

## **Community Commerce Bank Online Banking Agreement and Disclosure**

This Online Banking Agreement and Disclosure (“Agreement”) will be effective as of the first day we make the Services accessible to you. Unless otherwise stated, any reference to the Agreement shall include applicable schedules, enrollment forms and exhibits to the same, as well as applicable user guides, user manuals, set-up forms and other user materials, including online terms and information.

**NOTICE TO CONSUMERS: This Agreement includes disclosures applicable to transfers to or from a consumer account as provided under the Electronic Funds Transfer Act (EFTA) and its implementing Regulation E. Read this document carefully and retain a copy for your records.**

Agreement is in addition to other agreements between Community Commerce Bank and you, as may be modified from time to time. If there is a conflict between the terms and conditions of this Agreement and those contained in the other agreements between you and us, this Agreement will control.

### **Available Services; Cutoff Hours**

With the Services, you can (subject to system limitations):

- Obtain Account balance and statement information.
- Update your Account address.
- Originate Account payments from your deposit accounts at other financial institutions (“ACH Loan Payments”).

We may require you to enter a separate addendum to this Agreement in order to enable these services. Services performed during nightly processing may not succeed when applied to your actual balance at the end of the nightly processing. A Communication received by us after the cutoff time on a business day, or on a day that is not a business day, may be treated by us as if it were received on the next business day. At our option, however, we may treat it as received the same day as the day of receipt. There can be a delay between the time when you send a Communication to us and the time we receive it. Our current cutoff hour for ACH Loan Payments is 3:00 p.m. All times provided in this Agreement will refer to Pacific Standard Time (PST).

### **General Terms**

*Definitions.* In this Agreement, defined terms have the meaning given to them. In addition:

- Your “Account” is the loan account you have designated as the account accessible to the Services.
- An “authorized representative” is a person with authority of any kind with respect to an Account.

- “Communication(s)” means instructions and actions from you (or attributable to you under this Agreement or otherwise) received by us through the Services.
- A “payment order” is a payment order as defined under Section 11103(a)(1), as amended or revised, of the California Commercial Code, and includes a Communication received by us instructing us to pay, or to cause another bank to pay, a fixed or determinable amount of money to a you, to a third party or to any other beneficiary.
- A “commercial account” shall mean an account that is not established primarily for personal, family or household purposes.
- A “consumer account” shall mean an account that is established primarily for personal, family or household purposes.
- Your “Security Codes” are the credentials (such as codes and passwords) that are associated with you and used by us to verify the authenticity of Communications from you. Security Codes are used to access Accounts and to use the Services. The Security Codes include any supplemental or alternative method used to verify the authenticity of Communications that may be offered or presented to you by us from time to time.
- The “Service(s)” are the on-line banking interface and the banking services described in this Agreement.
- The word “includes” means “including but not limited to” the examples given.
- The word “may,” when used in reference to us, means at our option and sole discretion. Action (or inaction) that we “may” take is authorized by you and allowed to us, but is not required. You agree that we will not be liable for any action taken or any failure to act when action or inaction is at our discretion.
- The words “we,” “us”, “our”, “Bank” and similar terms are used to refer to Community Commerce Bank.
- The words “you”, “your,” and similar terms are used to refer to the person entering into this Agreement and to the each person who is an owner of or has an interest in an Account together with the owner’s authorized representatives.

*Agreement.* Subject to our approval and to any limits we impose, you may designate Accounts for access through our internet banking website and for the Services. We may act on requests for information, or requests to facilitate any Service requested on or associated with an Account, from any Account owner (including joint owners) or their authorized representatives. Each time you use our Services or you permit any other person to use our Services, you are agreeing to the terms and conditions that we have set out in this Agreement, including any instructional materials regarding the Services, as amended. Each time you use our Services or you permit any other person to use our Services, you are agreeing to the terms and conditions of any instructional material which we may provide to you regarding the Services, including instructions presented to you at our website. You agree not to resell or offer a Service to another, or to process any transactions for others using a Service. If you are a natural person, you certify that you are at least 18 years or older. You authorize us to obtain information about you from others (including credit reporting agencies) as part of our review of your enrollment application and from time to time thereafter. You agree to provide us with information as we request, from time to time.

*Eligible Accounts.* Only Accounts designated by you will be made accessible to you via the Services, and Accounts will only be made accessible after we have received a request from you to make the Account(s) available. We are not, however, obligated to establish access to any or all of your Accounts, and not all Services may be available with all Accounts. Some Services may not be available without special application to and approval by us, or may be limited to specific types of Accounts.

You agree that the relevant loan agreement, note or other document is modified to the extent necessary to allow the transfers or other Services that may be utilized. Accessibility to Accounts may vary based on the Service(s) you use.

*WAIVER OF ACCESS RESTRICTIONS:* Your Accounts may be subject to access restrictions when you conduct transactions in person or when you are using systems other than with a Service. If access restrictions exist, they do not apply to your use of the Services. We may limit or deny Services to you if there are access restrictions. Conversely, we may process your transactions based on Communications without regard to or any need to comply with access restrictions otherwise applicable to your Accounts.

*Compliance with Laws and Rules.* You agree to comply with all state and federal laws, rules and regulations applicable to you and to your use of the Services (the “Laws”), including the operating rules of all systems used to provide Services to you (the “Rules”), and to provide evidence reasonably satisfactory to us of the same if requested by us. You agree not to use the Service for any illegal purpose, including but not limited to illegal Internet gambling. Without limitation, you agree and acknowledge that the Services may not be used by you in violation of the laws of the United States, including sanctions laws administered by the Office of Foreign Asset Controls. You acknowledge and agree that the software you use to access Services may be subject to restrictions and controls imposed by the Export Administration Act and the Export Administration Regulations. You agree and certify that neither the software nor any direct product thereof is being or will be used by you for any purpose prohibited by these Acts.

Additionally, each Account and the Services will be subject to and governed by the following:

- The terms or instructions appearing on a screen when using a Service;
- Applicable provisions of the rules of the National Automated Clearing House Association (“NACHA”) for loan payments facilitated through the automated clearing house (“ACH”);
- Applicable state and federal laws, rules and regulations; and
- The rules of other funds transfer systems when used in connection with a Service.

Nothing in this Agreement relieves you of any obligation you may have under the Laws or the Rules, and this Agreement is deemed modified to the extent necessary to allow or require you to comply with the same. You will implement and maintain procedures, including retention of legal or compliance services, to ensure that you are able to comply with all current and future Laws and Rules, including any changes to them. We are not obligated to provide information, updates or notice of or regarding the Laws or the Rules, even if we are aware of the same and of the potential for material impact on you and your use of the Services, and your indemnification and other obligations to us are not relieved or reduced by our not providing the same to you. If

we do provide information, updates or notices of or regarding the Laws or the Rules to you, we are not responsible for the accuracy of the same and may discontinue doing so at any time.

*Electronic Records and Signatures.* When any payment order or other Service generates items or transactions to be charged to your Account, you agree that we may charge the affected Account without requiring your signature on an item and without prior notice to you. Any transactions resulting from your instructions which we receive in your name and under your credentials shall be deemed to have been “a writing” and authenticated by you “in writing” for purposes of any law in which a writing or written signature is needed or required. All records maintained by us of transactions under your credentials shall be deemed to have been “signed” and to constitute an “original” when printed from records established and maintained by us or our authorized agent in the normal course of business. You agree not to contest the authorization for, or validity or enforceability of, our electronic records and documents, or the admissibility of copies thereof, under any applicable law relating to whether certain agreements, files or records are to be in writing or signed by the party to be bound thereby. Records and “signed” documents, if introduced as evidence on paper in any judicial or other proceedings, will be admissible to the same extent and under the same conditions as other documentary business records. Upon our written request, you agree to manually sign or place your signature on any paper original of any record or “signed” document which we provide to you containing your purported signature.

### **Computer Equipment and Software to Access the Services**

You are responsible for providing and maintaining any equipment that is necessary for the Services, such as telephones, terminals, modems and computers. You agree to use equipment that is compatible with our programs, systems and equipment, which we may change from time to time. We assume no responsibility for the defects or incompatibility of any computers or software that you use in connection with the Services, even if we have previously approved their use. WE MAKE NO WARRANTY, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR OF MERCHANTABILITY, WITH RESPECT TO THE SERVICES, OR ANY COMPUTER PROGRAMS, EQUIPMENT OR SOFTWARE MADE AVAILABLE TO YOU. You agree to notify us promptly if any software or equipment we provide to you becomes defective. Our sole responsibility (if any) in such instances will be to repair or replace the defective software or equipment.

To use the Services, you must have a sufficiently powerful computer hardware and appropriate software. At this time, this includes an internet browser that supports 128-bit encryption. Some Services may require you to download software from our website; in some cases, we may place software on your computer as part of our security and/or verification tools. You agree to maintain the confidentiality of the Security Codes at all times and not to provide access to them to anyone that you do not authorize to access your Accounts through the Services. You expressly acknowledge that any wireless access to the Services initiated by you may not be secure and, in such cases, you assume the risk associated with unauthorized access to the Service and any information contained therein, resulting from such wireless connectivity. For commercial accounts (as applicable), you agree to implement and maintain administrative,

technical and physical safeguards to protect against unauthorized access to or use of any Account information which you may access or store on your computer or other data storage systems.

### **Privacy and Confidentiality**

All information gathered from you in connection with using the Service will be governed by the provisions of our consumer privacy policy (applicable to consumer accounts only), as well as our internet privacy policy, which you agree to review by accessing on our homepage.

In addition, we will disclose information to third parties about your account or the transfers you make:

- Where it is necessary for completing transfers, or
- In order to verify the existence and condition of your account for a third party, such as a credit bureau or merchant, or
- In order to comply with government agency or court orders, or
- If you give us your written permission.

### **Security Code Credentials**

During your enrollment for the Services, you are required to select or will be assigned certain numbers, codes, marks, signs, public keys or other means of authenticating your identity and electronic communications in your name. These may include a customer number, logon name, and password. These credentials, with the other components of your Security Codes, will give access to your Accounts through the Service.

You agree to change all passwords with sufficient frequency so as to protect confidentiality, and in any event no less frequently than every 90 days.

You agree to keep all Security Codes confidential; you agree not to write them down. Passwords should not be easy to guess: for example, your children's or pet's names, birth dates, addresses or other easily recognized identification related to you. It is also recommended you do not have your browser automatically remember your password. We may offer to you or require you to use additional authentication tools or methods from time to time. If you choose not to implement supplemental authentication tools, your access to some or all Services may be limited. The term "Security Codes" will include any supplemental authentication tools that are used by you.

### **Contact in Event of Unauthorized Transfer**

If you believe any part of your Security Code, including your password, has been lost or stolen call: (909)626-0750, or write: Community Commerce Bank, 398 W. Foothill Blvd., Claremont, CA 91711.

### **ACH Loan Payments**

*Generally.* The Service enables you to authorize the origination of ACH Entries (as that term is defined under the NACHA Rules) to facilitate payments to your loan Account(s). When using the ACH Loan Payment Service, you must designate the Account ("ACH Loan Account") to

which the ACH Loan Payments are to be applied. In addition, you will be required to identify the account that you maintain with your other bank or financial institution from which payment will be made (“Payment Account”), including your deposit account number, the name and routing number of the other bank or financial institution, the amount of the payment and the date you want the payment to be processed from your ACH Loan Payment Account (“Payment Processing Date”).

*Sufficient Funds; Payment Account Ownership.* You represent that you have sufficient available funds in your Payment Account to cover the amount of your ACH Loan Payments. Additionally, you represent that you are the owner of the Payment Account and that the ACH Loan Payment transfer will not violate any restriction on the Payment Account.

*One-Time Payment* You can use the ACH Loan Payment Service to make a one-time ACH Loan Payment. A one-time ACH Loan Payment will be processed on the Payment Processing Date; provided that the Payment Processing Date selected by you is a business day and you submit your one time ACH Loan Payment instruction prior to the ACH Loan Payment cutoff hour for that date. If you select a Payment Processing Date that is not a business day or submit your ACH Loan Payment instruction after the ACH Loan Payment cutoff hour for that date, then the Payment Processing Date will be the next business day. For cutoff hours for ACH Loan Payments, see the heading, “ACH Loan Payment Cutoff Hour,” below.

*Recurring Payments.* You can use the ACH Loan Payment Service to make recurring ACH Loan Payments. The ACH Loan Payment Service will allow you to schedule ACH Loan Payment instructions that will cause an ACH Loan Payment to be processed from the account you identify, on your selected frequency on an ongoing basis. However, if the future Payment Processing Date is on a non-business day, then the new future Payment Processing Date may be the next business day.

*ACH Loan Payment Cutoff Hour.* The Payment Processing Date is the date that we will initiate the ACH Loan Payment. ACH Loan Payments should be scheduled sufficiently in advance of the due date of your bill (“Due Date”) to allow us to receive it on the Due Date and without taking into account any grace period that may be offered. Our current cutoff hour for ACH Loan Payments is 3:00 p.m. ACH Loan Payment instructions received by us after the cutoff hour or on a day that is not a business day of ours (or of any ACH Loan Payment vendor or intermediary that we may use) may be treated by us as received on the next business day.

*Scheduling Payments in Advance of the Due Date.* You are responsible for ensuring that you initiate an ACH Loan Payment instruction in time for the payment to be received by us before its Due Date (without taking into account any grace period). We are not responsible for any damages, costs or fees you may suffer if you do not allow sufficient time between the Payment Process Date and the Due Date.

*Payment Changes and Cancellation.* You may change or cancel an ACH Loan Payment instruction via the Service as long as you submit the change or cancellation request by 3:00 p.m. on the business day prior to the Payment Processing Date for the ACH Loan Payment instruction and you follow the ACH Loan Payment instructions provided by the ACH Loan Payment Service for changes and cancellations.

*Accurate Information.* The ACH Loan Payment will be processed using the information you supply, and if the information you give to us is inaccurate or incomplete in any way the ACH Loan Payment may be delayed or misdirected.

*Notice of Returned ACH Loan Payments.* We shall notify you by phone or electronic transmission, including email of the receipt of a returned ACH Loan Payment from the ACH no later than one business day after the business day of receipt. Except for an ACH Loan Payment retransmitted by you in accordance with the requirements of the Service, we shall have no obligation to retransmit a returned ACH Loan Payment if we complied with the terms of this Agreement with respect to the original ACH Loan Payment.

*Inconsistencies.* If a Receiver of an ACH Loan Payment is identified by both name and account number, payment may be made by us and by any other financial institution based on the account number even if the name and the account number are not consistent or identify different parties. If an intermediary bank or a beneficiary's bank is identified on an ACH Loan Payment by both name and account number, we and other financial institutions may rely on the account number even if the name and the account number are not consistent or identify different parties.

*Provisional Credit.* You agree that any credit by us to you for any ACH Loan Payment is provisional until we have received final settlement for such ACH Loan Payment. We may delay availability of provisional credit at our discretion. If final settlement is not received, we are entitled to and you agree to pay a refund of the amount credited; we may charge your account for the amount due.

## **E-Mail**

While access to us through the secure e-mail function of the Services is "on-line," messages sent to us through e-mail are not reviewed by Bank personnel immediately after they are sent. If immediate attention is required, you must contact us by telephone or in person.

Encryption of data transmissions does not guarantee privacy. Data transferred via the Services is encrypted in an effort to provide transmission security. Notwithstanding our efforts to insure that the Services are secure, you acknowledge that the Internet is inherently insecure and that all data transfers (including transfer requests and electronic mail) occur openly on the Internet. This means that the data transfers potentially can be monitored and read by others. We cannot and do not warrant that all data transfers utilizing the Services will not be monitored or read by others.

Your e-mail messages may be acted upon by us if received in a manner and in a time providing us a reasonable opportunity to act. Nevertheless, unless otherwise provided herein, e-mail messages will not serve as a substitute for any requirement imposed on you to provide us with "written" notice.

E-mail or messages sent by us to you will be deemed received by you when sent by us to you at your e-mail address as shown on our records. You agree to notify us (using the Service or otherwise in form acceptable to us) whenever your e-mail address changes. You agree that information or messages made available to you via the Services will be deemed received by you when first posted on our website or made available to you. You agree to access the Service from time to time, in no event less than monthly, to access this information or the messages.

## **Third Parties**

You acknowledge and agree that we may arrange to provide software, if required, and/or may arrange for the Services covered by the Agreement to be performed or provided by third parties, including our affiliates. You further agree that any such party is a third-party beneficiary of the Agreement and as such is entitled to rely on, and avail itself of, the provisions of the Agreement as if it were us, including, without limitation, the limitations on liability and the indemnities described in the Agreement. Our ability to provide certain Services may be dependent upon our ability to obtain or provide access to third-party networks. In the event any third-party network is unavailable or we determine in our sole discretion, that we cannot continue providing any third-party network access, we may discontinue the related Service or may provide the Service through an alternate third-party network. In such situations, we will have no liability for the unavailability or delay of access.

Notwithstanding the limitations described above pertaining to third parties, if you authorize a third party to access the Services on your behalf, you will be solely responsible and liable for all actions and inactions of said third party. You expressly assume the risks associated with providing Service access rights to your agents or third-party vendors, including but not limited to the risk of unauthorized or erroneous transactions. We will not be responsible, nor have any liability whatsoever for any services you receives from your agents or third-party vendors. We reserve the right to require you to agree to additional terms and conditions as a condition precedent to your use of any agent or third-party vendor in connection with your access to the Services.

## **Service Fees and Charges**

At this time, we do not have any fees for the Services. However, we reserve the right to impose new fees and charges, and increase or change fees and charges. We will provide advance notice of these changes to you as required by law. Other fees may be assessed and billed separately by your internet and/or telephone service provider. You agree to pay all fees and charges we impose. You authorize us to charge the designated Account and/or any other account you hold with us to cover your fees and charges. You also authorize us to charge you according to our then-current fee schedule.

## **Business Days**

Our business days are Monday through Friday, except federal bank holidays and state holidays.

## **Hours of Operation**

You will generally be able to use Services seven days a week, 24 hours a day. However, a Service may not be available due to system maintenance or circumstances beyond our control. Services may be added, cancelled or limited at any time or from time to time, with or without cause or notice (except as required by law).



## **Changes/Interruptions in Services**

We may, on a regular basis, perform maintenance on our equipment or system, which may result in interrupted Service or errors in a Service. We also may need to change the scope of our Services from time to time. We will attempt to provide prior notice of such interruptions and changes but cannot guarantee that such notice will be provided.

## **Harm to Computer Systems/Data**

You agree that we will not be liable for viruses, worms, trojan horses, or other similar harmful components that may enter your computer system by downloading information, software, or other materials from our site. We will not be responsible or liable for any indirect, incidental or consequential damages that may result from such harmful components.

## **Disclaimer of Warranty**

We make no warranty of any kind, express or implied, including any implied warranty or merchantability or fitness for a particular purpose, in connection with Services provided to you under this Agreement. We do not and cannot warrant that Services will operate without errors, or that any or all Services will be available and operational at all times. Due to the possibility of human and mechanical errors, as well as other factors, the system website is not error-free, and all information is provided “as-is,” without warranty of any kind. We make no representation and specifically disclaim any express or implied warranties to users of any third parties, including but not limited to, warranties as to accuracy, timeliness, completeness, merchantability, or fitness for any particular purpose.

## **Our Intellectual Property**

You acknowledge and agree that the software and content used by us in the operation of our website and provision of the Services, and the copyright patent, trademark, trade secret and all other rights in and to the technology, software, content, designs, graphics, and trademarks included by us our website and as part of the Services and our name and product names and the website’s URL (collectively, by the “Intellectual Property”), are owned by us and our licensors. As such, you will not gain any ownership or other right, title or interest in or to such Intellectual Property by reason of this Agreement or otherwise.

You may not distribute, use, reproduce, duplicate, copy, publish, sell or otherwise transfer (i) any portion or element of the Services or the Intellectual Property (ii) use of our website, Services or Intellectual Property, or (iii) access to our website Services or Intellectual Property. Further, you may not (a) create derivative works of any portion or element of our website, Services or Intellectual Property; (b) reverse engineer, modify, decompile or disassemble any of the Intellectual Property; (c) deactivate or disable any password protection or other protection, security or reliability technology we incorporate in our website or the Services; (d) modify or erase any copyright or trademark notice we place at our website; (e) engage in the practice known as “screen-scraping” or otherwise attempt to, or actually, obtain copies of content provided at the site or a list of our content or site users, or use computer programs (sometimes known as “scraper,” “spiders,” “robots,” or “bots”) to systematically access and download data; (f) access the Services by any means other than via our website; (g) frame our website or any

Intellectual Property; or (h) use any circumvention tools, meta tags or any other “hidden text” utilizing our name, trademark, URL, product name or Intellectual Property. You agree to comply with the terms of any license agreement we make available to you with any software.

### **User Conduct**

You agree not to use the Service or the content or information in any way that would: (a) infringe any third-party copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy; (b) be fraudulent or involve the sale of counterfeit or stolen items, including, but not limited to, use of the Service to impersonate another person or entity; (c) violate any law, statute, ordinance or regulation (including, but not limited to, those governing export control, consumer protection, unfair competition, anti-discrimination, false advertising or illegal Internet gambling); (d) be false, misleading or inaccurate; (e) create liability for us or our affiliates or service providers, or cause us to lose (in whole or in part) the services of any of our service providers; (f) be defamatory, trade libelous, unlawfully threatening or unlawfully harassing; (g) potentially be perceived as illegal, offensive or objectionable; (h) interfere with or disrupt computer networks connected to the Service; or (i) use the Service in such a manner as to gain unauthorized entry or access to the computer systems of others.

### **No Commercial Use or Re-Sale**

You agree that the Service is only for the personal use of the individuals authorized to access your account information with us. You agree not to make any commercial use of the Service or resell, lease, rent or distribute access to the Service.

### **Cumulative Remedies**

The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive the right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, ordinance or otherwise.

### **Delays/Force Majeure**

The obligations of the Bank shall be suspended to the extent and for so long as such obligations are hindered or prevented from being performed on account of labor disputes, war, riots, civil commotion, acts of God, fires, floods, failure of suppliers and/or subcontractors to perform, failure of power, restrictive governmental law and/or regulations, storms, accidents or any other cause which is reasonably beyond the control of the Bank.

### **Severability**

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

## **Entire Agreement**

This Agreement contains the entire agreement between the parties and no statements, promises or inducements made by either party or agent of either party that are not contained in this written Agreement or other documents referenced by this Agreement.

## **Choice of Law**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of California, except where preempted by federal law.

## **Amendment of this Agreement**

We may amend, add to or change this Agreement (including changes in its fees and charges hereunder). We will provide notice of amendments, additions or changes if required by law. Your continued use of the Services will constitute your consent to the amendments, additions or changes.

## **Additional Terms and Conditions**

*Waiver.* We may waive any term or provision of this Agreement at any time or from time to time, but any such waiver shall not be deemed a waiver of the term or provision in the future.

*Assignment.* We may assign the rights and delegate the duties under this Agreement to a company affiliated with us or to any other party. You may not assign your rights or obligations under this Agreement, and any effort by you to do so is unenforceable at our election.

*Termination; Suspension; Delay.* We may terminate or suspend this Agreement and any service provided hereunder at any time. We will provide electronic or written notice of termination to you. Except to the extent restricted by law, we reserve the right to terminate or to discontinue support of any Service, or delay or refuse processing any transaction, without notice. You may terminate this Agreement upon 30 days written notice to us. Termination of this Agreement will not affect any rights we may have, or any obligations you may have, as to any transaction or Services caused or attempted by you before termination.

## **Provisions Specific to Commercial Accounts**

This Section applies only to commercial accounts as defined in this Agreement. You are responsible for and bound by any Communication we receive in your name through a Service if the Communication: (a) comes from an authorized representative; (b) is authenticated using security procedures, described herein, even if not authorized by you; or (c) is legally binding on you under the laws of agency, contract or otherwise.

*Authorized Representatives.* Your “authorized representative” includes each person who is (1) authorized by you to conduct business with us, including as part of your account management resolution(s); or (2) a principal officer of yours (such as your CEO if you are a corporation, or a partner in a partnership, or a manager in an LLC); or (3) otherwise authorized (or deemed

authorized) to act on your behalf, whether under this Agreement or any other agreement with us, by the laws of agency, or under by any other state or federal law, rule or regulation.

*Responsibility For Communications In Your Name, Whether Or Not Authorized By You.* The Security Codes are security procedures. You agree that we may use the security procedures to verify the authenticity of Communications that are received by us in your name. If we verify the authenticity of a Communication or instruction received in your name using the security procedures, we may rely on it and you will be obligated on the Communication or instruction, whether or not it was authorized by you.

On the other hand, if a Communication or instruction was authorized by you or if you would otherwise be bound by it under this Agreement, you will be obligated on it even if we did not verify its authenticity using the security procedures and even if the security procedures would have prevented error. You agree that the security procedures are intended to verify authenticity and not to detect error.

*Responsibility For Security Procedures.* In addition to the Security Codes as security procedures, you may choose additional security procedures. We may from time to time offer supplemental security procedures, and you agree to consider them. You agree to follow any instructions we provide to you about using, storing or otherwise related to security procedures.

You agree to consider the size, type and frequency of the payment orders or other money transactions you will or intend to use Services to accomplish. You agree to consider the risks presented by the possibility of unauthorized access to these Services, including the risk loss to you that we may process Communications and instructions that are your responsibility even though they were not authorized by you. You agree to use Services only after determining, and only for so long as you continue to determine, that the security procedures are a commercially reasonable method of providing security against unauthorized payment orders or other Communications. You agree and acknowledge that the security procedures are commercially reasonable for you and that you will be bound by instructions or Communications in your name, as set forth above.

You agree to take appropriate steps to ensure that all Security Codes are protected and kept confidential. In your review of the Services, including those aspects of the Services pertaining to the issuance, use, and protection of Security Codes and security procedures, you agree to notify us if your use of the Services would necessitate or be better served by a level of security that exceeds that offered by the Services. If you fail to notify us, then you acknowledge and agree that the security procedures of the Services are appropriate for your needs and will provide you with a commercially reasonable degree of security against unauthorized use.

*Refusal To Process Communications.* We may delay or refuse to process any requested Service, including payment orders or other money transactions, or any other Communication from you. We may do so for any reason or for no reason. We may provide notice to you, but are not obligated to do so. We may delay or refuse processing, for example, if: (a) processing would or may exceed the available funds in your affected Account; (b) the Communication is not authenticated to our satisfaction or we believe it may not have been authorized by you; (c) the Communication contains incorrect, inconsistent, ambiguous, or missing information; (d)

processing would or may involve funds which are subject to lien, security interest, claim, hold, dispute, or legal process prohibiting withdrawal; (e) processing would or may cause a violation of any Laws or Rules applicable to you or to us; or (f) for any other reason under this Agreement. In addition, we shall be excused from failing to transmit or 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 guidelines or in our reasonable judgment otherwise violating any provision of any present or future risk control program of the Federal Reserve or any rule or regulation of any other U.S. governmental regulatory authority. You agree that we will have no liability to you or to any other person for any loss, damage or other harm caused by or arising out of any such delay or refusal.

*Limitations on Liability.* Unless otherwise required by applicable law, we are only responsible for performing Services as expressly stated in this Agreement, and will only be liable for material losses incurred by you to the extent such losses directly result from our gross negligence or intentional misconduct.

IN NO EVENT WILL WE OR ANY OF OUR OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, PARENTS, SUBSIDIARIES, AFFILIATES, AGENTS, LICENSORS, OR THIRD PARTY SERVICE PROVIDERS BE LIABLE FOR ANY CONSEQUENTIAL (INCLUDING WITHOUT LIMITATION LOSS OF DATA, FILES, PROFIT OR GOODWILL OR THE COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICE), INDIRECT, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, WHETHER IN ACTION UNDER CONTRACT, NEGLIGENCE OR ANY OTHER THEORY, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, ANY SERVICES, OR THE INABILITY TO USE THE SERVICES, IRRESPECTIVE OF WHETHER WE HAVE OR HAVE NOT BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

THE MAXIMUM AGGREGATE LIABILITY OF US FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT, REGARDLESS OF THE FORM OR CAUSE OF ACTION, SHALL BE THE LESSER OF THE AMOUNT YOU ORIGINALLY PAID FOR THE SERVICE, PRODUCTS OR MATERIALS OR \$10,000.00.

You agree to cooperate with us in any loss recovery efforts we undertake to reduce any loss or liability that arises in connection with the Services. You acknowledge that Service fees have been established in contemplation of: (A) these limitations on our liability, (B) Your agreement to review statements, confirmations, and notices promptly and to notify us immediately of any discrepancies or problems; and (C) Your agreement to assist us in any loss recovery effort.

We will not be obligated to honor, in whole or in part, any transaction or instruction or Communication which:

- Is not in accordance with any term or condition applicable to the relevant Service or Account;
- We have reason to believe may not be authorized by you or any third person whose authorization we believe is necessary or involves funds subject to hold, dispute, restriction or legal process we believe prevents their withdrawal, transfer or availability;

- Would result in us exceeding any limitation of our net funds position established pursuant to present or future Federal Reserve guidelines;
- Would violate any applicable law, rule or regulation, or any guidance or directive of any federal or state regulatory authority;
- Is not in accordance with any other requirement of our applicable policies, procedures or practices; or
- We have reasonable cause not to honor for our or your protection.

*Indemnification.* Except to the extent that we are liable under the terms of this Agreement, or of any agreement that otherwise governs your Account, you agree to indemnify and hold us, our affiliates, officers, directors, employees, consultants, agents, service providers, and licensors harmless from any and all third party claims, liability, damages and/or costs (including but not limited to reasonable attorney's fees) arising from: (1) an Account; (2) the performance of a Service; (3) a third party claim, action, or allegation of infringement, misuse, or misappropriation based on information, data, files, or other materials submitted by you to us; (4) any fraud, manipulation, or other breach of these terms; (5) any third party claim, action, or allegation brought against us arising out of or relating to a dispute with you over the terms and conditions of an agreement, purchase or sale of any goods or services; (6) your violation of any Law or Rule or of the rights of a third party; (7) your use, or the provision of Services or use of your Account by any third party; or (8) any transaction or instruction or Communication from you to us. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will cooperate with us in asserting any available defenses. You will not settle any action or claims on our behalf without the prior written consent from us. This indemnification is provided without regard to whether our claim for indemnification is due to the use of the Service by you or your authorized representative. This indemnification provision survives termination of this Agreement.

*Data Retention.* You will retain data on file adequate to permit remaking or reconstruction of all requested Services (including payment orders or other money transactions) for one year following the date of the execution of the request to which such data relate, and will provide the data to us upon our request. You agree to determine promptly the accuracy of all records and information regarding a Service and to notify us immediately of any errors in such records or information. Nothing in this Agreement relieves you from: (a) any responsibility imposed by law, regulation or contract with regard to the maintenance records; or (b) any responsibility to perform audits and account reviews customarily conducted by persons or entities whose businesses are similar to your business.

*Advice of Payment; Duty to Examine.* You agree to examine any records or monthly account statements promptly upon receipt. You will notify us immediately, and in no event later than 14 days after receipt of the record or account statement, whichever is earlier, of the existence of any errors, unauthorized transactions, or irregularities reflected on the record or on the account statement. If you fail to notify us of any such discrepancy with 14 calendar days of receipt of the record or statement containing such information, you agree that we will not be liable for any other losses resulting from your failure to give such notice or for any loss of interest with respect to a transaction that is or should have been shown. Except to the extent expressly limited by applicable law, if you fail to notify us of any such discrepancy within one year of receipt of such statement or report, you will be precluded from asserting the discrepancy against us. For

purposes of this Section, you will be deemed to have "received" a periodic statement at the earlier of the time that: (a) we first make it available to you for pick-up; or (b) the statement or the information is mailed or otherwise made available to you electronically.

*Providing Personal and Financial Information.* You agree to provide true, accurate, current and complete personal and financial information about yourself and about your affiliates as requested. You agree to not misrepresent your identity.

*Collection.* If we initiate collection proceedings against you in an effort to recover any amounts owed, you agree to reimburse us for all costs and expenses, including attorneys' fees. "Attorneys' fees" includes reasonable charges for the time expended by in-house counsel.

*Corporate Authority; Partnership Authority* If you are a corporation or LLC, the person signing this Agreement on behalf of the corporation or LLC represents and warrants that he or she has full authority to do so and that this Agreement binds the corporation or LLC. If you a partnership, the person signing this Agreement for you represents and warrants that he or she is a general partner of the partnership, that he or she has full authority to sign for the partnership and that this Agreement binds the partnership and all general partners of the partnership. You shall give written notice to us of any general partner's withdrawal from the partnership.

### **Provisions Specific to Consumer Accounts**

*THE FOLLOWING PROVISIONS CONTAIN IMPORTANT CONSUMER DISCLOSURES UNDER THE EFTA.* The following provisions only apply to transfers to or from consumer accounts as defined under the EFTA and are not intended to confer any rights or benefits to commercial accounts.

ALL QUESTIONS ABOUT TRANSACTIONS MADE WITH YOUR SECURITY CODES MUST BE DIRECTED TO US (COMMUNITY COMMERCE BANK), AND NOT TO THE OTHER BANK OR FINANCIAL INSTITUTION WHERE YOU HAVE YOUR DEPOSIT ACCOUNT FROM WHICH YOUR ACH LOAN PAYMENTS ARE MADE ("THIRD PARTY DEPOSITORY INSTITUTION"). We are responsible for the ACH Loan Payments Service and for resolving any errors in transactions made with your Security Codes.

Other than the loan Account periodic statements that you receive, if any, we will not send you a periodic statement listing transactions that you make using your Security Codes. Other than your loan Account periodic statements, if any, the transactions will appear only on the statement issued by the bank or other financial institution from which your ACH Loan Payments are debited. If you have any questions about one of these transactions, call or write us at the telephone number and address indicated below.

IF ANY PART OF YOUR SECURITY CODES IS LOST OR STOLEN, NOTIFY US AT ONCE by calling or writing to us at:

(909)626-0750  
Community Commerce Bank  
398 W. Foothill Blvd,  
Claremont, CA 91711

*Preauthorized Payments.*

Right to Stop Electronic Payment and Procedure For Doing So. If you have told us in advance to initiate regular ACH Loan Payments from your accounts with other banks or financial institutions (“account holding institution(s)”), you can stop any of these payments. Here’s how:

You may follow the directions provided in the Services, to stop the payment through the Services, or

Call us at #(909)626-0750

or write to us at: Community Commerce Bank, 398 W. Foothill Blvd., Claremont, CA 91711 in time for us to receive your request 3 business days or more before the payment is scheduled to be made. If you call, we may also require you to put your request in writing and get it to us within 14 days after you call. We will charge you a fee for each stop payment order you give. Refer to the Service Fees and Charges Section of this Agreement for fee details.

Notice of Varying Amounts. If these regular payments may vary in amount, we will tell you 10 days before each payment, when it will be made and how much it will be. We may provide longer advance notice, depending on the payment type and the applicable terms and disclosures we previously provided to you. (You may choose instead to get this notice only when the payment would differ by more than a certain amount from the previous payment, or when the amount would fall outside certain limits that you set).

Liability for Failure to Stop Payment of Preauthorized Electronic Transfer. If you order us to stop one of these electronic payments three business days or more before the transfer is scheduled to be made, and we do not do so, we will be liable for your losses or damages.

*Consumer Liability.*

Tell us AT ONCE if you believe any part of your Security Code, including your password, has been lost or stolen. Telephoning is the best way of keeping your possible losses down. You could lose all the money in your account with your account holding institution (plus your maximum overdraft line of credit, as applicable).

If you tell us within 4 business days after you learn of the loss or theft of any part of your Security Code, including your password, you can lose no more than \$50 if someone used your Security Code without your permission.



If you do NOT tell us within 4 business days after you learn of the loss or theft of any part of your Security Code, including your password, and we can prove that we could have stopped someone from using the Security Code without your permission if had you told us, you could lose as much as \$500.

Also, if the statement the Third Party Depository Institution provides you shows transfers using the Security Code that you did not make tell us at once. If you do not tell us within 90 days after the statement was mailed to you, you may not get back any funds you lost after the 90 days if we can prove that we could have stopped someone from taking the money if you had told us in time. If a good reason (such as a long trip, a hospital stay, or delay due to your initial attempt to notify your account holding financial institution), kept you from telling us, we will extend the time periods.

#### *Errors and Questions.*

In case of errors or questions about your ACH Loan Payments, telephone us at (909)626-0750 or write: Community Commerce Bank, 398 W. Foothill Blvd., Claremont, CA 91711 as soon as you can. We must hear from you no later than sixty (60) days after the Third Party Institution sent you the FIRST statement on which the problem or error appeared.

- Tell us your name and account number (if any).
- Describe of the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.
- The dollar amount of the suspected error.

If you tell us orally, we may require you send us the complaint or question in writing within ten (10) business days. We will determine whether an error occurred within ten (10) business days after we hear from you and will correct any error promptly. If more time is needed, however, we may take up to forty-five (45) days to investigate a complaint or question. If we decide to do this, we will credit your account within ten (10) business days for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within 10 business days, we may not credit your account.

We will tell you the results within three business days after completing our investigation. If we decide that there was no error, we will send you a written explanation. You may request copies of the documents that were used in the investigation.

#### *Financial Institution's Liability.*

If we do not complete an ACH Loan Payment from your account on time or in the correct amount according to our agreement with you, we will be liable for your losses or damages. However, there are some exceptions. We will not be liable, for instance:

- If, through no fault of ours, you do not have enough money in your account to make the transfer.

- The transfer would go over the credit limit on your overdraft line (if applicable).
- Circumstances beyond our control (e.g., fire, flood, power outage, equipment or technical failure or breakdown) prevent the transfer, despite reasonable precautions that we have taken.
- The computer or related system was not working properly and you knew about the breakdown when you started the transfer.
- Your funds are subject to legal process or other encumbrance restricting the transfer.
- The Third Party Depository Institution does not send the funds to us on time or in the correct amount, or we do not have the required authorization to perform the transaction.

There may be other exceptions stated in this Agreement and in other agreements with you.