

# BEACON BUSINESS BANK

## ONLINE BANKING SERVICES AGREEMENT

This Online Banking Services Agreement (“Agreement”) describes your rights and obligations as a user of Beacon Online and our online banking services (“Services”). It also describes the rights and obligations of Beacon Business Bank. Please read this Agreement carefully. By signing this Agreement, you agree to comply with the terms and conditions of this 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 (“Accounts”). We may act on requests for information, or requests to make or countermand any Service requested on or associated with an Account, from any Account owner (including joint owners or borrowers on an Account) or their authorized representatives. Each time you use the Services or you permit any other person to use the Services, you are agreeing to the terms and conditions that we have set out in this Agreement, as amended. Each time you use the Services or you permit any other person to use the 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.

### A. DEFINITIONS

1. In addition to the terms otherwise defined throughout this Agreement, the following definitions apply in this Agreement. **BEACON Online Banking** is the Internet-based service providing access to your eligible account(s); **Online Account** means any Beacon Business Bank account from which you will be conducting transactions using the Service; **Password** is the code sent to you by Beacon Business Bank for use during the initial sign-on, or the codes you select after the initial sign-on, that establishes your connection to the Service; **Time of day** references are to Pacific Time; **we, us, Bank or Beacon Business Bank** refers to Beacon Business Bank, which offers the Services, and which holds the accounts accessed by the Services; and “you”, “your”, “Customer” 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. **Authorized Account** “means each account you maintain with us to which the Positive Pay Services we provide will apply. **Check** means (i) a draft, other than a documentary draft, payable on demand and drawn on a bank or (ii) a cashier's check or teller's check and includes substitute checks created under the Check Clearing for the 21st Century Act, as amended. **Decision** means an electronic instruction you transmit to us ordering us to pay, pay with issue or return an Exception Check. **Exception Check** means a Presented Check that does not match a check described in an Issue File. **Exception File** means an electronic report we transmit to you that describes Exception Checks. **Issue File** means an electronic file you transmit to us that describes checks drawn by you on a specific Authorized Account. **Presented Check** means a check drawn on an Authorized Account and presented to us for payment through the check collection system. **Business days** are Monday through Friday, excluding holidays.

### B. ACCESS TO SERVICES

You will gain access to your Accounts through the use of your Internet-enabled personal computer, your Internet Service Provider, and the Security Codes (as defined in Section D, below). You are responsible for obtaining, installing, maintaining, and operating all computer hardware and software necessary for performing BEACON Online Banking. Beacon Business Bank will not be responsible for any errors or failures from the malfunction or failure of your hardware or software. 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 or verification tools. You agree to abide by the intellectual property rights of others with respect to all software used by you or us in connection with the Services; among other things, you will not use, copy, disseminate, reverse compile or otherwise appropriate any software code or program except as allowed and for the purpose of performing approved Services.

## **C. HOURS OF OPERATION AND CUT-OFF TIMES**

The Services are available 24 hours-a-day, seven days-a-week, except during special maintenance periods. We will attempt to limit downtime to those hours of operation least impacted by customer usage, when such options are available. BEACON Online Banking transaction requests received after 5:00 p.m. on business days, and all transactions which are requested on Saturdays, Sundays, or holidays on which Beacon Business Bank chooses to remain closed, will be processed on the next business day.

## **D. USE OF YOUR SECURITY CODES**

### **1. *Security Codes***

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 ("Security Codes"). These may include a User Code and Password. These credentials, with the other components of your Security Codes, will give access to your Accounts through the Service.

You agree to keep all Security Codes confidential; you agree not to write them down. We may offer to you or require you to use additional authentication tools or methods from time to time (for example, challenge questions and phrases for employees). 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.

You will be required to change your initially assigned Password to a new unique Password, only known by you, on the first time you access the BEACON Online Banking Service. You may change your Password at any time. You agree not to allow anyone to gain access to the Services or to let anyone know your Password used with the Services. You agree to assume responsibility for all transactions up to the limits allowed by applicable law.

Collectively, your Security Codes provide security against unauthorized entry and access to your accounts. Passwords should not be easy to guess; for example, children's or pet names, birth dates, addresses or other easily recognized identifications for you should be avoided. We recommend that you change your Password frequently.

### **2. *"Three Strikes and You Are Out"***

To guard against unauthorized use of your Security Code, BEACON Online Banking disables the Password indefinitely on the third incorrect attempt until you call the Bank and request your Password to be reset. This will occur if you accidentally activate this security feature by unintentionally mis-keying a Password three times. You will need to call the Bank to reestablish the Password for your account(s).

### **3. *Multiple Signers Account***

Passwords will only be assigned to an authorized account signer. Each signer should have his/her unique Password and must safeguard the Password.

You understand that each signer's access to the BEACON Online Banking service will remain effective until the signer is deleted from the account signature card.

## **E. BANKING TRANSACTIONS WITH BEACON ONLINE BANKING**

You may use BEACON Online Banking to conduct the following transactions:

- View Account information. Balances are updated as of midnight of the preceding business day. In some cases, information may be updated earlier, for example, in the case of wire or in-branch

transactions. All balances are subject to our funds availability policy. Account information allows you to view Account histories.

- Re-Order checks for your Accounts online. Check prices vary according to the type of checks you select. The charge is automatically debited from your Account. You are responsible for checking the accuracy of all information shown on your checks. If you find an error, notify us immediately. We are not liable for losses resulting from incorrectly printed checks.
- Transfer funds among your linked Accounts.
- Positive Pay Services (Available to business customers only) – See Section K, below.
- Initiate check stop payment requests – See Section L., below.
- ACH Originations – If you are a business customer, you may be given access to our ACH Origination Services. If so, you will be required to complete a supplemental agreement, referred to herein as Attachment A.
- Wire Transfer Services – If you are a business customer, you may be given access to our Wire Transfer Services. If so, you will be required to complete a supplemental agreement, referred to herein as Attachment B.
- Initiate bill payments (“Bill Payment Services”) – If you are a consumer customer, your use of the Bill Payment Services will be subject to the Terms And Conditions of Bill Payment Service (Consumer), accessed at the time to elect to activate the Bill Payment Services. If you are a business customer, you will be required to complete a supplemental agreement, referred to herein as Attachment C. (NOT available for accounts that have special signing requirements).

New services may be introduced for BEACON Online Banking from time to time. Beacon Business Bank will notify you of the existence of these new services. By using these services when they become available, you agree to be bound by the rules that will be made available to you concerning these services.

## **F. TRANSFER LIMITATIONS**

Because regulations require Beacon Business Bank to limit pre-authorized transfers (including BEACON Online Banking transfers), the following limitations apply: Savings, Money Market and Fed Funds Index Account - Transfers from a Money Market account or a Fed Funds Index account to another account at Beacon Business Bank or to third parties by pre-authorized, automatic, or telephone transfer are limited to six per month.

## **G. DOCUMENTATION**

Periodic Statements: You will get a monthly account statement (unless there are no transfers in a particular month. In any case, you will get the statement at least quarterly).

Preauthorized Credits: If you have arranged to have direct deposits made to your account at least once every 60 days from the same person or company, you can call us at #415-543-3377 to find out whether the deposit has been made or you can view the transaction using the Service.

## **H. SUFFICIENT FUNDS**

You must have sufficient available funds in your Account to cover the amount of any transaction that would be charged to your Account. Subject to limitations set out in this Agreement, you can request payments up to the amount of available funds or available credit in your Account. We may hold (or “freeze”) funds at any time after you have initiated a Service for any reason, including as a means of reducing risks that there will be insufficient funds for completing the Service. If we do hold funds, we may treat the held funds as not available for other

purposes, and reject other transactions (for example, checks or other transfer instructions) in any order we choose. We may allow overdrafts/over limits or negative balances, but we also may discontinue the practice at any time with or without prior notice to you. We may prevent or reverse any payments or other Service in any order that we choose as a means of preventing or recovering any overdrafts or other exposures. If you do not have sufficient or available funds or credit, you may be charged an overdraft or other fee (such as fees for returned checks or other electronic items), as set forth the Deposit Account Agreement and Disclosure, as applicable.

## **I. WAIVER OF TWO SIGNATURES AND OTHER 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. For example, there may be a requirement for two signatures on checks. Or loan Accounts may have limited or specific access restrictions. 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 (for example, requirements for two signatures). 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. For example, we may ignore requirements for two signatures. As another example, we may transfer funds from an Account even though the person initiating the transfer is not an authorized signer on the Account. We may process transactions from loan Accounts without regard to access limitations in any loan documentation or agreements.

## **J. 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.

## **K. POSITIVE PAY SERVICES**

1. Issue File. You agree to transmit an Issue File to us in a file format that has been approved by us. The Issue File must accurately state the check number, the issue date, and the exact amount of each check drawn on each Authorized Account since the last Issue File was transmitted. Each Issue File must be transmitted via Business Online Banking/Internet Banking by 4 p.m. Pacific Time.
2. Payment of Presented Checks; Reporting of Exception Checks. We will compare each Presented Check by check number and amount against the Issue Files we have received pursuant to this Agreement. On each business day, we will do the following: (a) Pay and charge to the Authorized Account each Presented Check that matches (by check number and amount) a check shown in any Issue File; (b) Create an Exception File that indicates whether we have received any Exception Checks and, if so, specifies the check number and amount of any such Exception Check; and (c) Transmit the Exception File to you via Ecorp/Internet Banking by 7:00 a.m. Pacific Time on the next business day following our creation of the Exception File.
3. Payment of Exception Checks; Decisions. We will pay and charge to the Authorized Account any Exception Check, unless we receive a timely Decision with valid, alternate instructions to us. Your Decision must identify each Exception Check by the complete check number and amount specified in the Exception File and must specifically instruct us to pay, pay with issue or return the Exception Check. You

must transmit the Decision for each Exception Check via Ecorp/Internet Banking. The Decision must be received by us no later than 11:00 a.m. Pacific Time on the same business day we transmit an Exception File. We will pay, pay with issue or return to the depository bank any Exception Check consistent with your proper and timely Decision.

4. Revised Files. Each Issue File or Decision (together, "File") you transmit to us will be considered final, correct and complete upon receipt. You have no right to revoke or amend a File once we have received it. However, upon your request, we may, but are not required to, use reasonable efforts to act on a request to revoke or amend a File. We will have no liability if your request to revoke or amend a File is not effected. We retain the right to impose reasonable handling charge in connection with any such request, or if we receive a duplicate or otherwise erroneous File.

We, at our discretion, may revise any Exception File we send to you. We may transmit the revised Exception File in the form of a complete replacement file or a partial amendment to the Exception File originally sent. We will transmit any such replacement or amendment so that is received by you prior to the deadline for the original Exception File as set forth above.

We will use only Issue Files that comply with this Agreement when we prepare Exception Files under this Agreement.

You will use only Exception Files that comply with this Agreement and have not been revised in accordance with this Section when you prepare Decisions. We will not be obligated to comply with any Decision received after a deadline under this Agreement but may instead treat such a Decision as though we had not received it.

We are not responsible for detecting any error contained in any File you transmit to us.

5. UCC Liability. To the extent applicable, and except as modified otherwise by this Agreement, applicable rule or regulation, the liability provisions of the California Uniform Commercial Code ("UCC") will govern the Positive Pay Services.
6. Wrongful Honor. It will constitute wrongful honor by us if we pay an Exception Check listed in a timely Exception File contrary to a timely and properly submitted Decision. If there is wrongful honor: (a) We will be liable to you only for the amount of the wrongfully paid Exception Check or your actual damages resulting from our payment of the Exception Check, whichever amount is less; (b) We retain the right to assert that you failed to exercise reasonable care under the UCC; and (c) We retain the right to assert the defense that you have sustained no actual damages because our honor of the Exception Check discharged for value an indebtedness of yours or any other defense available to us under the UCC, this Agreement or otherwise.
7. Wrongful Dishonor. Our liability for wrongful dishonor of an Exception Check will be limited only to the damages for wrongful dishonor recoverable under the UCC, as limited by the terms of this Agreement. Notwithstanding anything in this Agreement to the contrary, we will have no liability to you for wrongful dishonor when we, acting in good faith, return an Exception Check: (a) that we reasonably believed was not properly payable; or (b) if there are insufficient available funds on deposit in the Authorized Account; or (c) if required to do so by the service of legal process on us or the instructions of regulatory or government authorities or courts; or (d) as otherwise provided in our account agreement with you.
8. Rightful Payment and Dishonor. If we honor an Exception Check, such honor will be rightful, and you waive any right you may have to assert that the Exception Check was not properly payable under the UCC. If we dishonor an Exception Check in accordance with a Decision you submitted, the dishonor will be rightful, and you waive any right you may have to assert that the dishonor was wrongful under the UCC. You agree that we exercise ordinary care whenever we rightfully pay or return an Exception Check consistent with the provisions of this Agreement.

9. Assignment. To the extent that you suffer a loss as a result of the Positive Pay Service, we assign to you any claim that we would have against a depository or collecting bank to recover the loss, including any claim of breach of warranty under the UCC.
10. Items Presented for Payment. Items presented to us for immediate payment (i.e. cashing a check at the bank) will not be included in the Positive Pay Agreement.

## **L. CHECK STOP PAYMENT SERVICES**

You may request a stop payment on a check issued on your Account(s) by completing the form presented as part of the check stop payment Service and submitting all the required information to us (“Check Stop Payment”). Check Stop Payments must be received by us in sufficient time prior to presentment of the relevant item for payment that we have a reasonable opportunity to act on the request. All Check Stop Payment orders, renewals and revocations of stop orders will be subject to our current policy on stop payment orders. Requests received after our cut-off hour, currently 4:00pm PT, or on a day that we are not open for business may be deemed received the following day that we are open for business. For significant or material items, contact us by coming to one of our branches or by telephone in addition to using the Services for Check Stop Payment. There will be a fee assessed for each Check Stop Payment request whether or not we receive the request in time to place the Check Stop Payment.

You must give us timely, complete and accurate information, including the check date, payee, EXACT amount of the check, check number and reason for the stop request. If any information is incomplete or inaccurate, we will not be responsible for failing to stop payment on the check.

You may use the Check Stop Payment Service to stop payment on checks that you have written against your Accounts. If you wish to cancel or amend any other Service transaction (for example, wire transfer or ACH Services), you should use the process applicable to that Service and you will be subject to any limitations or inability to stop applicable to that Service.

You may not use the Check Stop Payment Service to stop payment on any ACH/EFT transaction, point-of-sale ACH/EFT transfer; any cashier’s check, certified check or other official institution check have purchased from Bank or any check which we have guaranteed. You understand that your Check Stop Payment request is conditional and will not be effective if we have not had a reasonable opportunity to respond to your request, or that stopping payment may subject us to risk of loss or damages under any law or regulation (including clearing house or other processor rules).

A Check Stop Payment request against a check is effective only against the check that is described in the Check Stop Payment request form; and does not cancel or revoke any authorization for future or recurring ACH/EFT transfers by you or by the same biller or originator. A Check Stop Payment order is effective for six (6) months only and will expire automatically, at which time you are responsible for any renewal desired by you for another six (6) month term.

## **M. PREAUTHORIZED PAYMENTS**

**Right to Stop Payment:** If you have told us in advance to make regular electronic payments out of your account, 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 #415-543-3377, or write to us at

Beacon Business Bank  
88 Kearny Street, Suite 1750  
San Francisco, California 94108

in time for us to receive your request by 3:00 pm of the business day prior to the payment date you specified when you set up the payment. 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. A separate process will apply to the extent you wish to initiate check stop payment requests through the Services. Refer to "Check Stop Payment Services," above for further details.

**Notice of Varying Amount:** If these regular payments may vary in amount the person you are going to pay will tell you 10 days before each payment, when it will be made and how much it will be. (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 Transfer:** If you order us to stop one of these electronic payments three business days or more before the transfer is scheduled, and we do not do so, we will be liable for your losses or damages.

## **N. CONSUMER LIABILITY**

Tell us AT ONCE if you believe any part of your Security Code has been lost or stolen, if the Password has been discovered by another person, or if you believe that an electronic fund transfer has been made without your permission using information from your check. Telephoning is the best way of minimizing your potential losses (you could lose all funds in your account plus your overdraft line of credit, as applicable).

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

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

Also, if your statement shows transactions that you did not make, including those made by card, code or other means, tell us at once. If you do not tell us within 60 days after the statement was mailed to you, you may not get back any money you lost after the 60 days if we can prove that we could have stopped someone from taking the money if you informed us in time. If a good reason (such as a long trip or a hospital stay) kept you from telling us, we will extend the time periods.

## **O. CONTACT IN EVENT OF UNAUTHORIZED TRANSFER**

If you believe any part of your Security Code (including your Password) has been lost or stolen call:

Contact us at one of our branch locations:

San Francisco Branch: (415) 543-3377 Peninsula Branch: (650) 697-8855 East Bay Branch: (510)769-1000

Or write: Beacon Business Bank  
88 Kearny Street, Suite 1750  
San Francisco, California 94108

You should also call the number or write to the address listed above if you believe a transfer has been made using the information from your check without your permission.

## **P. ERRORS AND QUESTIONS**

In Case of Errors or Questions Regarding a BEACON Online Banking or Bill Payment Transaction, call Beacon Business Bank at one of our branch locations

San Francisco Branch: (415) 543-3377 Peninsula Branch: (650) 697-8855 East Bay Branch: (510)769-1000

Or write us at:

BEACON BUSINESS BANK  
88 KEARNY STREET, SUITE 1750  
SAN FRANCISCO, CA 94108

as soon as you can, if you think your statement is wrong or if you need more information about a transfer listed on the statement. We must hear from you at the specified telephone number or address no later than sixty (60) days after we sent you the FIRST statement on which the problem or error appeared. We will need:

- Your name and account number.
- A description of the error or the transfer in question, and an explanation concerning why you believe it is an error or need more information.
- The dollar amount of the suspected error.

If the report is made orally, we may require that you send 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 this occurs, we will credit your account within ten (10) business days for the amount you think is in error. This will allow you to use 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 ten (10) business days, we may not credit your account.

If an alleged error involves a new account, point-of-sale, or foreign-initiated transfer, we may take up to ninety (90) days to investigate your complaint or question. For new accounts, we may take up to twenty (20) business days to credit your account for the amount you think is in error.

We will tell you the results within three (3) business days after completing our investigation. If we determine that no error occurred, we will send you a written explanation. You may request copies of the documents that we used in our investigation.

## **Q. NON-CONSUMER ACCOUNTS**

This “Non-Consumer Accounts” section applies to transactions on accounts that are not primarily established for personal, family or household purposes and to transactions that are otherwise not subject to the federal Electronic Funds Transfer Act (the “EFTA”) (Non-Consumer Transactions”), and to the persons who make them. To the extent this section is inconsistent with any of the provisions of this Agreement, the terms and conditions of this section will control as it is applied to Non-Consumer Transactions.

1. Inapplicable Provisions. Consumer protections required by the EFTA are not applicable to Non-Consumer Transactions. Specifically, the “Liability For Failure to Stop Payment of Preauthorized Electronic Transfer”, “Consumer Liability”, “Financial Institutions Liability” and “Errors or Questions” sections of this Agreement do not apply to Non-Consumer Transactions. You are, however, obligated to tell us at once if you believe any part of your Security Code has been lost or stolen, or if your statement shows transactions that you did not make.



2. Liability Limitations and Indemnification. We will exercise reasonable care in processing Non-Consumer Transactions. You will exercise reasonable care in examining statements and initiating Non-Consumer Transactions. 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. If we become liable to you for interest compensation under this Agreement or applicable law, such interest shall be calculated based on the average federal funds rate at the Federal Reserve Bank in the district where the Bank is headquartered for each day interest is due, computed on the basis of a 360-day year. UNLESS OTHERWISE REQUIRED BY LAW, IN NO EVENT WILL THE BANK BE LIABLE TO YOU FOR SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR ATTORNEYS' FEES, RESULTING FROM OUR ACTS OR OMISSIONS PURSUANT TO THIS AGREEMENT, EVEN IF WE ARE ADVISED IN ADVANCE 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 \$25,000.00.

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, if you are an owner of an 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 survives termination of this Agreement.

3. Security Procedures. We may process any Non-Consumer Transaction we believe is sent or authorized by you if we act in compliance with a security procedure agreed upon by you or us. Such transactions will be deemed to be effective, just as if they were made by you, and you will be obligated to pay us in the amount

of such orders, whether or not they were transmitted or authorized by you. You agree that the security procedures are not designed to and are not for the purpose of detecting error. You agree to review the security procedures and to choose one that is commercially reasonable for you, after taking into consideration the type, size and frequency of payment order anticipated by you. You agree to periodically review the security procedures in light of your actual usage. Your continued use of the Services will constitute agreement and ratification by you that the security procedures continue to be commercially reasonable.

You acknowledge that you may change the security procedures at any time by notice to us, and you agree to do so when and if needed to ensure that the security procedures are and continue to be commercially reasonable for the type, size and frequency of requests delivered by you to us. You agree to notify us immediately if the security procedures cease to be commercially reasonable for your use of the Services.

You are responsible for maintaining the confidentiality of the security procedures, including the Security Codes. You will implement a comprehensive security program that includes administrative, technical and physical safeguards to prevent unauthorized access to, disclosure of or use of the security procedures. You will notify us immediately in the event you suspect that any security procedure has been or may have been compromised or rendered ineffective. You will be liable for any losses or damages resulting from your breach of this Agreement or to which your negligence contributed, or which resulted from unauthorized, fraudulent or dishonest acts by your current and/or former authorized agents (including instances where an authorized agent acted to your detriment).

4. Refusal to Process Communications. We may delay or refuse to process any requested Service, including ACH entries, wire transfer, payment orders or other money transactions, or any other communications 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. 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.
5. Account Statements. You agree to notify us promptly of any discrepancy regarding Non-Consumer Transactions between your records and the information shown on the account statement. If you fail to notify us of any discrepancy within 30 calendar days of receipt of the account 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 any loss of interest with respect to a Non-Consumer Transactions that is or should have been shown. If you fail to notify us of any such discrepancy within 30 days of receipt of the account statement, you will be precluded from asserting the discrepancy against us.

Furthermore, you agree that we may send notices and other communications to the current address shown in our records, whether or not that address includes a designation for delivery to the attention of any particular individual. You further agree that Beacon Business Bank will not be responsible or liable to you in any way if information is intercepted by an unauthorized person, either in transit or at your place of business. You agree to:

- Keep your Security Codes secure and strictly confidential, providing it only to authorized signers on your account(s).
- Instruct each person to whom you give your Security Codes that he or she is not to disclose it to any unauthorized person.

- Immediately notify us and select a new Password if you believe your Password may have become known to an unauthorized person.
6. ACH Bill Pay Transactions. If a Bill Payment is processed electronically through the Automated Clearing House (“ACH”), the ACH Entries and the transaction will also be subject to the terms and conditions of Attachment A or any other ACH origination agreement between you and us, to the extent applicable.

## **R. 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, as applicable (the “Rules”), and to provide evidence reasonably satisfactory to us of the same if requested by us. Without limitation, you agree and acknowledge that payment orders, ACH entries and other Services may not be used by you in violation of, and that these must comply with, 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.

## **S. FINANCIAL INSTITUTION'S LIABILITY**

If we do not complete a transfer to or 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:

- Through no fault of Beacon Business Bank, you do not have enough money in your account to make the transfer.
- The transaction would have caused you to exceed your available credit on your overdraft line (if applicable).
- Circumstances beyond our control (such as fire, flood, power outage, equipment or technical failure or breakdown) prevent the transfer, despite reasonable precautions that we have taken.
- There is a hold on your account, or if access to your account is blocked in accordance with banking policy.
- 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.

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

## **T. ELECTRONIC MAIL**

If you send Beacon Business Bank an electronic mail message, Beacon Business Bank will be deemed to have received it only upon its actual receipt of the message. Once actually received by us, the message will be deemed received the following business day. Beacon Business Bank will have a reasonable time to act on your e-mail.

You agree that Beacon Business Bank may respond to you by electronic mail with regard to any matter related to the Service, including responding to any claim of unauthorized electronic funds transfer that you make. Any such electronic mail sent to you by Beacon Business Bank shall be considered received within three (3) days of the date sent by Beacon Business Bank, regardless of whether or not you log on to the Service within that time frame.

You should not rely on electronic mail if you need to communicate with Beacon Business Bank immediately. Transactions such as notification of an unauthorized transaction from one of your accounts, or if you need to place a stop payment must not be sent through e-mail. You should never send personal information over electronic mail to us.

## **U. OTHER AGREEMENTS**

In addition to this Agreement, you and Beacon Business Bank agree to be bound by and comply with the requirements of the agreements including but not limited to the Deposit Agreement & Disclosure applicable to each of your Accounts. Your use of the Service is your acknowledgment that you have received this Agreement and intend to be bound by it. If there is a conflict between the terms and conditions of this Agreement and one contained in the other agreements between you and us, this Agreement will control.

## **V. MODIFICATIONS TO THIS AGREEMENT**

Beacon Business Bank may delete, modify or add to the terms and conditions applicable to the Services from time to time. We will automatically deduct the fees related to the Service from your designated Account each month. We may impose new fees and charges, or increase or change existing 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. Your continued use of the Services following a modification or addition to the terms and conditions will evidence your consent to the modified or new terms and conditions.

## **W. CONFIDENTIALITY**

We will disclose information to third parties about your account or the transfer you make where it is necessary for completing transfers; in order to verify the existence and condition of your account for a third party; such as a credit bureau or merchant; in order to comply with government agency or court orders; or if you give us your written permission. We do not disclose any nonpublic information about Customers to anyone, except as permitted by law.

If you decide to close your account(s) or become an inactive customer, we will continue to adhere to the privacy policies and practices described in this notice. Consumer accounts receive an additional privacy statement, provided at account opening and annually thereafter.

## **X. INACTIVITY / TERMINATION**

If you do not sign on to the Services or have any transactions scheduled through the Services during any consecutive ninety (90) day period we may convert your account to inactive status. If your account is considered inactive, you must contact us to have the Services activated before you will be able to schedule any transaction through the Services.

This Agreement will remain in effect until it is terminated by you or Beacon Business Bank.

You understand that you may cancel this Agreement at any time by notifying Beacon Business Bank electronically or by mail at the addresses provided below. This will cancel the Service, but will not terminate your accounts with Beacon Business Bank.

Beacon Business Bank may cancel this Agreement and terminate your use of BEACON Online Banking, in whole or in part, for any reason, at any time. We will try to notify you in advance, but we are not obligated to do so.

You may notify Beacon Business Bank by one of the following methods:

- By calling us at one of our branch locations, 9:00 a.m. to 5:00 p.m. Monday through Friday, except holidays.

San Francisco Branch: (415) 543-3377  
Peninsula Branch: (650) 697-8855  
East Bay Branch: (510) 769-1000

- By writing a letter and either sending it to the following address or giving it to a Banking Officer at any location:

BEACON BUSINESS BANK  
88 KEARNY STREET, SUITE 1750  
SAN FRANCISCO, CA 94108

BEACON BUSINESS BANK  
ATTENTION: BRANCH MANAGER  
1442 WEBSTER STREET  
ALAMEDA, CA 94501-3339

BEACON BUSINESS BANK  
ATTENTION: BRANCH MANAGER  
1700 SOUTH EL CAMINO REAL, SUITE 108  
SAN MATEO, CA 94402

## **Y. DATA RETENTION**

You will retain data on file adequate to permit remaking or reconstruction of all requested Services 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, as applicable.

## **Z. GOVERNING LAW**

This Agreement is governed by the laws of the State of California, applicable bank regulations and federal laws.

## **AA. FEES**

For check stop payment fees, refer to the Schedule of Fees and Charges for our current fee. For consumer accounts we do not currently charge electronic fund transfer fees for the Service. We reserve the right to charge and revise fees in the future and will provide notice of such charges and revisions, if required by law. For Service fees applicable to business customers, refer to the Schedule of Fees and Charges for current fee and charges details. All fees are subject to change by BEACON.

By clicking "**Accept**" button below, you consent to this Agreement.

If you would like to print and retain a copy of this Agreement, please go to the following website:  
<http://www.beaconbusinessbank.com/online-banking-agreement.php>