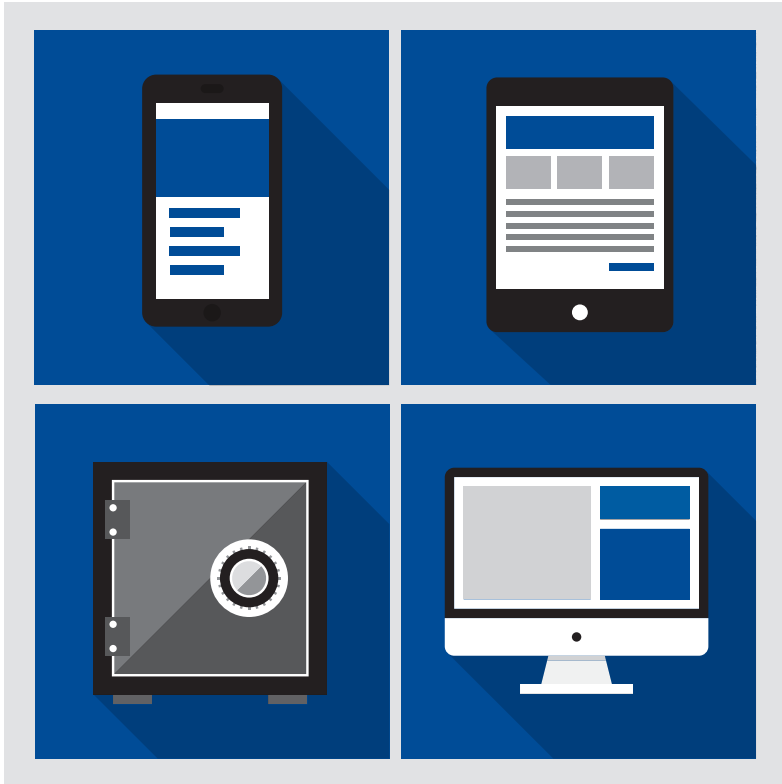


# Trico Treasury Center & Trico Business Express Treasury Management System Users Terms & Conditions

*Effective April 30, 2020*



**tri counties bank**

Service With Solutions®

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# Trico Treasury Center & Trico Business Express User Terms & Conditions

## Introduction

**Welcome to Trico Treasury Center & Trico Business Express.** This “Trico Treasury Center & Trico Business Express 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 Trico Treasury Center & Trico Business Express Authorization and Agreement which you signed (“Trico Treasury Center & Trico Business Express Authorization”), constitute the entire agreement between you and us for Trico Treasury Center & Trico Business Express Electronic Cash Management Services (“Services”). By signing and returning the Trico Treasury Center & Trico Business Express 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 Trico Treasury Center & Trico Business Express 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 Trico Treasury Center & Trico Business Express User Terms and Conditions, together with the Trico Treasury Center & Trico Business Express 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) ACH Originations and Tax Payments, for which the “Cut-Off Time” is 4:00 PM on any Business Day and (4) Mobile Deposit Capture “Cut-Off” time is 7:00PM 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. 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 Trico Treasury Center & Trico Business Express 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. You agree that transactions conducted under the passwords and User IDs you provide together with applicable secondary authentication shall be deemed authentic payment orders binding on you and us. You will be responsible for all transactions made through the Company ID, User ID, password and secondary authentication, 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 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.

## **Primary Administrator and Designated Users**

The person you designate as Primary Administrator for your business is 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. Your Primary Administrator will be authorized to add, delete, or modify Designated User(s). Authority and access granted to such Designated Users will be established by your Primary Administrator, up to and including the authority granted a Primary Administrator. Both Primary Administrator and Designated Users will have independent authority to modify their contact information, including phone number and email address(es). You agree that the Primary Administrator privileges established by this Agreement and any security procedures established by your Primary Administrator are commercially reasonable and that payment orders issued in accordance therewith are binding on you and us.

## **Business & Personal Use**

Use of the Services is restricted to business accounts unless you authorize personal account access in your Trico Treasury Center & Trico Business Express 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), the terms of which are incorporated herein by this reference.

## **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 and Treasury Management Fee Schedule, provided with your Trico Treasury Center & Trico Business Express 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 or passwords 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 secondary

authentication 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 Trico Treasury Center & Trico Business Express 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**

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.

## **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 Trico Treasury Center & Trico Business Express 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 Trico Treasury Center & Trico Business Express 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 Trico Treasury Center & Trico Business Express 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

**Password Security.** It is your responsibility to change 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 and passwords. It is imperative that we have notice of such errors or breach immediately in order to prevent any future losses to you. 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 Trico Treasury Center & Trico Business Express 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.

**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.

# ACH User Agreement

If your Trico Treasury Center & Trico Business Express 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 Trico Treasury Center & Trico Business Express Authorization. We accept the following Entry types: Pre-authorized Payment/Deposits (PPD); Cash Concentration Debits/Credits (CCD); Corporate Trade Exchange (CTX), Tax Payments (TAX). We do not 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 one (1) day 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 Trico Treasury Center & Trico Business Express 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-Ups 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-Ups 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-Ups 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 Trico Treasury Center & Trico Business Express 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 via Trico Treasury Center, Trico Business Express or by telephone or email 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 on our website ([www.tcbk.com](http://www.tcbk.com)).

## 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 Trico Treasury Center & Trico Business Express 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: Treasury Management  
P.O. Box 909  
Chico CA 95927

and if to you, to the last address provided to us on your Trico Treasury Center & Trico Business Express 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 Trico Treasury Center & Trico Business Express 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.

# BUSINESS MOBILE BANKING TERMS OF USE

## INTRODUCTION

These Business Mobile Banking Terms of Use (these “**Terms of Use**”) govern the Business Mobile Banking Service (the “**MB Service**”) provided by Tri Counties Bank (“**we**,” “**us**,” “**Tri Counties Bank**” or the “**Bank**”). The term “**Online Banking**” will refer to the online banking system and services provided by Tri Counties Bank pursuant to these Terms & Conditions.

## DESCRIPTION OF SERVICE

The MB Service refers generally to any Tri Counties Bank service for which you have enrolled that allows you to access and view accounts at the Bank from your cell phone, tablet, or other handheld wireless access device (collectively, your “**Mobile Device**”). The Bank will designate the accounts eligible for the MB Service (each, an “**Account**”) and may withdraw such designation at any time. The MB Service includes features allowing you to view your available Account balance, transfer funds between eligible Accounts, review recent Account history, approve or reject transactions, ACH and wire transfers and Positive Pay exceptions, initiate and submit bill payments, and through our Mobile Deposit Service, deposit checks to your linked checking and savings Accounts. **Data rates may apply.**

You may register for the MB Service from a personal computer or from a Mobile Device, which meets our system requirements as described below. Your use of the MB Service constitutes your ongoing consent to these Terms of Use.

In case of questions about the MB Service or the Terms of Use, please contact Customer Service at [MobileBanking@tcbk.com](mailto:MobileBanking@tcbk.com) or by phone at 1-800-922-8742.

## ACCESSING THE SERVICE

### 1. Eligibility requirements

To access your Accounts through the MB Service, you must have an eligible Tri Counties Bank account. An eligible Account may include deposit or loan accounts for which you are an owner or for which you are an authorized representative as determined by the account vesting on the account with Tri Counties Bank. In the event that an eligible Account is owned by more than one person or has more than one authorized representative, each individual person has the right to make any decisions, obtain any information, and make any requests related to the eligible Account and any related financial services. Tri Counties Bank is authorized, but not obligated, to rely and act on the instructions received from any such person, without being liable to you.

### 2. System requirements

To access the MB Service, you will need a Mobile Device capable of accessing the Internet. You will also need a mobile phone carrier and/or Internet service provider. You may be required to download software to your compatible device in accordance with the MB Service instructions. You are responsible for acquiring, maintaining, and obtaining support for all hardware, software, and connections required to use the MB Service. For security reasons, you should keep your Mobile Device’s operating system up to date. In the event that you obtain a different Mobile Device, you may be required to download and install software to that different Mobile Device.

### 3. Security

**(a) Your Key Precautions.** You agree: (i) to comply with all security procedures Tri Counties Bank provides in connection with MB Service; (ii) to take reasonable steps to safeguard the confidentiality and security of any and all passwords, access codes, and other login credentials (collectively, “Codes”) related to the MB Service, along with any other proprietary information the Bank provides in connection with the MB Service; (iii) to limit access to your Mobile Device to persons who have a need for such access and who you reasonably believe present no threat to your Accounts; (iv) to notify the Bank immediately if you have any reason to believe the security or confidentiality of your Account(s) has been or may be breached; and (v) not to use any personally-identifiable information (e.g., name, Account number, social security number) when providing shortcuts to or creating nicknames for your Accounts.

**(b) Access.** You may change your Codes from time to time. Tri Counties Bank may also require you to change your Codes at any time. The Bank may deny access to the MB Service without prior notice if it is unable to confirm to its satisfaction any person’s authority to access the MB Service or if the Bank believes such action is necessary for security or other reasons.

**(c) Disclaimers.** You expressly acknowledge that any wireless access to your Accounts may not be secure and, as such, you assume the risk associated with unauthorized access to the MB Service and any information contained therein, resulting from such wireless connectivity. You assume all risk that any information you download or otherwise stored on your Mobile Device may be accessed by unauthorized third parties. Without limiting the foregoing, you acknowledge that your Mobile Device may become subject to unauthorized tracking, “hacking” or other manipulation by spyware, viruses or other malicious code (“malware”). We are not responsible for advising you of the existence or potential effect of any malware. Your use of your hardware and software is at your own risk.

We are not responsible for the security and confidentiality of information when you: (i) use wireless connections to download your Account information, in which case you acknowledge such connection may permit other persons to access the information being downloaded, or (ii) allow other persons access to your Mobile Device. You agree that any Account information that you download is done at your own risk, and you are solely responsible for any damage that might occur to the electronic device to which you download any information, or any loss or corruption of data that might occur as a result of the downloading or its storage on an electronic device.

YOU AGREE TO TERMINATE THE MB SERVICE, OR DISABLE YOUR REGISTERED MOBILE DEVICE FROM THE MB SERVICE IMMEDIATELY IN THE EVENT YOUR REGISTERED DEVICE BECOMES LOST, STOLEN OR IS NO LONGER IN USE BY YOU.

**(d) Additional Terms for Business Users.** If you have employees or other staff-members, you agree: (i) to limit access to Codes to staff-members who have a need to know such information and to whom you have authorized access to your Account(s), if any; and (ii) to closely and regularly monitor the activities of staff-members who access the MB Service, if any. You agree to change your Codes immediately if someone who has had access to your Codes leaves your employment or is no longer authorized to use the MB Service. You are entirely responsible to control the addition and deletion of users and the level of user authority for transactions, and for the results of such control.

**(e) Other Additional Terms.** Additional provisions appear in the Tri Counties Bank’s Business Deposit Account Agreement and Disclosures that governs your Account, which you executed when you opened your Account(s) (“**Deposit Agreement and Disclosure**”).

## **4. Accessibility**

Your access to the MB Service is subject to our prior and ongoing approval. We may deny your access to all or any part of the MB Service, at our sole discretion. The availability, timeliness and proper functioning of the MB Service depends on many factors, including your Mobile Device location, wireless network availability and signal strength, and the proper functioning and configuration of hardware, software and your Mobile Device. Neither Tri Counties Bank, nor any of its service providers, warrants that the MB Service or any related software will meet your requirements, operate without interruption or be error-free, and neither we nor our service providers shall be liable for any loss or damage caused by any unavailability or improper functioning of the MB Service, or for any actions taken in reliance thereon, for any reason, including service interruptions, inaccuracies, delays, loss of data, or loss of personalized settings. The MB Service is generally available 7 days per week, 24 hours per day, but at certain times some or all elements of the MB Service may be unavailable due to system maintenance or malfunctions. Tri Counties Bank will make reasonable efforts to notify you in advance of MB Service unavailability. The term "business days" means Monday through Friday. Saturdays, Sundays and federal holidays are not included.

## **GENERAL TERMS**

### **1. Service fees**

Currently there are no monthly service or transaction fees for accessing your Account(s) through the MB Service.

We reserve the right to impose fees in the future upon notice to you. These services may include but are not limited to scheduling an expedited BillPay Service payment, sending a transaction through the person to person payment service, or initiating a transaction in excess of any transaction limitations in effect for an applicable Account. Please refer to our Business Fee Schedule for a current listing of fees.

Please note that fees may be assessed by your mobile phone carrier or Internet service provider. Pursuant to your mobile plan or other agreement with your telecommunications carrier data rates may apply.

### **2. Effects of closing an Account**

In the event that an Account with Tri Counties Bank is closed, the Account will no longer be accessible through the MB Service. As a result, you will no longer have access to balances, transaction activity, check images, or statements via the MB Service.

### **3. Termination of the service**

Unless otherwise restricted by applicable law, we reserve the right to: (i) change or cancel the MB Service at any time without notice; and (ii) suspend your access to the MB Service at any time without notice and for any reason, including, but not limited to your non-use of the MB Service. Advance notice of termination or modification will be provided if required by law. To the extent permitted by law, such notice may be provided to you electronically. We reserve the right to refuse to make any transaction you request through the MB Service.

If you wish to terminate the MB Service, please contact Treasury Management Support at 877-895-7580 or Customer Service at 1-800-922-8742 or send written cancellation instructions to:

Tri Counties Bank  
Attention: Customer Service  
P.O. Box 909  
Chico CA 95927

Please note that your bill payment information may be lost if your MB Service is cancelled. After cancellation, the MB Service may be reinstated only if Tri Counties Bank, in our sole discretion, has determined that authorized access to online services can be securely restored and all Accounts maintained with Tri Counties Bank are brought current, including the payment of any fees assessed. In order to reinstate your MB Service, you must call Customer Service at 1-800-922-8742.

#### **4. Changes to fees, services, or other terms**

You acknowledge that it is not possible for the MB Service to be completely free from operator, programming or equipment error, and that errors in processing and compiling data may occasionally occur. As such, you agree to review and verify all results, including your Account statements as required by the Deposit Agreement and Disclosure and to maintain adequate controls for insuring both the accuracy of data transmissions and the detection of errors. Unless otherwise required by law, our sole responsibility for any reporting errors caused by us will be to reprocess the information for the period in question and to submit corrected reports at our own expense. You agree to maintain adequate backup files of the data you submit for a reasonable period of time in order to facilitate any needed reconstruction of your transactions. If we are unable to provide a service for any reason, we will promptly inform you of the problem and will take reasonable steps to resume processing.

### **AVAILABLE SERVICES**

#### **1. Services generally. The MB Service provides wireless access to your linked Accounts to do the following, subject to system limitations:**

- Obtain Account information, including image check retrieval;
- Transfer funds between linked Accounts, excluding certificates of deposit (“Internal Transfers”);
- Approve or reject transactions for fund, ACH and Wire transfers;
- Deposit checks to your linked Accounts through Mobile Deposit; and
- Initiate and submit bill payments (“Bill Payments”). Each of the payment services is also subject to separate service-specific terms, in addition to these Terms of Use. See the separate terms for further details.

Some Online Banking Services may not be accessible while using your Mobile Device. Some Mobile Banking Services may not be available without special application to and approval by us, may be limited to specific types of accounts, and may require you to agree to additional terms and conditions which may be presented online at the time the feature is activated.

Tri Counties Bank may, from time to time, introduce new mobile services. We will notify you of any new services. Such services will become part of the MB Service if the Bank so designates them and you enroll in them, provided you have compatible hardware and software. By using these additional mobile banking services when they become available, you agree to be bound by their rules, which the Bank will communicate to you. Your access and use of these additional services will be subject to the terms and conditions applicable for each service in which you enroll. Tri Counties Bank reserves the right to modify or remove access to one or more of these additional services.

#### **2. Mobile Deposit**

Mobile deposit (“Mobile Deposit”) service enables you to use a software application together with your Mobile Device to create electronic images of the front and back

of certain Original Checks (defined below) and transmit those images and other information, including, without limitation, information captured from the magnetic ink character recognition (“MICR”) line, to us for review and processing in accordance with these Terms of Use.

Unlike traditional check deposits, you retain the original paper check when you use Mobile Deposit. The manner in which these Substitute Checks or Imaged Items are cleared, presented for payment, and collected will be determined by us in our sole discretion. We may change, modify, add or remove all or portions from Mobile Deposit at any time, with or without notice to you. Cash transactions are not permissible through the Deposit Mobile Service.

**(a) Definitions.** Capitalized terms used in these Terms of Use shall have the meaning defined in the Terms of Use, including the following:

“*Check*” means an Original Check, as defined in Regulation CC.

“*Documentation*” means all documentation, the user manual, any other manuals, all instructions (including on-line instructions) relating to the Mobile Deposit Service which Bank may provide to you from time-to-time in connection with the Mobile Deposit Service.

“*Endpoint*” means any Federal Reserve Bank, financial institution, local clearing house, courier or other entity or location for the delivery of cash letters or other presentation of Imaged Items or Substitute Checks.

“*Imaged Item*” means the digitized image of a Check that is created by you and transmitted to Bank using the Mobile Deposit Service.

“*Image Exchange Item*” means a digitized image of an Item cleared and settled directly with a Payor Financial Institution without conversion to a Substitute Check.

“*Item*” means a Check that is payable on demand, drawn on or payable through or at an office of a United States Financial Institution and payable or endorsed to you, and includes Original Checks, Substitute Checks and Image Exchange Items. Such term does not include Non-cash Items or Items payable in a medium other than United States money.

“*Mobile Deposit Services*” means the Mobile Deposit services described in these Mobile Deposit Terms, to be provided by Bank to you to enable the processing of Items digitally as Image Exchange Items through image exchange networks or through creation of Substitute Checks and presentation to established Endpoints, including collectively the procedures, protocols, and software used by Bank and its licensors and contractors in connection with the electronic processing of Items.

“*Mobile Deposit Terms*” means the terms applicable to the Mobile Deposit Service as provided in this Section 3.

“*Non-cash Item*” means an Item that would otherwise be an Item, except that: (i) a passbook, certificate or other document is attached; (ii) it is accompanied by special instructions, such as a request for special advice of payment or dishonor; (iii) it consists of more than a single thickness of paper, except an Item that qualifies for handling by automated check processing equipment; or (iv) it has not been preprinted or post-encoded in magnetic ink with the routing number of the Payor Financial Institution.

“*Non-qualifying Item*” means Non-cash Items, Items payable in a medium other than United States money, currency, warrants, Items payable to third parties, Items payable to joint payees (unless payable to the payees alternatively and deposited into an account in the name of all payees), drafts or remotely created checks as defined by



the UCC and Regulation CC, respectively, Items that are stale dated by six months or more or post-dated, savings bonds, Items payable to "cash," Substitute Checks, non-negotiable Items, Items that have been returned unpaid for any reason and any Item that exceeds your transaction limitations as established by us from time to time.

*"Original"* with respect to a Check means the first paper Item issued with respect to a particular payment transaction.

*"Payor Financial Institution"* means the United States Financial Institution ordered in an Item to make payment to the payee(s) named on the Item.

*"Regulation CC"* means 12 C.F.R. Part 229, as it may be amended from time to time.

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

*"UCC"* means the Uniform Commercial Code as enacted and amended in California.

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

**(b) Your Responsibilities.** In connection with the Mobile Deposit Service, you agree to comply with the following:

1. Each processed Imaged Item must be transmitted in compliance with the terms and conditions of the Terms of Use;
2. The Imaged Item is a digitized image of the front and back of the Original Check and accurately represents all of the information on the front and back of the Original Check as of the time you converted the Original Check to an Imaged Item;
3. The Imaged Item contains all endorsements applied by parties that previously handled the Original Check in any form for forward collection or return;
4. There will be no duplicate presentment of a Check in any form, including as a digitized image, as a paper negotiable instrument or otherwise and you will be liable for and otherwise assume responsibility for any such duplicate presentment of any Check. You agree to indemnify and defend us against any and all claims, causes of action or demands arising out of or directly or indirectly related to the duplicate presentment of any Check;
5. Except as otherwise specifically disclosed in writing to us, you are not now engaged, and will not during the term of the Terms of Use engage, in any business that would result in you being or becoming a "money services business" as defined in the Federal Bank Secrecy Act and its implementing regulations;
6. You will not engage in any activity directly or indirectly related to the use of the Mobile Deposit Service that is illegal or fraudulent;
7. You will: (i) ensure that Items are restrictively endorsed or otherwise processed to permit only financial institutions to acquire rights of a holder in due course in the collection process of Items, (ii) handle, process, maintain and destroy Original Checks as set forth in these Terms of Use and in the Documentation, and (iii) ensure that no financial institution (depository, collecting or payor), drawee, drawer or endorser receives presentment or return of, or otherwise is

charged for an Item more than once in any form. For any Check deposited as an image through the Mobile Deposit Service, you must endorse the Check as "[your signature] For Deposit to Tri Counties Bank [account #<your Account Number>] Mobile Deposit" or as otherwise instructed by us before you photograph the Check. Checks received that are not endorsed in accordance with this provision may be rejected;

8. You will balance the dollar amount of each deposit to the sum of Checks prior to transmitting to us;
9. You will: (i) maintain a daily control record of all Checks, including transaction counts and dollar amounts; and (ii) balance transactions transmitted from the previous day and immediately notify us of any error or discrepancy discovered. If you fail to notify us of any errors or discrepancies within 14 days of your receipt or availability of any printout, report or periodic statement, whichever occurs first, then such transactions will be deemed correct, and you will be precluded from asserting any error or discrepancy against us;
10. Each Account entitled to use the Mobile Deposit Service has a Daily Deposit Limit. We may also impose limits on the aggregate dollar amount of multiple transactions submitted within a single day, or within a multi-day time period, as determined by us. We may impose limits on the number of deposits you make through Mobile Deposit. We may change any one or more of these limits at any time and at our sole discretion, with or without notification to you. You will not use the Mobile Deposit Service to deposit any Check or Checks that exceed the transaction limits established by us from time to time.
11. You shall be responsible for verifying our receipt of your transmission(s) by verifying that deposits have been posted to the appropriate accounts, in addition to cooperating with us in any investigation and resolving any unsuccessful or lost transmissions;
12. You shall be responsible for installing and implementing any changes and upgrades to the MOBILE DEPOSIT Service as required by us within five (5) days to ensure compliance with regulatory changes or developments, or to protect the integrity and security of the MOBILE DEPOSIT Services. You will ensure that your Mobile Device is clean and operating properly, and inspect and verify the quality of images and ensure that the digitized images of Items are legible for all posting and clearing purposes;
13. You shall take appropriate security measures to ensure that: (i) only authorized persons shall have access to Original Checks, (ii) that the information contained on such Original Checks or on any corresponding Imaged Items are not disclosed to third parties; (iii) such Checks will not be duplicated or scanned more than one time; and (d) such Checks will not be re-deposited or renegotiated in any form. You will promptly (but in any event within five (5) business days) provide any retained Original Check (or, if the Original Check is no longer in existence, a sufficient copy of the front and back of the Original Check) to us as requested to aid in the clearing and collection process to resolve claims by third parties with respect to any Item or as we otherwise deem necessary. You will use a commercially reasonable method which is consistent with any requirements of Regulation CC and the Bank to securely and permanently destroy Original Checks after your retention period has expired;
14. You understand and agree that an Item that is not paid by a Payor Financial Institution, or is otherwise returned for any reason, will in our discretion be: (i) re-presented to the Payor Financial Institution; or (ii) returned to you and

your Account charged for the amount of the Item plus any associated fees as disclosed in our applicable fee schedule, which may be changed from time to time in our discretion. You agree that Items may be returned as Image Exchange Items, rather than Substitute Checks. Our right to charge your Account will apply without regard to whether the Item is timely returned to us or whether there is any other claim or defense that the Item has been improperly returned to us;

15. You agree to make all encoding, transfer, presentment and other warranties made under applicable law as we are deemed to make under applicable law, including without limitation those under the UCC, Regulation CC and the rules of any image exchange network;

**(c) Your Representations and Warranties.** Without limiting any other provision of these Terms of Use, each time you photograph and submit images of the front and back of the Original Check for deposit through Mobile Deposit, you represent and warrant that:

1. Each Imaged Item is a complete and accurate representation of the front of a negotiable Check;
2. Each Imaged Item is a complete and accurate representation of the back of a negotiable Check;
3. The Imaged Item is NOT of any of the prohibited Items listed in Section (d) item 4 below, or a Non-qualifying Item;
4. Each Imaged Item satisfies our image quality standards, as specified by us from time to time;
5. The Original Check used to create the image has not been previously deposited, duplicated, or used to create another image or electronic fund transfer;
6. No subsequent transferees of your Imaged Item, or any Substitute Check created from your Imaged Item, including but not limited to Tri Counties Bank, a collecting or returning bank, drawer, drawee, payee or endorser, shall sustain a loss as the result of the fact that the Imaged Item or Substitute Check was presented for payment or returned instead of the Original Check;
7. All information you have provided to us is complete, accurate and true;
8. Each time you photograph and submit an Imaged Item for deposit through Mobile Deposit, you also make all the warranties set forth in and subject to any applicable terms contained in the California Uniform Commercial Code (UCC) for the image as if it were an item subject to the terms of the UCC, including, but not limited to:
  - (i) you are entitled to enforce the Imaged Item;
  - (ii) all signatures on the Imaged Item are authentic and authorized;
  - (iii) the Imaged Item has not been altered;
  - (iv) the Imaged Item is not subject to a defense or claim in recoupment of any party which can be asserted against you;
  - (v) you have no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted Imaged Item, the drawer; and

In addition to the warranties stated above, you agree that you will comply with these Mobile Deposit Terms and all applicable law.

**(d) Prohibited Checks.** We have no obligation to accept any Imaged Item which you attempt to submit for deposit through Mobile Deposit, in our sole discretion, without regard to the quality or negotiability of the Check. We may decline any Check you attempt to deposit through Mobile Deposit in our sole discretion. Without limiting that discretion, you agree that you will only submit Checks for processing to us that meet the definition of "Item" as provided in these Mobile Deposit Terms and will ensure that the Items scanned meet the standards for image quality established by the American National Standard Institute (ANSI) required by Regulation CC, or other standards established or required by us or applicable law, as amended from time to time. You will not process any Non-qualifying Items. You agree that you will not photograph and attempt to deposit any of the following:

1. Any third party Checks, or any Item which is drawn on a deposit account of yours with us or any other financial institution, or a deposit account of any business entity of which you are a principal, officer or authorized signer;
2. Checks payable to multiple persons or entities or a business, or a combination thereof;
3. Checks containing alterations to any of the fields on the front of the check; regardless of the nature of the alteration;
4. Fraudulent Checks, or Checks that you should have known were fraudulent;
5. Checks that have been previously deposited at another financial institution via any method, including, but not limited to, a physical item, image, or electronic funds transfer;
6. Checks from financial institutions located outside of the U.S.;
7. Checks that are not payable in U.S. dollars;
8. Checks that are postdated or more than six (6) months old or beyond any expiration date printed on the face of the check;
9. Substitute checks (as defined in the Federal Reserve's Regulation CC, 12 C.F.R. Part 229);
10. Remotely created checks, as defined in Regulation CC
11. Checks that do not bear the signature of the person on whose account the check is drawn;
12. Travelers checks;
13. Savings bonds;
14. Money orders or postal money orders;
15. Non-negotiable instruments, such as promissory notes; or
16. Checks drawn on any of your Tri Counties Bank account(s).
17. Checks that are not properly endorsed as directed by Tri Counties Bank.
18. Any previously truncated and reconverted Substitute Checks.

**(e) Processing.**

1. For all Imaged Items processed pursuant to these Terms of Use, either: (i) digitized images will be converted to Substitute Checks and presented for payment to established Endpoints, or (ii) Imaged Exchange Items will be presented for payment through image exchange networks. We may in our sole discretion determine the manner of processing.
2. We will process any returned Items in accordance with applicable law and the Deposit Agreement and Disclosure. Availability of credit from Items processed under these Terms of Use will be subject to our then current availability schedule, which may be amended by us from time to time. We may at our sole option, with or without cause, at any time and from time to time, refuse to process any Imaged Items. We may from time to time establish and amend exposure limitations and assign them to you.
3. Notwithstanding any provisional credit that may be applied to an account in connection with your transmitted Imaged Items, Imaged Items processed for deposit through the Mobile Deposit Service will be deemed to have been received by us for deposit at the time the Imaged Items are actually received and accepted at the location where we or our designated agent posts the credit to the account. A deposit of Imaged Items will be deemed to have been received and accepted by us for deposit when all of the following have occurred: (i) we have preliminarily verified that the image quality of the Imaged Item is acceptable to us in our discretion, all Item information is complete and the deposit totals are balanced to the Item information provided for the deposit; and (ii) we have successfully performed all further validation routines with respect to the deposit. Notwithstanding the foregoing, Imaged Items received by us for deposit may be rejected by us in our sole discretion.
4. You agree to view the images of each scanned Item that is sent to us. If Item information received by us is not complete or cannot be processed by us for any reason, we may reject the Imaged Item, notwithstanding any transmission confirmation and charge the amount back against any provisional credit to your Account. You will be responsible for verifying our receipt of your transmissions by verifying that deposits have been posted to your Account.
5. If an Imaged Item is not accepted for deposit, you may then submit the Original Check to us for processing or contact the maker to reissue the Check. If you submit the Original Check for processing, we reserve the right to refuse to process the Check for deposit and presentment to the Payor Financial Institution and may instead require you to have the maker reissue the Check.
6. Our processing of any Non-qualifying Items shall not constitute a waiver by us or obligate us to process such Non-qualifying Items in the future. You agree that we may discontinue processing of Non-qualifying Items at any time, without cause or prior notice; and
7. Any previously truncated and reconverted Substituted Check must be physically deposited with us. Notwithstanding the foregoing, we may redeposit any returned Substitute Check or Image Exchange Item consistent with the terms of the Deposit Agreement and Disclosure.

**(f) Compliance with Law.** You shall comply with all laws, rules, and regulations applicable to you, to your business and operations, and to the Mobile Deposit Services, including, without limitation, Regulation CC, the Uniform Commercial Code and any rules established by an image exchange network through which Image

Exchange Items are processed pursuant to this Terms of Use. You shall have the responsibility to fulfill any compliance requirement or obligation that Bank and/or you may have with respect to the Mobile Deposit Service under all applicable U.S. federal and state laws, regulations, rulings, including sanction laws administered by the Office of Foreign Assets Control, and other requirements relating to anti-money laundering, including but not limited to, the federal Bank Secrecy Act, the USA PATRIOT Act and any regulations of the U.S. Treasury Department to implement such Acts, as amended from time to time.

**(g) Reserves; Security Interest; Held Funds.** You acknowledge that we may from time to time establish minimum amounts to be funded by you as reserve amounts. We will provide notice to you of any reserve requirement, and you shall immediately fund the reserve amount with good funds. We may withhold and use any amounts due to you to maintain any reserve amounts at levels specified by us. To secure all of your obligations us arising from the Mobile Deposit Terms, you grant to us a security interest in all of your accounts with us, all funds in those accounts, any reserve accounts or funds therein, all Items, whether now or hereafter established by or for your benefit, and all proceeds of the foregoing. Our security interest will survive after termination of the Mobile Deposit Terms. This security interest is supplemental to and not in lieu of the security interest granted by you to us under any other agreement. In addition to any other rights we may have with regards the accounts of yours, we may hold and use funds in any account following termination of the Mobile Deposit Terms for such time as we reasonably determine that any Item processed by us prior to termination may be returned, charged back or otherwise a cause for any loss, liability, cost, exposure or other action for which we may be responsible. Without limitation, you recognize that under the UCC, Regulation CC, the Electronic Check Clearing House Organization™ (“ECCCHO”) Rules (as applicable), and the rules of any image exchange network our representations and warranties with regards to Image Exchange Items and Substitute Checks may expose us to claims for several years following processing of the Image Exchange Item or Substitute Check.

**(h) Availability.** We may cause the Mobile Deposit Service to be temporarily unavailable to you, either with or without prior notice, for site maintenance, security or other reasons, and you acknowledge that factors beyond our reasonable control, such as telecommunications failure or equipment failure, may also cause the Mobile Deposit Service to be unavailable to you. You may deposit Original Checks and other items to any deposit account with us in person or in any other manner permitted by agreement between you and us, and you will be responsible for maintaining procedures and facilities to enable you to do so if the Mobile Deposit Service is unavailable to you.

**(i) Technical Requirements.** You agree that in order to use the Mobile Deposit Service, your Mobile Device must meet the current technical requirements we specify. You also agree that Tri Counties Bank may change these technical requirements at any time, with or without notice to you. You agree that you are solely responsible for establishing access to the Internet or mobile network through any device used for the Mobile Deposit Service. When using the Mobile Deposit Service you may experience technical or other difficulties, including, without limitation, problems with your mobile device’s camera, and/ or transmission problems. We are not responsible for such technical or other difficulties. You agree that each Imaged Item you attempt to deposit using Mobile Deposit must be legible, as determined by us. If your mobile device produces Imaged Items that we determine are not of acceptable quality, we may reject your deposit. We are not responsible for problems arising out of your equipment or Internet connections even if you are using equipment that meets our technical requirements.

**(j) Mobile Deposit Fees.** There is no charge for Mobile Deposit, but other fees, such as for returned items (chargeback items), and overdrafts, may apply. Please refer to our Service Fee Schedule for a current listing of fees. Please note that fees may be assessed by your mobile carrier and/or Internet service provider.

**(k) Indemnification.** Without limiting the other indemnification provisions set forth in these Terms of Use, you agree to indemnify, defend and hold us harmless from and against any and all claims, demands, damages, liabilities, expenses (including reasonable attorneys' fees) or other loss that arises from or relates to your use of the Mobile Deposit Service or your breach of the representations, warranties or covenants set forth in these Mobile Deposit Terms, including without limitation your attempt to duplicate the presentation of a check image via presentation of the Original Check or an Imaged Item or Substitute Check derived from the original check and any liability that we may incur for processing an Imaged Item or Substitute Check rather than the Original Check.

**(l) Receipt of Imaged Item.** We are not responsible for Imaged Items we do not receive or that are dropped during transmission. An Imaged Item will be deemed received by us only when we provide an online confirmation receipt to you that we have received your Imaged Item. When we confirm receipt of your Imaged Item, the Imaged Item will still be subject to review before we submit it for collection and may still be rejected for any reason in our sole discretion. Receipt of a confirmation does not serve as a representation, warranty or other indication that the Imaged Item will be presented for collection or will be honored by any collecting or paying bank. If we reject an Imaged Item received through the Mobile Deposit Service, then you may submit the Original Check by mail to us for processing unless we instruct you otherwise, or you may want to contact the drawer and have them reissue the Check. If you do submit the Original Check for processing, we reserve the right to refuse to process it and may instead require you to have the Check reissued.

**(m) Retention of Original Check.** Once your Imaged Item has been credited to your Account, you must mark the Original Check as "VOID" and retain the Original Check for a period of 14 days. You may not attempt to negotiate the Original Check or any Imaged Item or Substitute Check created from the Original Check at any other financial institution. During this 14 day period, you must securely store the Original Check using reasonable precautions at least as secure as those you would use to protect a blank check. If requested by us, you must make the Original Check available to us for review at any time and as necessary for us to facilitate the clearing and collection process, to address third party claims, or for our own audit purposes. In the event that you fail to produce the Original Check upon our request, you authorize us to deduct the amount of the check in question from your Account, regardless of whether such action may cause your Account to not have sufficient funds, and to pay any associated fees. Immediately after this 14 day period, you must destroy the Original Check.

**(n) Return Items.** You understand that we may convert items you deposit through the Mobile Deposit Service into Substitute Checks, Imaged Items, or ACH entries. As a result, in the event that your Item is returned unpaid, you will only receive a copy of the Substitute Check or Imaged Item, or in the case of ACH entries, the Automated Clearinghouse information.

**(o) Funds Availability.** We generally apply the Funds Availability Schedule to Imaged Items received through the Mobile Deposit Service as if we had received the Original Check. However, in addition to the exceptions specified in our Deposit Agreement and Disclosure, we may delay availability of funds from any deposit you make through the Mobile Deposit Service at any time in our sole discretion, including due to any concern we may have regarding our ability to collect based upon our review of any Imaged Item for which you present for deposit.



**(p) Acceptable Use of the Mobile Deposit Service.** Your usage of the Mobile Deposit Service must fully comply with these Mobile Deposit Terms, our Deposit Agreement and Disclosure, and all applicable law. If your usage of the Mobile Deposit Service does not comply with these provisions, we may immediately terminate your authority to use the Mobile Deposit Service.

**(q) Cutoff Time.** The cutoff time for the Mobile Deposit Service is 8:00 p.m. Pacific Time. If we receive a scanned Original Check on or before 8:00 p.m. Pacific Time on a business day we are open, we will consider that day to be the day of deposit. If we receive a scanned Item after 8:00 p.m. Pacific Time or on non-business day, we will consider that the deposit was made on the next business day. At our option, however, we may treat the Original Check as received the same day as the day of receipt. Your Account will be provisionally credited upon our acceptance of Imaged Items for deposit which are received by us from you through the Mobile Deposit Service.

## ADDITIONAL DISCLOSURES

### 1. Your other agreements with the Bank

Each of your Accounts at Tri Counties Bank is also governed by the Deposit Agreement and Disclosure. In addition to these Terms of Use you agree to be bound by and will comply with the requirements of the Deposit Agreement and Disclosure, Tri Counties Bank's rules and regulations, the rules and regulations of any funds transfer system to which the Bank belongs, and applicable state and federal laws and regulations.

### 2. Your other agreements with related entities

You agree that, when you use the MB Service, you remain subject to the terms and conditions of your existing agreements with any other service providers, including, but not limited to, your mobile service carrier or Internet service provider (e.g., AT&T, Verizon, Sprint, T-Mobile, etc.), and that these Terms of Use do not amend or supersede any of those agreements. Those agreements may provide for fees, limitations, and restrictions that might affect your use of the MB Service (for example, your carrier or provider may impose data charges for your use of the MB Service), and you are solely responsible for all such fees, limitations, and restrictions. You agree that Tri Counties Bank is not responsible for the products and services provided by any mobile service carrier or Internet service provider. Accordingly, you agree to resolve any problems pertaining to your Mobile Device with your carrier or provider directly, without involving us. If you have problems with the MB Service, you should contact us directly.

### 3. Your additional representations and commitments

**(a) Notification of Equipment Theft or Destruction.** You agree to notify Tri Counties Bank promptly in the event that you lose, change, or destroy the Mobile Device whose phone number is registered with the Service.

**(b) User Security.** You agree not to give or make available the MB Service log-in, password or other security codes (collectively "Security Codes") to any unauthorized individuals. You are responsible for all transfers or other transactions you authorize using the MB Service. If you permit other persons to use your Security Codes, you are responsible for any transactions they conduct.

**(c) Risks of Mobile Devices.** YOU UNDERSTAND THAT THERE ARE RISKS ASSOCIATED WITH USING A MOBILE DEVICE, AND THAT IN THE EVENT OF HACKING, OTHER ELECTRONIC SECURITY FAILURE, THEFT, OR LOSS; YOUR CONFIDENTIAL INFORMATION COULD BE COMPROMISED. The availability, timeliness and proper functioning of the MB Service depends on many factors, including your Mobile Device



location, wireless network availability and signal strength, and the proper functioning and configuration of hardware, software, and your Mobile Device. Neither we nor any of our service providers warrants that the MB Service will operate without interruption, and neither we nor our service providers shall be liable for any loss or damage caused by any unavailability of the MB Service, including service interruptions, delays, or loss of personalized settings. Neither we nor any of our service providers assumes responsibility for the operation, security, functionality or availability of any Mobile Device or mobile network which you utilize to access the MB Service.

**(d) Our Liability.** This Section is not intended to replace or supersede, and is hereby added to, any other exceptions to our liability that may be stated elsewhere in these Terms of Use, the Terms and Conditions and the Deposit Agreement and Disclosure that governs your Account. Except to the extent prohibited by applicable law or regulation, we will not be liable to you for any of the following: (i) any damages, costs or other consequences caused by or related to our actions that are based on information or instructions that you provide to us; (ii) any unauthorized actions initiated or caused by you or your agents; (iii) the failure of third persons or vendors to perform satisfactorily, other than persons to whom we have delegated the performance of specific obligations provided in these Terms of Use; (iv) any refusal of a Payor Financial Institution to pay an Image Exchange Item or Substitute Check for any reason (other than our breach of contract, gross negligence or willful misconduct), including without limitation, that the Original Check, Image Exchange Item or Substitute Check was allegedly unauthorized, was a counterfeit, had been altered, or had a forged signature; (v) you or any other party's lack of access to the Internet or inability to transmit or receive data; (vi) failures or errors on the part of mobile phone carriers, Internet service providers, telecommunications providers or any other party's own internal systems, or (vii) if you do not follow or comply with the representations or warranties set forth in these Terms of Use.

To the fullest extent allowed by law, and subject to our limitations on liability provided otherwise in these Terms of Use, we will only be liable for damages that are solely and proximately caused by our gross negligence or willful misconduct. Our liability for errors or omissions with respect to the data transmitted or printed by us in connection with these Terms of Use will be limited to correcting the errors or omissions. With respect to the Mobile Deposit Service, correction will be limited to reprocessing, reprinting and/or representing the Image Exchange Items or Substitute Checks to the Payor Financial Institution.

Without limiting the foregoing, we shall be excused from failing to act or 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 the event of any of the foregoing failure or delays, you acknowledge that you may instead deposit directly with us any original items for processing and presentment provided such original items have not been previously imaged and processed in connection with the Mobile Deposit Service. In addition, we shall be excused from failing to transmit or delay in transmitting an item for presentment if such transmittal would result in our having exceeded any limitation upon its intraday net funds position established pursuant to Federal Reserve guidelines or if our otherwise violating any provision of any risk control program of the Federal Reserve or any rule or regulation of any other U.S. governmental regulatory authority.

Each party acknowledges and agrees that the limitations of liability in this Section are a bargained for allocation of risk and liability, and agree to respect such allocation of risk and liability. Each party agrees and acknowledges that the other party would not enter into these Terms of Use without the limitations of liability set forth in this Section.

EXCEPT TO THE EXTENT LIMITED BY APPLICABLE LAW OR REGULATION, IN NO EVENT WILL TRI COUNTIES BANK OR ANY OF ITS OFFICERS, DIRECTORS, SHAREHOLDERS, PARENTS, SUBSIDIARIES, AFFILIATES, AGENTS, LICENSORS, OR THIRD PARTY SERVICE PROVIDERS BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF OR RELATED TO THE MB SERVICE OR ANY USE OR MISUSE THEREOF (INCLUDING WITHOUT LIMITATION USE OR LOSS OF BUSINESS, REVENUE, PROFITS, OPPORTUNITY, GOOD WILL, DATA, FILES, OR THE COSTS OF PROCUREMENT OF SUBSTITUTE OF GOODS OR SERVICES), UNDER ANY THEORY OF TORT, CONTRACT, INDEMNITY, WARRANTY, STRICT LIABILITY OR NEGLIGENCE, EVEN IF SUCH PARTY HAS BEEN ADVISED OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT TO THE EXTENT LIMITED BY APPLICABLE LAW OR REGULATION, THE AGGREGATE LIABILITY OF THE BANK AND OUR THIRD PARTY SERVICE PROVIDERS UNDER THESE TERMS OF USE WILL NOT EXCEED \$1,000.00. To the extent applicable jurisdictions do not allow the exclusion or limitation of liability for consequential damages, the above limitations may not apply to you.

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**(f) Accurate Registration.** You represent and warrant that you have and will provide true, accurate, current, and complete information, including without limitation about yourself, as requested in the MB Service's registration process, and you represent and warrant that you have not and will not misrepresent your identity.

**(g) Survival.** This Section 3 shall survive the termination of your use of the MB Service.



# 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> 24 hours a day, 7 days a week	<b>1-800-922-8742</b>
<b>Telephone Banking</b>	<b>1-844-TCB-24HR</b> (1-844-822-2447)
<b>Online Banking</b>	<b>TriCountiesBank.com</b>

