

# Business Online Banking Electronic Cash Management System Users Terms & Conditions

*Effective July 2016*



**tri counties bank**

Service With Solutions™

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# Business Online Banking User Terms & Conditions

## Introduction

**Welcome to Tri Counties Bank Business Online Banking.** This “Business Online Banking User Terms and Conditions” contains the terms and conditions under which we will provide electronic cash management services to you. This document, together with our Business Deposit Account Agreement and Disclosures and the Business Online Banking Authorization and Agreement which you signed (“Business Online Banking Authorization”), constitute the entire agreement between you and us for Business Online Banking Electronic Cash Management Services (“Services”). By signing and returning the Business Online Banking Authorization, you agree to the terms and conditions applicable to the Features to which you subscribed, or to which you may subscribe in the future. You may begin using the Services when we have received all required and properly executed forms and you have successfully completed any testing or training requirements.

Your use of any Feature offered thru the Services constitutes your agreement to the terms and conditions stated herein. The terms “we”, “us” and “our” refer to Tri Counties Bank. “You” and “your” refer to the account holder and subscriber to the Services, along with your Designated Users.

## Definitions

**“Account”** or **“Account(s)”** means one or more deposit accounts and/or loans that you maintain with us and access through the Services, as identified on your Business Online Banking Authorization, as amended from time to time.

**“Account Information”** means all information about the Account(s), including but not limited to the balance information; the status and description of any or all items, debits, credits, or charges related to the Account(s); the Account history; and all other information about the activity associated with the Account(s).

**“ACH”** means the Automated Clearing House.

**“Agreement”** means this Tri Counties Bank Business Online Banking User Terms and Conditions, together with the Business Online Banking Authorization and the Business Deposit Account Agreement and Disclosures, or loan documents applicable to the Account(s).

**“Automated Clearing House”** means the system by which your Designated Users (as defined below) transmit data to us through the Services to create automated clearing house (“ACH”) files for later transmission to the ACH system for processing.

**“Available Balance”** means the current balance of the Account(s) less holds and memo posted debits, plus memo posted credits, and/or unused line of credit balance(s).

**“Bill Pay”** means the Tri Counties Bank Business Bill Pay Service accessed via the Bill Pay link in the Services.

**“Business Days”** are Monday through Friday, excluding federal holidays. Saturdays, Sundays, and federal holidays are not Business Days even if we are open. Transactions submitted during these Non-Business Days or after the Cut-Off Time (defined below) will be processed the next Business Day.

**“Designated User(s)”** means that employee(s) whom you designate to access one or more Account(s) through one or more of the Services Features.

**“Hold”** is a restriction of payment for all or any part of the balance in the Account(s).

**“Upload ACH Files”** means transferring a NACHA, CSV, or Excel formatted file from accounting software to the Services for subsequent transmission directly to our computer system.

**“Real Time”** means the ability to immediately view transactions posted as they occur. This includes availability of a memo-post detail listing.

**“Memo Posted Debits”** shall mean any debits being posted to the Account(s) for the Business Day. (For example, ACH debit transactions and teller cashed checks.) Includes posting detail.

**“Memo Posted Credits”** shall mean any credits being posted to the Account(s) for the Business Day. (For example ACH credit transactions.) Includes posting detail.

**“Wire Transfer Request”** shall mean the Services Feature which allows your Designated User to transmit wires on your Account(s).

### **“Cut-Off Time” means 9:30 PM**

(unless otherwise noted) on any Business Day with regard to all Services Features except for (1) Wire transfers for which the “Cut-Off time” is 1:00 pm PST on any Business Day, (2) Business Bill Pay, for which the “Cut-Off time” is 7:00 PM PST on any Business Day, and (3) Automated Clearing House Originations and Treasury Tax and Loan Payments, for which the “Cut-Off Time” is 4:00 PM of the Business Day that is at least two Business Days in advance of the desired effective date of the file being originated and (4) Mobile Deposit Capture “Cut-Off” time is 6:00PM PST on any Business Day.

### **Required Equipment**

In order to use the Services, you must have the appropriate computer related equipment and software (collectively, the “Equipment”) which must meet our specifications. You understand and agree that it is your sole responsibility to obtain, install, operate and maintain the Equipment in accordance with the instructions of the Equipment manufacturer. This includes appropriate and regularly updated virus protection and firewall software. You assume sole responsibility for any and all loss, damage or injury arising with respect to any failure of the Equipment. In the event you are unable to access the Internet, you understand that the Services will not be available to you until an Internet connection has been reestablished. Minimum Equipment specifications are: (a) Internet access; (b) Microsoft Windows 7 or later; (c) A current, supported browser; and (d) Color monitor with display settings at a minimum of 1024 x 768 pixels or greater. If you do not have the technical expertise to set up and maintain the necessary hardware and software, you should hire an expert to help you do so, and regularly train your employees that have access to the Services to insure that your account access remains secure.

### **Authorization & License**

Access and authorization for use of the Services shall be as set forth in your Business Online Banking Authorization on file with us, and as amended from time to time. For your use of the Services we grant you a non-exclusive, non-transferable license for the use of the browser-based Software. Such license does not include any rights to any patents, trademarks or trade names. You may not sublicense, lease, distribute or otherwise transfer a Software application or your right to use the Software. You may not use the Services for any activities in violation of any laws or regulations, including without limitation, wrongful transmission of copyrighted material, sending of threatening or obscene materials, or misappropriation or exportation of trade or national secrets. You may not translate, reverse engineer, disassemble or decompile the Software. This license to Software will terminate automatically on termination of your enrollment in the Services, or if you fail to comply with the terms of this license or any other material provision in these terms and conditions. All your obligations with respect to this License will survive termination of the Services.

### **Security**

You agree to be solely responsible for your security procedures using the Services. You will adopt internal control procedures to protect the integrity and security of your access to the system and you acknowledge that you have not relied on Tri Counties Bank for advice with respect to such internal controls. You hereby assume full responsibility for any unauthorized access to the Services that resulted from a failure of your internal controls. We will provide initial training to set up access to the Services. We can assist with implementing your internal controls by setting Account access limits for specific Designated Users, if requested. You agree that transactions conducted under the passwords and User IDs you provide together with applicable token codes shall be deemed

authentic payment orders binding on you and us. You will be responsible for all transactions made through the User ID, password and token security system, regardless of whether such transactions were authorized. We are not liable for unauthorized use of the Services or for any losses that may result. You will notify us immediately in the case of a lost or stolen token, or if you believe that a User ID and/or password has been used without your permission or under any other circumstances where access rights need to be changed or terminated.

### **Security Compliance Requirements**

Depending on the dollar amount volume of your average transactions transmitted through the Services, we may require a higher level of review of your security procedures, at our option, and to which you agree to submit for continued permission to use the System. Commensurate with the level of business use, we may require one or more of the following: (a) more frequent on-site visits to verify your security procedures.; (b) additional log in requirements implemented through different software or hardware; technical review of the computer system(s) used to access the System to verify the integrity of your hardware, software, anti-virus and firewall protection; (d) requirement to use specific anti-virus and firewall software that we specify and periodic inspection to determine that such systems are up to date; and/or (e) obtaining insurance coverage for electronic fraud losses that are beyond our control.

### **Senior Administrator**

The person you designate as Senior Administrator for your business is liable and responsible for all security,, and Account control set-ups for the Services.. Any unauthorized transactions submitted via the Services, whether for business or personal purposes, are your responsibility.

### **Business & Personal Use**

Use of the Services is restricted to business accounts unless you authorize personal account access in your Business Online Banking Authorization. Transactions made against business Account(s) via the Services are not subject to the Electronic Funds Transfer Act (Regulation E). Regulation E requires that account holders receive regular account statements that describe all transactions for the Account(s), including the transactions initiated through the Services. You are responsible to promptly review all statements and, if any irregularity is noted, report it to us at once. This responsibility is more specifically defined in the Business Deposit Account Agreement and Disclosures that governs your Account(s).

### **Rejection of System Requests**

We shall have the right, but not the obligation, to reject any request transmitted via the Services if the request is incomplete, inaccurate in any respect, or if the request involves a transfer of funds from an account in which there are insufficient available funds to cover the request. Should we, at our sole option, elect to honor a transfer request against insufficient funds, you agree to pay us immediately upon demand any overdraft amounts, together with any and all overdraft fees and charges that may be assessed against your Account(s) in accordance with the terms of the Business Deposit Account Agreement and Disclosures.

### **Fees**

Current fees are disclosed in the Business Fee Schedule provided with your Business Online Banking Authorization..

### **Limitation of Liability**

We shall use our best efforts to provide you with access to the Services in accordance with the provisions of these terms and conditions.. However, we shall not be liable to you for any damages whatsoever arising in connection with a failure of the communications network, your Equipment or the Services, or in connection with other events beyond our control. We shall not be liable to you for any damages whatsoever arising in connection with the accuracy or completeness of information supplied through the Services regarding your Account(s), nor for the lack of available funds in the Account(s), the unauthorized use of your account ID, passwords or tokens due to fraud, or other means, the application of any government or funds transfer system rule, guideline, policy or regulation, or our inability to confirm to our satisfaction the authority of any person to act on your behalf.

Our sole liability for damages to you for any cause not otherwise excluded above and regardless of the form of action shall be limited to direct damages sustained by you, but only to the extent that such damages are the direct result of our own gross negligence or willful misconduct and, in such cases, damages will be limited to the amount of the average monthly fees and charges paid by you for the Services in the month preceding the loss, except as provided by law. In no event shall we be liable for any special, indirect, incidental, consequential, or punitive damages even if we are advised of the possibility of such damages. These provisions shall survive the termination of the Services.

### **Your Responsibilities**

You are solely responsible for the timeliness, accuracy, and completeness of any instruction and information entered by you or your Designated Users in connection with any Services transaction. Furthermore, you are solely responsible for naming a Security Officer and Designated Users, specifying the Account(s) and functions for Services to which each Designated User shall have access, and monitoring each Designated User's use of the Services. You agree to establish a unique password and utilize security tokens as instructed by us (collectively the "Identification") to develop adequate internal procedures to prevent the disclosure of the Identification to other persons and the unauthorized use of Services.

You understand and agree that you are solely responsible for the risks associated with disclosure of the Identification and the unauthorized use of Services and that we are fully protected in performing any and all of the Services transactions entered under valid Identification, whether or not the person actually entering such transactions is authorized by you to perform such transaction(s).

You agree to notify us immediately in the event you believe that the security of an Identification has been compromised or that unauthorized Services transactions have occurred or will occur. You understand that the Business Deposit Account Agreement and Disclosures apply to your Account(s) in addition to the agreements and disclosures in this Business Online Banking User Terms and Conditions. You shall not disclose any information regarding our security and other procedures applicable to processing transactions; as such disclosures may compromise the integrity of those procedures. Your knowledge thereof shall be used only in connection with the transactions contemplated by the Services.

You shall be responsible to use alternative means of conducting your banking transactions with us in the event that the Services fail for any reason. We cannot guarantee 24/7 availability of the system so you must be certain that your business operations are not adversely impacted under circumstances where the system is not available to you due to malfunctions or periodic maintenance.

You agree to be jointly and severally liable for any account shortage resulting from charges or overdrafts, whether caused by you or a Designated User or another with access to Services. This liability is due immediately, and can be deducted directly from the Account(s) whenever sufficient funds are available. You have no right to defer payment of this liability, and you are liable regardless of whether you processed the item or benefited from the charge or overdraft. This includes liability for our costs to collect the deficit including our reasonable attorney's fees (or allocated costs of in-house counsel).

### **Losses Due to Electronic Fraud**

You hereby acknowledge that there are inherent risks in financial transactions conducted over the Internet. Tri Counties Bank uses industry standard practices to ensure the security of your transactions and data. However, the Bank cannot directly monitor your electronic systems and network connections for which you agree to accept the entire responsibility. Any electronic transactions submitted through the Services using the accepted login, password, security challenge and ID token are deemed transactions authorized by you, whether or not such transactions were in fact initiated by you. The Bank's ability to reverse electronic transactions which are initiated by fraudulent means is extremely limited (and in many instances is impossible). Even if you immediately inform the Bank of an unauthorized debit to your account(s), the Bank may not be able to reverse such debit, and unless the Bank's systems are at fault, the financial loss will be entirely yours. The Bank's ability to determine the source of such fraudulent activity is also extremely limited. You are advised to be certain of the integrity of your systems before using the Services, including updated anti-virus and firewall software, and also

determine whether you should obtain appropriate insurance coverage to protect against unrecoverable losses. You agree to be solely responsible for your security procedures using the Services. You will adopt internal control procedures to protect the integrity and security of your access to the system and you acknowledge that you have not relied on Tri Counties Bank for advice with respect to such internal controls. You hereby assume full responsibility for any unauthorized access to the Services that resulted from a failure of your internal controls. You agree that transactions conducted under the passwords and User IDs you provide, together with tokens provided to you shall be deemed authentic payment orders binding on you and us. You will be responsible for all transactions made through the User ID, password security and token system, regardless of whether such transactions were authorized. We will not be liable for unauthorized use of the Services or for any losses or damages that may result.

### **Information about Corporate Account Takeover**

Corporate account takeover is a type of fraud where thieves gain electronic access to a business' bank accounts to make unauthorized transactions, including transferring funds, adding new fake employees to payroll, and stealing sensitive customer information. Corporate account takeover is a growing threat for small businesses. Cyber thieves target employees through phishing, phone calls, and even social networks. It is common for thieves to send emails posing as a bank, delivery company, court or the Better Business Bureau. Once the email is opened, malware is loaded on the computer which then records bank login credentials and reports them back to the criminals.

You and your employees are the first line of defense against corporate account takeover. A strong security program paired with employee education about the warning signs, safe practices, and responses to a suspected takeover are essential to protecting your company and customers.

The best way to protect against corporate account takeover is to understand security measures needed within the business and to establish safeguards on the accounts that can help the bank identify and prevent unauthorized access to your funds. A shared responsibility between the Bank and the business is the most effective way to prevent corporate account takeover.

Consider these tips to ensure your business is well prepared:

- Protect your online environment. It is important to protect your computing equipment and network connections just as you would your cash and physical location. Do not use unprotected internet connections. Encrypt sensitive data and maintain updated anti-virus and firewall protections on your computer. Use complex passwords and change them periodically.
- Partner with your bank to prevent unauthorized transactions. Talk to your banker about programs that safeguard you from unauthorized transactions. Positive Pay and other services offer call backs, device authentication, multi-person approval processes and batch limits help protect you from fraud.
- Pay attention to suspicious activity and react quickly. Look out for unexplained account or network activity, pop ups, and suspicious emails. If detected, immediately contact your financial institution, stop all online activity and remove any systems that may have been compromised. Keep records of what happened.
- Understand your responsibilities and liabilities. These terms and conditions describe what commercially reasonable security measures are required in your business. It is critical that you understand and implement the security safeguards in the agreement. If you don't, you could be liable for losses resulting from a takeover. Talk to your banker if you have any questions about your responsibilities.

### **Amendment & Termination**

The Bank reserves the right to add to or change, at any time, the terms and conditions of the Services and those in other disclosures, schedules and forms signed by you or furnished to you. If the law so requires, notice of a change will be given to you. Otherwise, no notice need be given as a condition of the change. You agree to keep us informed of your current address at all times. If there are multiple account owners, notice from us to any one of you will suffice as notice to all owners. If we have notified you of a change in any terms and conditions of the Services and you continue to use Services after the effective date of the change, you have agreed to the new term(s).



You may request and submit an updated Business Online Banking Authorization to us, provided that such update(s) is/are submitted in writing, is/are executed by a properly authorized person, and is/are otherwise acceptable to us. Such updated Business Online Banking Authorization(s) will be effective on the third Business Day following the Business Day of our receipt, or at such later date as you may request. From time to time, we may request from you an updated Business Online Banking Authorization.

We may terminate the Services immediately and without notice in the event that we detect misuse, fraud or unauthorized activity on any of the Account(s); or in the event that any of the Account(s) is left with a negative balance and you do not arrange for sufficient credit to repay same immediately. Either of us may terminate the Services at any time upon 30 days' written notice to the other. You may terminate the Services on less than 30 days' notice; however applicable monthly charges will nevertheless be due for the entire month in which the termination notice is received by us.

### Updates & Hours of Operation

Transactions affecting your Account(s) will post throughout the Business Day and immediately be reflected in the Account Information available to you through the Services. Your requests to the Services will be processed based on your most recently updated Account Information.

Although the Services are available 24 hours a day, 7 days a week (subject to periodic shut down for maintenance), when the Services are utilized before or after regular banking hours we will not be available for support should problems occur.

### Notices & Authorization

Unless expressly provided in these terms and conditions, we shall not be required to act on any notice or instruction received from you, your attorney-in-fact, or any other person, or to provide any notice or advice to you or anyone else with respect to any matter. Instead, we shall be entitled to rely on written communication that we, in good faith, believe is genuine and appears to have been signed by a director, partner, officer, employee, or agent of yours, whether or not actually authorized by you, and any such communication will be deemed to have been duly executed by you. We shall not be responsible to determine the validity of any power of attorney or authority of any attorney in fact impacting your use of the Services for transactions on any account(s) over which you are granted authority.

### Miscellaneous Provisions

**Protection of Your Login, Password(s) and Tokens.** You are responsible to maintain the confidentiality of your login IDs and passwords and maintain physical possession of tokens issued to you, and agree that you will not share login and passwords with persons who are not authorized to have access to the Account(s). We may absolutely rely without further inquiry on valid log in credentials transmitted to us, and you are responsible for, any transaction(s) to your Account(s) made by authorized login IDs, passwords and tokens.

**Password Security.** Change your passwords frequently and make them less easy to guess. Using birthdates, social security numbers or words such as names of people, places, pets or favorite things in a password is dangerous. Instead, use more complex passwords containing random letters both upper and lowercase, numbers and symbols make it less attractive for a possible intruder. Your password must be between 8-16 characters in length. In our system, you will be required to have a minimum of one uppercase alpha character, one lowercase alpha character and one numeric character.

**Backup Files.** You will be solely responsible for maintaining adequate backup files of your data for a reasonable period of time depending on your business needs and will not rely on us for same.

**Security Interest.** You hereby grant us a security interest in all Account(s) you have with us for the purpose of securing your obligation(s) for any due and payable debt (including loans) you owe us now or in the future or arising as a result of our provision of services under this Agreement. This security interest allows us to deduct amounts you owe from the Account(s) without prior notice. After the exercise of our rights under this paragraph, we will give you notice of enforcement of our security interest, the reason for such action, and the amount debited from the Account(s). You agree that we

will not be liable to you for the dishonor of any check or returned electronic payment when the dishonor occurs because we exercised our rights under this security agreement and that you will hold us harmless from any claim arising as a result of our exercise of our rights under this security agreement.

**Disclaimer of Warranty.** We make no warranty, express, or implied, including but not limited to any implied warranty of fitness for a particular business purpose or a warranty of merchantability with respect to Services or the software provided for same.

**Reporting Errors.** You will notify us immediately if you discover any: (1) discrepancy between your records and the records maintained by the Services; (2) unauthorized transactions; or (3) a breach of your security procedure used to protect the confidentiality of your login IDs, passwords and tokens. It is imperative that we have notice of such errors or breach immediately in order to prevent any future losses to you. So long as we acted in good faith and in accordance with your instructions under the security procedure established for authorization of transaction(s) to the account(s), you are bound by such transactions whether or not authorized. If you fail to notify us within ten (10) days of the date by which you should reasonably have discovered any such error, you agree that you will not be able to make a claim against us for any losses sustained as a result of the error, even if we were at fault. And under no circumstances we will be responsible for any losses that result from your use (or misuse) of the system or your Equipment or network vulnerabilities, whether or not we were at fault. We will not be responsible to detect errors in the transmission or content of any data you submit to us.

**Representations and Warranties.** You hereby represent and warrant each time the Services are used that the person(s) accessing the system have the requisite authority to access the Account(s) on your behalf; and that your use of the Services is in accordance with, and will not violate any provisions of these terms and conditions.

**Restricted Transactions.** Restricted transactions (defined as any funds/proceeds associated with Unlawful Internet Gambling, and/or transmission to, or receipt of funds from restricted person who may be identified by the Office of Foreign Assets Control) are prohibited from being processed through your account(s) with our Bank.

**Entire Agreement/Severability.** This Agreement, together with your Business Online Banking Authorization and Business Deposit Account Agreement and Disclosures (and loan agreement as applicable), is the complete and exclusive agreement between you and us regarding the subject matter hereof and supersedes any prior agreements between us regarding the subject matter. However, these terms and conditions will not supersede any other credit or loan agreement or deposit agreement. If our performance of the Services provided for herein would result in a violation of any existing or future law, rule, or regulation to which we or you are subject, then these terms and conditions will be deemed amended to the extent necessary to comply with that law, rule or regulation, and we will incur no liability to you as a result of such amendment. Furthermore, if any term, covenant or condition of these terms and conditions are invalid or unenforceable, the remainder of these terms and conditions shall be unaffected. These terms and conditions will be construed in accordance with and governed by the laws of the State of California. Section headings are for convenience only and will not affect the meaning of the provisions hereof.

**Reference.** As used in this document the words 'we''our''us', and Bank, mean Tri Counties Bank and the words 'you' and 'your', mean the Account(s) owners and the Services Designated User(s). Unless it would be inconsistent to do so, words and phrases used in this document should be construed so the singular includes the plural and vice-versa.

**Survival of Provisions.** Provisions herein which require you to maintain confidentiality, or discharge any debt(s) you may owe use will survive the termination of the Services.

## Business Online Banking System Features

We offer a wide variety of Cash Management services (“Features”). Your Cash Management Officer can recommend those Business Online Banking Features that will best meet your needs. Basic Business Online Banking includes the ability to view accounts. Additional Features are available with Business Online Banking as shown below. Your Business Online Banking Authorization indicates the Features to which you subscribed, and are available as a link from your Business Online Banking home page. Cutoff times are shown for each Feature, after which the transaction(s) will be posted the following Business Day.

### Business Online Banking View Only Features:

Account Inquiries  
Statements

### Business Online Banking Standard Features:

Transfers  
Stop Payments  
Bill Payments  
Loan Payments  
QuickBooks™ Export  
Microsoft Money™ Export  
CSV for Microsoft Excel Export  
BAI2 Export

### Business Online Banking Treasury Features:

Federal Tax Payments  
California State Tax Payments  
Wire Transfers  
ACH  
Positive Pay

### Account Inquires

Designated Users to whom you permit access to Account Inquiries may request and receive all account information about one or more specified Account(s), including the Account(s) balance information; the status and description of any or all items, debits, credits, or charges related to the Account(s); the Account(s) history; and all other information about activity associated with the Account(s).

Inquiries are available for all accounts as designated by your Senior Administrator based on the accounts and Designated Users set up within the Services. There are no frequency restrictions, nor fees assessed for this feature.

### Account Portfolio

*Account Portfolio* provides you with an at-a-glance summary of the balances for each of your Account(s) within the Services: (1) For deposit (checking and savings) accounts, the system displays each account's current, and available balance, and the total current, and available balance for all deposit accounts; (2) For loan accounts, the system displays each account's principal (current) balance, available balance, and amount due.; (3) For time (CD and IRA) accounts, the system displays each account's current balance and maturity date, and the total current balance for all time accounts.

### Transfers

If you subscribed to *Transfers*, your Designated Users may initiate transfers of an available balance between any Account(s) set up within the Services (excepting Certificates of Deposit). Transfers from a savings and/or money market investment Account(s) are limited by law to six (6) per statement cycle. Transfers made via the Services are included as preauthorized or automatic transfers subject to these limitations. There are no per transaction charges assessed through the Services for these type of transactions, but other charges outside the Services may apply. Cutoff time for transfers is 9:30 PM.

*Loan Advances* can be processed against available Lines of Credit on a Tri Counties Bank loan through the transfer function. Advances made against a Tri Counties Bank Line of Credit are subject to your loan agreement with us. Electronically initiated loan advances are not permitted for Construction Loans or loans with other advance restrictions. Frequency of advances and dollar limits of advances are limited by the terms set forth in your loan agreement. There are no specific transaction fees for loan advances; however, interest and advance charges set forth in the applicable loan agreement will apply. Cutoff time for advances is 9:30 PM.

## **Bill Pay**

The Tri Counties Bank Business *Bill Pay* service can be accessed via the Bill Pay link in the Services. "Cut-Off Time" is 7:00 PM PST Use of the Business Bill Pay Service is subject to the terms and conditions of the Tri Counties Bank Online Access Agreement which can be viewed at the Business Bill Pay home screen.

## **Statements**

The *Statements* Feature enables you to retrieve 24 months of statements for checking Account(s) and savings Account(s) and loans to which you have access authorization.

## **Loan Payments**

The Services *Loan Payments* function enables you to initiate scheduled (regular) and unscheduled loan payments that move money out of one of your checking or savings accounts to make a payment on a loan. For each loan payment that you create, you must include an effective date that tells us when to make the payment on the loan. This feature enables you to submit loan payment(s) in advance of their regular due date(s). To avoid late charges, be sure that the loan payment date you specify is on or before its due date according to your loan agreement. The Services cannot determine your loan payment due date. Like other functions in the Services, the Loan Payments function is limited by your authority level and account privileges. You can perform this function only if your user profile has loan payment authority for the selected account.

## **Stop Payments**

*Stop Payments* requests that we stop payment on any item payable from an Account to which a Designated User has access. Unless your request is complete and accurate, we may be unable to identify the item subject to your request. Further, unless we have a reasonable opportunity to act on your request (which assumes we have received correct and complete information) we may not be able to prevent payment of an item presented. To initiate a Stop Payment you must provide us with: (a) account number; (b) specific check number; (c) check amount; (d) issue date and (e) payee name. This information must be exact because stop payment orders are handled electronically. If the information you provide is incorrect or incomplete, the order will be ineffective. You may also release a stop payment through the Services. Stop payments are valid for six (6) months. To renew a Stop Payment, you will need to complete a new Stop Payment request, which will be for an additional six-month period. A new Stop Payment fee will apply and will be assessed again. Stop payments may be made using the Services but the system WILL NOT remind you that a stop payment order is about to expire. Upon issuing the stop payment, a system generated stop payment notice will be available to you for your verification. You may not place a stop payment on an electronic (ACH) item through the Services; you must go to a branch and complete an "Affidavit of Unauthorized ACH Debit Activity" (DDA-30) before the ACH can be reversed. Initiating a stop payment request with respect to an item constitutes your express agreement that you will indemnify and hold us harmless from and against any claim arising in connection with our refusal to pay such item regardless of when or how such claim is made. There are no transaction restrictions for this function if accessed through the Services. "Cut-off time" is 9:30 PM.

## **Download Accounts**

The *Download Accounts* function enables you to extract transaction history from an Account and export it to a file that you create. You can then import this file into another application, such as an account reconciliation program. Available formats are:

QuickBooks™  
Microsoft Money™  
CSV for Microsoft Excel  
BAI2

## QuickBooks™ Export

You may use the *QuickBooks™* Export feature of the Services to import your Services data file into the Intuit QuickBooks program. This function can be initiated from within QuickBooks or the Services. In either case, your copy of QuickBooks must be running on your PC. It is your responsibility to make a backup of your QuickBooks data file before you use the export function. Failure to do so could cause data loss in the event the export function fails. You cannot export a file more than once in order to prevent duplication. To use this feature you must have a current installed version of QuickBooks on your PC. We cannot provide QuickBooks support for any other feature other than the import function.

## Treasury Services

### Wire Transfers

A *Wire Transfer* request transmits the data necessary to affect a wire transfer from an Account to which the Designated User has access. You may also set up automatically recurring wire transfers, or multiple wire transfers to different recipients in a single request to the Services. In order to be processed on a same-day basis, wire transfer requests must be received by us on a Business Day by no later than 1:00 PM. Any wire transfer request received after that time will be processed on the next Business Day. The Bank has the right not to process any wire request if there are insufficient collected funds available in the Account(s), and you will not attempt to process wire transfers from consumer accounts without prior authorization from us. There are no wire transfer capabilities available for Certificate of Deposit Account(s) or an available Line of Credit. Transaction limitations apply for savings or money market investment accounts to another account or to third parties and are limited to six(6) per statement cycle. A wire transfer fee is assessed for each wire that is requested and processed through the Services. Please refer to our Business Fee Schedule for specific charges.

### ACH (Automated Clearing House)

The *ACH (Automated Clearing House)* function allows your Designated Users to transmit ACH files to the Bank for submission to the ACH system. Use of this system is further subject to the Automated Clearing House User Agreement and the National Automated Clearing House Association (NACHA) Operating Rules. Additionally you may utilize ACH file import functions to create ACH transmissions from other software. You will be solely responsible for the accuracy and completeness of any ACH data transmitted to us via the Services. ACH origination is permitted for both Credit and/ or Debit items to accounts at other financial institutions. There are no ACH origination capabilities available for Certificate of Deposit Account(s) or an available Line of Credit. Federal law requires that we limit these types of transactions. We will establish a dollar amount limitation on debit and credit entries for any one day. However, we have no liability to you for ACH transactions approved beyond that limitation. The ACH dollar limitation is imposed for the Bank's protection only. You are entirely responsible to monitor your accounts for ACH transactions to ensure they are authorized. Transaction limitations are also governed by Regulation D which provides in part: transfers from a Savings or Money Market Investment accounts to another account or to third parties by preauthorized, automatic, savings overdraft protection, or telephone transfer are limited to six(6) per statement cycle. Transfers made via the Services are included as preauthorized or automatic transfers subject to these limitations. Any transfers in excess of these limits must be done in person at the Bank. Cutoff time is 4:00 PM.

### Federal Tax Payments

The Services *Federal Tax Payment* function enables you to make Federal Treasury Tax payments electronically. With the Federal Tax Payment function, you can initiate 69 different types of tax payments directly to the Internal Revenue Service (IRS) from any of your Accounts. Like other functions in the Services, the Federal Tax Payment function is limited by your authority level and account privileges. You can perform tax payment functions only if your user profile has federal tax payment authority for the selected Account(s). "Cut-Off Time" is 4:00 PM of the Business Day in advance of the desired effective date of the file being originated.

## California State Tax Payments

The Services *State Tax Payment* function enables you to make California State Tax payments electronically. With the *State Tax Payment* function, you can initiate 30 different types of tax payments directly to the State of California from any of your Accounts. Like other functions in the Services, the *State Tax Payment* function is limited by your authority level and account privileges. You can perform tax payment functions only if your user profile has *State Tax Payment* authority for the selected Account(s). “Cut-Off Time” is 4:00 PM of the Business Day in advance of the desired effective date of the file being originated.

## Positive Pay

The Services *Positive Pay* function enables you to upload a check issue file for validation of all checks presented for payment against your Account(s). Only those checks presented which are matched to the checks written by you are then authorized for payment. Unmatched checks are flagged as exceptions and will be reported to you for further instructions and a decision on whether the item should be paid, or returned. Cutoff time for receipt of your validation file is 11:00 AM. Exceptions not reviewed prior to the 11:00 AM cut-off time will be paid.

## ACH User Agreement

If your Business Online Banking Authorization so provides, this constitutes the agreement under which we will provide Automated Clearing House access (ACH) to you to initiate electronic debits and credit entries to and from your Account(s). This ACH User Agreement (ACH Agreement) is further subject to rules of the National Automated Clearing House Association (“NACHA”) and the Western Payment Alliance (“Wes Pay”) (collectively, the “Rules”). Subject to the terms and conditions of this ACH Agreement, we are willing to act as an Originating Depository Financial Institution (ODFI) with respect to such entries initiated by you, and a Receiving Depository Financial Institution (RDFI) with respect to Entries initiated by others. A copy of the current version of the Rules will be provided when you subscribe to ACH, and updates may be obtained from NACHA or you may review our copy on request.

Unless otherwise defined herein, capitalized terms shall have the meanings provided in the Rules. The term “Entries” shall collectively include Credit Entries and Debit Entries when the context so requires, and shall also mean the data received by us from you and from which we prepare Entries. The term “Entry” shall refer to “Entries” and vice-versa where the context so requires.

You understand and agree that the authenticity of an instruction to us to initiate Entries for you, if received by us by any means other than in person contact with your authorized officer, employee or agent, cannot be verified by us with certainty, nor can we determine with certainty whether an authentic instruction received by us from you by any means other than by unambiguous written instruction was correctly understood by us. These inherent ACH service risks cannot be fully avoided, and this Agreement contains provisions allocating those risks primarily to you.

Effective September 20, 2013, the ACH Security Framework Rule will require business ACH users to establish, implement, and, update security policies, procedures, and systems related to the initiation, processing, and storage of ACH Entries.

These policies, procedures, and systems must:

- Protect the confidentiality and integrity of Protected Information;
- Protect against anticipated threats or hazards to the security or integrity of Protected information; and
- Protect against unauthorized use of Protected Information that could result in substantial harm to a natural person

The amendment defines Protected Information as the non-public personal information, including financial information, of a natural person used to create, or contained within, an Entry and any related Addenda Record. This not only covers financial information, but also includes sensitive non-financial information (such as health information) that may be incorporated into the Entry or any related Addenda Record. This Rule applies to consumer information only (but may be applied to all entries at

your option). Security policies, procedures, and systems of ACH participants covered by this Rule must include controls on system access that comply with applicable regulatory guidelines. This rule impacts all systems used by the ACH participants to initiate, process, and store Entries. ACH customers will be audited for compliance with these new requirements. If you need assistance developing a policy and procedures for these new requirements please contact us.

**Authorizations for Entries.** Before initiating the first Entry for a Receiver (the term "Receiver" includes your customers in the case of Debit Entries and your vendors, employees or customers in the case of Credit Entries), you shall obtain written authorization from the customer to make one or more (as appropriate) Entries of the appropriate type. In the case of a Debit Entry, you shall furnish the customer with a copy of such authorization. Each authorization shall comply with the Rules and Regulation E (Electronic Funds Transfer Act) in the case of an Entry affecting a consumer which is covered by its' requirements.

No Entry shall be initiated by you: (a) following your receipt of notice that a pre notification has been rejected unless the cause for the rejection has been corrected and another pre notification has been submitted and accepted by the RDFI in accordance with the Rules; (b) after the authorization for the same has been revoked or the arrangement between you and the Receiver has been terminated; (c) unless, in the case of a Debit Entry that varies from the previous Entry for the same Receiver by more than the amount in the pre-agreed range, you have sent the Receiver at least ten (10) days advance written notice of the amount of the Entry and its effective entry date; or (d) unless, in the case of a Debit Entry as to which the effective entry date will vary from the scheduled effective entry date, you have sent the Receiver at least seven (7) days advance written notice of the amount of the Entry and its effective entry date.

The original or a copy of each Receiver authorization and each notice required to be furnished to the Receiver by the Rules or by Regulation E shall be retained by you at least two (2) years following termination of the authorization, or two (2) years from the time another notice or document is created or received. Such originals or copies shall promptly be furnished to us upon request and we reserve the right to audit your document retention and compliance with the Rules at any time and upon reasonable notice to you.

**Transmittal of Entries.** You shall transmit Entries to us to the location(s) and in compliance with our formatting and other requirements. The daily maximum total dollar amount for Debit and Credit Entries shall be set forth in your Business Online Banking Authorization. We can accept the following Entry types: Pre-authorized Payment/Deposits (PPD); Cash Concentration Debits/Credits (CCD); Corporate Trade Exchange (CTX). We cannot accept or process Internet-Initiated Entries (WEB) or Telephone-Initiated Entries (TEL).

**Security Procedures.** You agree to abide by any reasonable security procedure(s) offered by us to authenticate, amend, or request cancellation of Entries. You understand that the purpose of the Security Procedure is to verify the authenticity of Entry Data delivered to us in your name and not to detect an error in the transmission or content of any Entry Data. You agree that we may act upon any Entry Data, the authenticity of which has been verified by us through the use of the Security Procedure. You agree to be bound by and, for Credit and Debit Entries, agree to pay us for any entries we receive, even if unauthorized, when any entry is issued in your name and accepted by us in compliance with the Security Procedure. You agree to be bound by, and for, Credit and Debit Entries, and agree to pay us for any Entries which were transmitted or authorized by you, even if the Entry was erroneous in any way and even if we could have detected your error.

**Processing and Transmittal.** Except as otherwise provided herein, we shall (i) process Entries received from you to conform with the file specifications set forth in the Rules, (ii) transmit such Entries as an ODFI to any authorized ACH processor, and (iii) settle for such Entries as provided in the Rules.

We shall transmit your Entries to the ACH by the applicable ACH deadlines, provided: (a) such Entries are received by our related cut-off time(s) set forth herein on a Business Day; (b) the effective Entry date is at least two (2) days after such Business Day for Credits, and no more than one (1) day after such Business Day for Debits; and (c) the ACH is open for business on such Business Day.

For purposes of this Agreement: (a) Entries shall be deemed received by us, in the case of transmittal by tape, when received by us at a location which we specify, and in the case of transmittal by electronic transmission, when the transmission (and compliance with any related security procedure provided

for herein) is completed; and (b) if any of the requirements for transmission are not met, we shall use reasonable efforts to transmit such Entries to the ACH by the next deadline of the ACH following that which is a Business Day and a day on which the ACH is open for business, so long as the Entries meet applicable requirements for such later transmission.

Except as otherwise provided herein, in the case of an Entry received for debit or credit to a Receiver's account maintained with us (an "On-Us Entry"), we shall debit or credit the Receiver's account in the amount of such Entry on the Effective Entry Date contained in such Entry, provided the requirements set forth in this section are otherwise met. If applicable requirements are not met for an On-Us Entry, we shall use reasonable efforts to debit or credit the Receiver's account in the amount of such Entry on the next Business Day following such Effective Entry Date, so long as the Entry meets applicable requirements for such later debit or credit.

**Our Obligation to Execute Entries.** We are not obligated to execute an Entry or to act on any amendment to or cancellation of an Entry unless we accept the Entry and execute it or we otherwise agree, in writing, to accept the Entry. This ACH Agreement is not, by itself, such an agreement. Without limiting the generality of the foregoing, we may reject any Entry, including without limitation, an On-Us Entry: (a) which does not comply with the requirements of this Agreement; (b) for which you do not maintain sufficient account balances; (c) which may be rejected under the Rules; (d) if the total dollar amount of all Entries of that type to be executed by us on your behalf on any one day exceeds the maximum amount permitted in your Business Online Banking Authorization; (e) which contains an Effective Entry Date more than one day after the Business Day such Entry is received by Bank; or (f) which we for any other reason reject, notwithstanding compliance with your obligations under this Agreement.

**Cancellation or Amendment.** You may not cancel or amend any Entry Data after it's receipt by us. Notwithstanding any other provision of this Agreement, you agree to indemnify and hold us harmless from and against any and all actions, claims, demands, losses, liabilities, damages, costs and expenses whatsoever (including but not limited to reasonable attorney's fees, expenses of litigation and allocated costs for in-house legal services) arising out of or relating to our acting or attempting to act upon any Entry Data for reversals delivered to us by you.

**Notice of Returned Entries.** We shall notify you by telephone, email or fax of any returned or rejected entry no later than the Business Day such entry would otherwise have been transmitted by us to the ACH or, in the case of an On-Us entry, its effective entry date. You are responsible to keep us informed of your current phone and/or fax number and email address for ACH notification purposes. We shall have no liability to you by reason of the rejection or return of any such entry or the fact that such notice is given late, or not given at all.

**Refund of Debit Entries.** You acknowledge that a Receiver has the right to obtain a refund for debits from the Receiver's account by sending a notice to the RDFI that a Debit Entry was, in whole or in part, not authorized. If a Receiver does so, the RDFI has the right to obtain payment of the amount of such Entry from us which will be debited from any Account(s) you have with us. If your Account(s) have insufficient funds for such payment, you agree to immediately pay us the amount of any such Entry upon its receipt by us, or in the case of an On-Us Entry, upon our receipt of the Receiver's notice.

**Payment for Entries/Prefunding/Account Holds.** You are obligated to pay us in immediately available funds an amount equal to the sum of all credit Entries or debit Reversals related to Entry Data delivered to us by you prior to our: (i) sending any credit Entry or debit Reversal to its selected ACH processor or (ii) in the case of any On-Us Entry, credit or debiting, as applicable, a Receiver's account with respect to any credit Entry or debit Reversal. We may, in our discretion: (i) send any credit Entry or debit Reversal to its selected ACH processor; or (ii) in the case of any On-Us Entry, credit or debit, as appropriate, a Receiver's account with respect to any credit Entry or debit Reversal without you first having paid us the amount of such credit Entry or debit Reversal, as appropriate. In each such case you agree to pay us immediately, in immediately available funds, the amount of such credit Entry or debit Reversal, whether or not demand is made. In our discretion we may require that you "prefund" your Account for anticipated debit entries. We will not be obligated to process debit entries to which prefunding applies until we have collected funds on hand in your Account. In addition, for those debit entries transmitted to us for which the effective date is a date other than the transmission date, we may without notice to you, place a hold on collected funds in your Account to cover such entries until the effective date. In the case of credit entries originated by you and received by us for credit to your



Account, we may place an uncollected funds hold on such entries when received, in our discretion, and in accordance with our Funds Availability Policy in effect at the time (such funds will not be made available to you until the applicable hold period expires). We are not obligated, however, to continue (i) to send any credit Entry or debit Reversal to its selected ACH processor or (ii) in the case of any On-Us Entry to credit or debit, as appropriate, a Receiver's account with respect to a credit Entry or a debit Reversal without having first been paid by you, and we are not required to give notice that we will no longer continue such action, regardless of whether we may have done so previously. You shall pay us in immediately available funds for the amount of any rejected Entries and for the amount of any returned debit Entries, any returned Checks or any Adjustment Entries accepted by us, which we have previously credited to your Account(s). Such amounts shall be immediately due and payable by you to us. Returned debit Entries and returned Checks, if any, appear on your regular returned item reports to the extent agreed to between you and us, and you agree that we need not send a separate notice of debit Entries or Checks which are returned unpaid. You shall at all times maintain a balance of available funds in the Account(s) sufficient to cover your payment obligations under this Agreement. In the event there are insufficient available funds in the Account(s) to cover your obligations under this Agreement, you agree that we may debit any other Account(s) maintained by you in order to obtain payment of your obligations under this Agreement. This right is in addition to, and part of the security agreement set forth in the Miscellaneous Provisions Section of the Business Online Banking User Agreement.

**Provisional Credit.** When we act as ODFI, then: (1) the entry may be transmitted through the ACH; (2) the rights and obligations of the Originator concerning the entry shall be governed by and construed in accordance with the laws of the State of California; (3) credit given by the RDFI to the Receiver for the entry as provided in subsection 4.4.1 of the Rules (Availability of Credit Entries to Receivers) is provisional until the RDFI has received final settlement through a Federal Reserve Bank or otherwise has received payment as provided for in Section 11403 of the California Commercial Code; and (4) if the RDFI does not receive such payment for the entry, the RDFI is entitled to a refund from the Receiver in the amount of the credit to the Receiver's account, and the Originator will not be considered to have paid the amount of the credit entry to the Receiver.

When we act as RDFI, then: (1) the entry may be transmitted through the ACH; (2) the rights and obligations of the Receiver concerning the entry shall be governed by and construed in accordance with the laws of the State of California; (3) credit given by the RDFI to the Receiver for the entry as provided by subsection 4.4.1 of the Rules (Availability of Credit Entries to Receivers) is provisional until the RDFI has received final settlement through a Federal Reserve Bank or otherwise has received payment as provided for in Section 11403 of the California Commercial Code; (4) if the RDFI does not receive such payment for the entry, the RDFI is entitled to a refund from the Receiver in the amount of the credit to the Receiver's account, and the Originator will not be considered to have paid the amount of the credit entry to the Receiver; and (5) these Rules do not require the RDFI to provide the Receiver with notice that the RDFI has received the entry unless the RDFI has agreed to do so.

**The Accounts.** You shall maintain and designate an account or accounts with us which we may use for debiting or crediting all Entries and related adjustments and charges under this Agreement. So long as this Agreement is in effect, you represent and warrant that the Account(s) are, and during the terms of this Agreement will be, maintained primarily for commercial, and not personal, family or household, purposes. You further represent and warrant that the debiting of the Account(s) as provided under this Agreement is not inconsistent with any restriction on the use of the Account(s).

**Account Reconciliation.** Entries will be reflected on your periodic statement issued by us with respect to the Account(s) pursuant to the Business Deposit Account Agreement and Disclosures between us. You agree to notify us promptly of any discrepancy between your records and the information shown on any such periodic statement. In addition to any other limitation of liability stated in this Agreement, if you fail to notify us of any such discrepancy within 30 days of the date a statement is mailed or made available to you (which includes electronic delivery), containing a discrepancy, you agree that we shall not be liable for such discrepancy and resulting loss to you, even if we are at fault. This limitation does not preclude us from making an account adjustment when we discover a discrepancy, and we may debit or credit the Account, as required to correct same.

**Representations and Warranties.** So long as this Agreement is in effect, you represent, warrant and agree that: (a) any financial information provided to us by you pursuant to this Agreement is true

and correct as of the date provided, and that you will provide us with immediate notification of any material change in financial condition; (b) Information on your financial condition shall be provided to us, in form and detail satisfactory to the us, within a reasonable time after our request and such request may include, without limitation, annual and interim financial statements and tax returns; (c) Each person shown as the Receiver on an Entry received by us from you has authorized the initiating of such Entry and the debiting or crediting of its account in the amount and on the Effective Entry Date shown on such Entry and such authorization is operative at the time of transmittal or processing by us; (d) Entries transmitted to us by you are limited to the authorized types of Debit and Credit Entries; (e) You will perform your obligations under this Agreement in accordance with the Rules and all applicable laws and regulations. You acknowledge that the ACH system may not be used in violation of law, and that Entries originated by you must comply with the laws of the U.S., including sanctions and laws administered by the Office of Foreign Asset Control; and ( f ) You agree to be bound by and comply with the Rules in effect and as amended from time to time, including without limitation, provisional credit rules.

**Audit.** In order to continue to be eligible to use the ACH system through Tri Counties Bank, you agree that we may audit your access and use of the system at reasonable times and with reasonable notice to you to determine your compliance with this Agreement and the NACHA Operating Rules. We further have the right to request periodic financial information from you, on reasonable notice, to determine your continued eligibility to use of the Services. In connection with such audits, we shall have the right to inspect your books and records and to make on-site visits to any and all of your locations with regard to all information deemed by us to be necessary or pertinent to your use of ACH services provided by us under this ACH Agreement. Information subject to our rights of inspection shall include all information maintained by you with respect to your customers, clients, vendors and processors (including audits) if, in our opinion, your relationship with such customers and clients is materially related to your ACH transaction activity conducted through us under this ACH Agreement.

Physical site visits may be conducted to ensure notification and communication processes and disclosure requirements are being followed as required by the Rules.

**No Third Party Senders.** You agree that you will not use the ACH system and your account(s) to originate or receive ACH debit or credit entries on behalf of any business other than yours, third persons or third party who are not parties to this Agreement.

**Restricted and Foreign Transactions.** Restricted transactions (defined as any funds/proceeds associated with Unlawful Internet Gambling) are prohibited from being processed through your account(s) with our Bank.

An ACH entry that is part of a payment transaction involving a financial agency's office that is not located in the territorial jurisdiction of the United States must use an International ACH transaction (IAT) standard entry class (SEC) code in order to process the transaction. This requirement is imposed by law and monitored by the Office of Foreign Assets Control (OFAC). Banks and U.S. corporations are required to comply with OFAC rules. Civil and criminal penalties may be imposed for violation of the rules and may include both jail time and civil fines ranging between \$10,000 and \$10,000,000 per occurrence depending on the sanctions program that is violated. Corporate ACH transaction Originators may be directly responsible for rule violations. Fines levied for OFAC violations are property of the U.S. government and levied by the OFAC not the financial institution. If Tri Counties Bank is fined due to an OFAC violation resulting from one or more ACH transactions originated by you, you agree to indemnify and hold the Bank harmless and reimburse the Bank for any such fines or penalties levied and which are attributable to your ACH activity. If you have questions about foreign ACH transactions, discuss these questions or concerns with your Account Officer before proceeding.

**Limitations on Liability.** We shall be responsible only for performing the services expressly provided for in this Agreement, and shall be liable only for gross negligence in performing those services. We shall not be responsible for your acts or omissions which include those of your employees and agents (including without limitation the amount, accuracy, timeliness of transmittal or due authorization of any Entry received from you) or those of any other person, including without limitation the ACH or any transmission or communications facility, any Receiver or RDFI (including without limitation the return of an Entry by any Receiver or RDFI), and no such person shall be deemed our agent. You agree

to indemnify us against any loss, liability or expense (including attorney's fees and expenses and allocated costs of in-house counsel) resulting from or arising out of any claim by any person, that we are responsible for any of your acts or omissions or any other person described in this paragraph.

In no event shall we be liable for any consequential, special, punitive or indirect loss or damage which you may incur or suffer in connection with Agreement, including without limitation, loss or damage from subsequent wrongful dishonor resulting from our acts or omissions pursuant to this Agreement, even if you advise us of the possibility of such damages.

Without limiting the generality of the foregoing provisions, we shall be excused from any failure to act or from any delay in acting if such failure or delay is caused by legal constraint, interruption of transmission or communication facilities, equipment failure, war, emergency conditions or other circumstances beyond our control. In addition, we shall be excused from any failure to transmit or from any delay in transmitting an Entry if such transmittal would result in our having exceeded any limitation upon our intra-day net funds position established pursuant to present or future Federal Reserve System guidelines or our otherwise violating any provision of any present or future risk control program of the Federal Reserve System, the FDIC, or any applicable rule or regulation of any other U.S. governmental agency having regulatory authority over our ACH operations.

Subject to the foregoing limitations, our liability for loss of interest, if any, resulting from our error or delay shall be calculated by using a rate equal to the average Federal Funds rate at the Federal Reserve Bank of New York for the period involved. At our option, payment of such interest resulting from or arising out of any claim of any person that we are responsible for any of your acts or omissions or any other person described in this section, may be made by crediting the Account(s).

So long as we act in compliance with the prescribed security procedures, if an Entry (or a request for cancellation or amendment of an Entry) received by us purports to have been transmitted or authorized by you, it will be deemed effective as your Entry (or request) and, in the case of a Credit Entry you shall be obligated to pay us the amount of such Entry even though the Entry (or request) was not authorized by you. If a Credit Entry (or request for cancellation or amendment of a Credit Entry) received by us was transmitted or authorized by you, you shall be obligated to pay the amount of the Entry whether or not we complied with the security procedures with respect to that Entry and whether or not the Entry was erroneous in any respect or the error would have been detected if we had complied with such procedure.

**Cooperation in Loss Recovery Efforts.** In the event of any damages which we or you may be liable to each other or a third party pursuant to the services provided under this Agreement, both of us will undertake reasonable efforts to cooperate with each other, as permitted by applicable law, in performing loss recovery efforts and in connection with any actions that the relevant party may be obligated to defend or elects to pursue against a third party.

**Mismatched Name and Account.** You acknowledge and agree that, if any Entry describes the Receiver inconsistently by name and account number, the RDFI (or, in the case of an On-Us Entry, Tri Counties Bank) may debit, credit or otherwise settle for the Entry on the basis of the account number alone, even if it identifies a person different from the named Receiver. Your obligation to pay the amount of the Entry to us is not excused under such circumstances.

**Mismatched RDFI and Name.** You acknowledge and agree that if Entry Data describes the RDFI inconsistently by name and identifying number, payment of the related Entry may be made solely on the basis of the identifying number alone, supplied by you even if the identifying number identifies a person different from the named RDFI.

**Indemnity.** You shall indemnify and hold us harmless from and against any and all actions, claims, demands, losses, liabilities, damages, costs and expenses whatsoever (including but not limited to attorney's fees, expenses of litigation and allocated costs for in-house legal services) arising out of or relating to: (a) any Entry Data or Entry delivered or authorized by you, or any Entry Data the authenticity of which was verified pursuant to the Security Procedures; (b) any claim that we are responsible for any act or omission of yours or that of any person described above in the section entitled "Limitations on Liability"; (c) any breach of any of the representations and warranties in this Agreement; and (d) any other claims, disputes or actions by third parties concerning your use of the ACH or our acts or

omissions in providing ACH services, except this clause does not apply to our gross negligence or intentional misconduct. Your obligations hereunder shall survive the termination of this Agreement.

**Notification of Changes.** We shall provide you with notification of changes received by us related to Entries transmitted by you, and at our election by telephone, email or fax no later than one Business Day after our receipt thereof.

**Amendments.** We may periodically amend the terms and conditions of this Agreement. We will give notice of such change to you if the law requires us to do so. Otherwise, your continued use of the Services constitutes your agreement to any modified terms and conditions. A current copy of this Agreement may be found by logging into the Business Online Banking System through Tri Counties Bank.

## **Notices and Instructions**

Except as otherwise expressly provided herein, we will not be required to act upon any notice or instruction received from you or any other person, or to provide any notice or advice to you or any other person with respect to any matter. We shall be entitled to rely on any written notice or other written communication believed by us to be in good faith, to be genuine and to have been authorized by your "Authorized Representative", and any such communication shall be deemed to have been authorized by such person. The names and signatures of Authorized Representatives are set forth in your Business Online Banking Authorization. You may add or delete any Authorized Representative by written notice to us signed by at least two Authorized Representatives other than those being added or deleted. Such notice shall be effective on the second Business Day following the day of our receipt thereof.

Except as otherwise expressly provided herein, any written notice or other written communication required or permitted to be given under this Agreement shall be hand delivered, or sent by United States registered or certified mail, postage prepaid, or by express carrier, and, if to us, addressed to:

Tri Counties Bank, Administration  
Attn: Cash Management Services  
P.O. Box 909  
Chico CA 95927

and if to you, to the last address provided to us on your Business Online Banking Authorization.

**Data Retention.** You agree to retain data on file adequate to permit reconstruction of Entries for at least 30 days following the date of their transmittal to us as provided herein, and shall provide such data to us upon request. We reserve the right to audit your data retention obligations at any time and upon reasonable notice to you.

**Termination.** You may terminate this ACH Agreement at any time. Such termination shall be effective on the second Business Day following the day of our receipt of written notice of such termination or such later date as is specified in that notice. We may terminate this Agreement immediately at any time and without cause by providing you written notice of such termination, and will do so upon your filing of Bankruptcy or closure of your Account(s). Termination of this Agreement shall not affect any of your obligations arising prior to such termination, nor the survival of any warranties or covenants which are expressly stated to survive termination of this Agreement.

## **ACH Miscellaneous Provisions**

*Entire Agreement.* This Agreement, including the Business Online Banking Authorization and Business Deposit Account Agreement and Disclosures is the complete and exclusive statement of the agreement between us and you with respect to the subject matter hereof and supersedes any prior agreement(s) between us. In the event performance of the services provided herein in accordance with the terms of this Agreement would result in a violation of any present or future statute, regulation or government policy to which we are subject, and which governs or affects the transactions contemplated by this Agreement, then this Agreement shall be deemed amended to the extent necessary to comply with such statute, regulation or policy, and we shall incur no liability to you as a result of such violation or amendment.

*Non-Assignment.* You may not assign this Agreement or any of the rights or duties hereunder to any person without our prior written consent.

*Binding Agreement; Benefit.* This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns. This Agreement is not for the benefit of any other person, and no other person shall have any right against us or you hereunder.

*Confidentiality.* You shall not disclose any information regarding our security and other procedures applicable to processing Entries, as such disclosures may compromise the integrity of those procedures. Our knowledge thereof shall be used only in connection with the transactions contemplated by this Agreement.

*Your Use of Independent Agent(s).* You understand that if you elect to use one or more independent agents ("Agent") to perform some of the activities to be performed by you under this Agreement, such as to determine who is to be a Receiver, the dollar amount of an Entry, or when an Entry is to be processed, you shall assume and bear sole responsibility for the selection and performance of the Agent. Your obligations to us under this Agreement and our rights hereunder shall not be affected by the malfeasance, nonfeasance or misfeasance of the Agent, all of whose actions or non-actions purportedly on behalf of you shall be binding on you to the same extent as would be the case had your officer or employee performed or failed to perform the subject activity. This provision regarding your use of an Agent shall apply even if this Agreement was executed by you at the Agent's request.

*Headings.* Headings are used for reference purposes only and shall not be deemed a part of this Agreement.

*Governing Law.* This Agreement shall be construed in accordance with and governed by the laws of the State of California.

*Waiver.* No delay or omissions by us to exercise any right under this Agreement shall impair any such right, nor shall it be construed to be a waiver thereof. No waiver by us of any single breach or default under this Agreement shall be deemed a waiver of any other breach or default. Any waiver under this Agreement must be in writing.

## **Our Green Mission Statement:**



Tri Counties Bank is committed to significantly reducing the environmental footprint of our business and becoming a community leader in sustainability by:

- ▶ finding eco-friendly solutions
- ▶ innovating and facilitating green business practices
- ▶ educating and encouraging our employees, customers and vendors to practice green behaviors
- ▶ leading by example

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# We're here for you

Whether you have questions about your account or just need help with a transaction, we're here with real people ready to serve you. Contact us in the way that is most convenient for you.

<b>Speak with a Banker</b> .....	<b>1-800-922-8742</b>
Mon - Fri 7:00 AM - 7:00 PM	
Saturday 9:00 AM - 6:00 PM	
Sunday 11:00 AM - 4:00 PM	
<b>24-Hour Automated Telephone Banking Available.</b>	
Call Toll Free .....	<b>1-844-TCB-24HR</b>
	(1-844-822-2447)
<b>Tri Counties Bank Online</b> .....	<b>TriCountiesBank.com</b>

ADV-72 (7/16)



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