



Mobile Banking Service Agreement

(Addendum to your Online Banking Service Agreement or Business Internet Banking Service Agreement)

(Revised January 1, 2016)

I. INTRODUCTION – PARTIES AND DEFINITIONS

This Mobile Banking Service Agreement (as amended from time to time, this **“Agreement”**), governs the Vectra Bank Colorado Mobile Banking service and your use of that service. This Agreement also includes certain licensing rights and restrictions, including an end user agreement between you and our primary software licensor, FIS Mobile.

The terms **“we”**, **“us”** and **“our”** refer to ZB, N.A. dba Vectra Bank Colorado. The terms **“you”** and **“your”** refer to our customer who is entering into this Agreement. The term **“Mobile Banking”** means a suite of services that we make available, enabling you to conduct banking transactions with us by using your Mobile Device. **“Mobile Device”** means a cellular telephone or similar wireless communications device (1) that is installed with software permitted by us (**“Mobile Banking Software”**) that you have downloaded in order to conduct Mobile Banking transactions, or (2) that is capable of conducting Mobile Banking transactions by using other protocols we may choose to permit (e.g., Wireless Application Protocol (WAP) or text (SMS) messaging). We reserve the right to change the Mobile Banking Software and other protocols that we allow for Mobile Banking at any time without prior notice. You agree to regularly install updates as they are made available to you for your Mobile Banking Software and your Mobile Device’s operating system.

II. MOBILE BANKING IS PART OF YOUR PRIMARY ONLINE BANKING SERVICE

Mobile Banking is available only to individuals and businesses that are already enrolled in our (personal) Online Banking service or our Business Online Banking service.

The term **“Primary Online Banking”** means either the (personal) Online Banking service or the Business Online Banking service through which you choose to enroll in Mobile Banking. **“Primary Online Banking Agreement”** means either the (personal) Online Banking Service Agreement or the Business Online Banking Agreement, as amended from time to time, that you accepted when enrolling in your Primary Online Banking service. Your **“Primary Online Banking Agreement”** also includes related agreements that you have with us in connection with your Primary Online Banking (e.g., any agreement for our Bill Pay service or Transfers to a Friend service; any Multi Party Addendum; etc.)

This Mobile Banking Service Agreement is an Addendum to and includes the terms of your Primary Online Banking Agreement. Capitalized terms that are not defined in this Agreement are defined in your Primary Banking Agreement. The same credentials (Login ID and Password) that have been issued to you (or your authorized users) for your Primary Online Banking service shall also give you (and your authorized users) access to Mobile Banking. We can also provide alternate means for you (and your authorized users) to access Mobile Banking, including but not

limited to (1) a simplified passcode for limited functionality (e.g., viewing) that does not include transferring funds, and/or (2) biometric identification (e.g., touchscreen fingerprint) that can include any mobile banking functionality. If you elect to use an optional biometric identification procedure (such as Touch ID) that is performed on your mobile device or by a third party service selected by you, then we can accept and act upon identification communicated to us from that mobile device or service, and we can grant you access to Mobile Banking without further action or responsibility on our part to confirm your identity. You agree that it is commercially reasonable for us to verify the authenticity of a funds transfer order by receipt of either (a) your Login ID and Password, or (b) your biometric identification (including biometric identification by your mobile device or third party service), and that all instructions verified by one of those methods shall be deemed your enforceable orders to us. Commercially reasonable alternate means of access can be added, removed, substituted or changed by us from time to time without prior notice. Alternate access methods may not be available for all Mobile Devices, functionalities, types of accounts, or classes of online or mobile banking services. In our sole discretion, we reserve the right to present you with challenge questions at the time of your log in to help further authenticate your identity, and to deny service if you are unable to answer those questions to our satisfaction. **Important Note: if you allow any other person's biometric information to be associated with a mobile device that you have registered for your biometric identification, then you are authorizing that person to access and transact in your Mobile Banking service to the same extent as if you shared your Login ID and Password with that person. Enabling biometric identification on a mobile device that you share with another person is strongly discouraged.**

III. ACCEPTING THIS AGREEMENT

Before using Mobile Banking, you must both (a) consent to receive notices and disclosures electronically, and (b) read and accept this Agreement. You must evidence that consent and acceptance by selecting the button declaring your acceptance as part of your enrollment in Mobile Banking. In addition, you agree you are deemed to automatically renew that consent and acceptance each time you log in as a user and use Mobile Banking to conduct any transaction. The current version of this Agreement can always be viewed online through your Primary Online Banking service.

IV. TERMS AND CONDITIONS

1. CONSENT TO RECEIVE DISCLOSURES AND NOTICES ELECTRONICALLY

For certain consumer transactions, we are required to disclose certain information in writing. With prior consent, however, we may instead provide that information electronically. We also need general consent to use electronic records for certain transactions in providing the Mobile Banking service to consumers and business customers.

By accepting this Agreement, you hereby (a) consent to receiving such notices and disclosures (including this Agreement and disclosures that are otherwise required to be in writing) as well as those concerning Mobile Banking, Primary Online Banking, and your enrolled bank accounts electronically, including by mobile phone (e.g. SMS or other text message) or e-mail (each of the

foregoing being an “electronic address”) and (b) consent to using electronic records and communications to you in connection with the Mobile Banking service. We require this consent as a condition of providing the Mobile Banking service to you. You must enter your electronic address for such disclosures and notices when first enrolling in Mobile Banking. You are solely responsible for immediately updating your electronic address if it changes. You must update your electronic address by logging into your Primary Online Banking service, accessing the electronic page for managing your email address or accessing the Mobile Banking page to update your Mobile Device phone number, and entering your new electronic address. If you need assistance updating your electronic address, you may call the Customer Service Center toll free at 800-884-6725.

All disclosures and notices by us shall be deemed given and received by you immediately upon being sent to your electronic address in our records. Many disclosures and notices may also or instead appear in one or more of your bank account statements. Unless specifically required by law, we are not obligated to provide any disclosure or notice to you by regular mail or by any means other than electronic transmission.

Receiving electronic disclosures and notices on your Mobile Device requires that your Mobile Device be an Internet-enabled Mobile Device that supports 128-bit SSL encryption. You must have internet access, provide us with your valid email address, and use a commonly accepted and recent version of an HTML 4.0 compliant internet browser that supports 128-bit SSL encryption. In order to keep disclosures and notices sent to you electronically, you must be able to save them to your Mobile Device or computer or to print them. You hereby confirm to us that you have verified your hardware, software and ability to view, and to print or electronically save, electronic disclosures and notices (including text messages, emails and PDF documents). If you do not have the foregoing hardware, software and ability, you must not enroll in the Mobile Banking service.

Permissible electronic delivery includes (i) by email to any address you have provided for use with this Mobile Banking service, including PDF documents attached to email, (ii) by display on your screen during your online Mobile Banking service activity, (iii) text message to your Mobile Device, or (iv) any other electronic means that you have authorized or hereafter authorize pursuant to your online banking services agreement. You are responsible for advising us of any change in the email and other electronic addresses you use for the Mobile Banking service.

We do not charge for electronic delivery. You may request a paper copy of any electronic notice or disclosure at no additional charge by calling our Customer Service Center at 800-884-6725. You may at any time withdraw your consent to electronic delivery by calling our Customer Service Center at 800-884-6725, but in that event we can terminate your Mobile Banking service.

You may review, print and/or download a copy of this Agreement (including the foregoing Consent) from our Primary Online Banking website. You should print or save a copy of this Agreement for your records. If you do not consent to these terms for electronic delivery of disclosures and notices, or to any other provision in this Agreement, then do not accept this Agreement or use this Mobile Banking service.

2. MOBILE BANKING SERVICE

A. Mobile Banking Functions

To access Mobile Banking service and functions, your Mobile Device must be Internet-enabled

and connected to the Internet through your mobile communications service provider. You must be enrolled in both a Primary Online Banking service and our Mobile Banking service. You must enroll the particular Mobile Device(s) that you wish to use with Mobile Banking. You must also un-register any Mobile Device(s) that you may no longer wish to be capable of using with Mobile Banking.

When you access Mobile Banking with your Mobile Device, you will see a menu of available Mobile Banking functions (*e.g.*, view balances; view or search for transactions; locate branches; execute specific types of internal or external funds transfers; mobile remote deposit; etc.). From time to time we will add, and may modify or delete particular Mobile Banking functions or geographic areas served by Mobile Banking. We may make such changes in functions or geographic service with or without prior notice. We reserve the right to refuse to make any transaction that you may request through Mobile Banking.

Not all functions that are described in your Primary Online Banking Agreement or available at your Primary Online Banking service website are available with Mobile Banking. All terms and conditions in your Primary Online Banking Agreement or on your Primary Online Banking service's website that limit or govern your use of Primary Online Banking functions will also limit and govern your use of those functions through Mobile Banking.

B. Mobile Banking Service Availability

We will use reasonable efforts to make Mobile Banking service available for your use on a continuous basis. We do not guarantee functionality of Mobile Banking services (or any Mobile Banking Software) on all Mobile Devices, on all communications networks, in all geographic regions, or at all times. Mobile Banking service may be temporarily unavailable for regular or emergency system maintenance. We will endeavor to have our scheduled maintenance occur during non-peak hours, but we may conduct maintenance at any time. In addition, your accessibility to the Mobile Banking service may be interrupted because of conditions beyond our control, including outages in Internet availability. We will use commercially reasonable efforts to re-establish Mobile Banking service in those instances, but we do not promise the Mobile Banking service will always be available for your use.

We may elect to discontinue Mobile Banking (or any of the services that we provide, from time to time, through Mobile Banking) at any time. If we choose to discontinue Mobile Banking, we will provide you with reasonable notice. In the case of a disaster, your Mobile Banking may be suspended in order to allow emergency and responding personnel to use the cellular networks. In no event, regardless of cause, shall we be liable to you for unavailability of Mobile Banking services, or your inability to access Mobile Banking or to execute Mobile Banking functions.

C. Fees Charged by Us

Currently, we charge no fees to enroll in or use the Mobile Banking service itself. However, we can assess fees (a) set forth in the other agreements, disclosures or fee schedules for particular banking products or accounts (such as overdraft or funds transfer fees), or (b) for products and services that you may purchase through Mobile Banking (such as Bill Pay per- transaction fees by business customers, and mobile check deposit transaction fees).

We reserve the right to institute or change fees for Mobile Banking after sending you prior notice. See the section entitled "Amending this Agreement or Fees."

D. Mobile Device and Mobile Communications

You are responsible for providing your own Mobile Device that supports 128-bit encryption. Mobile Banking users must download, install and use certain software systems and programs developed by us, our licensors or other third-parties. We are not responsible for any damage to your Mobile Device resulting from those activities, and you will be engaging in those activities at your own risk. To download Mobile Banking Software, please follow the instructions found in the Mobile Banking section of your Primary Online Banking site. Depending on its make and model, your Mobile Device may need to be capable of receiving an SMS text message to initiate the download.

You are responsible for obtaining your own mobile communications service provider. Your mobile communications service provider may charge you for Internet-related use and for text (SMS) messages, so please see your mobile carrier for further details about its charges. You are responsible for all fees and charges that you may incur to any mobile communications service provider or any other third parties while using Mobile Banking.

We are not a party to, and we have no duty, liability or responsibility with respect to or in connection with (i) your mobile communications service provider agreement, or (ii) any Mobile Device, hardware, software or other any product or service you may purchase from others relating to your use of Mobile Banking. This Agreement does not amend or supersede any agreements that you have with third parties (such as your Mobile Device supplier and your mobile communications service provider), and you remain subject to all terms, fees, costs, other charges, limitations and restrictions in those agreements with third parties. Your Mobile Device supplier and your mobile communications service provider are responsible for their products and services. You agree that any problems you may have concerning those companies' products, services or agreements shall be resolved by you directly with them, and without involving us.

Your Mobile Device may become subject to unauthorized tracking, "hacking" or other manipulation by spyware, viruses or other malicious code ("malware"). We are not responsible for advising you of the existence or potential effect of any malware. Your use of your hardware and software is at your own risk.

E. Export Controls

Software programs, materials, tools, and technical data may be subject to U.S. export controls or the trade laws of other countries. You agree to comply with all export control regulations. You also acknowledge that you, not we, have the responsibility to obtain such licenses to export, re-export or import as may be required. You agree not to export or re-export to entities on the most current U.S. export exclusion lists or to any country subject to U.S. embargo or terrorist controls as specified in the U.S. export laws.

F. Mobile Banking License Rights Generally

In connection with your use of Mobile Banking Software, we and our licensors (or other third-parties who have directly or indirectly granted rights in those software systems and programs with respect to Mobile Banking) will require your agreement to certain license rights arrangements and/or end-user agreements ("Licenses"). By enrolling in portions of Mobile Banking relating to those software systems and programs, and by downloading and installing Mobile Banking Software, you will be evidencing your acceptance of the terms and conditions of those Licenses. We may also condition your use of Mobile Banking Software upon you affirming such Licenses by the use of a dialogue box acknowledgement (such as "I Accept"), or by other affirmative or use-

based acknowledgement and agreement systems.

We and our service providers (including without limitation third-party providers of Mobile Banking Software) reserve all rights not granted to you in this Agreement and under the terms of such Licenses. If you obtain a different Mobile Device, you will be required to download and install Mobile Banking Software, to that different Mobile Device, under the same terms set forth in this Agreement. You agree to delete all such software from your Mobile Device promptly if the Licenses or this Agreement terminate for any reason. We reserve the right to change, add to, or terminate services with our third-party Mobile Banking Software providers, to substitute different Mobile Banking Software providers, and to enter into or arrange for the provision of Mobile Banking Software by other licensors and third-parties.

EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT OR THE AGREEMENTS GOVERNING THE TERMS OF ANY LICENSE RIGHT RELATING TO THE USE OR OPERATION OF MOBILE BANKING OR MOBILE BANKING SOFTWARE, MOBILE BANKING SERVICES AND MOBILE BANKING SOFTWARE ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF PERFORMANCE, OR MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, OR ANY OTHER WARRANTY AS TO PERFORMANCE, ACCURACY OR COMPLETENESS. YOUR USE OF THE MOBILE BANKING SOFTWARE AND MOBILE BANKING SERVICES, AND ANY MATERIAL OR SERVICES DOWNLOADED OR OTHERWISE OBTAINED VIA MOBILE BANKING, IS AT YOUR OWN DISCRETION AND RISK, AND YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE RESULTING FROM THEIR USE.

G. Additional Terms and Conditions in Related Agreements with Us

Your use of Mobile Banking is subject to the terms and conditions of your Primary Online Banking Agreement (as amended from time to time). Without limitation, this Agreement is supplemented by your Primary Online Banking Agreement's provisions regarding disclaimers of warranties, limitations on our liability, indemnity, amendments, dispute resolution terms and procedures, and definitions. For consumer customers, this Agreement is also subject to consumer protection provisions in the (personal) Online Banking Agreement, including limitations on consumer customers' liabilities for unauthorized transfers, and contacting us concerning questions or errors. In the event of any specific conflicts between this Agreement and the terms of your Primary Online Banking Agreement, the terms of this Agreement will govern.

In addition, each deposit account or credit account that you access using Mobile Banking, and each transaction made in such accounts using Mobile Banking, remains subject to the general terms, conditions, and agreements governing those accounts (e.g., as applicable, the deposit account agreement, credit cardholder agreement, line of credit agreement, etc.).

H. Amending this Agreement or Fees

We may amend this Agreement at any time by sending notice as described in your Primary Online Banking Agreement; provided, however, that this Agreement governs our right to provide you with that notice electronically. You may choose to accept or decline the change. By continuing to use Mobile Banking after the effective date stated in the notice, you are deemed to accept that change.

I. Lost or Stolen Mobile Device or Password; Unauthorized Transactions

If you believe your Mobile Device, user name (Login ID), password, passcode, biometric identification, or other approved access device has been lost or stolen, or that someone has

transferred or may transfer funds from your account without your authorization, contact us **AT ONCE** at 800-884-6725. For additional information regarding your and our rights and responsibilities regarding unauthorized transactions, please review your Primary Online Banking Agreement and the applicable agreement(s) governing the affected deposit account or credit account.

J. In Case of Errors or Questions about Your Account

In case of errors in or questions about your deposit or credit accounts, contact our Customer Service Center at 800-884-6725. For additional information regarding your and our rights and responsibilities regarding errors in or questions about your accounts and how such errors and questions are processed, please review your Primary Online Banking Agreement and the applicable agreement(s) governing the affected deposit account or credit account.

For questions or concerns about the Mobile Banking service itself, you may call us at 800-884-6725 or by mail at:

**Vectra Bank Colorado
Mobile Banking Support
P.O. Box 30709
Salt Lake City, UT 84130-0709**

V. MOBILE REMOTE DEPOSIT CAPTURE

This Section V states terms and conditions that are specific to the mobile remote deposit feature (“**Deposit Service**”) we have added to our Mobile Banking service. The Deposit Service is also subject to all the other Sections of this Mobile Banking Service Agreement.

1. THE DEPOSIT SERVICE. The mobile remote deposit capture feature (“Deposit Service”) allows you to make deposits to your checking, savings or money market accounts with us using your camera-enabled Mobile Device capable of capturing check images and information, and electronically delivering the images and associated information to us or our designated processor. The Mobile Device must capture an image of the front and back of each check to be deposited, including the magnetic ink character recognition line on each check, and such other information as required by this Agreement or applicable law. Such other information includes, but is not limited to, certain technical information such as your IP Address, Mobile Device identifier, and may also include your longitude and latitude at the time the image is transferred to us.

2. ELIGIBLE ITEMS. You agree only to capture images of “checks” as that term is defined in Federal Reserve Regulation CC (“Reg. CC”). When the image is converted to an Image Replacement Document for subsequent presentment and collection, it shall be deemed an “item” within the meaning of Articles 3 and 4 of the Uniform Commercial Code.

You agree to not capture images of any of the following types of checks or other items which shall be considered ineligible items:

- a. Checks payable to anyone other than the owner of the account into which it is being deposited;

- b. Checks drawn or issued by you; or drawn by others against an account on which you are a joint owner or authorized signer;
- c. Checks containing any unauthorized alteration;
- d. Checks payable jointly, unless deposited into an account with the names of all payees;
- e. Checks previously converted to a substitute check, as defined in Reg. CC;
- f. Checks drawn on a foreign bank and/or that are not payable in United States currency;
- g. Checks that are payable on sight or payable through drafts, as defined in Reg. CC, or are remotely created checks, as defined in Reg. CC;
- h. Checks that are undated, post-dated, or are dated more than 6 months prior to the date of deposit;
- i. Checks with any endorsement on the back other than that specified in this Agreement;
- j. Checks that have previously been deposited by any remote capture or physical delivery;
- k. Checks or items that are drawn or otherwise issued by the U.S. Treasury Department;
- l. Checks that have previously been returned unpaid for any reason;
- m. Travelers Checks;
- n. Checks payable to "Cash";
- p. Checks transmitted from outside the United States;
- q. Registered government warrants;
- r. Money Orders; or
- s. Checks that are prohibited by our current procedures relating to the mobile remote deposit capture feature or which are otherwise not acceptable under your deposit account agreement or as we may otherwise determine in our sole discretion;
- t. Government checks of any type, state or federal.

We may in our sole discretion, and without liability to you, refuse any check for any or no reason, or elect to take the check on a collection basis only. We reserve the right to charge back to your account, at any time, any item that we subsequently determine was an ineligible item. We are not liable for any loss, costs, or fees you may incur as a result of our chargeback of an ineligible item

Endorsements and Procedures. You agree to restrictively endorse any item transmitted through the Deposit Service as follows: sign the back of your check with your name and add the words "For BANK Mobile Deposit Only" or as otherwise instructed by us. You agree to follow any and all other procedures and instructions for use of the Deposit Service as we may establish from time to time.

Image Quality. The image of a check or item transmitted to us using the Deposit Service must be legible and must comply with the requirements established from time to time by us, applicable law, or clearing house or association rule. We shall not be liable to you for failure to process or improperly processing any item for which you have not provided an accurate and legible image, and we reserve the right to reject any deposit.

Receipt, Security and Errors in Transmission. Use of the Deposit Service involves the electronic transmission of information across the networks of your wireless service provider and others that we do not operate or control. You accept the risk, and we bear no responsibility or liability, for the quality, privacy, security or act or actual delivery of wireless data transmissions, or the disclosure of information through such errors. An image of an item shall be deemed received when you receive a confirmation from us that we have received the image. Receipt of such confirmation does not mean that the transmission was error free, complete or will be considered a deposit and credited to your account.

Keeping and Destroying Checks After Imaging. Upon your receipt of a confirmation from us that we received an image you transmitted, you agree to retain the check for at least 30 calendar days from the date of the image transmission. After 30 days, you agree to destroy the check, mark it "VOID", or otherwise render it incapable of further transmission, deposit, or presentment. During the time the retained check is available, you agree to promptly provide it to us upon request.

Availability of Funds. In general, if an image of an item you transmit through the Deposit Service is received and accepted before 7:00 p.m. Mountain Standard Time on a business day that we are open, we consider that day to be the day of your deposit, subject to the other terms and conditions herein. Otherwise, we will consider that the deposit was made on the next business day we are open. Funds deposited using the Deposit Service will generally be made available the next business day after the day of deposit. We may delay the availability of your funds at our discretion if we deem it appropriate in accordance with our policies and procedures.

Deposit Limits. We may establish limits on the dollar amount and/or number of items or deposits from time to time. If you attempt to initiate a deposit in excess of these limits, we can reject your deposit. If we permit you to make a deposit in excess of these limits, such deposit will still be subject to this Agreement, and we will not be obligated to allow such a deposit at other times. We will inform you of the deposit limits applicable to you in a notice you will receive on your Mobile Device prior to each transaction.

Presentment. The manner in which the items are cleared, presented for payment, and collected shall be in our sole discretion and subject to the agreements and disclosures governing your deposit account.

Termination. We may terminate your use of the Deposit Service at any time and for any reason, although your representations, warranties and obligations shall remain in full force and effect nonetheless. Without limiting the foregoing, your use of the Deposit Service may be terminated if you breach any term of this Agreement, if you use the Deposit Service for any unauthorized or illegal purposes, or you use the Deposit Service in a manner inconsistent with the terms of any other agreement you may have with us.

Fees. A fee may be charged for using the Deposit Service. We may change that fee amount from time to time, but the current amount will be disclosed before you choose to submit your deposit transaction. You authorize us to deduct any such fees from any account in your name with us.

User Warranties and Indemnification. You warrant to us that:

- a. You will only transmit eligible items;
- b. Images will meet our image quality standards;
- c. You will not transmit duplicate items;
- d. You will not re-deposit or re-present any original item;
- e. All information you provide to us is accurate, true and correct;
- f. You will comply with this Agreement and all applicable rules, laws and regulations;
- g. With respect to each check image that you transmit, you are deemed to have made any representation or warranty that would have applied had you deposited a paper check by other means;
- h. You agree to indemnify and hold us harmless from any loss for breach of this warranty provision.

VI. FIS MOBILE END USER AGREEMENT

Our primary licensor for the Mobile Banking services is FIS Mobile which has provided us the right to enter into the following end user agreement (the "End User Agreement") with you for the use of the FIS Mobile Software (defined below). By enrolling in our Mobile Banking service, and during such time as we maintain our rights to license the FIS Mobile Software, you hereby agree as follows:

(i) **General.** Access to our Mobile Banking services via your Mobile Device is powered by the mobile technology solution owned by FIS Mobile. FIS Mobile is not the provider of any of the financial services available to you through the "FIS Mobile Software" (defined below), and FIS Mobile is not responsible for any of the materials, information, products or services made available to you through the FIS Mobile Software.

(ii) **Ownership.** You acknowledge and agree that FIS Mobile is the owner of all rights, title and interest in and to the mobile technology solution made available to you hereunder, including but not limited to any downloaded software and the computer programs contained therein, as well as any accompanying user documentation, and all subsequent copies, updates or versions thereof, regardless of the media or form in which they may exist (all of which is collectively referred to herein as the "FIS Mobile Software"). You may not use the FIS Mobile Software unless you have first accepted the terms of this End User Agreement.

(iii) **License.** Subject to the terms and conditions of this End User Agreement, you are hereby granted a personal, nonexclusive, nontransferable license to use the FIS Mobile Software (in machine readable object code form only) in accordance with the terms of this End User Agreement and for the sole purpose of enabling you to use and enjoy the benefits of our mobile banking services made available via the FIS Mobile Software. This is not a sale of the FIS Mobile Software. All rights not expressly granted to you by this End User Agreement are hereby reserved by FIS Mobile. Nothing in this license will entitle you to receive hard-copy documentation, technical support, telephone assistance, or updates to the FIS Mobile Software. This license may be terminated at any time, for any reason or no reason, by you or FIS Mobile. Upon termination, you agree to immediately destroy all copies of any FIS Mobile Software which has been downloaded to your Mobile Device or otherwise in your possession or control.

(iv) **Restrictions.** You shall not: (i) modify, revise or create any derivative works of the FIS Mobile Software; (ii) decompile, reverse engineer or otherwise attempt to derive the source code for the FIS Mobile Software; (iii) redistribute, sell, rent, lease, sublicense, or otherwise transfer rights to the FIS Mobile Software; or (iv) remove or alter any proprietary notices, legends, symbols or labels in the FIS Mobile Software, including, but not limited to, any trademark, logo or copyright.

(v) **Updates.** The terms of this End User Agreement will govern any updates that replace and/or supplement the original FIS Mobile Software, unless such update is accompanied by a separate license in which case the terms of that license will govern.

(vi) **Text Messages.** Text messaging is conducted between you and us. You and we are solely responsible for the content transmitted through text messages sent between you and us. You must provide source indication in any text messages you send (e.g., mobile telephone number, "From" field in text message, etc.) You are responsible for any text message fees charged by your mobile communications service provider.

(vii) **Consent to Use of Data.** You agree that FIS Mobile may collect and use technical data and related information, including but not limited to technical information about your Mobile Device, system and application software, and peripherals, that is gathered periodically to facilitate the provision of software updates, product support and other services (if any) related to the FIS Mobile Software. FIS Mobile may use this information, as long as it is in a form that does not personally identify you, to improve its products or provide services or technologies.

(viii) **Export Restrictions.** You may not use or otherwise export or re-export the FIS Mobile Software except as authorized by United States law and the laws of the jurisdiction in which the FIS Mobile Software was obtained. In particular, but without limitation, the FIS Mobile Software may not be exported or re-exported (a) into any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. By using the FIS Mobile Software, you represent and warrant that you are not located in any country or on any such list. You also agree that you will not use the FIS Mobile Software for any purposes prohibited by United States law, including, without limitation, the development, design, manufacture or production of nuclear missiles or chemical or biological weapons.

(ix) **U.S. Government Restricted Rights.** The FIS Mobile Software is commercial computer software subject to RESTRICTED RIGHTS. In accordance with 48 CFR 12.212 (computer software) or DFARS 227.7202 (commercial computer software and commercial computer software documentation), as applicable, the use, duplication, and disclosure of the FIS Mobile Software by the United States of America, its agencies or instrumentalities is subject to the restrictions set forth in this End User Agreement.

(x) **Disclaimer of Warranty.** THE FIS MOBILE SOFTWARE IS PROVIDED ON AN 'AS IS' AND 'AS AVAILABLE' BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. NO WARRANTY IS PROVIDED THAT THE FIS MOBILE SOFTWARE WILL BE FREE FROM DEFECTS OR VIRUSES OR THAT OPERATION OF THE FIS MOBILE SOFTWARE WILL BE UNINTERRUPTED. YOUR USE OF THE FIS MOBILE SOFTWARE AND ANY MATERIAL OR SERVICES OBTAINED OR ACCESSED VIA THE FIS MOBILE SOFTWARE IS AT YOUR OWN DISCRETION AND RISK, AND YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE RESULTING FROM THEIR USE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

(xi) **Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL FIS MOBILE OR ITS AFFILIATES OR LICENSORS BE LIABLE FOR ANY DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE FIS MOBILE SOFTWARE, INCLUDING BUT NOT LIMITED TO ANY GENERAL, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, AND REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH ANY CLAIM IS BASED. IN ANY CASE, FIS MOBILE'S LIABILITY ARISING OUT OF THE USE OR INABILITY TO USE THE FIS MOBILE SOFTWARE SHALL NOT EXCEED IN THE AGGREGATE THE SUM OF THE FEES PAID BY YOU FOR THIS LICENSE. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR CERTAIN TYPES OF DAMAGES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

(xii). **Miscellaneous.** This End User Agreement constitutes the entire agreement between you and FIS Mobile concerning the subject matter hereof. This End User Agreement will be governed by and construed in accordance with the laws of the state of California, excluding that body of laws pertaining to conflict of laws. If any provision of that portion of this Agreement is determined by a court of law to be illegal or unenforceable, such provision will be enforced to the maximum extent possible and the other provisions will remain effective and enforceable. All disputes relating to this End User Agreement are subject to the exclusive jurisdiction of the courts of California and you expressly consent to jurisdiction and venue thereof and therein. This End User Agreement and all related documentation are and will be in the English language. The application of the United Nations Convention on Contracts for the International Sale of Goods is hereby expressly waived and excluded.