounts will have access to the same Services. You may ask the Bank to add new eligible deposit accounts or remove existing Accounts from applicable Services by calling the Banking Service Center, or by contacting your Branch. You may be requested to submit your request in writing. The Bank reserves the right to deny any such request for any reason.

4.3 Transaction Limits. For savings and money market accounts, federal regulations limit third party or pre-authorized transfer and withdrawals to six per statement cycle. Transfers or payments through Online Business Banking (including the Bill Pay Service) count against these limits. We also may impose our own limits on the frequency, number and dollar amounts of transactions you can perform using Online Business Banking. You agree not to exceed the Service transaction limits we establish from time to time for your Account(s). Further, we reserve the right to refuse any transfer or payment instruction without cause or prior notice.

4.4 Loan Account(s). You may view certain summary account information about an enrolled Loan Account of yours at the Bank and authorize payments to the enrolled Loan Account from an eligible Account using Business Online Banking. You may not use Online Business Banking to request a loan advance from a Loan account at the Bank. All payments and transfers to an enrolled Loan Account at the Bank are subject to the terms of the applicable agreement governing the Loan Account.

#### **5. Your Responsibilities relating to Security**

5.1 The Bank will notify your designated Administrator via email to the email address on record with the Bank when the Online Banking Service for the Accounts is available. Your Administrator must then set up his/her password and log-in information. Additional Users may then be set-up by your Administrator using a Token. Such Token may be obtained by the Bank by the Administrator submitting a request in writing (on the Bank's form).

5.2 The Bank, at its sole discretion, may require a Delegate to use a token to conduct certain transactions and/or access certain Services (for example, Wire Transfer Service, Bill Pay). The Bank will determine, from time to time, which Services will require which Services and/or transactions will require such a Token. To request a Token (or replacement Token) for a User, your Administrator must submit a request in writing (on the Bank's form). Tokens will be provided to the Administrator either via in-person exchange or through mail (at the Bank's discretion) addressed to the Administrator at the address of record of the primary Account. The Administrator must assign a separate Token to each User. Once a Token is received by you (whether through the Administrator or any other User), you and your Delegates are solely responsible and liable for the distribution, custody and safekeeping of such Token. The Bank reserves its right to make changes to the above at any time, without notice to your Delegates.

5.3 The Bank, at its sole discretion, may require other forms of identification authentication to conduct transactions and/or use the Services. These authentication methods may include, questions about User's identity (which answers must conform to the information of record with the Bank), and/or requiring confirmation of a transaction through a different channel than the one through which the transaction was submitted. The Bank reserves its right to make changes to these authentication methods at any time, without notice to you or your Delegates.

5.3 You must ensure that your Delegates keep their Username and Password secure and secret at all times and take steps to prevent unauthorized use of their Username, Password, any applicable Token, and any other security device provided to them. Your Delegates' Username, Password and Token act as their respective signatures. Delegates may change their Password at any time by following instructions in the Guides. You must notify us immediately if you (including any Delegate) know of or suspect any loss or theft of Password, Token, or any use or attempted use of the Services by an unauthorized person. You agree to pay us our standard charges for the issuance of replacement Tokens. Refer to the Guides for more Security Procedures and techniques you may use to protect your Account(s) and the confidential information contained therein.

5.4 You and each of your Delegates agree to comply with the terms of this Agreement, the Guides, and any other instructions or recommendations we may issue to you regarding Online Business Banking security including, without limitation, the security recommendations contained in the Guides. You agree that it is your sole responsibility to set up, maintain and regularly review security arrangements concerning access to, and use of, the Services, and information stored on your computing and communications systems, and your and any of your Delegates' control of Passwords, Tokens, other security devices and access to Online Business Banking.

5.5 You hereby authorize the Bank to act on Instructions received through Business Online Banking. This authorization means that we may process any Instruction (payment, transfer, including amendment or cancellation, or otherwise) that we believe is transmitted or authorized by you if done so in compliance with the Security Procedures you and we have agreed upon for the Service. The Instructions will be deemed effective as if made by you, and you will be obligated to pay us in the amount of the related transactions, even though they are not transmitted or authorized by you. Notwithstanding the above, we may elect to verify the authenticity or content of any Instruction, by contacting any authorized signer on the

applicable Account or any other person designated by you for that purpose. If we are unable to verify an Instruction to our satisfaction, we may reject the Instruction without prior notice.

5.6 You confirm that you have assessed the Security Procedures for Online Business Banking and have determined that these features are adequate for your Account(s). You acknowledge that a primary purpose of the Security Procedures for Online Business Banking is to verify the authenticity of Instructions we receive through or in connection with the Services, and whether such Instructions are submitted by your Delegates or otherwise on your behalf. The Security Procedures do not detect errors in the content of any Instructions, and you acknowledge no procedure for the detection of errors has been agreed upon by you or us. You acknowledge you are solely responsible for the content, accuracy and completeness of all Instructions.

5.7 You agree to regularly and often review all Account transactions that have been requested using the Services. You must notify us immediately if you (including any Delegate) know of or suspect any unauthorized access to, or contact with, Online Business Banking, the Website or the Banking Service Center, or any unauthorized transaction or Instruction. You also agree to cooperate with us in connection with our review or investigation of any claim of an unauthorized or erroneous transaction using Online Business Banking, and you agree that we may review your records in connection with such review or investigation, and in connection with any security-related audit or review of your compliance with the requirements of this Agreement. You understand and acknowledge that your failure in any way to comply with this Section 5.7 will materially prevent our ability to resolve your claim. **Your obligations under this Section 5.7 shall survive termination of this Agreement and termination of your participation in Online Business Banking (or any applicable Service).**

5.8 The Services are accessed through the Internet, which is a public system over which we have no control. It is therefore your duty to make sure that any computer or other device, which you use to access the Services, is free from and adequately protected against acquiring computer viruses and other destructive or disruptive components. You understand and acknowledge that there are applications that can be placed on your computer, whether voluntarily or not, which can undermine the protections created by the Security Procedures, including unauthorized access by third parties. You agree that in the event an unauthorized transaction or transfer occurs due to such application, such transaction will be covered under this Section 5.

5.9 You agree that you are solely responsible for the performance and protection of any browser used in connection with Online Business Banking including the prompt adoption by you of all security patches and other security measures issued or recommended from time to time by the suppliers of such browsers.

5.10 If any Instruction identifies an intermediary bank, or the beneficiary's or payee's bank, or the beneficiary or payee, by name and an account or other identifying number, we and our Funds Transfer Agents may act solely on the basis of that number (even if that number identifies a different bank, beneficiary or payee). We and our Funds Transfer Agents have no duty to detect any inconsistencies between names and identifying numbers contained in any Instructions. If an Instruction does not designate an intermediary bank where appropriate, we may select an intermediary bank and you agree that we shall have no liability with respect to such selection. We are not responsible for any error or delay on the part of any intermediary bank or any beneficiary's or payee's bank in accepting, processing and/or transmitting your Instructions, unless the error or delay is the direct result of our own gross negligence or willful wrongdoing. In addition, if you specify an intermediary bank (whether by name or identifying number), you agree that you shall bear all risk of loss if that intermediary bank fails to properly process and transmit your Instructions.

5.11 Instructions requesting cancellation or amendment of an already-transmitted Instruction must be transmitted to us using the same level of Security Procedure as used for the original Instruction. If you ask us to cancel or modify any already-transmitted Instruction, we will make all reasonable efforts to comply with your request. However, except to the extent specifically provided in this Agreement, we have no obligation to cancel or amend a requested funds transfer after Instructions for such transfer have been transmitted to us for processing. In no event will we be liable for any failure to cancel or modify an Instruction if such a request is not received at a time or under circumstances that give us a reasonable opportunity to act on your request (including, for example, any request received after we have already started processing the Instruction).

5.12 We may refuse to execute any Instruction without cause or prior notice. The following are some of the reasons why we may choose not to execute any Instruction:

- a) It is not in accordance with any term or condition applicable to the Account or the Services;
- b) We believe it may not be authorized by you;
- c) It involves funds subject to a hold, dispute, restriction or legal process we believe prevents their withdrawal;
- d) It would exceed your collected and available balance in the Account on the day the transfer is scheduled to be made or on the day we begin processing the requested transfer or Instruction;
- e) It would result in exceeding any limit established by us or by you;
- f) It would violate any applicable provision of any risk control program of any federal or state law or regulatory authority;
- (g) It is not in accordance with our applicable policies, procedures or practices (including without limitation the Guides);
- g) We have reasonable cause not to honor for our or your protection; or
- h) This Agreement or the applicable Service for the applicable Account has been terminated by you or by us.
- i) We shall have no liability to you for the rejection of any Instruction requested.

5.13 Transactions may not be executed by us immediately when an Instruction is received. Certain Instructions may only be processed during normal banking hours on Business Days even though Business Online Banking is on-line and may be accessible outside such hours. We are not responsible for delays in processing caused by circumstances beyond our control, including but not limited to errors you cause through your inputting and/or releasing of funds transfers requested using Business Online Banking, or errors caused by machine or transmission facility malfunctions, or the action or inaction of any network, financial institution, or other third party (including without limitation any Funds Transfer Agents). To the fullest extent permitted by law, our Funds Transfer Agents shall be deemed to be your agents and we shall not be under any liability for any errors, negligence, suspension or default of any of them, all such risks being borne by you.

5.14 If we do not act on (reject) or delay acting on an Instruction, we shall attempt to notify you of this as soon as is reasonably possible after we have received the Instruction for processing, to the extent permitted by law. Unless otherwise provided in this Agreement, we may in our sole discretion choose to notify you by telephone, first-class mail, or electronic message (directed to any e-mail address we have on file for your participation in Business Online Banking or other secured electronic message system through Business Online Banking, if applicable). We may direct such notices to any of your Administrators, in our sole discretion. We shall have no liability to you for the fact that a notice is not given to you by us, or is given by us at a later or earlier time than that provided for herein. If we reject an Instruction because of insufficient available funds in your Account, we will generally notify you no later than the requested Value Date or Settlement Date for such requested funds transfer (as applicable). We will credit the applicable Account for any funds transfer instruction that is rejected or returned.

5.15 You agree that if a funds transfer Instructions through a Service is transmitted through the automated clearing house (ACH) network, that payment to a payee relating to such Instructions is provisional until the payee's financial institution has received final settlement with respect thereto through a Federal Reserve Bank or otherwise has received payment with respect thereto as provided for in Section 4A-403(1) of Article 4A of the Uniform Commercial Code. If the payee's financial institution does not receive such final settlement or other payment, the payee's financial institution shall be entitled to a refund from the payee in the amount of such provisional payment, and you will not be considered to have paid the payee in such a case.

5.16 You agree that if a funds transfer you request is rejected by any intermediary or receiving financial institution (for example, because of erroneous or incomplete information in your Instructions, or for any other reason) we have no obligation to attempt to correct or re-initiate your funds transfer Instructions, or to notify you of the intermediary or receiving financial institution's rejection.

5.17 You understand and agree that in the regular course of business of the Bank or any agent of the Bank (including without limitation any Funds Transfer Agent), we or our agent may, for security and quality control purposes, monitor and record telephone, electronic messages or other communications to or between any of the employees and other agents of the Bank or our agent and you (including your Delegates and anyone else requesting or purporting to make a request on your behalf), including, but not limited to, any Instruction to the Bank. **This Section 5.17 shall survive termination of this Agreement and termination of your participation in Business Online Banking (or any applicable Service).**

## 6. Service Interruptions

6.1 Banking Service Center. At certain times the Services may not be available due to system maintenance or circumstances beyond our control. During such times, or if for any other reason you are not able to access the Services online, you may call the Banking Service Center for assistance with Services.

6.2 Reliance on Third Parties. Our ability to provide certain Services is dependent upon our ability to obtain or provide access to third party networks. In the event any third party network is unavailable or we determine, in our discretion, that we cannot continue providing any third party network access, we may discontinue the related Service or may provide the Service through an alternate third party network. In such situations, we will have no liability for the unavailability of access.

6.3 Force majeure. The Bank will not be liable for delay in performing or failure to perform any of its obligations under this Agreement which is caused by circumstances beyond its reasonable control, including, but not limited to, the failure, malfunction or unavailability of telecommunications, data communications and computer systems and services, war, act of terrorism, civil unrest, government action, strikes, lock-outs or other industrial action or trade disputes (whether involving either our employees or those of a third party). Any delay or failure of this kind will not be deemed to be a breach of the Agreement and the time for performance of the affected obligation will be extended by a period, which is reasonable in the circumstances.

## 7. Access to Account Data; Account Statements; Other Account Information; Hardware and Software Requirements

7.1 Access to Account Data. Some of the Services provide you with balance and other account information. Since certain information and transactions are not processed by us until after the close of our Business Day, some transactions may not be reflected in the system until the next Business Day. Posted items may be reversed due to insufficient funds, stop payment orders, legal process, and other reasons. Certain balances also may not be subject to immediate withdrawal. We assume no responsibility for any loss arising from incomplete information or for any temporary interruption in the Online Business Banking Service. If you are unable to access our system for any reason, you can contact your branch for loan and deposit

information. Information on transfers to or from your accounts will be reflected on your periodic statements and will be available to you on-line. We are not required to provide you with any other notice of the receipt, transmittal or debiting of wire transfers, ACH entries or bill payments.

7.2 Account statements. You agree that by using Online Business Banking you are automatically opting to receive electronic delivery of your periodic Account statements for all your Account(s) accessible through the E-Statement Service on Online Business Banking. You also hereby agree that paper statements for such Accounts will no longer be produced or mailed to you, unless you request in writing for paper copy of such Account statements and you pay our standard fee for such Account statements, provided that such paper copy is still being maintained by the Bank. Paper copies of Account statements can be requested by contacting your Branch or the Banking Service Center.

7.3 Your e-mail address. You agree that you have and will have access at all times to a valid e-mail address, for as long as you have any Account enrolled in any Service. It is your sole responsibility to advise us immediately of any changes or updates to your designated e-mail address by notifying us through Online Business Banking, contacting the Banking Service Center or your Branch. We may require you to submit your notice in writing before the address change is effectuated in our records. Any and all notices we send to the e-mail address we have on file for your participation in Business Online Banking shall be deemed to have been delivered to you personally, whether actually received or not.

7.4 Hardware and Software Requirements; Browser Access and Internet Services. You are responsible for obtaining, providing, installing and maintaining any equipment and software (collectively, the "Systems") that is necessary for the Services, such as telephones, terminals, modems, computers and Internet services. This responsibility includes, without limitation, your utilizing up-to-date web browsers and access devices and the best commercially available encryption, antivirus, antispyware, and internet security software. Any fees or charges associated with such Systems are your responsibility. You acknowledge that there are certain security, corruption, transmission error, and access availability risks associated with using open networks such as the Internet and you hereby expressly assume such risks. You acknowledge that you are responsible for the data security of the Systems used to access Online Business Banking, and for the transmission and receipt of information using such Systems.

We assume no responsibility for the defects or incompatibility of any of your Systems, including Internet service, even if we have previously approved their use. WE MAKE NO WARRANTY, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR OF MERCHANTABILITY, WITH RESPECT TO THE SERVICES, OR ANY COMPUTER PROGRAMS, EQUIPMENT OR SOFTWARE MADE AVAILABLE TO YOU. You agree to notify us promptly if any software or equipment we provide to you becomes defective. Our sole responsibility (if any) in such instances will be to repair or replace the defective software or equipment.

7.5 Links to Third Party Sites. Although we may provide a link to a third party site, we make no endorsement or guarantee of any specific software, hardware or Internet service provider and we are not liable for any failure of products or services available or advertised on these sites. We are not responsible for, nor do we control, the content, products or services provided by such sites. In addition, each third party site may provide less security than we do and have a privacy policy different than ours. Your access, use and reliance upon such content, products or services are at your own risk.

7.6 Licensing. You agree to comply with the terms of any software license(s) provided to you in connection with the Services. You may not transfer, distribute, copy, reverse compile, modify or alter such software. Unless otherwise agreed by us in writing, the computer programs, Service Guides, Security Procedures, software and systems provided to you in connection with the Services represent our proprietary property and must be returned to us upon request.

## **8. Bill Pay Service**

8.1 Ineligible Accounts. You must be approved by us before you can use the Bill Pay Service. The Bill Pay Service is not available to any Customer that is a governmental Entity. It is also not available to any NOW, Savings or Money Market Account or to any Account that requires two or more authorized signatures on checks, drafts, or negotiable orders of withdrawal written against such Account. The Bank may also, at its discretion, determine for other reasons that an Account is ineligible for the Bill Pay Service, including reasons relating to Account history of non-sufficient fund activity or poor credit history.

The Bank reserves the right to deny access to the Bill Pay if the Service is misused by the Customer at any time without advance notice. In the event the Bill Pay Service is deactivated, it is the Customer's responsibility to make other arrangements for payments. The Bank will not be held liable for any missed payments and/or fees due to the deactivation of the Bill Pay Services.

8.2 Other Restrictions. The Bill Pay Service may be used to pay a bill or to make payments to a business. You agree not to use the Bill Pay Service to make any tax payment, any court-ordered or court-directed payments, or any payment to a payee that has a mailing address outside the U.S. and you agree that if you attempt such payments, the Bank and its agents (including without limitation any Funds Transfer Agent) will not be responsible for that payment. We also reserve the right to limit the frequency and dollar amount of Bill Pay transactions from your designated eligible Accounts.

8.3 Limits on Usage. We may impose limits on the dollar amount of an individual Bill Pay transaction and on the total dollar amount of all Bill Pay transactions to be processed on any given Business Day from your designated eligible Account, and we may change these limits from time to time

without advance notice. Your Administrator may also impose limits on the total dollar amount of Bill Pay transactions that may be initiated on any given Business Day by an individual User. In addition, if the designated Account does not have sufficient available funds to cover a requested Bill Pay transaction on the scheduled or actual processing date, the transaction will not be processed.

8.4 By using the Bill Pay Service, you authorize us to follow the Instructions provided by your Administrator and/or User(s). To initiate a payment, you must specify the person or business you are paying, the date for processing your payment, the amount to be paid, and (if you have one) your account number with the payee. The first time you request a payment to be made to a payee, you may be also required to specify the payee's address and the number of the account from which the payment is to be made. We may modify the payee address to accommodate special processing requirements. When you initiate a Bill Pay transaction, you authorize us to charge your designated eligible Account and to remit funds to the designated payee on your behalf electronically, provided electronic payments are permitted and accepted by the payee. Bill Pay transactions can be sent to payees electronically or by check, in our sole discretion. Electronic payments are sent whenever possible.

8.5 Scheduling Bill Payments. The earliest possible Scheduled Payment Date for each payment will be designated on the system you are scheduling the payment. While it is anticipated that most Bill Pay transactions will be processed and completed on the Business Day you selected as your Scheduled Payment Date, you acknowledge that due to circumstances beyond our control, such as delays by the payee and the payee's bank or agent in handling and posting Bill Pay transactions, some Bill Pay transactions may take longer to be posted to your account at the payee. For this reason, we recommend that you select the Scheduled Payment Date that is the earliest possible Scheduled Payment Day before the actual due date of the payment. You agree that we will not be responsible for any Bill Pay transaction that is received or posted by the payee after the payment due date or after any applicable grace period, or any late charge or penalty being assessed by the payee as a result of such late payment. In such event, you agree that you shall have the sole risk of incurring and the sole responsibility for paying any and all charges or penalties assessed by the payee.

8.6 Automatic Recurring Payments. You may use the Bill Pay Service to arrange for the automatic payment of bills that have a fixed frequency and amount. Once your automatic bill payment arrangements are established, we will make the payments without further requests by you. If the payment due date for an automatic payment falls on a weekend or holiday, the payment may be made the following business day.

8.7 Cancelling, Editing a Bill Pay Transaction and Stop Payment Requests. You can cancel a scheduled payment so long as the Bill Pay Service has not begun processing the payment by following the instructions provided by the Bill Pay Service screens in Online Business Banking. There is no charge for canceling or editing a scheduled payment. Once the Bill Pay Service has begun processing a payment, it cannot be cancelled or edit; instead, a stop payment request must be submitted.

The Bill Pay Service's ability to effectuate a stop payment request will depend on the payment method and whether the Service has the reasonable opportunity to act such stop payment request. If you want to stop a payment that has already been processed, you must contact the Banking Service Center. Although the Service will make good faith efforts to accommodate your request, we will have no liability for failing to do so. We may also require you to submit your request in writing within a specified time period. Stop payment request for Bill Pay transactions will incur a separate charge which may be higher than the stop payment fee charged to a customer for stop payment on a check issued by the Customer outside of the Bill Pay Service.

## **9. Wire Transfers**

9.1 Ineligible Accounts. Through the Online Business Banking Wire Transfer Service you can provide us with electronic instructions to transfer funds to third parties. You must be approved by us before you can use the Wire Transfer Service. The Wire Transfer Service is also not available to any NOW, Savings or Money Market Account or to any Account that requires two or more authorized signatures on checks, drafts, or negotiable orders of withdrawal written against such Account. The Bank may also, at its discretion, determine for other reasons that an Account is ineligible for the Wire Transfer Service, including reasons relating to poor account or credit history, or high risk banking activity as determined by the Bank.

The Bank reserves the right to deny access to the Wire Transfer Service if the Service is misused by the Customer at any time without advance notice. In the event the Wire Transfer Service is deactivated, it is the Customer's responsibility to make other arrangements for payments. The Bank will not be held liable for any missed payments and/or fees due to the deactivation of the Wire Transfer Service.

9.2 Other Restrictions. We may impose limits on the dollar amount of an individual Wire transaction and on the total dollar amount of all Wire transactions to be processed on any given Business Day from your eligible Account, and we may change these limits from time to time without advance notice. Your Administrator may also impose limits on the dollar amount of an individual Wire transaction and on the total dollar amount of Wire transactions that may be initiated on any given Business Day by an Individual User. Wire transactions also may not exceed the amount of the collected balance available in the designated eligible Account at the time of initiation of the Wire transaction. You may only use the Wire Transfer service for U.S. Dollar Wire Transfer transaction and not for any foreign currency (non-U.S. Dollar) Wire transactions.

9.3 A Wire Transfer transaction may be created, view, modified or deleted before its Value Date; however, we will not act upon such transaction if it is submitted more than one day before its Value Date. The designated eligible Account will be debited on the Value Date of a Wire transaction.



9.4 We may reject any requested Wire transaction if you have insufficient available funds in the Account on the Value Date or for any other reason. If we reject a Wire transaction, we shall use reasonable efforts to notify you as soon as is reasonably possible on or after the Business Day on which such Wire transaction would otherwise have been executed by us.

9.5 All Wire transactions submitted before 2:00PM ET on a Business Day through the Wire Transfer Service will be processed on that Business Day (or, if later, on the requested Value Date). Wire transactions submitted after 2:00PM ET on a Business Day, or on a day that is not a Business Day, will be processed on the next Business Day (or, if later, on the requested Value Date).

## 10. Positive Pay

10.1 Description of the Positive Pay Service. Through the Online Business Banking Positive Pay Service you can submit to us a list of the serial numbers and the exact amount (dollars and cents) of the checks that you issue which we will compare against the information that is encoded on items presented to us for payment against your designated account. You may also instruct us not to pay certain items presented against their accounts. If our records regarding checks presented against your account matches the information you provide to us regarding the checks you have issued, you agree that we may treat the matching items as validly issued and properly payable, and that we may process such items for payment. If the information does not match, and you do not provide us Instructions on whether we should reject them, **we will assume that you wish such items to be paid and we will allow such non-matching items to be debited against your account.** Instructions regarding this Service must be received by 11:30AM ET for processing or else the Bank will not act upon them.

10.2 Checks Covered by Service. This Service applies to checks that are presented for payment to us through normal interbank clearings. It does not cover items that are presented in any other manner (e.g., "on-us items," items presented at a teller window, through an ATM, or by mail).

10.3 Security. You agree to implement reasonable security procedures to assure that only your authorized employees have the ability to transmit check information to us for purposes of this Service.

10.4 Exceptions. We assume no duty to identify and/or return duplicate checks, checks with duplicate serial numbers, mis-encoded items, or checks lacking an encoded serial number. The Service does not apply to items that have been finally paid before the effective date of any listing or items that are not processed as part of the Positive Pay Service.

10.5 Reliance on MICR Encoding. You understand and agree that for this Service we may compare only your information on approved checks with information that is encoded on the items presented to us for payment. You agree that we may rely on such a process and that the process will be deemed an acceptable standard of care for this Service and your account. You agree that this Service does not obligate us to verify signatures on any checks that match the information you provide. We will not be required to physically examine matching checks to confirm that they are properly signed, completed and encoded. You understand that the Service may not identify counterfeit or duplicate checks. As such, you agree to review promptly all statements, returned checks, reports and other check and transaction information we make available to you.

10.6 Stale-Dated Checks. We may pay stale-dated checks unless you place a stop payment order on such items or remove them from your list of checks approved for payment.

10.7 Limitation of Liability. We make no representation or warranty regarding the effectiveness of the Positive Pay Service, and make this Service available only as an accommodation to you. You agree to indemnify, defend and hold us harmless from every loss, liability and claim arising from the use of the Positive Pay Service by you. You understand that the fee for this Service has been established in contemplation of this limitation on our liability. This Service is provided at our sole discretion, and we will not be liable for our failure or refusal to provide such Service, notwithstanding the fact that we have done so on previous occasions.

## 11. Stop Payment Service.

You may use Online Business Banking to stop payment on a check issued by you outside of the Online Business Banking System by following the directions provided on the Service. If any information is incomplete or incorrect, we will not be responsible for failing to stop payment on the item. Requests become effective when we confirm their receipt and have verified that the item has not been paid. Requests must be received by 4:30PM ET on a Business Day or they will be processed on the next Business Day. If the Stop Payment Service is inoperable for any reason, you are responsible for using alternative ways available and permitted to submit your stop payment request and we will not be responsible for any delay that you may encounter caused by the Service being unavailable.

## 12. Mobile Deposit Service

12.1 Mobile Deposit (or Mobile Deposit service) is designed to allow you to make deposits of checks ("original checks") to your designated eligible accounts from home or other remote locations by scanning the original checks and delivering the digital images and associated deposit information ("images") to us or our processor with your mobile device. Use of our Service requires that you have an internet enabled iPhone or Android phone

with a camera, be enrolled in our Online Banking Service and have downloaded our latest version of Mobile Banking app. To be eligible for Mobile Deposit, you must be a customer of Abacus Federal Savings Bank (the “Bank” or “us”) with an active checking, savings, or money market account and have no more than two returned deposited items in the past two months. Deposit limits and other conditions may apply. Your use of the Bank’s Mobile Deposit service is governed by the terms and conditions of this Agreement, your Account Agreement, and the Bank’s Deposit Account Disclosure, all of which are incorporated herein by reference (collectively, the “Agreements”). Your enrollment in the Mobile Deposit service constitutes your agreement with the terms and conditions of the Agreements.

12.2 Equipment Requirements. To use Mobile Deposit, you must have a supported mobile device with a supported camera and a supported operating system, have a data plan for your mobile device and, download our software application to your mobile device. We do not guarantee that your mobile device and equipment, or mobile carrier, will be compatible with the Mobile Deposit service.

12.3 Eligible Items. Not all checks are eligible to be deposited using Mobile Deposit. The Bank reserves the right, in our sole discretion, to reject any deposit at any time for any reason. You agree that you will only use Mobile Deposit to deposit checks (as that term is defined in Federal Reserve Regulation CC (“Reg CC”) and only those checks that are permissible under this Agreement or such other items as the Bank, in its sole discretion, elects to include under Mobile Deposit service. You agree that the image of the check transmitted to the Bank shall be deemed an “item” within the meaning of Article 4 of the applicable Uniform Commercial Code. You agree to deposit only original checks that are payable to and properly endorsed by the account holder(s) payable in U.S. dollars and drawn on a U.S. financial institution.

12.4 Ineligible Items. You agree that you will not use Mobile Deposit to deposit checks or items that:

- Are payable to any person or entity other than you (i.e., payable to another party and then endorsed to you).
- Are payable to you and another party who is not a joint owner on the account.
- Are drawn on a financial institution located outside the United States.
- Are not payable in United States currency.
- Are dated more than 6 months prior to the date of deposit.
- Are subject to a stop payment order or for which there are insufficient funds.
- Are drawn or otherwise issued by you or any other person on any of your accounts or any account on which you are an authorized signer or joint account holder.
- Contain evidence of alteration, or that you know or suspect, or should know or suspect, are fraudulent or otherwise not authorized by the owner of the account on which the check is drawn.
- Are money orders, savings bonds, or traveler’s cheques.
- Have been previously converted to a substitute check, as defined in Regulation CC.
- Are remotely created checks, as defined Regulation CC.
- Have been returned for any reason.
- Have previously been submitted through Mobile Deposit service or through an electronic deposit delivery service offered at any financial institution.

12.5 Image and Endorsement Requirements. Each image must provide all information on the front and back of the original check, including, but not limited to, information about the drawer and the paying bank that is preprinted on the original check, MICR information, signature(s), any required identification written on the front of the original check and any endorsements applied to the back of the original check. The image quality must meet the standards established by the American National Standards Institute, and any other regulatory agency, clearing house or association. Endorsements must be made on the back of the check and must include your signature and “via mobile deposit”. Any loss the Bank incurs from a delay or processing error resulting from an irregular endorsement or other markings by you will be your responsibility.

A check payable to two payees must be endorsed by both payees. If the check is payable to you or your joint owner, either of you can endorse it. If the check is made payable to you and your joint owner, both of you must endorse the check.

You agree that the Bank will not be liable for any damages resulting from a check or item’s poor image quality, (or rejection of deposit for any other reason), including those related to rejection of or the delayed or improper crediting of such check or item, or from any inaccurate information you supply regarding the check or item.

12.6 Receipt of Deposit. All images processed for deposit through Mobile Deposit will be treated as “deposits” under your current Account Agreement with us and will be subject to all terms of the Account Agreement. When the Bank receives an image, the Bank will confirm receipt via email to you. The Bank shall not be deemed to have received the image for deposit until the Bank has confirmed receipt to you. Confirmation of receipt does not mean that the image contains no errors nor does it mean confirmation that the image has been accepted by us and/or deposited into your account. The Bank is not responsible for any image that the Bank does not receive.

Following receipt, we may process the image by preparing a “substitute check” or clearing the item as an image. The check will be deposited to your account in accordance with the Bank’s normal business practice. The timing and manner in which any check is deposited, cleared, presented for payment and collected shall be in the Bank’s sole discretion, subject to the Agreements governing your account.

The Bank reserves the right, at our sole and absolute discretion, to reject any image for remote deposit into your account. The Bank will notify you of rejected images.

12.7 Limits. The Bank may establish limits on the dollar amount and/or number of items or deposits from time to time. If you attempt to initiate a deposit in excess of these limits, the Bank may reject your deposit. If the Bank permits you to make a deposit in excess of these limits, such deposit will still be subject to the terms of this Agreement, and the Bank will not be obligated to allow such a deposit at other times. For Business Accounts, Mobile Deposits are limited in amount to \$1,500 per day, with a rolling 7-day limit of \$5,000 and a rolling 30-day limit of \$10,000. For Personal Accounts, Mobile Deposits are limited in amount to \$1,500 per day, with a rolling 7-day limit of \$5,000 and a rolling 30-day limit of \$7,500. Limits are established and changed from time to time depending on customer profile and various risk factors, and at our sole discretion the Bank may raise or lower these limits without prior notice to you.

12.8 Deposit Cut off Times. You may access the Mobile Deposit anytime 7 days a week, assuming Mobile Deposit is available. If the Bank receives a mobile deposit on or before 3pm Eastern Time on a Business Day, the Bank will consider that day to be the "Deposit Date". If the Bank receives a scanned item after 3pm Eastern Time or on a weekend or a federal holiday, the next Business Day will be the Deposit Date. Our business days are Monday through Friday, except for federal banking holidays.

12.9 Funds Availability. Funds deposited using Mobile Deposit are generally available on the next business day after the Deposit Date, unless a hold is applied or otherwise delayed or rejected as specified herein.

Deposit Day / Cut-Off Time	Funds are generally available
Business Day, before 3 p.m. EST	The first \$200 is available on the first business day after the day of the deposit, the remaining fund (up to \$4,800) will be available on the second business day after the day of the deposit.
Business Day, on or after 3 p.m. EST	2 <sup>nd</sup> Business Day after day of Deposit
Non-Business	2 <sup>nd</sup> Business Day after day of Deposit

The Bank may delay availability of funds from any deposit you make through Mobile Deposit at our sole discretion, including concern regarding our ability to collect funds based upon the check image that you present. Examples for such concerns are: 1) large deposit amount, 2) frequent overdrafts, 3) deposited check returned unpaid and/or, 4) indications a deposited check may not be paid. Please refer to the "Longer Delays May Apply" section of the Bank's Deposit Account Disclosure for additional details.

12.10 Retention and Destruction of Transmitted Checks. After you receive confirmation that the Bank has received an image, you must securely store the original check for fourteen (14) calendar days after transmission to us (the "Retention Period") and make the original check accessible to us at our request. Upon our request from time to time, you will deliver to us within five (5) calendar days, at your expense, the requested original check in your possession. If not provided in a timely manner, such amount will be reversed from your account.

After the item has been posted to your account, you agree to prominently mark the item with "Mobile Deposit" and the date of deposit. You agree that you will never re-present the original check. You understand and that you are responsible and liable for any loss if anyone is asked to make a payment based on an original check that has already been paid.

Promptly after the Retention Period expires, you must irretrievably destroy the original check to ensure they are not deposited again. In order to ensure proper destruction, you should first mark the check "VOID" and then destroy it by cross-cut shredding or another commercially acceptable means of destruction. After destruction of an original check, the image will be the sole evidence of the original check. You should never leave deposited items lying around, or put deposited items in trash or recycle containers unless they have first been properly destroyed as described herein.

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

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

12.12 Your Warranties. You make the following warranties and representations with respect to each image:

- Each image is a true and accurate rendition of the front and back of the original check, without any alteration, and the drawer of the check has no defense against payment of the check.

- The amount, payee(s), signature(s), and endorsement(s) on the image and on the original check are legible, genuine, and accurate.
- Each check or item that you submit to us for deposit will not be resubmitted in any format to us or to any other party for payment and will not cause the same drawer's account to be debited twice.
- Other than the digital image of the original check that you remotely deposit through Mobile Deposit, there are no other duplicate images of the original check.
- Each original check was authorized by the drawer in the amount stated on the original check and to the payee(s) stated on the original check.
- You are authorized to enforce and obtain payment of the original check.
- You have possession of the original check and will retain it for the Retention Period, and neither you or any other party will submit the original check for payment.
- Your account into which you deposit checks using the Mobile Service, and the funds from such checks, are only used for business purposes.
- Files and images transmitted to us by you will contain no harmful code, viruses or any other features that may have an adverse impact on our network, data or related systems.

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

12.13 Compliance with Law. You will use Mobile Deposit for lawful purposes and in compliance with all applicable laws, rules and regulations. You warrant that you will only transmit acceptable items for deposit and have handled the original items in accordance with applicable laws, rules and regulations. This Agreement shall be governed by the laws of the State of New York.

12.14 Mobile Deposit Unavailability. Mobile Deposit may be unavailable temporarily due to any reason, including system maintenance or technical difficulties, such as those of the Internet service provider, cellular service provider and Internet software. You understand and agree that the Bank is not liable to you in the event that Mobile Deposit is unavailable for any reason. In the event that Mobile Deposit is unavailable, you acknowledge and understand that you may deposit original checks at our branches or through our ATMs.

12.15 Mobile Deposit Security. You will complete each deposit promptly. If you are unable to complete your deposit promptly, you will ensure that your mobile device remains securely in your possession until the deposit has been completed. It is your responsibility to establish and maintain procedures to safeguard against unauthorized deposits. You will notify us immediately by telephone at 1-800-969-8423 if you learn of any loss or theft of original checks. You will ensure the safety and integrity of original checks from the time of receipt until the time of destruction. If warranted in our reasonable judgment, the Bank may audit and monitor you, and you agree to cooperate with us to permit such monitoring, to confirm that you have satisfied your obligations under this Agreement. You acknowledge and agree that you are solely responsible, and not the Bank, for the security of your mobile device and your usage of such device for Mobile Deposit, and the Bank shall not be liable in any way to you regarding your mobile device or the usage of your mobile device.

12.16 Your Responsibility. You are solely responsible for the quality, completeness, accuracy, validity and integrity of the image. You are solely responsible if you, intentionally or unintentionally, submit fraudulent, incorrect or illegible images to us or if Mobile Deposit is used, by authorized or unauthorized persons, to submit fraudulent, unauthorized, inaccurate, incorrect or otherwise improper or unusable images to us.

12.17 Any User of the Mobile Deposit Service must be at least 18 years of age. The Bank may periodically audit and verify your compliance with this Agreement. You agree to cooperate and provide information or documents, at your expense, as may be reasonably requested by the Bank in the course of such audit.

In addition you agree that you will not modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile the technology or Service, copy or reproduce all or any part of the technology or Service; or interfere, or attempt to interfere, with the technology or Service. The Bank and its technology partners retain all rights, title and interests in and to the Services, Software and Development made available to you.

12.18 Accountholder's Indemnification Obligation. You understand and agree that you are required to indemnify us and hold us harmless against any and all claims, actions, damages, liabilities, costs, and expenses, including reasonable attorneys' fees and expenses arising from your use of the Mobile Deposit service and/or breach of this Agreement. You understand and agree that this paragraph shall survive the termination of this Agreement.

12.19 DISCLAIMER OF WARRANTIES. YOU AGREE THAT USE OF ANY REMOTE BANKING SERVICE, INCLUDING MOBILE DEPOSIT, AND ALL INFORMATION AND CONTENT (INCLUDING THAT OF THIRD PARTIES) IS AT YOUR RISK AND IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. THE BANK DISCLAIMS ALL WARRANTIES OF ANY KIND AS TO THE USE OF ANY REMOTE BANKING SERVICE, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. THE BANK MAKE SNO WARRANTY THAT ANY REMOTE BANKING SERVICE, INCLUDING MOBILE DEPOSIT, WILL MEET YOUR REQUIREMENTS OR WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE. THE BANK MAKES NO WARRANTY THAT THE RESULTS THAT MAY BE OBTAINED WILL BE ACCURATE OR RELIABLE OR THAT ANY ERRORS IN ANY REMOTE BANKING SERVICE, INCLUDING MOBILE DEPOSIT, OR TECHNOLOGY WILL BE CORRECTED.

LIMITATION OF LIABILITY. YOU AGREE THAT THE BANK WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR

EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER LOSSES INCURRED BY YOU OR ANY THIRD PARTY ARISING FROM OR RELATED TO THE USE OF, INABILITY TO USE, OR THE TERMINATION OF THE USE OF ANY REMOTE BANKING SERVICE, INCLUDING MOBILE DEPOSIT, REGARDLESS OF THE FORM OF ACTION OR CLAIM (WHETHER CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE), EVEN IF THE BANK HAS BEEN INFORMED OF THE POSSIBILITY THEREOF, EXCEPT AS OTHERWISE REQUIRED BY LAW.

12.20 Financial Information. You must inform us immediately of any material change in your financial circumstances or in any of the information provided in your Application for any remote banking services, including Mobile Deposit. You agree to provide us any financial information the Bank reasonably requests during the term of this Agreement. You authorize us to review your history from time to time.

12.21 Fees. Mobile Deposit service is provided at no charge to you. The Bank may, upon at least 30 days prior notice to you, to the extent required by applicable law, charge a fee for use of the Mobile Deposit service. If you continue to use the Mobile Deposit service after the fee becomes effective, you agree to pay the service fee that has been disclosed to you, and as may be amended from time to time. Further, you will be required to designate an account at the Bank from which fees for the Mobile Deposit service will be debited (your "Billing Account").

12.22 In Case of Errors or Questions. In case of questions or errors about Mobile Deposit, you should contact Online Banking Support at 1-800-969-8423, or write us at Abacus Federal Savings Bank, 6 – 8 Bowery, New York, NY 10013 ATTN: Deposit Operations.

### **13. Fees.**

13.1 You agree to pay us the fees (if any) charged by us for the Services. See our fee schedule for details. We may make changes to (and add new) fees from at any time and for any reason. Certain prices are subject to change without prior notice. These fees are in addition to any charges for we may provide for your Accounts under the other agreements that apply to your Accounts. In addition to the Service fees, you agree to pay for all taxes, tariffs and assessments levied or imposed by any government agency in connection with the Services and this Agreement.

13.2 We may send a bill to you for the fees (which must be paid within 10 days of the invoice or statement date) or charge them directly to your accounts with us. If you fail to pay any amount owing to us under this Agreement, it will bear interest at the rate of 12% per year until paid.

13.3 You understand and agree that fees may be billed to you separately by your Internet and/or telephone service providers, your equipment, hardware and software providers, and other third parties with whom you have separately contracted to provide you with their services.

13.4 You agree to pay each cost and expense (including, but not limited to, reasonable attorneys' fees and disbursements) incurred by, imposed on or asserted against us in enforcing your obligations under this Agreement (including disbursements that may be incurred by our correspondents or Funds Transfer Agents).

**13.5 The provisions of this Section 12 shall survive termination of this Agreement and termination of your participation in Online Business Banking (or any applicable Service).**

### **14. Liability**

#### **14.1 Limitation of Our Liability**

Except as otherwise stated in this Agreement, we will be liable to you only for damages arising directly from our intentional misconduct or gross negligence in the performance of the Services. We will not be responsible for any loss, delay, cost or liability which arises, directly or indirectly, in whole or in part, from: (a) your actions or omissions, or those of third parties that are not within our immediate and reasonable control; (b) your negligence or breach of any agreement with us; (c) any ambiguity, inaccuracy or omission in any instruction or information provided to us; (d) any error, failure or delay in the transmission or delivery of data, records or items due to a breakdown in any computer or communications facility; (e) accidents, strikes, labor disputes, civil unrest, fire, flood, water damage (e.g., from fire suppression systems), or acts of God; (f) causes beyond our reasonable control; (g) the application of any government or funds-transfer system rule, guideline, policy or regulation; (h) the lack of available funds in your Account to complete a transaction; (i) our inability to confirm to our satisfaction the authority of any person to act on your behalf; or (j) your failure to follow any applicable software manufacturer's recommendations or our Service instructions. There may be other exceptions to our liability, as stated in your deposit or other Service agreements with us.

We will not be responsible under any circumstances for special, indirect, or consequential damages that you incur, including without limitation, lost profits or attorney's fees, as a result of our actions or omissions, even if we are aware of the possibility for such damages. Our liability and your remedy for actual costs and losses resulting from our actions and/or omissions, whether the claim is in contract or tort, will not exceed six times the average monthly charge for the Service(s) in question for the three months immediately preceding the cost or loss. Any claim, action or proceeding by you to enforce the terms of this Agreement or to recover for any Service-related loss must be commenced within one year from the date that the event giving rise to the claim, action or proceeding first occurs. You agree to cooperate with us in any loss recovery efforts we undertake to reduce any loss or liability that arises in connection with your Services.

You acknowledge that our Service fees have been established in contemplation of: (a) these limitations on our liability; (b) your agreement to review statements, confirmations, and notices promptly and to notify us immediately of any discrepancies or problems; and (c) your agreement to assist us in any loss recovery effort.

**14.2 Unauthorized Transfers and Payments.** You are responsible for all payments and transfers that are authorized using your Online Business Banking Password. If you permit other persons to use the Online Business Banking Service or your Password you are responsible for any transactions they conduct or authorize. YOU ASSUME THE ENTIRE RISK FOR THE FRAUDULENT, UNAUTHORIZED OR OTHERWISE IMPROPER USE OF YOUR PASSWORD. We are entitled to rely on the genuineness and authority of all Instructions received by us when accompanied by such Password, and to act on such Instructions.

**14.3 Notification Requirements.** You agree to notify us immediately if you discover: (a) any error or discrepancy between your records and the information we provide to you about your accounts or transactions (e.g., in a statement, confirmation, or electronic report); (b) unauthorized transactions involving any account; (c) a breach in the confidentiality of any of your Password(s), Token(s) or other security provisions; or (d) other problems related to the Services. You must send us a written notice of any discrepancy or other problem, including a description of the relevant facts, within a reasonable time not to exceed 15 days from the date after we sent or otherwise made available to you the FIRST statement, confirmation or electronic report on which the problem or error appeared. Failure to so notify us will prevent you from being able to make a claim based on such problem or error.

**14.4 Disclaimer of Warranties.** THE SERVICES ARE PROVIDED BY THE BANK "AS IS," "AS AVAILABLE" AND, TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, WITHOUT ANY WARRANTY OF ANY KIND. WITHOUT LIMITING THE PRECEDING SENTENCE, THE BANK DOES NOT MAKE, EXCEPT TO THE MINIMUM EXTENT REQUIRED BY APPLICABLE LAW TO THE EXTENT THAT THE REQUIREMENT IS NOT MODIFIED BY THIS AGREEMENT, AND THE BANK EXPRESSLY DISCLAIMS, TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, ANY EXPRESS, IMPLIED, STATUTORY OR OTHER WARRANTY OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) CONCERNING THE SERVICES.

**14.5 Amending/Canceling a Transaction.** Unless this Agreement or your User Guide provides otherwise, you do not have a right to cancel or amend a payment or transfer instruction once we have received it. If we attempt to reverse a transaction at your request, we assume no liability for any interest or losses that result if the reversal is not effected. You are solely responsible for providing notice to the receiver/beneficiary that a reversal is being transmitted and the reason for the reversal no later than the settlement date of the reversing entry.

**14.6 The provisions of this Section 14 shall survive termination of this Agreement and termination of your participation in Business Online Banking (or any applicable Service).**

## **15. Information Processing and Reporting.**

**15.1** We offer a number of Services that require us to receive, process and report information involving your accounts and transactions. We will not be responsible for determining the accuracy, timeliness or completeness of any information that you or others provide to us. We will not have a duty to interpret the content of any data transmitted to us, except to the limited extent set forth in this Agreement. Unless otherwise agreed in writing, we will not be required (by means of any security procedure or otherwise) to detect errors in the transmission or content of any information we receive from you or third parties.

**15.2 Information You Provide to Us.** You assume the sole responsibility for providing us with complete and accurate information in the form and format that we require (e.g., in connection with the Wire Transfers Service and Positive Pay). We are not responsible for confirming such information, or for monitoring or refusing to process duplicate instructions by you or your agents. We are not obligated to detect errors in your transfer or payment instructions.

**15.3 Your Instructions.** You must accurately describe transaction beneficiaries, intermediary financial institutions, and the beneficiary's financial institution in transfer and payment instructions. If you describe any beneficiary or institution inconsistently by name and number, other institutions and we may process the transaction solely on the basis of the number, even if the number identifies a person or entity different from the named beneficiary or institution.

**15.4 Your Review.** You acknowledge that it is not possible for the Services to be totally free from operator, programming or equipment error, and that errors in processing and compiling data may occasionally occur (e.g., due to the failure of others to provide accurate information, telecommunication failures, or a breakdown in an electronic data interchange). As such, you agree to review and verify all results and to maintain adequate controls for insuring both the accuracy of data transmissions and the detection of errors. Unless otherwise required by law, our sole responsibility for any reporting errors caused by us will be to reprocess the information for the period in question and to provide corrected reports at our own expense. You agree to maintain adequate backup files of the data you submit for a reasonable period of time in order to facilitate any needed reconstruction of your transactions (e.g., in the event of a telecommunication failure). If we are unable to provide a Service for any reason, we will promptly inform you of the problem and will take reasonable steps to resume processing.

## **16. Indemnification**

16.1 You agree to indemnify and hold us, our affiliates and subsidiaries, and our directors, employees and agents harmless from all losses, liability, claims, demands, judgments and expenses arising out of or in any way connected with any Account, any enrolled Loan Account, or any Service. This indemnification is provided without regard to whether our claim for indemnification is due to the use of the Service by you or on your behalf (including by any Delegate).

16.2 You agree to keep us, our affiliates and subsidiaries, and our directors, employees and agents indemnified against all actions, proceedings, costs, loss and damage of any kind which we, or any of our employees, correspondents, agents, sub-agents, or independent contractors may suffer as a result of our or their acting on Instructions in accordance with this Agreement, or as a result of your failure to comply with your duties under this Agreement.

**16.3 The provisions of this Section 16 shall survive termination of this Agreement and termination of your participation in Business Online Banking (or any applicable Service).**

## **17. Termination**

17.1 You or we may terminate this Agreement as to some or all of the Services, with or without cause, by giving 30 days prior notice to the other party. We may suspend or terminate your Services or this Agreement immediately and without prior notice if: (a) you breach any agreement with us; (b) the confidentiality of your Password or Token or other security provision is compromised; (c) we have reason to believe that an unauthorized transaction has taken or may take place involving any of your Accounts or any of the Services; (d) you become insolvent or the subject of a bankruptcy, receivership, or dissolution proceeding; (e) we are uncertain as to any person's authority to give us instructions regarding your accounts or the Services, or (f) if you do not access any of your Accounts for any six (6) months consecutive calendar months.

17.2 Termination of your participation in Business Online Banking (or any applicable Service) will not affect any other agreement affecting your Accounts or Loans with us, or any of your or our rights or obligations under this Agreement as of the effective date of termination, and also will not affect any Business Online Banking Instruction that both (a) has been submitted to and received by us for processing, and (b) is in process as of the effective date of termination. Termination of the Electronic Statement Delivery Service by you or by us does not affect the validity or legal effect of any electronic Account statement previously made available to you through Business Online Banking, and also does not affect your obligations under Section 4.6 above. Termination of any one Service by you or by us will not terminate the other Services for which you are enrolled, unless you or we specifically indicate otherwise.

## **18. Your Records.**

This Agreement and the Services are not intended to relieve you of any obligation imposed by law or contract regarding the maintenance of records or from employing adequate audit, accounting and review practices as are customarily followed by similar businesses. You agree to retain and provide to us, upon request, all information necessary to remake or reconstruct any deposit, transmission, file or entry until ten business days following receipt by us of the deposit, file, entry, transmission, or other order affecting an account.

## **19. Miscellaneous Terms.**

19.1 Agents. You will not allow others to provide Instructions to us on your behalf. You will be solely responsible for the acts and omissions of such agents. You agree to indemnify, defend and hold us harmless from any actions, claims, proceedings, damages, losses and costs which you or we incur as a result of their actions or omissions.

19.2 Amendments. Except as otherwise required by law, we may amend (add to, delete or change) the terms of this Agreement, the Service fees, and Online Business Banking Guides with prior notice to you at any time. You agree that any required notice of change to the terms of this Agreement, the Service fees, or the Online Business Banking Guides may be posted to the Website or by any other means permitted by applicable law at our option.

19.3 Subject to the applicable laws of evidence, each party agrees not to object to the admission of the records (including computer records) of the other as evidence in legal proceedings on the basis that the evidence is maintained in electronic format.

19.4 Copyright in the pages, screens, information (other than information about your Accounts and financial affairs) and all material in their arrangement included in the Services and in the Website (together the "Information") is owned by or licensed to us unless otherwise noted. You may imprint, copy, download, or temporarily store extracts from the Information for your own information or when you use the Services. You may not alter or otherwise make any changes to any Information that you print or download including, without limitation, removing any identifying marks or legends from such information. Any other use is prohibited unless you first request and obtain our written permission.

19.5 Where product demonstrations, calculator tools and other similar facilities ("Tools") are provided to Delegates in connection with the Website, such Tools are not provided as part of the Services and are provided subject to the terms and conditions, exclusions and disclaimers

relevant to such Tools as provided.

19.6 In this Agreement, unless the context specifically requires otherwise, the plural includes the singular, the singular includes the plural, and headings and captions are for convenience of reference only and have no substantive effect.

19.7 Notices. Any notice required to be provided to you in writing in connection with Online Business Banking, any of the Services or any of your Accounts may be sent to you electronically through the Secure Messaging Service or to your e-mail address we have on file for your participation in Business Online Banking (as selected and confirmed and validated by you upon enrollment), or by any other means permitted by applicable law or this Agreement (including, where applicable, by posting on the Website), at our option. Any notices to us must be provided in writing and sent through the Secure Messaging Service or to Abacus Federal Savings Bank, Banking Service Center, 116 Nassau Street, 10<sup>th</sup> Floor, New York, NY 10038.

19.8 Assignment. We may assign our rights under this Agreement without notice to a third party now or in the future. You agree that we may also assign or delegate certain of our rights and responsibilities under this Agreement without notice to independent third parties (including without limitation Funds Transfer Agents). You agree that you may not assign any of your rights or responsibilities under this Agreement to any third party without obtaining our prior written consent (which may be withheld in our sole discretion).

19.9 Entire Agreement. This Agreement supplements (and supersedes where inconsistent) the terms of your deposit agreement with us. Together, they constitute the entire agreement between you and us with respect to the Services.

19.10 Financial Review. You agree to provide us with a financial statement or information on your financial condition upon our request.

19.11 Monitoring of Communications. You agree on behalf of yourself, your employees and agents that we may monitor and record your telephone and electronic communications in connection with the Services at any time, without further notice to you or any party to the communication.

19.12 No Third Party Beneficiaries. This Agreement is made for the exclusive benefit of you and us. No third party has any rights under this Agreement.

19.13 No Third Party Use. Unless you have our prior written consent, you may not use the Services to process transactions for third parties or permit others to initiate Service transactions on your behalf.

19.14 Overdrafts. When you transmit a transfer or payment request to us, you authorize us to charge your account for the amount indicated. If your account does not have sufficient available funds, we may reject the transaction. Our allowance of any overdraft will not obligate us to honor future overdrafts at a later time, and we may refuse to do so without cause or prior notice. We may charge a fee for each payment or transfer request presented against insufficient available funds.

19.15 Security Interest. You grant us a security interest in your Bank accounts to secure the repayment of any overdraft or other obligation that you incur under this Agreement.

19.16 Validity. If any provision of this Agreement is found to be void or invalid, the remainder of this Agreement will remain in full force and effect.

19.17 Waivers. Any waiver by us must be in writing to be effective. Our waiver of any right will not be deemed a waiver of other rights or of the same right at another time.

**19.18 The provisions of this Section 19 shall survive termination of this Agreement and termination of your participation in Business Online Banking (or any applicable Service).**

## **20. Applicable Law; Jury Trial Waiver; Arbitration**

20.1 This Agreement is governed by applicable federal law and the applicable laws of the State of New York without regard to the law of any other jurisdiction. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. If, however, any such provision shall be prohibited by or invalid under such law, it shall be deemed modified to conform to the minimum requirements of such law, or, if for any reason it is not deemed so modified, it shall be prohibited or invalid only to the extent of such prohibition or invalidity without the remainder thereof or any other such provision being prohibited or invalid. You consent to the exclusive jurisdiction and venue in the federal and state courts located in the State of New York.

20.2 You acknowledge and agree that any dispute or claim between you and the Bank under this Agreement may be arbitrated pursuant to the Rules of the American Arbitration Association ("AAA") then in effect at the Bank's election. Any arbitration proceedings shall be confidential. If the Bank elects to so arbitrate any such dispute or claim, you and the Bank agree that the arbitration award will be the sole and exclusive remedy between the parties regarding any and all claims, counterclaims or issues. Judgement upon any award rendered by any arbitrator may be entered in any court of competent jurisdiction. The Federal Arbitration Act shall apply to the interpretation and enforcement of this arbitration provision. The prevailing party



in any such arbitration, as well as any legal action necessary to enforce any arbitration award, shall be entitled to an award of all reasonable expenses and reasonable attorneys' fees incurred in connection with such arbitration and/or enforcement proceeding. Notwithstanding, nothing herein shall limit or restrict the Bank's right to seek legal or injunctive relief from any court or competent jurisdiction against you for any dispute or claim arising from this Agreement.

**20.3 WAIVER OF TRIAL BY JURY.** YOU (ON YOUR BEHALF AND ON BEHALF OF EACH OF YOUR DELEGATES) AND WE EACH KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVE EACH RIGHT YOU (INCLUDING YOUR DELEGATES) AND WE HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR OTHERWISE RELATING TO (a) THIS AGREEMENT OR ANY SERVICE, INSTRUCTION OR REQUEST TRANSMITTED TO US BY YOU (INCLUDING YOUR DELEGATES) OR ON YOUR BEHALF, (b) ANY TRANSACTION ARISING OUT OF OR OTHERWISE RELATING TO THIS AGREEMENT OR ANY SUCH SERVICE, INSTRUCTION, OR REQUEST OR (c) ANY NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT OF THIS AGREEMENT.

**20.4 The provisions of this Section 20 shall survive termination of this Agreement and termination of your participation in Business Online Banking (or any applicable Service).**

## **21. Electronic Signature**

You consent and agree that when you select "I Agree" button when accessing the Services via online (or through mobile banking), your enrollment to use the Services or your use of the Services constitutes an authorized signature, acceptance and agreement to the terms and conditions of this Agreement as if actually signed by you in writing. Further, you agree that no certification authority or other third party verification is necessary to the validity of your electronic signature. You agree that the lack of such certification or third party verification will not in any way affect the enforceability of your electronic signature or any resulting contract between you and the Bank.