

# Business Account Agreement



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*Effective July 1, 2018*

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## TERMS AND CONDITIONS OF YOUR ACCOUNT

This Account Agreement – Business (“Agreement”) explains important terms and conditions which govern your account(s) with us. Please read this Agreement carefully and keep it with your banking records for future reference.

You agree that your accounts will only be established and used for business and/or commercial purposes, and not for personal, family or household purposes. When you sign our signature card and/or continue to have an account with us, you and each authorized signer on your account(s) effectively agree to this Agreement, together with any applicable disclosures and related service agreements, including Mechanics Bank’s schedule of fees and charges (“Fee Schedule”), the Account Disclosure and Receipt for Time Deposit, which includes product and rate disclosure information provided separately from this Agreement, and all or any of which may be amended from time to time by us.

As used in this Agreement, the words “we,” “our,” “us,” and “Bank” mean Mechanics Bank and the words “you” and “your” mean the owner(s) of the account(s) and any “agent” appointed by or on behalf of the owner(s) to sign on the account(s) in a representative capacity. Except to the extent otherwise defined herein, the term “business account” shall mean an account that is not primarily established for personal, family or household purposes. The term “consumer account” shall mean an account that is primarily established for personal, family or household purposes. The word “items” as used in this Agreement includes a check, draft, demand draft, preauthorized draft, or other order or instruction for the payment, transfer or withdrawal of funds including a withdrawal slip, deposit slip/adjustment, automatic transfers, electronic transactions, and miscellaneous charges to your Account. An item also means any other document created or authorized in your name that would be a check or draft but for the fact that it has not been signed. Except to the extent otherwise indicated in this Agreement, the term “may” shall mean that you authorize us to take action or not to take action, at our sole discretion without resulting liability to you. Unless it would be inconsistent to do so, words and phrases used in this Agreement should be construed so that the singular includes the plural and the plural includes the singular.

This Agreement applies to all accounts you have with us. This Agreement supersedes any previous deposit account agreement and applicable disclosures with us.

### ACCOUNT OWNERSHIP AND BENEFICIARY DESIGNATION

This Agreement applies to your account depending on the form of ownership and beneficiary designation, if any, specified in our account records. We reserve the right to refuse some forms of ownership on any or all accounts. You agree, upon request by us, to provide us with documentation acceptable to us designating each authorized signer with respect to your account(s) and related services. **Note:** *Because decisions concerning whether an account should be held in a particular capacity may have significant legal, tax, and estate planning consequences, consultation with your attorney or tax advisor is recommended. Business accounts may be available to both profit or non-profit businesses and associations.*

**Corporate, Partnership, Limited Liability Company or Other Statutory Business Entity Account** – These business accounts are established pursuant to statutory organizational requirements.

**Sole Proprietorship Account** – These business accounts are owned and maintained by the individual who opens the account in the name of its proprietor and are not established primarily for personal, family or household purposes

**Fictitious Business Name Account** – If the name in which the account is held is fictitious, the account holder represents he or she has the right to use that name and has fulfilled all legal requirements for using and or doing business under that name.

**Organization Account** – Such an account is issued in the name of a legal entity, such as a club or league. We reserve the right to require the governing body of the legal entity to give us a separate authorization telling us who is authorized to act on its behalf. We may honor such an authorization until we actually receive written notice of a change from the governing body.

### ACCOUNT STRUCTURE

We may structure your account to consist of two or more sub-accounts to take advantage of an

interpretation of federal regulations. The sub-accounts, a checking account, and money market account, will be used to allow for the transfer of funds between the accounts, subject to federal regulations. This structure will occur solely on our books and will not be visible to you, nor will it affect your account in any way. Also, this will not affect the FDIC deposit insurance coverage of your account. You agree that we may treat the sub-accounts as one and the same account if we receive a levy, subpoena or other legal process.

## **ACH AND WIRES**

We offer automated clearing house (ACH) origination and wire transfer services subject to the additional terms of our separate service agreements. From time to time, you may be a party to an ACH entry or a wholesale (wire) funds transfer, which may be credited or debited to your account. Division 11 of the California Commercial Code governs wholesale (wire) funds transfers, as well as non-consumer ACH credit entries and those consumer ACH credit and debit entries that may be excluded from the Electronic Fund Transfer Act and its implementing Regulation E (collectively referred to herein as "payment orders"). The term "payment order(s)" includes payment orders, as defined in Division 11 of the California Commercial Code. We reserve the right to choose any wire transfer system to affect your payment orders.

**Provisional Credit** – Credit given by us to you with respect to a payment order is provisional until we receive final settlement for such entry through a Federal Reserve Bank. If we do not receive final settlement, you are hereby notified and agree that we are entitled to a refund of the amount credited to your account in connection with the payment order, and the party (the originator of the entry) making payment to you will not be deemed to have paid you the amount of the payment order. Further, we will notify you of the receipt of payments in the periodic account statements we provide you. You acknowledge that we will not give next day notice to you of receipt of a payment order.

**Erroneous Execution** – If we receive an order to pay you, and we erroneously pay you more than the amount of the payment order, we are entitled to recover from you the amount in excess of the amount of the payment order, regardless of whether you may have some claim to the excess amount against the originator of the order.

**Form and Accuracy** – All payment orders must be presented to us, which may be required to be in a form prescribed by us either in-person or such other method as may be specified by us from time to time. If you will communicate payment orders using our online banking services, all payment orders must also be consistent with the separate agreement.

**Accurate Transaction Information** – Except as otherwise provided by applicable law, you assume the sole responsibility for providing us with accurate transaction information in the form and format that we require. We are not responsible for confirming such information, or for failing to detect and reject duplicate payment orders. If you provide us with a payment order that is incorrect in any way, you agree that we may charge your accounts for the transaction whether or not the error could have been detected by us. We are not obligated to detect errors in your transfer or payment instructions. If you fail to include an execution date or a payment date in your payment order, we may treat the payment order as if it called for execution or payment at any time and at our convenience.

**Inconsistent Information** – We advise you that any receiving financial institution (including us) of a payment order is entitled to rely on any account or bank number you have provided even though that account or bank number may identify a party different from the person or entity you have described by name in any transfer order. We may also process incoming payment orders based on the account number, rather than on any inconsistent name reflected in the payment order.

**Security Procedures** – You may agree with us to the use of certain procedures and security devices (referred to individually and collectively, "Security Device(s)") designed to verify the authenticity of payment orders. In this regard, application of the procedures and Security Devices to authenticate a payment order will be collectively referred to as the "Security Procedures" in this Agreement. If we take any action not provided in the Security Procedures in connection with any payment order, such additional action shall not be deemed to become a mandatory part of the continuing Security Procedures. You understand and agree that we will use the Security Procedures to verify the authenticity of payment orders and that the Security Procedures are not designed to, and are not used for the purpose of, detecting errors in transmission or content of payment orders, including discrepancies between account names and numbers.

Before sending a payment order to the Bank, you will review the Security Procedures and determine whether the Security Procedures will provide a commercially reasonable method for verifying whether a payment order is that of yours. As part of the review, you will consider the size, type, and frequency of payment orders you normally make or anticipate making, along with such other factors as you may deem relevant or appropriate.

**Commercially Reasonable Procedures** – If the size, type or frequency of payment orders made by you change such that the Security Procedures in use by you no longer provide a commercially reasonable method of providing security against unauthorized payment orders, you shall immediately notify us.

**Supplemental Security Devices** – The Bank may offer to you or require you to use additional authentication tools or methods from time to time. If you choose not to implement supplemental authentication tools, your access to some or all of the services may be limited. The term “Security Devices” will include any supplemental authentication tools that are used by you. Your continued use of any modified Security Procedures will evidence your agreement that the modified Security Procedures are commercially reasonable for you.

**You are Responsible for Verified Payment Orders, Even if Unauthorized** – If we act on a payment order in compliance with the Security Procedures, or if you refuse a commercially reasonable security procedure that we have offered you, then you will be obligated on the payment order, and it will be treated as your payment order, whether or not authorized by you. Unless we agree on another security procedure, you agree that we may confirm the authenticity and content of payment orders (among other ways) by placing a call to any of you. If we cannot reach you, or if the payment order is not confirmed or approved in the manner we require, we may refuse to execute the payment order.

**You are Responsible for Payment Orders Actually Authorized** – Regardless of whether or not we complied with the Security Procedures, any payment order received by us will be treated as yours and will bind you if the payment order is delivered to us directly or indirectly by any Authorized Representative (defined in Authorized Signers section), or if you would otherwise be legally bound by the payment order, regardless of whether the payment order was erroneous in any respect or that any loss would have been prevented if we had complied with the Security Procedures.

**Safeguarding** – You will use and safeguard the Security Devices and Security Procedures. In connection with such safeguarding obligations, you will implement and maintain physical, technical, and administrative controls and procedures sufficient to prevent impermissible or unauthorized access to or use of the ACH and Wire Service, Security Device or Security Procedures. You assume all risks associated with disclosure of any part of the Security Procedures, including a Security Device, to third parties, including employees. You agree to limit disclosures of Security Devices to those third parties, employees or agents you will authorize to access the services on your behalf, or who have a specific need to know.

**Sufficient Funds** – You agree to maintain sufficient available funds (as determined under our funds availability policy) in your accounts to cover all payment orders and applicable fees, or such higher amounts as we may specify from time to time. You acknowledge that we do not control intermediary financial institutions, including those chosen by us, and that we do not control whether intermediary institutions deduct fees as part of the processing of a wire transfer. If you do not have sufficient or available funds or credit in the payment account, we may charge any account of yours with us.

**Cutoff Hours** – Our processing hours for payment orders vary based on location, transaction type and other factors. Information about our processing hours is available upon request. We may process any payment order we receive after our processing cutoff hour on our next payment order business day.

**Delay or Refusal** – We may delay or refuse to execute any payment order. We may do so for any reason or for no reason. We may provide notice to you of such delay or refusal, but are not obligated to do so. We may delay or refuse processing of a payment order, for example, if: (a) processing would or may exceed the available funds in your affected account; (b) the payment order is not authenticated to our satisfaction or we believe the payment order may not have been authorized by you; (d) the payment order contains incorrect, inconsistent, ambiguous,

or missing information; (d) processing would or may involve funds which are subject to lien, security interest, claim, hold, dispute, or legal process prohibiting withdrawal; (e) processing would or may cause a violation of any laws or rules applicable to you or to us; (f) for any reason determined by us in our sole discretion; or (g) for any other reason under the Agreement.

**Recall, Cancel or Amend** – If you inform us that you wish to recall, cancel or amend a payment order after it has been received by us, we may, but will not be required to, use reasonable efforts to assist you to do so; however, we shall not be liable for any loss, cost or expense suffered by you if we do not, or are unable to, amend, cancel or recall a payment order. You hereby agree to indemnify us against any loss, liability, claim or expenses (including legal fees) we may incur in connection with assisting you to recall, cancel or amend a payment order, and you agree to immediately reimburse us for any monies paid by us associated with such losses, liability, claims or expenses incurred by us.

**Foreign Currency Transactions** – Foreign transfers may be subject to delays, charges imposed by other financial institutions, and changes in foreign currency rates. If you request a payment order in United States Dollars or in a currency other than United States Dollars to a foreign country, we may transfer the payment in the currency of the beneficiary bank's country at any exchange rate chosen by us. If the transfer is made in United States Dollars, we cannot guarantee that the beneficiary will receive the funds in United States currency. The beneficiary bank may convert the funds into the local currency and may also charge incidental fees. If, for any reason, a payment order is returned, you agree to accept the refund in United States Dollars in the amount of the foreign money credit, based on the current buying rate on the day of the refund, less any charges and expenses incurred by us.

**Confirmation; Duty to Review and Report** – We may provide payment order confirmation of advice based on your request and, in any case, we will include the payment orders as part of the account statements provided to you. In addition to any other duties you have in connection with your review of account statements and information from us, you must exercise ordinary care to determine that all payment orders or amendments to payment orders that we accept that are issued in your name are authorized, enforceable, in the correct amount, to the correct beneficiary, and not otherwise erroneous. If you discover (or with reasonable care should have discovered) an unauthorized, unenforceable, or erroneously executed payment order or amendment, you must exercise ordinary care to notify us of the relevant facts.

**Screening** – We may screen payment orders that would result in debits or credits to your account for compliance with applicable laws, rules, and regulations. Where we believe a credit to your account may be subject to being blocked or frozen under the Office of Foreign Asset Control (OFAC) administered sanctions laws of the United States or of sanctions laws of another country, or may be otherwise suspicious or illegal, we may block (or "freeze") the funds and deny you access to them for a reasonable time sufficient to allow us to resolve the matter. We are also required by law to scrutinize or verify any international ACH transaction (IAT) that we receive against the Specially Designated Nationals (SDN) list of OFAC. This may cause us to temporarily suspend processing of an IAT on your behalf and may affect the settlement of the IAT and the availability of the funds from the IAT.

**Limitation on Liability** – Unless otherwise prohibited by law, you waive any claim you may have against us for consequential, indirect or special damages, including loss of profit arising out of a payment order or fund transfer, even if we are aware of the possibility for such damages. We are not responsible for attorney fees you might incur due to the erroneous execution of a payment order.

## **ADJUSTMENTS**

We may make adjustments to your account from time to time. This may be due, for example, to the return of an item you deposited which was unpaid or if a deposit is posted in the wrong amount.

## **AMENDMENTS AND TERMINATION**

We reserve the right to amend, modify, add to, or delete (collectively referred to herein as "change(s)") the terms or conditions of this Agreement without prior notice to you, (e.g., by posting the information in our offices, on our web site, or otherwise making it available to you), except as required by law. Your continued use of a service or an account constitutes your acceptance of the change. Changes may include a deletion, modification, or amendment of an existing term or

the addition of a new term not otherwise contemplated when you entered into this Agreement or opened your account(s). Any change will take effect immediately, unless stated otherwise in any notice we make available to you.

When applicable law or regulations require the Bank to notify you of a change, addition or deletion to this Agreement, the Bank may do so by written or electronic means to any of you at the last address (location or e-mail) on file for you, your account or the service in question. We do not have to notify you if the change is required for security reasons.

## **APPROPRIATE ACCOUNT USAGE**

Do not use a business account as a consumer account. If you do, it may be reclassified as a consumer account, and we reserve the right to change your business deposit account type to a consumer deposit account type.

## **ARBITRATION**

**This provision contains the terms of how a dispute between you and the Bank will be resolved. Please read this provision carefully since it specifically limits your rights in the event of such dispute. By this provision, at the request of you or the Bank, disputes must be resolved by arbitration.** Arbitration is a means of having an independent third party resolve a dispute without using the court system. With arbitration, there is no right to appeal the decision of the arbitrator as there is normally in the court system. BY THIS AGREEMENT YOU UNDERSTAND THAT EACH OF US IS WAIVING THE RIGHT TO A JURY TRIAL OR A TRIAL BEFORE A JUDGE IN A PUBLIC COURT.

Either of us may submit a dispute concerning this Agreement to binding arbitration at any reasonable time, notwithstanding that a lawsuit or other proceeding has been commenced. If either of us fails to submit to binding arbitration following a lawful demand, the one who fails to submit bears all costs and expenses incurred by the other compelling arbitration.

With the exception of any controversy or claim within the jurisdictional limits of California small claims court, any controversy or claim arising out of or relating to this Agreement, or the accounts covered by this Agreement, will be settled by arbitration administered by the American Arbitration Association ("AAA") in accordance with its arbitration rules when the amount in controversy exceeds the amount subject to jurisdiction in small claims court. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. All statutes of limitation and rules of law that would otherwise be applicable to this Agreement, including those provided in the California Commercial Code, shall apply to any arbitration proceeding.

To the extent that there is any variance between the AAA Rules and this Agreement, this Agreement shall control. Arbitrators must have expertise in the substantive laws applicable to the subject matter of the dispute.

You agree to take all steps, and execute all documents, necessary for the implementation of arbitration proceedings.

This arbitration provision supersedes all prior arrangements and other communications concerning dispute resolution as to this Agreement. In the event more than one arbitration agreement entered into by us is potentially applicable to a dispute, the one most directly related to the account or transaction that is the subject of the dispute shall control.

Nothing in this "Arbitration" Section shall limit the right of any party at any time to exercise self-help remedies, foreclose against collateral, or obtain provisional remedies. The arbitrator shall also determine all issues relating to the applicability, interpretation, and enforceability of this paragraph.

## **AUTHORIZED SIGNERS**

An authorized signer is someone to whom you give all rights you have now or in the future to make withdrawals and deposits, and to otherwise transact on your account and receive account information. Merely by designating an authorized signer you do not give any ownership rights in the account. Any one of the authorized signers may sign checks or withdrawal orders and give us instructions regarding the account, including an instruction to close the account. However, if there is a conflict, we reserve the right to require either all authorized signers or any or all authorized officers, partners or other agents to sign an item, withdrawal order, or other instruction on the account.

Even if the authorized signers on an account change, we may continue to honor checks, withdrawal orders, and other instructions by the authorized signers as shown on the signature card for the account until we are notified in writing not to do so.



## **BUSINESS DAYS**

For the purpose of this Agreement, our business days are Monday through Friday, excluding Saturdays, Sundays, and federal holidays.

## **CASH REPORTING REQUIREMENT**

The Bank Secrecy Act ("BSA"), a federal law, requires all financial institutions to report certain currency transactions to the Financial Crimes Enforcement Network ("FinCEN"). In order to satisfy our BSA requirement, we may, and, in many cases, must request certain information about the individual presenting the transaction, as well as the organization or individual for whom the transaction is being conducted. This includes the individual's/organization's full name, permanent street address, social security number or other taxpayer identification number, identification number (such as a driver's license or passport), date of birth (if applicable), and business, occupation or profession. If you or another person deposits cash to your account and are unwilling to provide information we request to fulfill our reporting duties, we will refuse the transaction.

## **CHANGE OF ACCOUNT OWNERSHIP, ADDRESS OR AUTHORIZED SIGNERS**

You agree to notify us immediately in writing of any change in your name, address, email address (if provided), or the authorized signers on your account. We may require a new signature card or other documentation before giving effect to any change in ownership or authorized signers and we may rely on our account records to determine the ownership of your account.

If the authorized persons on your account change, we may continue to honor items and instructions given earlier by any previously authorized person(s) until we receive specific notice from you in writing not to do so (Note: a new or updated signature card, by itself, does not constitute notice to terminate any pre-existing payment or transfer plan).

We may also change the mailing address of record we have for you if we receive an address change notice from the U.S. Postal Service. Each account holder is responsible for notifying us of any address change. The address is changed only for the accounts you specify and does not affect your other account relationships with us unless you specify that you want the address changed for those accounts as well. We are only required to attempt to communicate with you using the address you have provided to us. If sent statements or other Bank documents are returned indicating an incorrect address, and we are not notified of the new address after 90 days, you authorize us, at our discretion, to block your account until we can verify your correct address.

## **CHECKS**

We offer checks in a number of styles and at various prices. The cost of any checks purchased through us may be automatically charged to your account. If you arrange for the printing of your own checks, the form, encoding and format of the checks must follow our check specification requirements and be approved by us in advance. The name(s) printed on your checks must agree with the name(s) on our account records. If we cannot accurately verify your signature on an item due to your use of your own checks, you are responsible for any losses that may result from our inability to use that check to verify your signature.

We make checks available that include fraud prevention features. If you choose not to use them or other checks that include fraud prevention features, you agree to assume a heightened degree of care for safeguarding your checks, and for reviewing all returned checks and statements as soon as you receive them.

You agree to safeguard your blank and cancelled checks, and to take reasonable steps to prevent their unauthorized use. If your checks are lost or stolen, you agree to notify us immediately. For security reasons, we reserve the right to close your account and transfer the balance to a new account. If we do, all checks written but not yet paid may be returned to payees as "Account Closed" or "Refer to Maker." You will be responsible for issuing any replacement checks.

## **CHECKS BEARING NOTATIONS**

You agree not to print special limitations on checks, withdrawal orders or other items drawn on your account, such as "void over \$100" or "paid in full" or "void after 90 days." If you do print any special limitations, you agree that we are not bound by such limitations. You authorize us to pay such items without regard to the stated limitation(s). You further agree to indemnify us and hold us harmless for any claims or losses arising out of our refusal to honor said restrictions.

## **CHECK ENDORSEMENT**

Federal regulations provide that the top 1-1/2 inches on the back of a check (when read vertically from the trailing edge) is designated for your endorsement as payee. If you endorse a check in the area outside of the endorsement area, mark or otherwise obscure the other area, or make an endorsement which is illegible or incomplete, you agree to hold us harmless from any loss, delay, liability, claim, or damage which occurs as a result.

## **CHECK IMAGES**

If we do not return your paid checks to you, images of the checks may be sent or made available to you each month with your account statement. Your original checks may be destroyed shortly after we process the checks, but we will maintain a record of the checks for several years. You can obtain copies of your checks by sending us a written request with the following information: your name, account number, check number, the amount of the check, and (if known) the date the check was paid. There is no charge for the first three (3) items per statement that we copy for you. After that, we will charge your account a fee for each copy (including the front and back of the check). We will not be responsible for any indirect, special or consequential damages under any circumstances for our inability to provide copies of checks. Our liability, if any, will not exceed the face amount of the check in question, and you must provide us with reasonable proof of any loss.

## **CHECK PROCESSING CUTOFF HOUR**

If we receive an item for payment on a weekend, a holiday or after 2:00 p.m. on a business day, we may treat it as if we had received it on the next business day. Our processing cutoff hour with respect to any knowledge, notice, stop payment or postdated check order, or legal process received by us involving a check is one hour after the opening of the business day following the business day on which we receive the check. The cutoff hour with respect to setoffs exercised by us is midnight of the business day following the business day we receive a check, or such later time by which we must return the check. The cutoff hour determines our obligation under state law to pay or return certain checks that have been received (but not finally paid) by us on the previous business day.

## **CHECK SIGNATURE VERIFICATION**

We may process certain checks mechanically, based on the information encoded on the items. This means that we may not visually examine each of your checks to determine if they are properly completed and endorsed, and we assume no duty to identify and/or return duplicate checks, checks with duplicate serial numbers, misencoded items, or checks lacking an encoded serial number. Although we may examine checks from time to time, you understand that reasonable commercial standards do not require us to do so.

## **CHECKS PRESENTED IN PERSON FOR PAYMENT BY A NON-ACCOUNT HOLDER**

If an item drawn against your account is presented for payment in person for payment by a payee who is not an account holder of the Bank, the Bank may charge a fee to the person presenting the check as a condition for cashing the check. See the Fee Schedule. The Bank may also require identification acceptable to the Bank and not prohibited by law, including a fingerprint of the person presenting the check or other fraud prevention methods. You agree that the Bank may refuse to honor, pay or otherwise cash checks presented for payment in person by a non-account holder if the person refuses to pay the fee or provide the identification requested by the Bank. You agree that none of the foregoing will be deemed to be wrongful dishonor by us.

## **CHECK PROCESSING**

We have automated collection and payment procedures. These automated procedures rely primarily on information encoded on each check or item on the check's magnetic ink character recognition (MICR) line. In paying an item or processing an item for deposit, we may rely on the information encoded in the MICR line, according to general banking standards, whether or not that information is consistent with the other information on the item. You will reimburse us for any loss or expense we incur because you issue or deposit an item containing altered or extra information in the MICR line. You agree that automated check processing is reasonable and that you have responsibility for preventing and reporting forgeries, alterations, and other unauthorized use of your account.

When we take an item for processing by automated means, "ordinary care" does not require

that we examine each item. "Ordinary care" requires only that we follow banking standards prevailing in the area in which we are located and that do not vary unreasonably from the general standards followed by similarly-situated financial institutions. We do not fail to exercise ordinary care by posting or paying items without sight examination of the items.

A mere clerical error, or an honest mistake, is not considered a failure of the Bank to perform any of our obligations. The Bank's own policies and procedures are used solely for our internal reasons and do not establish a higher standard of care for the Bank other than that which is provided by law or regulation. We will not be obligated to monitor items deposited to, or drawn against, accounts held by you or a trustee, agent or other fiduciary acting, or purporting to act, on your behalf, including to determine whether you authorize the transaction or whether a trustee, agent or fiduciary is acting consistently with or in breach of any duty to you.

The Bank is not responsible for the neglect, mistake or fault of another financial institution or person, including for the loss or destruction of an item or misrouting of an item in transit or in the possession of others. If a deposited item is lost or misrouted and we gave you provisional credit for that item, you agree that we may charge back the amount of the item to your account if we do not receive payment for the item, even if the item is not timely returned.

## **CHOICE OF LAW**

Except as stated herein or as otherwise may be required by applicable law, the provisions of this Agreement are governed by the federal laws and regulations, the laws and regulations of the state of California (excluding choice of law rules), and applicable local clearinghouse rules, including the operating circulars of the Federal Reserve Banks, as amended from time to time. In addition, our rights under this Agreement may be limited by laws, rules or regulations; to the extent this is so, this Agreement is modified to the extent needed to prevent representing that a transaction confers or involves rights, remedies, or obligations which we do not have or which are prohibited by law.

## **CLOSING OR SUSPENDING ACCOUNTS**

The Bank may, at any time and in our sole discretion, close or suspend your account or any service we are providing to you. We may do so for cause or without cause. We may deliver the balance after an account is closed by any means chosen by us, including mailing a check for the balance by U.S. Postal Service, sent postage prepaid, to your last address as shown on our records. We may remit the balance by check payable to the name on the account as shown on our records, even if contrary evidence of account ownership has been given to us. We will provide you with notice before or after taking this action, unless prior notice is required by law, in which case we will provide you with such notice as is required by law. For example, we may close your account if your balance falls to zero, without advance notice.

Except to the extent otherwise agreed with us, you may close your account at any time upon notice to us, unless your account has a scheduled maturity date, subject to any applicable early withdrawal penalty. You will remain liable for the payment of accrued fees on the account and for checks in the process of collection, as well as any other obligations relating to actions or inaction prior to account closure. If you close an account, it may be subject to accrued or prorated fees or charges.

You agree to reimburse us immediately upon request for any overdrafts that arise after an account is closed, whether closed by you or by us.

We may honor any account owner's or authorized signer's request to close or suspend an account or transaction. At our discretion, we may require the signatures of all account owners and/or authorized signers before permitting the withdrawal of funds or the closing or suspension of an account.

Without limiting any of the foregoing, you authorize us, in our sole discretion, to "freeze" or place a hold on the balance in your accounts at the Bank if we suspect that there is irregular activity or we receive conflicting instructions involving your accounts. Should the Bank place a "freeze" on your accounts to reasonably investigate our concerns, you agree that we shall not be liable to you for any claims you might have, including but not limited to claims of wrongful dishonor.

We may dishonor any check, withdrawal order, item or transaction presented for payment after an account is closed or frozen by you or by us. At our option, we may honor checks, withdrawal orders, items or transactions after an account is closed or frozen if the transaction was guaranteed by us under any check guarantee program or was part of an electronic fund transfer system, if you fail to place a stop payment order for any outstanding checks or other items or if

we otherwise elect to honor the transaction in our discretion. You shall remain responsible and liable for such checks, items, and transactions.

If an interest bearing account is closed for any reason before accrued interest is actually paid, interest may not be paid for the last interest period.

## **COMPLIANCE WITH LAWS, RULES, AND REGULATIONS**

You agree to comply with all laws, rules, and regulations applicable to you, to your activities and to your use of our services. This includes your agreement to comply with (to the extent applicable to you and your actions) federal anti-money laundering laws, sanctions laws administered by the Office of Foreign Assets Control, currency transaction or Bank Secrecy Act reporting and recordkeeping requirements, and any state counterpart of the same. You must inform us about and disclose to us the identity of all persons who have a beneficial interest in you (if you are a non-natural person) and in your transactions.

You represent and warrant that you will not use, and agree not to use, your account or any service we provide to you for any unlawful purpose. For example, you represent, warrant and agree not to accept or make payments in connection with the participation of any person (including yourself) in unlawful Internet gambling. You acknowledge that "restricted transactions" (as defined in the Unlawful Internet Gambling Enforcement Act and its implementing regulations) are prohibited from being processed through your accounts or your relationships with us. We reserve the right to deny transactions or authorization from merchants apparently engaging in the Internet gambling business or identifying themselves through card transaction records or otherwise as engaged in that or any other illegal or improper business. Further, we reserve the right to block or close any account which we believe may be involved in any such restricted transactions.

You represent and warrant that you are not, and you agree to take no action that would result in your being deemed or treated as, a money service business under any applicable state or federal law, except to the extent that you have specifically and in writing previously informed us that you are a money service business.

You covenant, and represent and warrant that the foregoing is true and correct, as of the opening of your account and again each time you make a deposit or withdrawal or otherwise use a service offered by us. You agree to provide us with evidence showing that you are in compliance with the above, reasonably satisfactory to us, upon our request.

## **CONSENT FOR US TO CONTACT YOU**

You agree that we or our agents may contact you at any telephone number you provide to us, including any cell phone number. You authorize us to send text messages and make prerecorded or autodialed calls to any number(s) you provide. Your service provider may impose a charge for receipt or sending of those calls or messages. You are solely responsible for such charges.

## **CONVERTING ACCOUNT AND REVOKING PRIVILEGES**

Without limiting our ability to close your account, we may alternatively convert your account to another type of account or revoke privileges when we consider it appropriate or necessary to do so. For example, we may revoke privileges, or convert your account to another account type if you make frequent transactions on a money market or savings account, if your account frequently has debits against uncollected funds (generally, funds from recent deposits or credits for which we have not received final settlement), if your account has excessive deposit activity or if you use a business account for consumer purposes.

## **CREDIT VERIFICATION**

From time to time we may obtain credit information about you from check or credit reporting agencies and/or other means. We may do so at the time you open an account, request a service, at any time while your account is open, or the service is available, or after your account or service is closed, or as otherwise permitted by law. For example, new accounts are subject to verification through ChexSystem (the "Reporting Agency") and may be declined based in whole or in part on information obtained in a report from the Reporting Agency. You have a right under the Fair Credit Reporting Act to know the information contained in your credit file at ChexSystem. If we decline to open an account or otherwise provide deposit services, the Reporting Agency will have played no part in our decision and would be unable to supply specific reasons why we would have denied the account or services. You have a right to a free copy of your report from the Reporting Agency, if you request it no later than 60 days after you receive notice of a

declined account or service. In addition, if you find that any information contained in a report received by you is inaccurate or incomplete, you have the right to dispute the matter with the Reporting Agency. The Reporting Agency's full name, address, and phone number is as follows:

ChexSystems, Inc  
Attn: Consumer Relations  
7805 Hudson Road, Suite 100  
Woodbury, MN 55125

As required by law, you are also hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your obligations, including credit obligations. We may report information about your account to credit bureaus, including ChexSystems. Late payments, missed payments or other defaults on your account may be reflected in your credit report.

### **CUSTOMER IDENTIFICATION NOTICE UNDER THE USA PATRIOT ACT: IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT**

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

What this means for you: When you open an account, we will ask for your name, address, date of birth and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents for account owners (and possibly authorized signers).

We may further ask you for specific information regarding the nature of anticipated activity, the sources of your funds, the purposes of transactions, the relationship you have with persons to whom you send funds and persons who send funds to you, the anticipated frequency of such transactions, the ultimate beneficiaries of funds you send and receive, and other questions that may help us clarify the nature and purpose of transactions. We may close accounts if we are unable to understand the purpose of the account, the structure of the organization, the authority of the signers, the documentation provided or the general risk associated with the establishment of the account. We may elect not to disclose the specific reason for our action.

Owners for fiduciaries, partnerships, corporations, and fictitious business names or other business names may also be asked at account opening and from time to time to provide us with valid documentation of trust agreements (or certification of trust), court orders, partnership agreements, certificates of limited partnership, articles of incorporation, and filed fictitious business name statements, and any other documents deemed necessary by us.

### **BENEFICIAL OWNERSHIP DISCLOSURE REQUIREMENT**

Effective May 11, 2018, all covered financial institutions, including Mechanics Bank, are required to adopt due diligence procedures to identify and verify a legal entity customer's beneficial owner(s) and one person with control over the legal entity at the time a new account is opened, including when an auto-renewing account is renewed, and when a change in ownership, control, or beneficial ownership information has changed (for example, a change in physical address). In order to satisfy these requirements, we may, and, in many cases must, request certain information about the individuals who maintain control of and/or beneficial ownership in, a legal entity account holder. This includes the individual's full name, permanent physical street address, social security number or other taxpayer identification number and identification number (such as a driver's license or passport). We may, and, in many cases must, request a certification from the person opening the account or making changes on behalf of the legal entity account holder to comply with these rules. You agree to promptly and proactively notify us if any information you provided in accordance with the beneficial ownership rules has changed.

### **CUTOFF HOURS**

A number of our services are subject to processing cutoff hours. Communications received after the cutoff hour or on a non-business day may, in our discretion, be deemed received as of the next business day. Alternatively, some services may require you to resubmit a communication when it is received after the cutoff hour or on a non-business day. Refer to your separate service agreements with us, visit one of our branches or contact us at (800) 797-6324 for applicable cutoff hours. Our cutoff time for our branches will vary, based on their hours of operation.

## DEATH OR INCAPACITY

You agree to notify us immediately of the death or court-declared incompetence of any owner, authorized signer or designated beneficiary on your account. We may disregard any notice of incompetence unless the person in question has been declared incompetent by a court of appropriate jurisdiction and we receive written notice and instructions from the court regarding the account. Until we receive such notice in writing, and have a reasonable opportunity to act on it, we may continue to honor items drawn on your account by the authorized signer(s).

We also may freeze, offset, refuse and/or reverse deposits and transactions (e.g., governmental or retirement benefit payments payable to the deceased) if an owner dies or is adjudicated incompetent. If we are obligated to return funds removed from the account following the death or incompetence of any owner, the other owners agree to reimburse us for the amount. However, even with knowledge, we may pay checks drawn on the account for ten (10) days after the date of death. Refer to the discussion below regarding the treatment of "Direct Deposits."

If your account ownership records indicate that the account is held in "joint tenancy," upon the death of any owner, the deceased owner's share passes automatically to the surviving owner(s) unless there is clear and convincing evidence of a different intent on the signature card. If the account is held as "tenants in common," a deceased owner's share passes to the estate or other legal representative of the deceased tenant. If the account is held by a husband and wife or by registered domestic partners as "community property," ownership of the account will be determined by community property law and may be affected by a will. "Pay On Death" and Totten Trust ("In trust for") accounts pass automatically (and in equal shares unless otherwise indicated in our records) to the named beneficiaries who survive the last surviving owner.

If we have any question as to the ownership of funds or the amount of funds that belong to any person upon the death of an owner, we may freeze all or part of the account, pending receipt of proof (satisfactory to us) of each person's right to the funds.

## DEPOSITS AND CREDITS TO ACCOUNTS

**Deposits and Credits Generally** – You authorize us to accept an item for deposit to your account from anyone. We are not required to question the authority of the person making the deposit. Joint accounts include accounts held as joint tenancy, tenancy-in-common or as community property. A joint account holder authorizes the other account holder(s) to endorse items in that person's name and to cash the items or deposit them into the joint account, with or without an endorsement. You will be responsible for any loss because of your failure to identify your account properly by name and number on any deposited item. We may accept for deposit to your account all items made payable to or endorsed by you as an individual payee or joint payee, regardless of whether those items bear your endorsement, subject to our verification and final inspection. You guarantee to us the payment of all such deposited items. All deposits are subject to later verification, adjustment, and collection by us. We may refuse any deposit (whether in cash or by item or other charge) to an account, limit the amount of any deposit, or return all or any part of a deposit to you without prior notice, whether the deposit is attempted to be made by you or anyone else on your behalf. We reserve the right to return to you any item or other charge that we receive for deposit to your account, if we decide not to handle that item or other charge. If we make this decision, we will send a notice by the next business day after we receive it.

You authorize us to present an item again for payment, after it has been returned or dishonored, without telling you that the item was returned unpaid or that we are presenting it again. If we present a returned item again, there is a charge. See the Fee Schedule. You also authorize us to process and deliver to you a photocopy or other image of a returned item or other returned item, in lieu of the original, whether it is charged back to your account or automatically presented again, and whether or not the original item is available.

Deposits received at unstaffed facilities will be credited on the day funds are removed, verified, and processed by us. We may delay the verification of large currency and coin deposits until such time as armored transportation to a secure facility is completed, and delay the posting of the deposit to your account until verification and processing is complete. We may pass-through the costs or otherwise charge you a fee for the additional secure logistics that we require. We are not responsible for transactions initiated by mail until we actually receive them. If you make a deposit or payment that is not accompanied by instructions indicating how or where it is to be credited, we may apply it at our discretion to any loan or deposit account any of you maintains with us. Deposit receipts do not necessarily indicate the correct balance in the account or the amount being deposited. Any credit to an account is subject to final verification, payment, and adjustment by us from time to time. This may be due, for example, to the return of an item you deposited which was unpaid or if a deposit is posted in the wrong amount.



**Provisional Credit; Returned and Unpaid Items and Other Credits** – Any item or other charge posted for credit to your account, including an item we cash for you, is subject to final payment by the payor or receiving bank (as applicable). If we credit your account for an item or other charge, we may charge back that item or other charge at any time, if we do not receive payment for the item or other charge or if we receive notice that the item or other charge will not be paid. We act as a collection agent for you when we receive an item for deposit or when we cash an item for you, and are not responsible for the actions, whether or not negligent, or inactions of other financial institutions during the collection process. You assume all risk of loss of an item in transit. You authorize us to reverse any credit given and any interest accrued for an item that is lost in transit or otherwise not paid, and we may recover from any account you maintain with us the funds given to you for a cashed item that is lost in transit or otherwise not paid. You agree that we can notify you of the return as part of the account statement or other communication method (including electronic communication). We reserve the right to charge the applicable account if an item credited to the account is dishonored, returned or not paid even if we have not sent you notice of the dishonor, return or nonpayment. We also reserve the right to charge a dishonored, returned or unpaid item or other charge against the applicable account even if the item or other charge is dishonored or returned late, the dishonor or return does not comply with applicable laws, rules or regulations (including any clearinghouse rules), or we could have made a claim for reimbursement on the item or other charge from the bank on which the item was drawn or from another bank. We may charge a dishonored, returned or unpaid item or other charge against the applicable account even if the charge results in an overdraft. You authorize us to charge your account for the amount of the item and for any returned item fee for each item returned unpaid, even if there is a delay in notifying you or in returning the unpaid item (or photocopy or other image) to you.

You authorize us without notice to you to charge an item back to your account even if you have already used the funds, if we receive an affidavit of forged, missing or unauthorized endorsement, or an affidavit of alteration, or similar document, and acknowledge that we have no obligation to investigate the accuracy of such affidavit or similar document. You also acknowledge that we may not return an item to you if we cannot recover its full amount from your accounts.

Credit for an automated clearing house ("ACH") transfer is provisional until final payment is received by the payee's financial institution. Until that happens, the party originating the transfer is not deemed to have made payment to the payee, and the payee's bank is entitled to a refund of the provisional credit. If we give you provisional credit for an ACH transfer, but do not receive final payment, we may charge your account for the full amount without prior notice or demand.

**Collection Items** – Handling an item as a "collection item" means that instead of accepting an item for deposit, we send the item directly to the item issuer's financial institution for payment. If the item is returned unpaid, we will return the item to you. The fee for this service is disclosed on the Fee Schedule. We are obligated only to use ordinary care in collecting items on your behalf. You agree that the Bank has sole discretion to determine whether to accept an item for deposit or collection. If we do credit your account for a collection item, but do not receive final payment for an item or if the item is later returned, we may charge your account for the item plus any interest earned and associated fees. You agree to be responsible for all fees and charges assessed in the collection process as outlined in the Fee Schedule. We may notify you that an item is not a deposit, but rather a collection item, as soon as practical after we determine to handle the item as a collection item. This may include after you have left a branch, for example. Items drawn on an institution located outside of the United States may be handled on a collection basis. Collection items may be credited to your account, however you agree that availability of these funds may be delayed by us until we receive final payment. You waive any notice of nonpayment, dishonor, or protest regarding any items purchased or received by us for credit to your account or for collection. An item accepted for collection will not be deemed accepted for deposit for purposes of Regulation CC and is not governed by the Bank's funds availability policy.

**Notice of Incoming Transfers** – We are not required to give you a separate notice of our receipt of an ACH transfer. If we accept ACH credits to your account, you will receive notice of the credit on your next regular statement. Although we may send notice of a non-ACH incoming funds transfer (e.g., a wire), we assume no obligation to do so. Transfers to your account will be reflected on your regular periodic statement. You may also contact your office of account during normal business hours to determine if a transfer has been credited to your account.

## DEPOSIT INSURANCE

Your accounts with us are insured to the regulatory limits by the Federal Deposit Insurance Corporation (FDIC). For further information regarding insurance of accounts, you may write to the FDIC at Deposit Insurance Outreach, Division of Depositor and Consumer Protection, 550 17th Street, N.W., Washington, D.C. 20429, telephone the FDIC's toll free consumer hotline at 877-ASK-FDIC, or visit its website at [www.fdic.gov](http://www.fdic.gov).

## DIRECT DEPOSITS

If, in connection with a direct deposit plan, we deposit or credit any amount in your account which should have been returned to the state or federal government or any other third party for any reason, you authorize us to deduct the amount from your account or from any other account you have with us without prior notice and at any time, except as prohibited by law or regulation. You also authorize us to use any other legal remedy to recover the amount of our liability.

## DISPUTED OWNERSHIP

If a dispute arises over control of or access to your account, or if we receive conflicting instructions from you (including any owner, joint account holder, contracting officer and/or other authorized signer on your account), or in the case of a corporate or partnership or association/LLC account, conflicting board resolutions or partnership authorizations or member instructions, we may require, but are not obligated to require, the signatures of all authorized signers or any or all owners, joint account holder or contracting officers, on items, withdrawals, or other transactions. We may also, but are not obligated to, "freeze" the account until we get evidence satisfactory to us that either the dispute is resolved or there is general agreement on payment of the funds in the account.

During the time that we require additional signatures or freeze the account, you authorize us to do one or more of the following:

- (1) We may ignore any instructions (such as an instruction by one authorized signer not to honor items or other withdrawal orders by another authorized signer) that conflict with the terms of the signature card for the account unless all authorized signers, or any or all owners, joint account holder or contracting officers, sign the instructions;
- (2) We may reverse any debits or credits to the account in dispute, or other accounts with us, to correct what we believe in our sole discretion resulted from action taken to the disadvantage of one account owner over another;
- (3) We may return items unpaid, marked "Refer to Maker" or otherwise at our discretion;
- (4) We can close the account and issue a single cashier's check for the available account balance jointly payable to all account owners, or to all signatories to the account and we may mail or deliver that check to any one of the account holders or signatories, or to the address of record;
- (5) We may commence an action in interpleader, giving the disputed funds to a court so that it can decide who has the right to control the funds. We will not be liable to you for any costs, claims, damages, or other expenses that result from the payment or non-payment of items or other request for payment of the deposited funds. We may seek recovery of our costs and expenses in commencing an action in interpleader from the funds deposited in the interpleader action;
- (6) We can continue to pay items and other withdrawals when the instructions to do so are given to us by an owner of or authorized signer on the account according to our records; and/or
- (7) We can take any other action we believe to be reasonable under the circumstances even if the action is not listed here. These actions include but are not limited to any specific procedures that may be applicable under any law or regulation.

You agree to assume all liability for, and you agree to indemnify, defend, and hold us harmless from and against any and all losses, damages, claims, costs or expenses incurred by us as a result of any dispute that arises under this Section. In addition to the foregoing rights, you authorize us in our sole discretion to elect to close your accounts pursuant to this Agreement.

## ELECTRONIC COMMUNICATIONS

You agree that we may use electronic communication to enter into agreements and contracts between ourselves and you and otherwise to establish terms and conditions for products and



services you receive from or through us. Electronic agreements may be provided to you through such things as hyperlinks or “click-through” agreements on our website. Your consent to or agreement with the electronic communication in these circumstances may occur by your clicking “agreed” or similar terms, or by your subsequent use of a product or service, or otherwise as may be specified in the communication or as at law (subject to any limitations set forth in the communication). Your signature and agreement may be obtained by us electronically and includes mouse clicks, key strokes, your use of passwords or other authentication systems, or as is otherwise set forth in the particular electronic communication.

You agree not to contest the authorization for, or validity or enforceability of, our electronic records and documents, or the admissibility of copies thereof, under any applicable law relating to whether certain agreements, files or records are to be in writing or signed by the party to be bound thereby. Records and “signed” documents, if introduced as evidence on paper in any judicial or other proceedings, will be admissible to the same extent and under the same conditions as other documentary business records. Upon our request, you agree to manually sign or place your signature on any paper original of any record or “signed” document which we provide to you containing your purported signature.

## **ENDORSEMENTS**

You warrant that all endorsements on items deposited to your account are genuine and further warrant that you are authorized to negotiate and/or deposit any items that contain no endorsements. You authorize us to supply your endorsement to any item taken for collection, payment, or deposit to your account. Also, you authorize us to collect any unendorsed item made payable to you without first supplying your endorsement, provided the item was deposited to your account, but may, at our option, require your personal endorsement prior to accepting an item for deposit.

We may require that each payee personally endorse any items, including government checks, insurance company items, or other special types of items. You agree to indemnify, defend, and hold us harmless from and against any and all losses, damages, claims, costs or expenses incurred by us in connection with your failure to endorse an item exactly as it is drawn or for any item that is alleged to have a forged, missing or unauthorized endorsement.

We are not bound by any restrictions you make on the face of an item or in the endorsement of any items unless we agree in writing to them.

We reserve the right to refuse items that bear or require more than one endorsement, including the endorsements of individuals who are not known to us. If you wish to deposit or cash an item which has been previously endorsed by one or more individuals, we reserve the right to require all endorsers to be present before we accept the item or to require that their endorsements be guaranteed by their financial institution.

To the extent legally permitted, each co-owner of an account appoints the other co-owner as his or her attorney-in-fact with full power to endorse the name of any co-owner on any item for deposit, or to deposit without endorsement any such item into the account or cash the item.

## **ESCHEAT NOTICE; DORMANT ACCOUNTS**

The funds in your account may be transferred to the appropriate state if no activity occurs in the account within the time period specified by state law.

We may consider accounts with no activity for a requisite period to be dormant. We may, but are not obligated to, try to contact you before we classify the account as dormant. A dormant account will continue to be charged a normal monthly service charge. We may, but are not required to, hold statements on accounts that are in a dormant status until the account has been removed from dormant status. You authorize us to, at our discretion, refuse to permit withdrawals from an account that has become dormant until we are satisfied that we are dealing with the true owner or authorized signer of the account.

If an account or other property is inactive for more than three (3) years (or other escheat period or as required by escheat law as may apply to the account or property), we may comply with what we in good faith believe to be any legal requirement to turn the balance over to the state of California or to another jurisdiction. To the extent required by law, we will send a notice to your last known address before we turn your account or other property over to the state. If your mail has been returned to us as undeliverable, we may not send you any notice. If you discover that an account of yours has been turned over to the state, you may reclaim your funds by submitting proof of ownership to the State Controller's office in Sacramento or to such other comparable authority as may be responsible for escheated funds.

## **FACSIMILE, MECHANICAL OR ELECTRONIC SIGNATURES**

Many customers use a facsimile, electronic or other mechanical signature, including those that are computer generated or created via a stamp, referred to herein as ("facsimile signature") to authorize transactions, provide and authorize instructions and to endorse or otherwise complete other documents. If you use any form of facsimile signature in connection with any account, you agree to deliver a sample to us before you begin using it, and to execute and deliver agreements in a suitable form, if we so require. We may refuse to accept or may pay items bearing facsimile signatures.

If you use a facsimile signature for any of these purposes, you are responsible for any such transactions, instructions or endorsements that appear to us to bear a signature that resembles the signature of a person authorized to sign on your account. When you use a facsimile signature in connection with any account, you agree you shall have the sole responsibility for maintaining security of the facsimile signature or device by which it is affixed, and you shall bear the entire risk for unauthorized use thereof, whether or not you are negligent, except as may be required by law.

You agree that we may rely on facsimile signatures that resemble the appropriate original or any signature specimen given to us and that appears to have been made through an authorized medium, regardless of how the facsimile signature came to be placed on the item. We may rely on facsimile signatures, even if they were placed on items without your knowledge or consent.

We may pay items bearing facsimile signature, regardless of the persons to whom they are drawn or paid. A facsimile signature that resembles an authorized signer's signature or any facsimile signature specimen is not considered a forgery or an unauthorized signature, and such a facsimile or automated signature shall be effective as your signature or endorsement, without regard to color variation, whether or not you have been negligent. You further agree to indemnify, defend, and hold us harmless from and against any and all losses, damages, claims, costs or expenses incurred by us as a result of the unlawful use, unauthorized use, or misuse by any person of any such facsimile signature or the device by which it is affixed. This means that we are not responsible for any misuse of your facsimile signature.

## **FEES**

The service fees associated with our business deposit accounts are provided in our Fee Schedule. You agree to pay the fees we charge, and you give us the right to collect any fees, as earned, directly from any of your account balances. All fees are subject to change by us at any time. The current Fee Schedule is available at our branches or by phone through our Call Center at (800) 797-6324.

From time to time we may list fees and service charges for some non-account services (such as wires, cashier's checks, and so on) in the Fee Schedule. We may change non-account fees at any time without notice. You can get current information about non-account services and fees that apply at any of our branches or by phone through our Call Center at (800) 797-6324.

## **FORCE MAJEURE**

Notwithstanding any other provisions of the Agreement, the Bank shall not have any responsibility or liability for any failure, error, malfunction or any delay in carrying out any of its obligations under the Agreement if such failure, error, malfunction or delay results from events due to any cause beyond its reasonable control, including, without limitation, unavailability of any communications system, sabotage, fire, flood, explosion, acts of God, civil commotion, strikes, stoppages of labor or industrial action of any kind, riots, insurrection, war or acts of government, power or equipment failure (including that of any common carrier, transmission line or software), emergency conditions, adverse weather conditions or any other factor, medium, instrumentality, condition or cause not in the Bank's control. We will not be liable or responsible for the acts or omissions of any other financial institution or any third party or for any inaccuracy or omission in a notice or communication received by the Bank from you, your agents, your authorized signers, other financial institutions, or any other third party. In addition, we shall be excused from failing to transmit, or delaying the transmission of, any transaction, if such transmittal would result in our having exceeded any limitation upon our intra-day net funds position established pursuant to present or future FRB guidelines or otherwise violating any provision of any present or future risk control program of the FRB or any rule or regulation of any other U.S. governmental regulatory authority. The Bank shall not be liable for any failure to perform any of our obligations under the Agreement if such performance would result in breach of any law, regulation, requirement or provision of any government, government agency, banking or taxation authority in accordance with which the Bank is required to act, as shall be determined in our sole discretion.

## FOREIGN CURRENCY AND INSTRUMENTS

You may not write items or other withdrawal orders on your account which order payment in a foreign currency.

The processing and collection of foreign instruments are not subject to United States laws and regulations. We may refuse to accept for deposit or collection an item that is payable in a currency other than United States Dollars or that is drawn on a bank or a branch of a bank located outside of the United States (a "foreign instrument"). If we accept a foreign instrument for deposit or collection, you bear all risks associated with the collection process and foreign currency fluctuation (exchange rate risk). A foreign instrument may be returned unpaid much later (sometimes several months after we process the foreign instrument) than instruments that are drawn on banks located within the United States. You bear all risks of late return. We may decide not to credit a foreign instrument to your account until we receive the proceeds in final collected funds from the paying bank. If we do provide credit, such credit is provisional and we may reverse the credit at any time if the foreign instrument is returned unpaid or is initially paid and subsequently returned for fraud or any other reason. You agree that we may use the current exchange rate and we may charge your account for the full value of the foreign instrument, including any applicable fees, which may result in a loss to you. You are responsible for all fees incurred including exchange rate, our collection fee, and other charges assessed by the payor bank. You understand that foreign instruments sent for collection are sent solely for you and at your risk and that we are not liable for any event in the collection process which is beyond our control including a default by any banks or agents involved in the collection process or for loss of the foreign instrument in transit.

## FUNDS AVAILABILITY POLICY

### Your Ability to Withdraw Funds

Our policy is to make funds from your cash and check deposits available to you on the first business day after the day we receive your deposit. Electronic direct deposits will be available on the day we receive the deposit. Once they are available, you can withdraw the funds in cash, and we will use the funds to pay checks that you have written. Please keep in mind, however, that after we make funds available to you, and you have withdrawn the funds, you are still responsible for checks you deposit that are returned to us unpaid and for any other problems involving your deposit.

For determining the availability of your deposits, every day is a business day, except Saturdays, Sundays, and federal holidays. If you make a deposit before the closing time for the branch on a business day that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit after the closing time for the branch or on a day we are not open, we will consider that the deposit was made on the next business day we are open.

If you make a deposit at an ATM before 4:00 p.m. (cutoff times may be later on some days or at some locations) on a business day that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit at an ATM after 4:00 p.m. or on a day we are not open, we will consider that the deposit was made on the next business day we are open.

### Longer Delays May Apply

In some cases, we will not make all of the funds that you deposit by check available to you on the first business day after the day of your deposit. Depending on the type of check that you deposit, funds may not be available until the second business day after the day of your deposit. The first \$200 of your deposits, however, may be available on the first business day.

If we are not going to make all of the funds from your deposit available on the first business day, we will notify you at the time you make your deposit. We will also tell you when the funds will be available. If your deposit is not made directly to one of our employees, or if we decide to take this action after you have left the premises, we will mail you the notice by the day after we receive your deposit.

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

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

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

### **Special Rules for New Accounts**

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

- Funds from electronic direct deposits to your account will be available on the day we receive the deposit.
- Funds from deposits of cash, wire transfers, and the first \$5,000 of a day's total deposits of cashier's, certified, teller's, traveler's, and federal, state, and local government checks will be available on the first business day after the day of your deposit if the deposit meets certain conditions. For example, the checks must be payable to you (and you may have to use a special deposit slip). The excess over \$5,000 will be available on the ninth business day after the day of your deposit. If your deposit of these checks (other than a U.S. Treasury check) is not made in person to one of our employees, the first \$5,000 will not be available until the second business day after the day of your deposit.
- Funds from all other check deposits will be available on the ninth business day after the day of your deposit.

### **Holds on Other Funds (Check Cashing)**

If we cash a check for you that is drawn on another bank, we may withhold the availability of a corresponding amount of funds that are already in your account. Those funds will be available at the time funds from the check we cashed would have been available if you had deposited it.

### **Holds on Other Funds (Other Account)**

If we accept for deposit a check that is drawn on another bank, we may make funds from the deposit available for withdrawal immediately but delay your availability to withdraw a corresponding amount of funds that you have on deposit in another account with us. The funds in the other account would then not be available for withdrawal until the time periods that are described elsewhere in this disclosure for the type of check that you deposited.

## **HEADINGS/TERMS**

The headings in this Agreement are for convenience only and are not part of these terms.

## **INTEREST ON DEPOSITS**

When you open a checking or savings account that pays interest or a certificate of deposit account, we will provide you an Account Disclosure or a Receipt for Time Deposit, stating the current interest rate and Annual Percentage Yield ("APY") for your account. The Account Disclosure and the Receipt for Time Deposit is considered a part of this Agreement. See your Account Disclosure or the Receipt for Time Deposit for details.

## **JOINT ACCOUNT LIABILITY**

If your account is a joint account, any one of the account holders may, without notice to the other account holders, initiate withdrawals or close the account, and, in the case of checking accounts, write items against the account or request stop payment. Each joint account holder is jointly and severally liable to us for any and all overdrafts to the account and each joint account holder is jointly and severally liable to us for any and all fees and charges associated with your accounts and services.

## **LIMITATION ON LIABILITY; HOLD HARMLESS AND INDEMNITY**

Except as otherwise stated in this Agreement or as specified by applicable law, we will be liable to you only for damages arising directly from our intentional misconduct or gross negligence. "Ordinary care" requires only that we follow standards that do not vary unreasonably from the general standards followed by similarly situated banks. Our policies and procedures are general internal guidelines for our use and do not establish a higher standard of care for us that is otherwise established by the laws governing your account. A mere clerical error or an honest mistake will not be considered a failure by us to perform any of our obligations.

Except to the extent limited by applicable law, we are not liable for loss, damage, harm or expense ("Loss") from: (a) any inaccuracy, act or failure to act of any person not within our reasonable control; (b) the failure of other financial institutions to accept or perform in connection with items or other charges; or

(c) your negligence or breach of this Agreement.

Our liability for any act or failure to act is limited to your direct loss (and interest on that loss, if required by law, at the average Federal Funds rate at the Federal Reserve Bank of New York for the period). Except if specifically imposed by statute that cannot be waived between parties, **WE ARE NOT LIABLE FOR CONSEQUENTIAL, INDIRECT, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES**, such as loss or damage from subsequent wrongful dishonor from our acts or omissions, even if we are aware of the possibility of the same.

In addition to any other rights we may have under this Agreement or any related agreement, or at law or in equity, and except as expressly limited by applicable law or regulation, you agree that you will indemnify, defend, and hold harmless the Bank and our directors, officers, shareholders, employees and agents, against any and all third party suits, proceedings, claims, demands, causes of action, damages, expenses, liabilities and other losses ("Indemnified Losses") that result from or arise out of: (a) the wrongful acts or omissions of you, or any person acting on your behalf (including without limitation your authorized processor, if any), in connection with your use of your accounts or services we offer to you, including, without limitation: (i) the breach by you of any provision, representation or warranty; (ii) the negligence or willful misconduct (whether by act or omission) of you, your customers, your processor (if any) or any third party on behalf of you; (iii) any misuse of the account or services by you, or any third party within the control or acting on behalf of you; or (iv) the failure by you to comply with applicable state and federal laws and regulations applicable to you; (b) any act or omission of ours that is in accordance with this Agreement or instructions from you; (c) actions by third parties, such as the introduction of a virus that delay, alter or corrupt the transmission of information to us; or (d) any loss or corruption of data in transit from you or on your behalf to us.

## **LARGE CASH WITHDRAWALS**

Cash withdrawals or payments at any branch may be restricted due to the limited amount of currency on hand. We may require reasonable advance notice for large cash withdrawals. We may also refuse to honor a request to withdraw funds in cash from your account or to cash an item (including a cashier's check or other bank-issued item) at a branch if we believe that the amount is unreasonably large or that honoring the request would cause us an undue hardship or constitute a security risk. We may require that such withdrawals be made at a cash vault facility by an armored courier, acceptable to us and at your sole risk and expense. We are not responsible for providing for your security in such transactions. Rather than permitting a large cash withdrawal, we reserve the right instead to provide you with a cashier's check for the amount requested.

## **LEGAL PROCESS**

You authorize us to accept and act on any legal process that we believe to be valid without any liability by us to you, whether served in person, by mail, by facsimile transmission or electronic communication, and whether at locations other than the branch or office at which the account, property, or records are held or in one state for property or records held in another state. "Legal process" includes a subpoena, restraining order, injunction, writ of attachment or execution, levy, garnishment, warrant or other legal order relating to you or your account. If we are permitted, we will use good faith efforts to send you notice of any legal process received by us by telephone, electronically or in writing. You acknowledge that any accounts opened with trust or fiduciary designations (e.g., "XYZ, Inc. – Client Trust Account") may be subject to levies and other legal process against your property unless our records clearly reflect the existence of an express written trust or court order. The Bank has a legal process cutoff time. If we receive legal process against your account before our cutoff time which requires us to attach, garnish or turn over your funds, and you do not have enough funds in the account to cover the legal process, we may return items presented against your account, including those presented the previous business day, and apply the funds to satisfy the conditions of the legal process. Please contact us for the applicable legal process cutoff time. We have designated a central location for acceptance of service of legal process. Irrespective of where your account is located within our branch network, service of legal process will apply to all accounts you have with us wherever located.

If any legal process directs us to attach, garnish or turn over funds or other property, then, depending on the type of order, we either immediately deliver the funds or property or hold them

for a legally permitted period of time. We do not pay interest on the funds during the period we hold them. If we attach or hold funds from a time deposit account due to the service of a legal process, we may impose an early withdrawal penalty.

You authorize us to charge your account a legal process fee for each order. See Fee Schedule. You agree to pay our fees and expenses for research and copying of documents and all other expenses, including administrative expenses, we incur in responding to any legal process related to your account. You authorize us to deduct these fees and expenses from any of your accounts without prior notice to you.

Any legal process requiring us to attach, garnish, freeze or turn over your funds shall be subject to the Bank's right of setoff and security interest in the account. We are not liable to you for not paying items because we have withdrawn funds from your account or in any way restricted your access to funds because of a legal process or our setoff.

## **LIMITATION ON TIME TO SUE**

Unless another time is prescribed in another provision of this Agreement or applicable law, an action or proceeding by you to enforce an obligation, duty, or right arising under this Agreement or under applicable law with respect to your account or any account service, must be commenced within one year after the cause of action accrues.

## **LOST/STOLEN/DESTROYED CASHIER'S CHECKS**

You do not automatically have the right to stop payment on cashier's checks you purchase from us. Under certain circumstances, you may be able to claim a refund on lost, stolen or destroyed cashier's checks. If a cashier's check is lost, stolen or destroyed, please contact us for the procedures to obtain reimbursement or have the cashier's check reissued. In general, you must complete a declaration of loss form describing the cashier's check and how it was lost, stolen or destroyed. We will then wait ninety (90) days from the date the check was issued before we pay your claim. If ninety (90) days has already passed, we will act on your claim within a reasonable time. If the check is presented during the ninety (90) day waiting period, we may pay the item to a person entitled to enforce the check. If this happens, we will not pay your claim.

If we determine that any such instrument is presented by or on behalf of a person who may be a holder in due course or who may otherwise have the right to obtain payment of the cashier's check from the Bank, we may, without notice to you, pay the cashier's check, even though you may have paid us a fee to not honor the cashier's check.

## **LOST ITEMS AND DELAYED RETURNS**

We act only as a collection agent for you when we receive an item for deposit or which we cash for you. If that item is lost, stolen or destroyed in the process of collection, we may reverse the credit for any deposit or charge your account for the cashed item.

You are responsible for the condition of an item when you issue it or present it for deposit to your account. If an item is returned or payment is delayed as a result of any writing or marking that you or a third party placed on the front or back of the item, you will be responsible for any costs or liabilities incurred as a result.

If a photocopy of a check or other item that appears to be drawn on your account is presented to us for payment in place of the original, we may pay the photocopy if it is accompanied by a representation from another financial institution that the original item has been lost or destroyed. We will not incur any liability in the event the original item is later presented to and paid by us, unless a stop payment order is in effect for the check.

## **MONITORING, RECORDING AND RETAINING**

You authorize us (but we are not obligated) to monitor, record electronically and retain telephone conversations and electronic communications between you (including your purported authorized representatives) and us. Accordingly, you agree on behalf of yourself, and your employees and agents that we may monitor and record your telephone and electronic communications in connection with your account at any time, without further notice. You agree that we may produce the telephonic or electronic recordings or computer records as evidence in any proceedings brought in connection with the Agreement, and you hereby acknowledge the validity and enforceability of such telephonic or electronic recordings. We do not have to keep the recordings, unless the law says we must.



## NOTICES

Except as otherwise provided in this Agreement, all notices and other communications by you to us shall be in writing and, addressed to:

Mechanics Bank  
P.O. Box 5610  
Hercules, CA 94547-5610

or at such other address as we may specify in writing. Notices and communications to you may be mailed or made available to you electronically at the statement, email or mailing address shown for you in our records, or at our website. Any notice or communication sent or made available by us to you will be deemed given and effective when sent or otherwise made available to you, or as otherwise stated in the notice or communication. Certain notices and communications may be provided to you by telephone, facsimile or other electronic transmission at the telephone number, facsimile number or other location or number as shown in our records.

Any notice, instruction, or other communication sent by you to us will be effective when actually received by us and have had a reasonable time to act on the notice, instruction, or other communication. Notwithstanding anything to the contrary herein, we may rely on all notices, instructions, and other communications sent to us via facsimile or electronic transmission as though they are originals. Without limiting the foregoing, we are entitled to rely on any notice, instruction, or other communication believed by us in good faith to be genuine or to have been signed or authorized by your authorized representative.

If there are multiple authorized signers, we may send or make available communications to any one or more of them (unless otherwise agreed by us). You assume the risk of loss in the mail or in electronic transit.

If we hold Bank mail for you and a statement or other communication is not picked up within thirty (30) days, we may send it to you at the address shown in our account records or destroy it. If two (2) consecutive statements and/or notices are returned to us by the Postal Service for any reason, we may hold subsequent statements and notices of every kind until we receive forwarding information from you. If statements are either returned or held by us, you may contact us for copies of your statements.

## Electronic Statement Disclosure

If you have opted to enroll in electronic account statements you must maintain a valid email address and notify us immediately if it should change. You can notify us of such change via our online banking's secure messaging service, at any branch or by calling us at (800) 797-6324. This is particularly important if you have opted to obtain an account for which an electronic account statement is required. If your email address becomes invalid at any time, it is your obligation to provide us with an updated email address. Your monthly statements are available via online banking, even if you do not receive an email from us for any reason, or we cannot send one due to an invalid email address. It is your responsibility to retrieve your monthly statements from online banking as they are available. You agree that the posting of your account statement to our online banking system deems such account statements "made available" as required by law without any further action on our part.

## ORDER OF PAYMENTS

The order in which we pay your checks and any other transactions is important if there is not enough money in your account to pay all of the transactions presented on one day. In the normal course of business, we generally pay checks and other transactions presented for payment from your account on a single banking day in the following order:

- (1) All credits/deposits;
- (2) Electronic debits through our online banking, mobile banking, or cash management services or 24-hour automated banking service;
- (3) Debit card point-of-sale transactions will be debited in the order received;
- (4) Cash paid items – items other than your pre-printed checks that are cashed over-the-counter at a Bank branch.;
- (5) ATM withdrawals will be debited in the order received;



- (6) Automated Clearing House (ACH) transactions, including through our electronic bill payment service but excluding electronically-converted checks, will be debited in low to high dollar amounts.
- (7) Point-of-Sale (POS) recurring withdrawals
- (8) Checks presented to Mechanics Bank (including paper checks through our bill payment service or electronically-converted checks) will be debited in check number sequence. This means that the check with the LOWEST check number will be paid FIRST and then the remaining checks will be paid in sequence to the highest check number.

We reserve the right to change the payment order of transactions without notice to you if we suspect fraud or possible illegal activity affecting your account. Also, please be aware that the order in which we pay transactions may cause your account to have insufficient funds for multiple items during a single banking day. There is a limit of ten (10) Overdraft or Returned Items per day that we will charge for a business account.

There is no particular order of payment that is favorable to you in every instance. There are advantages and disadvantages for any order of payment. In some cases your more important transactions (which may be those with higher dollar amounts) may get paid later in this sequence or may not be paid at all depending upon your account balance and the available Overdraft Privilege limit assigned to your account (if applicable). Using this sequencing method is our way of remaining neutral.

## OTHER AGREEMENTS

You may have other written agreements with us which, by their terms, supersede this Agreement in whole or in part.

## OVERDRAFT LIABILITY AND RELATED FEES

You can ask us about any other account services that might be available to you where we pay overdrafts under certain circumstances. Notwithstanding the foregoing, we have no liability to you for rejecting some checks or other charges and paying others, or otherwise processing a transaction when your account is overdrawn, even if:

- The check or other charge that we choose to pay is payable to us; or
- Your account is overdrawn due to Bank charges.

Each account owner is jointly and severally responsible for paying all overdraft amounts created by any authorized signers, regardless of whether the account owner authorized the check or other charge or received any benefit from the check or other charge. You agree that we may, to the maximum extent permitted by law, apply deposits (including Social Security, SSI, and similar benefits) to overdrafts and overdraft fees or other Bank fees and charges, without notice to or further specific consent from you.

If we pay an item or other charge, cash a check for you, or process a transaction, and the amount we pay or process is more than the available balance in the account on which it is drawn, we may hold balances in other accounts of yours, up to the amount we have paid until we have received final payment for the check we paid or the transaction we processed.

Unless otherwise agreed between you and us, if we pay checks or other charges by overdrawing your account, we are not obligated to continue paying your overdrafts in the future. We may stop paying overdrafts without notice to you. If we pay your check or other charge against insufficient funds, you must deposit enough to cover your overdraft and any Bank fees or charges. You will be required to pay for any costs of collection that we incur in recovering from you.

It is your responsibility to avoid overdrawing your account.

**Available Balance** – Mechanics Bank uses the following to determine the balance that is available to pay items to your account each day. First, we take your present balance, which is your balance at the end of the previous business day (also called your current or ledger balance). This will be the balance that appears on your Bank statement each day. Then, we add or subtract any transactions known to the Bank that you've made to your account today (e.g., deposits, debit card transactions, ATM withdrawals, and payments scheduled for today). It doesn't include any checks you may have written but haven't yet been cashed. The remaining balance, less any holds placed on deposits, is your Available Balance (also called your collected balance). The Available Balance used for ATM and everyday debit card transactions on accounts with Standard Coverage is the ledger balance (previous day's statement balance), plus deposits, less any holds on deposited funds, plus any available Overdraft Protection, but does NOT include the Overdraft Privilege limit.

**Overdraft, Returned Item, and Continuous Overdraft Fees** – We may charge a fee for any item presented when your account has insufficient funds whether or not we pay the item. If we pay it, we will charge an Overdraft Fee. If we return it, we will charge a Returned Item Fee. Some merchants may also assess a returned check fee, of which we have no control, but you should see a warning from the merchants on their returned check policy. In addition, we may charge a Continuous Overdraft Fee for each of the consecutive business days the account remains overdrawn, beginning on the 5th business day and ending on the 14th business day. Refer to the Fee Schedule for details.

Without limiting any other provision of this Agreement, if you have no overdraft coverage (meaning you are not enrolled in one or more of the overdraft products or services that may be offered by us), the following will apply:

- Our standard overdraft practice may pay, for a fee, overdraft transactions, including checks or automatic bill payments, at our discretion based on your account history, the deposits you make and the transaction amount.
- We do NOT GUARANTEE we will always pay your overdraft transaction, and if we do not pay your transaction, the transaction will be declined or returned unpaid.

**Force Pay Transactions** – There may be instances where we will pay a transaction even if you do not have sufficient funds in your account to cover the transaction and no overdraft coverage. These transactions can occur, for example, when an ATM transaction or everyday debit card transaction is approved but later other transactions reduce the balance in your account before your ATM transaction or everyday debit card transaction is posted to your account. Under these circumstances, we will still pay (or “force pay”) the transaction and you will be charged an NSF fee (refer to Fee Schedule).

**Although this represents the Bank’s policy with respect to Force Pay Transactions, it is more likely than not that if you have no overdraft coverage, your transactions will be returned, rejected or declined as described above rather than force paid.**

## **POSTDATED, STALE-DATED AND OTHER CHECKS**

Processing checks is a highly automated service, and we use commercially reasonable efforts to process them. We may pay checks drawn on an account even if one or more of the following are true: the check is dated after the date we pay it; the check is presented to us for payment more than six (6) months after the date on the check; a stop payment previously requested has expired; the check contains language that purports to make it void before the time it was paid; or the check contains other language that purports to establish conditions under which it may be paid.

Unless you give us and we agree to honor a special “notice of postdated check,” we may charge your account for an item that is otherwise properly payable from the account, even though we pay the check before the date on it. You can provide this special notice to the Bank verbally, but it must be received by us so as to give us a reasonable opportunity to act on it before final payment of the item. In placing your notice of postdated check, you must request that we place a stop payment on the postdated check by describing the check by giving the date, the check number, the exact amount of the check and the name of the payee in order for us to return the item if it is presented for payment before the date on the check. Your notice of postdated check will remain in effect for a total of twelve (12) months or the date of check as stated in your notice to us, whichever is earlier. If you wish to continue your notice of postdated check for additional twelve (12)-month periods, you must renew your notice before the current notice of postdated check expires. We will impose a stop payment fee for each notice of postdated check and each renewal. See the Fee Schedule. We may pay the item as of its date, even if you have given us a notice of postdated check. If you do not want the item to be payable as of its date, you must provide us with a stop payment order in time for us to act on it before the date of the item.

Upon presentation of an item for payment more than six (6) months after its date, you agree that we may, in our sole discretion and without notice or inquiry to you, charge your account for the item. However, we are not obligated to do so. You agree that our obligation of good faith does not require us to make any inquiry of you or require us to give you notice prior to the payment of an item more than six (6) months after its date. Our payment of the item will be in good faith absent written notice from you in the form of a timely received stop payment order. If you want to ensure that we do not pay a stale-dated item, you should place a stop payment order on the item.

## **POWER OF ATTORNEY**

Under certain types of account ownership, you may authorize another person as your agent and/or attorney-in-fact to act on the account (“agent”). You shall be bound by and responsible for the

actions of your agent, even if the agency relationship is not indicated on the item, withdrawal order or other instruction. Prior to accepting the authority of your agent, we may require the appointment to be in a form satisfactory to us and may refuse to accept other forms of powers of attorney with or without cause. Unless prohibited by law, we may reasonably refuse to honor a power of attorney or agency that you grant to others for any reason. We may require you or your agent to present the original form. In some cases, we may require that the agent confirm in an affidavit that the powers have not been revoked or terminated. We may continue to rely on the instructions and actions of your agent until we receive written notice in accordance with applicable law and this Agreement that the agent's authority has been terminated, and we have had time to act upon it. You must tell us of any changes involving the power of attorney. We will not be liable to you or anyone else if we, in good faith and without actual knowledge that the power of attorney is deficient or has terminated for any reason, act on the written instructions of your attorney-in-fact. We assume no duty to monitor the actions of your agent to ensure that (s)he acts for your benefit. We may charge you a fee to cover our costs to review any power of attorney document other than the form we provide.

## **PREVENTING FRAUD**

To help you protect your account, you should consider using some or all of the following preventative measures: reconciling your statements as you receive them, watching for out-of-sequence checks and checks made payable to cash, and reviewing your transaction activity for unexpected fluctuations. Business customers should consider assigning responsibilities for opening mail, reconciling bank statements, and issuing checks to different individuals. Do a thorough background check on agents, bookkeepers, accountants or other employees who may be handling any part of your banking and/or who have access to your confidential records. You must contact us immediately if you discover any irregularities.

You should be cautious about giving someone your account number. If you give your account number to a third person and authorize that third person to initiate one or more transactions on your account, you may be liable for all transactions initiated by the third person even if you did not intend to authorize a particular transaction.

## **RELATIONSHIP**

Our relationship with you concerning your accounts is that of debtor and creditor. No fiduciary, quasi-fiduciary or similar special relationship exists between you and us.

## **RELEASING ACCOUNT INFORMATION**

You authorize us to release information regarding the current status and history of your account to others. For example, we may release information: (1) where it is necessary or helpful to complete a transaction; (2) to verify the existence and condition of your account for a third party, such as a merchant or another financial institution; (3) to comply with the law or a court order; (4) when an inquiry is made regarding whether your account has sufficient funds to cover an item drawn on your account; (5) with your authorization; (6) for other legitimate business purposes; and (7) as otherwise permitted by law.

The Bank, from time to time, enters into agreements with third parties to provide bank-related services on our behalf. The services provided by the third parties may include check processing services, data processing services or other bank-related services. You authorize us to release information regarding your account to such third party service providers in connection with the service providers providing bank-related services for the Bank. Please see our Privacy Notice for additional details.

## **REMOTELY CREATED CHECKS AND ELECTRONICALLY CREATED CHECKS**

A remotely created check is an item not signed by the customer that is created by a third party under the purported authority of the customer for the purpose of charging the customer's account with a financial institution. A remotely created check is also known as a demand draft and is processed as any other item. A remotely created check must contain the customer's account number and may contain the customer's printed or typewritten name, a notation that the customer authorized the draft, or the statement 'no signature required' or words to that effect. An electronically created check appears to be a remotely created check but was never printed in paper form. For purposes of this Agreement, electronically created checks will be treated as remotely created checks.

If you voluntarily give information about your account (such as our routing number and your

account number) to someone and authorize them to draw against your account, we may charge your account and pay any items, including remotely created checks initiated by the person to whom you gave the information. You also agree that we may pay an electronic item even though the item was not created from an original paper check, whether presented in the form of a remotely created check, electronically created check or other electronic form ("electronic item" means a digitized image of an item suitable for automated processing for payment and return). You authorize us to continue to honor items or debits from a payee previously authorized by you, until you instruct us to cease to do so, whether or not the payee is acting within the scope of your initial authorization, subject only to such liability as may be imposed upon us by law. If you want us to stop honoring items from a payee previously authorized by you, you must tell us in writing. Until you notify us that such items are not authorized, we can continue to pay them and will not be liable to you even though the items are not in accordance with any authorization you may have given.

This does not, however, obligate us to honor remotely created checks or similar items or entries. We may refuse to honor remotely created checks or similar items or entries without cause or prior notice, whether or not we have honored or dishonored similar items or entries previously.

You agree that we are under no obligation to verify whether the name and account number shown on the remotely created checks are accurate. If any information on a remotely created check is incomplete, inaccurate, or in error, you agree that we may, at our sole discretion, either pay the remotely created check and charge your account for the item as drawn or refuse to honor the remotely created check and, without prior notice to you, return the item unpaid. You further agree to indemnify and hold the Bank harmless for losses resulting from our honoring or dishonoring any such debit.

You may not deposit remotely created checks or demand drafts to an account with us without our prior written consent. Upon our request, you agree to provide us with evidence of your authorization to create and/or deposit such items. You also agree to indemnify, defend and hold us harmless from every loss, expense, cost (including attorney's fees), claim and liability related to or arising from such items, including (without limitation) claims that they were not authorized by the persons on whose accounts the items were drawn.

## **RESERVE ACCOUNT**

You agree that you will, if requested by us at any time, establish one or more reserve accounts to be maintained with us in type (including time deposits) and amount satisfactory to us, to serve as collateral for and to secure your obligations to us under the Agreement. We may restrict or prohibit your access to any reserve account(s) and the funds on deposit in them, and we may hold such accounts following termination of the Agreement for a period of time sufficient to protect us against loss. We may increase or decrease the required reserve account amount from time to time, upon notice to you and you agree to provide immediately available funds to cover a reserve amount requested by us. In addition, we may transfer funds from another account of yours, or use funds payable to you or owed by us to you under the Agreement, and credit such funds to a reserve account if a deficiency exists between the available funds in your reserve account(s) and the amounts specified by us as the required reserve amount.

## **RIGHT TO SETOFF**

Subject to applicable law, we may, but are not obligated to, use the funds in your accounts to pay any due and payable debt(s) and obligation(s) that you owe us which are not paid when due. This is referred to as a "setoff." If we exercise this right of setoff, we shall comply with all applicable laws. We will notify you promptly of the action taken. Generally, you agree that all sums in your deposit accounts will be subject to our right of setoff for liabilities owed to us by you; any partnership of which you are a general partner; any joint venture of which you are a joint venturer, or any other person or entity with whom you are a co-obligor, or have agreed to act as surety or guarantor, or for whose debts you are liable or may be contingently liable. You authorize us to use account funds to pay these debts and obligations to us even if the setoff results in an early withdrawal penalty or the dishonor of items. If your account is a checking or money market account and we exercise our right of setoff, our duty to pay any items presented for payment on your account during the business day preceding the day on which the setoff occurs may be terminated, and you agree that we may return those items unpaid. If we do return items, we also will charge you a Returned Item Fee for each returned item. See the Fee Schedule.

If the debt arises from a note, "any due and payable debt" includes the total amount of which we are entitled to demand payment under the terms of the note at the time we charge the account, including any balances for which we properly accelerated the due date under the note.

We will not be liable for the dishonor of any item or draft when the dishonor occurs because we charge and deduct an amount you owe us from your account. You agree to hold us harmless from any claim arising as a result of our exercise of our right to repayment.

This right of setoff does not apply to this account if: (a) it is an IRA or a tax-deferred retirement account;

(b) the debt is created by a consumer credit transaction under a credit card plan; or (c) the debtor's right of withdrawal only arises in a representative capacity.

## **SAFEGUARDING BLANK AND CANCELLED CHECKS**

You agree to safeguard your blank and cancelled checks and to take reasonable steps to prevent unauthorized access to or use of your checks. This means that you will store them under proper control in a secured, locked location accessible only to authorized signers. You further agree to notify us immediately if one or more of your blank checks are lost or stolen. You agree to accept all responsibility for any failure to safeguard your blank checks.

## **SAMPLE SIGNATURES**

To determine the authenticity of your signature, we may refer to the signature card or to an item or other document upon which your signature appears. We may use an automated process to reproduce and retain your signature from an item based on the format and other attributes of items we offer to customers.

## **SECURITY INTEREST**

You grant us a security interest in your accounts to secure the repayment of any obligation that you incur under this Agreement. The security interest provided under this Agreement is in addition to any other security interest we may have in your accounts or other assets. This security interest will survive termination of this Agreement.

## **SEVERABILITY**

Wherever possible, each provision of this Agreement shall be interpreted in a manner which makes the provision effective and valid under applicable law. If applicable law prohibits or invalidates any part or provision of this Agreement, that particular part or provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

## **SIGNATURES GENERALLY, FORGERIES, MISSING SIGNATURES AND ALTERATIONS**

The authorized signatures for an account are noted on the account signature card. Any one of the authorized signers may sign items or withdrawal orders and give us instructions regarding the account. We do not offer accounts on which two or more signatures are required for a withdrawal or other instruction on an item or other charge. If you indicate on your signature card or other account opening documents that more than one signature is required, this indication is for your own internal procedures. It is not binding on us. We may attempt on occasion to enforce any multiple signature requirement, but we may cease to do so at any time without prior notice to you. We may act on the instruction or pay out funds from your account if the item or other charge is signed or authorized by (or otherwise authenticated as being the act of) any owner or by any authorized signer (including when acting alone). We have no liability to you if we do this. However, if there is a conflict, the Bank reserves the right to require all authorized signers, officers, partners or other persons to sign an item or withdrawal order.

If your negligence contributes to a check being altered, changed, forged, or otherwise issued in an unauthorized or improper manner, we will not be responsible if we pay the check in good faith and in accordance with the reasonable commercial standards of our business. If anyone disputes the payment of a check because it was altered, changed, forged, bore an unauthorized signature or was otherwise improper, we may not credit the amount to your account until the dispute has been resolved.

We will have a reasonable period of time to investigate the facts and circumstances surrounding any claim of loss. Unless a law, rule or regulation provides otherwise, such a claim is deemed not to have been made until submitted in writing to us. You agree to fully cooperate in our investigation of such a claim. Your cooperation may include among other things, at the Bank's discretion: (1) a requirement that you submit a declaration or affidavit under penalty of perjury describing your claim; (2) a report filed with the appropriate police, law enforcement and/or

investigatory authority; (3) promptly providing documentation in support of your claim that the Bank requests from you; and (4) if your claim arises from employee fraud or embezzlement, the Bank may require you to make a claim against any insurance coverage that you might carry for such a claim. Our liability to you will be reduced by the amount your insurance company pays you for any claim you tendered to it. Any failure to cooperate in the Bank's investigation may result in our decision not to honor your claim. We may, although we are not required to do so, provisionally credit your account pending the final outcome of the investigation. If we determine, in our sole discretion, that the debit to your account was not improper, then we may reverse any credit made to your account for the claim.

We will not be liable for special or consequential damages, including loss of profits or opportunity, or for attorneys' fees incurred by you to recover your loss against the person responsible and you agree to indemnify and hold us harmless from any such losses. In the event that we reimburse your loss, you agree that you will not waive any rights you have to recover your loss against anyone who is obligated to repay, insure, or otherwise reimburse you for your loss. You will pursue your rights or, at our option, assign them to us so that we may pursue them. Our liability will be reduced by the amount you recover or are entitled to recover from these other sources, including insurance coverage. At our request, you will provide us with all reasonable information about your insurance coverage, including the name of your insurance carrier, policy number, policy limits, and applicable deductibles.

## **STATEMENTS**

With certain exceptions, we make account statements available to account holders and, if requested, imaged copies of items paid from your account. Statements are normally sent to the last address listed with us for your account and you agree to promptly examine your statements as soon as we make them available to you. If you ask us to hold statements and notices for you, we may mail them to you or destroy them if they are not picked up within thirty (30) days. If imaged items are not returned with your statement, upon your request, the Bank will make a reasonable effort to promptly provide you with a copy or image of any item in our possession. Unless otherwise agreed, you waive any right to receive any original item after it is paid.

You assume full responsibility for monitoring and reviewing the activity of your account. You agree to notify us promptly if you think there is an error or an unauthorized transaction shown on your statement, including, forgeries, alterations or unauthorized items. If you fail to notify us promptly, but no later than thirty (30) days following the statement mailing date or the date we make the statement available to you, then you agree that you cannot assert any error, problem or unauthorized transaction or forged, altered or unauthorized item against us and you may become responsible for the losses resulting from such failure. This notification requirement is without regard to whether we did or did not use ordinary care and does not otherwise restrict any right we have under law or other agreements with you. You further agree that if you fail to notify us within thirty (30) days of making the statement available to you, then you are precluded from asserting against us any subsequent forged, altered or unauthorized item from the same wrongdoer.

If you do not receive your scheduled statement, it is your obligation to promptly notify the Bank of that fact. Statements and notices sent or made available to any of you are deemed to be received by all of you. If we hold them at your request or because you fail to provide us with a current address, they will be deemed delivered to you when they are prepared (for held statements), mailed (for returned mail) or otherwise made available to you (e.g., at a website or email address if you have agreed to electronic communications). We may hold statements if the Post Office notifies us that your mail is undeliverable. At our discretion, we may destroy mail that is returned to us or determined to be undeliverable.

We may deny a claim for monetary loss due to forged, altered or unauthorized checks if you fail to follow any of these procedures.

## **STOP PAYMENT ORDERS**

If you want to stop payment on a check you have written, you may place a written stop payment order at a branch or contact our Call Center to stop payment before it is finally paid by us. Any authorized signer on the account may furnish a stop payment order.

You must furnish us with the date, the check number, and the exact amount of the check and the name of the payee in order for us to stop payment on the item. If you provide us with any incorrect or incomplete information, we will not be responsible for our failure to stop payment on the check. We will not be responsible for a stop payment order if we do not have a reasonable opportunity to act on it before final payment of the item. You may not stop payment on a check guaranteed by us.



You may furnish the stop payment order orally or in writing. The order will remain in effect for twelve (12) months and must be renewed by you every twelve (12) months to remain in effect. If you do not renew the stop payment order when it expires and the item is presented for payment, we may pay the item and charge it to your account. There is a charge for each stop payment order and renewal order requested. See Fee Schedule.

In some cases, we may pay an item even if a stop payment request is in effect. If we, or another person or entity, is determined by us to be a "holder in due course" of the item, we may pay the item. If we pay a check which has a valid stop payment order on it with correct information, we may be responsible to you for up to the face amount of the item if you establish that you have suffered a loss because we paid the item. You agree to assign to us all of your rights against the payee and/or any other holder of your check. You also agree to cooperate fully with us in any collection or legal actions that we subsequently take against such persons.

Anyone holding the check, including the Bank, may be entitled to enforce payment against you despite the stop payment order. You agree to indemnify, defend, and hold us harmless from all costs, actions, damages, claims, and demands related to or arising from our action in stopping payment on the check.

You may not stop payment on point-of-sale Debit Card transactions, cashier's checks, or checks or payments guaranteed by us. Under certain circumstances, however, you may be able to claim a refund on lost, stolen or destroyed cashier's checks ninety (90) days following the date of their issuance. Please note that electronic stop payment requests (through our online banking service) may not be effective in stopping the payment of checks that have been posted to, but not finally paid from, your account on the preceding day. In order to prevent those checks from being paid, you must contact one of our customer representatives in person, by telephone or in writing within one hour after we open on the day following the day we post the items to your account. You also should contact a representative if you wish to stop the payment of a check that has been converted to an electronic transaction by a merchant. Electronic transactions are often processed on the same day and cannot be stopped with a regular check stop payment order.

## **SUBSTITUTE CHECKS**

You agree not to deposit substitute checks, as described below, or checks bearing a substitute check legal equivalence statement ("This is a legal copy of your check. You can use it the same way you would use the original check.") to your account without our prior written consent. Unless we agree otherwise in writing, our acceptance of such checks shall not obligate us to accept such items at a later time, and we may cease doing so without prior notice. If we approve the deposit of substitute checks, you agree to indemnify, defend and hold us harmless from all losses, costs, claims, actions, proceedings and attorney's fees that we incur as a result of such checks, including without limitation, any indemnity or warranty claim that is made against us because: (a) the check fails to meet the requirements for legal equivalence, (b) a claimant makes a duplicate payment based on the original check, the substitute check, or a paper or electronic copy of either; or (c) a loss is incurred due to the receipt of the substitute check rather than the original check. Upon our request, you agree to provide us promptly with the original check or a copy that accurately reflects all of the information on the front and back of the original check when it was truncated.

You agree not to issue checks with features or marks that obscure, alter or impair information on the front or back of a check or that otherwise prevents us or another bank from capturing such information during automated check processing.

We may convert original checks to substitute checks.

## **TAXPAYER IDENTIFICATION NUMBER**

We are required to obtain a taxpayer identification number ("TIN") for each account you open or maintain with us. The taxpayer identification number for a business is usually an employer identification number (EIN). The taxpayer identification number for a sole proprietorship may be either a SSN or an EIN. We must obtain this number even if you are not required to file tax returns. This number is included on reports we must file with state and federal tax authorities about interest we pay you.

We may refuse to open, and we may close, any account for which you do not provide a certified TIN, even if you are exempt from backup withholding and information reporting.

U.S. persons, including resident aliens may be required to complete a Form W-9 to certify their TIN and backup withholding status. To establish that you are not a U.S. citizen or other



U.S. person (including a resident alien individual), we may require you to (among other things) complete a Form W-8. We may report interest in cases where it is not mandated for us to do so. We are not responsible for your action or inaction in selecting or completing a form, and no information in these matters that may be supplied by us to you should be relied upon by you. In all tax matters, you should consult your own tax advisor. **You agree to notify us and submit a new Form W-9 or W-8, as applicable, within thirty (30) days if any certification made on the form becomes incorrect.**

If you fail to provide your TIN and certify that it is correct, or if you fail to certify that you are not subject to backup withholding or if the IRS notifies us that you have furnished an incorrect taxpayer identification number, then federal tax rules may require us to re-solicit your TIN and/or withhold a percentage of interest paid to you. We forward amounts withheld to the IRS. If there are any fines, penalties, or charges assessed upon us due to any incorrect name/TIN mismatch or error not caused by us, you agree to reimburse us for the fine, penalty, or charge, and we may charge your account for the same.

When an account earns interest, we may report the interest paid and the amount withheld to the IRS (and to the applicable state Tax Board). You will receive a copy of the information reported to the tax authorities.

## TRANSACTION LIMITATIONS

**Money Market and Savings Accounts-** Transactions involving these accounts are limited by law. You may only make up to six withdrawals and/or transfers each monthly statement cycle by check (for accounts with check privileges), preauthorized or automatic transfer (e.g., automatic payments to an insurance company), draft, point-of-sale debit card, telephone and/or online banking. If you exceed this limitation, we may refuse to honor the excessive transactions, remove your transfer privileges, close the account without prior notice, convert it to another type of account, and/or impose a fee for exceeding the limits (see Fee Schedule). Note: We count checks for purposes of the transaction limitation as of the date we post them to your account (not as of the date you write them). As such, a check you write during one statement period may not be counted until a subsequent statement period.

This limit does not apply to withdrawals made in person, at an ATM, by mail, messenger, or telephone (via check mailed to you), or to transfers made to repay a loan with us. Nor is there any limit on the number of deposits that can be made to your account each month (e.g., in person or by preauthorized or automatic transfer). We may refuse or limit telephone and mail withdrawals, at our discretion.

**Time Deposits** – Unless our written agreement with you says otherwise, you do not have a right to make early or partial withdrawals from, or additional deposits to, an existing time deposit. Early withdrawals may be subject to a penalty. See Receipt for Time Deposit for details.

**Advance Notice** – As required by federal law, we reserve the right to require seven (7) days advance written notice of an intended transfer or withdrawal of funds from any savings account, money market deposit account, or interest-bearing checking account.

## TRANSFER AND ASSIGNMENT

This account may not be negotiated, transferred or assigned without our prior written consent. We are not required to accept or recognize an attempted assignment of your account or any interest in it, including a notice of security interest.

## UNAUTHORIZED TRANSACTIONS AND ERRORS

If you discover an error, forgery, alteration or other unauthorized activity involving your account, you must notify us immediately by telephone, and promptly notify your branch of account in writing of the relevant facts, including a description of the transaction or error and the identity of any suspected perpetrator. You agree to maintain a current check register and to carefully and promptly review all statements and notices we send or make available to you. If you participate in our check safekeeping service, your statements will be deemed to provide sufficient information about your checks and other transactions for you to determine whether there was an error or unauthorized transaction if the statements provide you with the check or transaction number, the amount, and the date of payment.

You are in the best position to discover and report any errors or unauthorized transactions

involving your account. If you fail to notify us within a reasonable time (not exceeding twenty-one days after your statement date) of an unauthorized signature, alteration, forgery, counterfeit check or other unauthorized transaction involving any of your accounts, we will not be responsible for subsequent unauthorized transactions by the same wrongdoer.

Without regard to care or lack of care of either you or us, if you do not discover and report an error or an unauthorized signature, alteration, forgery, counterfeit check, or other unauthorized debit to your account within thirty (30) days after the date of your statement or the date the information about the item or transaction is made available to you, whichever is earlier, you are precluded from asserting the error or unauthorized transaction against us.

If you claim a credit or refund because of an error or unauthorized transaction, you agree to provide us with a declaration containing whatever reasonable information we require regarding your account, the transaction, and the circumstances surrounding the claimed loss. We must receive your declaration within ten (10) days of our request. If applicable, you also agree to make a report to the police and to provide us with a copy of the report, upon request. We will have a reasonable period of time to investigate the circumstances surrounding any claimed loss. During our investigation, we will have no obligation to provisionally credit your account, unless otherwise required by law (e.g., in connection with certain consumer electronic fund transfer services).

Our maximum liability will never exceed the amount of actual damages proven by you. Our liability will be reduced: (a) by the amount of the loss that is caused by your own negligence or lack of care; (b) to the extent that damages could not have been avoided by our exercise of ordinary care; and (c) by any loss recovery that you obtain from third parties (apportioned in accordance with this provision). We will not be liable for any loss that is caused in part by your negligence if we acted with ordinary care. Unless otherwise required by law, we will not be liable for incidental, special or consequential damages, including loss of profits and/or opportunity, or for attorney's fees incurred by you, even if we were aware of the possibility of such damages.

Unless otherwise expressly agreed in writing, our relationship with you will be that of debtor and creditor. That is, we owe you the amount of your deposit. No fiduciary, quasi fiduciary or other special relationship exists between you and us. We owe you a duty of ordinary care. Any internal policies or procedures that we may maintain in excess of reasonable commercial standards and general banking usage are solely for our own benefit and shall not impose a higher standard of care than otherwise would apply in their absence. There are no third (3rd) party beneficiaries to this Agreement. If you open a business account, you agree not to use it primarily for personal, family or household purposes.

You agree to pursue all rights you may have under any insurance policy covering any loss and to provide us with information regarding coverage. Our liability will be reduced, proportionately in accordance with our responsibility for any loss, by the amount of any insurance proceeds you receive or are entitled to receive for the loss. If we reimburse you for a loss and the loss is covered by insurance, you agree to assign us your rights under the insurance policy to the extent of our reimbursement, in accordance with this provision. You waive all rights of subrogation against us with respect to any insurance policy or bond.

## **WAIVERS**

We may delay enforcing our rights under this Agreement without losing them. Any waiver by us shall not be deemed a waiver of other rights or of the same right at another time. You waive diligence, demand, presentment, protest and notice of every kind, except as otherwise set forth in this Agreement.

## **WITHDRAWALS**

Unless otherwise clearly indicated to the contrary, any one of you who signs in the space designed for signatures on the signature card, including any authorized signers and agents, may withdraw or transfer all or any part of the account balance at any time. Withdrawals will first be made from collected funds (generally, funds from deposits or credits for which we have received final settlement are deemed collected funds), and we may, unless prohibited by law or our written policy, refuse any withdrawal request against uncollected funds, even if our general

practice is to the contrary. We reserve the right to refuse any withdrawal or transfer request, which is attempted by any method not specifically permitted, which is for an amount less than any minimum withdrawal requirement, or which exceeds any frequency limitations. We may limit the amount of cash that can be withdrawn each day. Even if we honor a nonconforming request, repeated abuse of the stated limitation may eventually force us to close this account. Additional withdrawal limitations may be disclosed elsewhere.

## **How to Contact Us**

### **CALL CENTER**

(800) 797-6324

### **MAILING ADDRESS**

Mechanics Bank  
P.O. Box 5610  
Hercules, CA 94547-5610

**For additional information about any Mechanics Bank product or service, please visit one of our branches, call us at 800.797.6324 or visit [www.mechanicsbank.com](http://www.mechanicsbank.com)**