



## COMMERCIAL ONLINE BANKING AGREEMENT

This Agreement sets forth the terms of the online banking services (the "Services") offered by Pacific Western Bank ("us"). By applying for any Service, you agree to be bound by this Agreement. Your use of any Service will be additional evidence of your agreement to its terms. We will let you know when the Services you request become available. If you request additional Services in the future, they will be governed by this Agreement, unless we advise you otherwise.

### GETTING ESTABLISHED

- 1. Security Procedure and User Guides.** We may provide you with one or more identification numbers, passwords and/or other means of identification and authentication (collectively, "Password") to access our Services. We also may provide you with online instructions and guides (collectively, "User Guides") in connection with certain Services. You agree to: (a) comply with the User Guides that we make available to you; (b) take reasonable steps to safeguard the confidentiality and security of your Password; (c) limit access to your Password to persons who have a need to know such information; (d) closely and regularly monitor the activities of employees who access the Services; (e) notify us immediately if you have any reason to believe the security or confidentiality required by this provision has been or may be breached; and (f) immediately change your Password if you know or suspect that the confidentiality of the Password has been compromised in any way. Our security procedures are not designed for the detection of errors (e.g., duplicate payments or errors in your funds transfer instructions). We will not be obligated to detect errors by you or others, even if we take certain actions from time to time to do so.

You agree to change any temporary Password we give you promptly after you are given access to the Services for the first time and whenever anyone who has had access to any Password is no longer employed or authorized by you to use the Services. For security reasons, you also agree to change the Passwords you assign to your employees on a regular basis, but no less frequently than every 90 days. We may require you to change your Password at any time.

As an alternative to verifying transactions by means of a Password, we may elect to verify the authenticity or content of any order or instruction by placing a call to any authorized signer on your account or any other person designated by you for that purpose. We may deny access to the Services without prior notice if we are unable to confirm to our satisfaction any person's authority to access the Services or if we believe such action is necessary for security reasons.

Each time you make a transfer or payment with a Service, you warrant that our security procedures are commercially reasonable (based on the normal size, type, and frequency of your transactions). Some of our Services allow you or your Administrator to set transaction limitations and establish internal controls. Your failure to set such limitations and implement such controls increases your exposure to, and responsibility for, unauthorized transactions. You agree to be bound by any transfer, instruction or payment order we receive through the Services, even if it is not authorized by you, if it includes your Password or is otherwise processed by us in accordance with our security procedures.

Your Internal Security. Criminals are using ever more creative and sophisticated means as they try to steal bank account and credit card numbers, debit card and ATM Passwords, account numbers, and personal information. Never provide confidential information if requested through an unsolicited e-mail or phone call. Pacific Western Bank will never send you e-mail or call asking for your personal information. Do not respond to any unrequested emails, pop-ups, or links that ask for personal information of any kind. If you do receive an unsolicited email, pop-up, or link that asks for personal information regarding your Pacific Western Bank account, please call us immediately. You agree to establish, maintain and update commercially reasonable policies, procedures, equipment and software ("*Internal Security Controls*") that will safeguard the security and integrity of your computer systems and information from unauthorized use, intrusion, takeover or theft, and prevent your Password from unauthorized discovery or use (collectively "*Internal Security Breaches*"). You bear all risk of fraudulent transfers and other losses arising from your Internal Security Breaches or from the interception of your communications prior to their receipt by us (collectively "*Internal Security Losses*"). We will not reimburse you in connection with Internal Security Losses. You agree that we are authorized to execute, and it is commercially reasonable for us to execute, any instruction received by us with your Password. You are encouraged to consider purchasing insurance to cover your Internal Security Losses.

To protect your system from Internal Security Breaches, your Internal Security Controls should include:

- Limits and controls on who has access to your computer systems;
- Protecting and frequently changing your Password;
- Adopting dual authorization and/or transaction-based authentication procedures for financial transfers;
- Employing up-to-date security software such as anti-virus, anti-malware and anti-spyware programs, as well as up-to-date software patches for all your software programs, internet browsers, email programs, and the like;
- Using commercially reasonable and up-to-date firewalls;
- Procedures to avoid infection by malicious software, such: as controlling what websites are visited by your computers; controlling the connection of other devices (e.g., flash drives) to your computers; controlling what documents, e-mail attachments, programs and other files are opened or installed on your computers; and limiting which of your computers are used for online banking;
- Daily reconciliation of all accounts, and immediate reporting of discrepancies;
- Prohibiting your authorized users from leaving a computer unattended while connected to our system, or from communicating or accessing sensitive information from insecure locations (e.g., terminals at Internet cafes and airports);
- Allowing Services to be accessed only from a secure location on you premises; and
- Adopting such other recommendations that we may make from time to time to help ensure your safe use of our Services.

This is not a complete listing of the Internal Security Controls that you may need. You are solely responsible for determining and implementing all of the Internal Security Controls necessary to prevent Internal Security Breaches and Internal Security Losses. We do not warrant that any or all of the above recommendations will prevent Security Losses.

You remain at all times solely responsible for your Internal Security Controls, Internal Security Breaches and Internal Security Losses. Although we may employ various systems and procedures from time to time to prevent losses to us, we assume no obligation for Internal Security Losses, provided that we have acted in accordance with this Agreement and/or instructions that are accompanied with your Password.

2. **Accounts.** You will need to designate certain accounts for specific purposes in connection with some of the Services. Your Service application or enrollment form may list certain accounts that you wish to access with the Services. If it includes the accounts of your parent company, subsidiaries or affiliates, you warrant that they have authorized you to access their accounts through the Services in the same manner as your own accounts. You agree to provide us with their written authorization, in form and substance acceptable to us, evidencing that authority, and to notify us immediately in writing of any change to that authorization.
3. **Your Administrator.** You may appoint an individual (an “*Administrator*”) for certain Services with the authority to determine who will be authorized to use the Services on your behalf. Your Administrator can establish separate Passwords for you and each user, as well as limits on each user’s authority to access information and conduct transactions. You assume sole responsibility for the actions of your Administrator, the authority he or she gives others to act on your behalf, and the actions of the persons designated by the Administrator to use the Services. You or your Administrator will need to designate which accounts will be utilized for Service payments and transfers.
4. **Compliance with United States Laws and Regulations.** You agree to comply with the laws of the United States, including sanctions and laws administered by the Office of Foreign Asset Controls. Further, you agree that the online banking system may not be used to transmit entries that are in violation of the Unlawful Internet Gambling Enforcement Act.

## OUR SERVICES

5. **Account Information Service.** You can use our online Service to obtain balance and other account information online. We assume no responsibility for any loss arising from incomplete information or for any temporary interruption in our information Service. Not all information reported is current. Certain account information is updated each morning, Tuesday through Saturday, by 7:00 a.m. (PST), except holidays. Other information and transactions may not be processed by us until after the close of our business day. As such, some transactions may not be reflected in the system until the next business day. Posted items may be reversed due to insufficient funds, stop payment orders, legal process, and other reasons. Certain balances also may not be subject to immediate withdrawal. If you are unable to access our system for any reason, you can contact your branch or call us at 1-800-350-3557.
6. **Bill Payment Service.** This internet-based Service allows you to make current, future and recurring payments to others from one or more of your designated Bank checking accounts. Payments cannot be made from a money market or savings account, and requirements for dual signatures on checks do not apply to the Service.

Eligible Payees. We reserve the right to determine who may be a payee. You may only designate payees with United States addresses.

Initiating Payments. To initiate a payment, you must specify the person or business you are paying, the payment date (up to 365 days in the future), the amount to be paid, and (if you have one) your account number with the payee. The first time you request a payment to be made to a payee, you must also specify the payee's address and the number of the account from which the payment is to be made. We may modify the payee address to accommodate special processing requirements. For security reasons, we may limit the amount of bill payments permitted. We may change the limit from time to time without advance notice to you. If you need to make a payment exceeding the amount permitted, please contact your account officer for assistance.

We will make a payment on the business day you instruct us to make the payment (the "*Process Date*") either by initiating an electronic payment or by mailing a check to the payee. We may deduct the amount of any payment from your account or place a hold on the amount on or after the Process Date, even if a payment check has yet to be presented to us for payment. We may refuse to make a payment if you do not have sufficient funds or credit available for the payment on the Process Date. We will send your payment to the payee electronically or by mail on the business day following the Process Date.

We may reject any payment request with or without cause or prior notice. If we do, we will notify you promptly of the rejection orally, electronically or in writing.

Errors in Your Instructions. If you give us a payment instruction that is incorrect in any way, you agree that we may charge your account for the payment, whether or not the error could have been detected by us. We are not obligated to detect errors in your payment instructions or to bring apparent errors to your attention.

Before you log off this Service, you should verify that the payments you scheduled appear in "Scheduled Payments." If you are disconnected from our web site while you are requesting a Payment, please log on again to verify if the transaction was completed. You authorize us to pay any duplicate payments you issue. We will not be responsible for any payee's refusal to return any duplicate payments issued by you.

Scheduling Payments. It is your responsibility to request that payments be made in such a manner that they will be paid on time. You are solely responsible for any damages, such as late fees, that may be imposed as a result of your failure to identify the correct Payment Date and transmit your payment instruction to us in a timely manner. Although you can enter a payment request 24 hours a day, 7 days a week, payment instructions that we receive between 7:00 a.m. and 1:00 p.m. (PST) on a business day will be initiated the next day. Instructions received after 1:00 p.m. on a business day or at any time on a non-business day may be deemed received by us as of the next business day and will be initiated on the 2nd business day or the future payment date designated by you.

For automatic or recurring payments, you will be asked to select your preference of "Pay Before" or "Pay After" for scheduled payments falling on a weekend or holiday. The payment method may be electronic or by check. The first payment to a payee must be scheduled at least five business days prior to the due date to allow adequate time for the payment to reach the payee. The "*due date*" is the date the payee has designated for payment, and should not be adjusted for any grace period or late date accommodations the payee may provide. Once the Service has been notified whether a payee accepts electronic payments or requires a paper check, after making the first payment to that payee, the Service will display a message indicating that the payee requires either a

two-business day lead time for an electronic payment, or a five-business day lead time if a paper check sent by regular mail is required.

Payees may require extra time to post a payment to your account because they do not receive a payment coupon or invoice number with the payment. Note: If you include an invoice number with your payment information, the system will automatically send the payment as a check and will include the invoice number on the check stub, even if previous payments have been sent electronically.

Some payees disclose the extra processing time they require to post payments that do not include a payment coupon or invoice, but others do not. It is your responsibility to determine whether a payee needs or requires extra time to process payments received through the Service. We do not recommend that you use this Service to pay your federal, state or local taxes, courts or other governmental entities. Those payees normally require an accompanying coupon, which cannot be provided via the Bill Payment Service.

Recurring Payments. You may use the Service to arrange for the automatic payment of bills that have a fixed frequency and amount. Once your automatic bill payment arrangements are established, they will be made without the need for further requests by you.

Changing or Canceling Payments. You may cancel or change any scheduled payment by giving us an instruction through the Service by no later than 1:00 p.m. (Pacific Time) on the Process Date.

Termination. If you or we terminate your use of the Service, we may delete all outstanding payments (both one-time and recurring). We are not responsible for any fixed payment made before we have a reasonable opportunity to act on your termination notice.

- 7. Funds Transfer Services (Wire/ACH/Internal).** We offer funds transfer Services that allow you to make payments to others and to transfer funds between accounts through the Automated Clearing House (“ACH”), by wire, or by internal book transfer.

Orders and Charging Your Account. When you transmit a transfer or payment request (“Order”), you authorize us to charge your designated account for the amount indicated. You must submit ACH consumer debit Orders to us two business days before the payment date and all other ACH Orders one business day prior to the payment date.

Available Funds. We may refuse an Order if there are insufficient collected and available funds in your account on the date we initiate the transaction (e.g., one business day prior to the settlement date for an ACH credit entry) or on the payment/settlement date. We may require you to maintain sufficient available funds in your account prior to our processing of your Order. We also may place a hold on funds pending our processing of your Order. If we have reason to believe that you may not have adequate funds to cover an ACH credit Order, we may delay execution of the Order until we receive adequate assurance from you that the funds will be available. Nothing in this Agreement, or any course of dealing between us, shall be construed as our commitment or obligation to lend money to you.

ACH Transaction Rules. You agree to be bound by and to act in accordance with the NACHA Operating Rules and Guidelines, as amended from time to time (the “Rules”). You assume the responsibilities of an originator under the Rules. You can obtain a copy

of the current Rules at [pubs.nacha.org](http://pubs.nacha.org) or by telephoning NACHA at 800-487-9180. You agree to reimburse us for any penalties, fines and/or charges that we incur as a result of your failure to comply with this Agreement or any Rule. We may terminate or suspend this Agreement or any Service if you breach the Rules in a manner that causes us to be out of compliance with the Rules or any warranty we are deemed to make under the Rules.

You agree not to submit ACH debit Orders for accounts receivable, represented check, international, back-office conversion, telephone-initiated, Internet-initiated, or point-of-purchase entries without our prior written consent.

Your Instructions. You will comply with the Order form, format and other requirements set forth in your User Guide, the Rules (if applicable), and any security procedures that we establish for the Service. We are not responsible for detecting or rejecting duplicate Orders. If you give us an Order that is incorrect in any way, we may charge your account for the payment whether or not the error could have been detected by us.

You must accurately describe transaction beneficiaries, intermediary financial institutions, and the beneficiary's financial institution in your Orders. If you describe any beneficiary or institution inconsistently by name and number, we and other institutions may process the Order solely on the basis of the number, even if the number identifies a person or entity different from the named beneficiary or institution.

You will not allow others to initiate Orders on your behalf without our prior written consent. You will be solely responsible for the acts and omissions of such agents. You agree to indemnify, defend and hold us harmless from any actions, claims, proceedings, damages, losses and costs which you or we incur as a result of their actions or omissions.

Foreign Transfers. If your Order involves a foreign transfer, we will execute the Order in U.S. dollar currency. If the transfer is returned for any reason, you agree to accept the refund in U.S. dollars in the amount of the foreign money credit, based on the current buying rate on the day of the refund, less any charges and expenses incurred by us. Foreign transfers may be subject to delays, changes in foreign currency exchange rates, and charges imposed by other institutions. Unless you advise us otherwise, we may charge your account to pay for fees imposed by intermediary banks or instruct such banks to obtain payment of their charges for services and expenses by deducting the amount from your order.

Authorization and Record Retention. You will initiate ACH debit and drawdown wire Orders only with the prior written authorization of the owners of the accounts affected by such Orders. You agree to maintain a copy of each authorization for a period of two years following its termination, and to provide us with a copy upon request. You warrant to us what we are deemed to warrant to others regarding your Orders.

Internal Book Transfers. Transfers between your accounts with us are subject to the terms of your account agreement.

Cutoff Hour. Orders that are received by us between 7:00 a.m. and 5:00 p.m. on a business day will be processed that same day. Orders that we receive after 5:00 p.m. on a business day or at any time on a non-business day may be treated as received and may be processed on the next business day.

Transaction Limits and Safeguards. You agree not to exceed the transaction limits we establish from time to time for your account or any Service. You agree that you will not allow anyone to initiate Orders without proper supervision and adequate safeguards, and that you will regularly audit the actions of your Administrator and authorized representatives.

Cancellation and Amendment of Orders. You may not cancel or amend an Order after we receive it. If we attempt to reverse an Order at your request, we assume no liability for any interest or losses that result if the reversal is not effected. You agree to indemnify, defend, hold harmless and reimburse us for all expenses, losses, claims, actions, proceedings and damages we incur in effecting or attempting to effect any reversal. You are solely responsible for providing notice to receivers that a reversal is being transmitted and the reason for the reversal no later than the settlement date of the reversing entry.

Refusal of Orders. We may refuse any Order with or without cause or prior notice. For example, we may refuse an Order if there are insufficient collected and available funds in your account to cover the transaction. We may notify you orally, electronically, or in writing if we refuse any Order no later than two business days after the date the Order was to be effected. We are not required to pay you interest on a refused Order for the period between the refusal of the Order and your receipt of the notice of refusal.

Notice of Returned Orders. We may notify you electronically, in writing, by telephone, or otherwise regarding any Order that is rejected or returned for any reason. We will not be obligated to credit your account with any interest, unless the return is caused by our failure to properly execute the Order. We may attempt to remake the Order if the return is due to our error and we have sufficient data to remake the Order. You agree to reimburse us promptly for the amount of any ACH debit or wire drawdown Orders that are reversed, adjusted or returned. You may not resubmit any ACH debit or wire drawdown Order where the payment was stopped by the accountholder.

Notices and Statements. Information on transfers to or from your accounts will be reflected on your periodic statements and may be available to you on-line. We are not required to provide you with any other notice of the receipt, transmittal or debiting of Orders.

Provisional Credit. Credit for an ACH transfer is provisional until the receiving financial institution obtains final settlement. If final settlement does not occur, the originator of the transfer is not deemed to have made payment to the beneficiary, and the beneficiary's bank is entitled to a refund of the provisional credit.

Unauthorized Order. We may process any Order (including an amendment or cancellation Order) we believe is transmitted or authorized by you if we act in compliance with the security procedure (including any callback procedure) agreed upon by you and us. Such Orders will be deemed effective as if made by you, and you will be obligated to pay us in the amount of such Orders, even though they are not transmitted or authorized by you. We strongly recommend that you impose a dual control environment in connection with the transmission and confirmation of Orders. If you elect not to do so, you agree to be subject to a higher standard of care with respect to your accounts, transactions and statements.

8. **Stop Payment Service.** With this Service, you can stop payment on a check by following the procedures established for the Service. You must provide us with timely, complete and accurate information on the account number, date of the item, item

number, payee, and EXACT amount (dollars and cents) of the item. If any information is incomplete or incorrect, we will not be responsible for failing to stop payment on the item. Requests become effective when we confirm their receipt and have verified that the item has not been paid. There is a fee for each request, whether or not we receive your request in time to act upon it. Requests received after our cutoff hour of 5:00 p.m. (PST) or on non-business days may be deemed received by us as of the start of the next business day. If our on-line system is not available for any reason, you can contact your branch of account to make your request. Stop payment orders are valid for 395 days.

You may not use this Service to place stop payments on any automatic entry, such as automatic monthly drafts or automated clearing house (ACH) items. We may ignore any attempted stop payment order relating to such items if the order is transmitted through Online Banking.

9. **Tax Payment Service.** If you are approved for this Service, you appoint us to act as your agent for the purposes of preparing and making tax payments and deposits on your behalf. Upon our request, you agree to execute such additional enrollment forms and authorizations as we may request. You and we will agree in writing regarding the specific taxes that are to be paid as part of the Service. You authorize us to release account and tax payment information to any taxing authority in performing the Service and to confirm payments.

Accuracy. You are solely responsible for determining the amount of any taxes due and transmitting payment information in accordance with our procedures. You must furnish us with complete and accurate master file and tax payment information, in the form and format specified by us. Transmission of transaction data to us will be at your expense. Our record of your transmitted payment data will be deemed correct and complete. We will have no responsibility for (a) determining the correctness of any tax computation or payment, (b) questioning the timing or amount of any payment, (c) determining or questioning the correctness of any report or information submitted by you (even if it appears incorrect on its face), or (d) any penalty which may be imposed if you instruct us to make a payment after our cutoff hour or the date the tax payment is due. You are responsible for promptly making required tax payments by another means in the event there is an interruption in the Service.

Inability to Process. We will notify you orally, electronically or in writing if we are unable to process any report or payment in the manner contemplated by the Service no later than the banking day following the payment date. If you fail to maintain sufficient collected and available funds in your account, we may refuse to perform the Service. If an order is rejected, it will be your responsibility to resubmit the order.

Cancellation. You may cancel a payment instruction for an impending tax payment by telephoning us at 800-350-3557 prior to our cutoff hour on the same calendar day as the original instruction. We will not be liable to you for failing or refusing to stop payment of taxes if your notice is received after the cutoff hour. If we attempt to cancel or amend a payment or to retrieve funds at your request after an order has been confirmed or acted upon, you agree to indemnify, defend and hold us harmless from all claims, actions, losses, expenses and costs which arise, directly or indirectly, as a result.

Your Duty to Pay Taxes. You assume the risk of any failure to transmit the data to us in a timely and correct manner. Any interruption of the Service, regardless of the reason, will not relieve you of your obligation to make a tax payment or report. You are responsible for promptly making required tax payments by another means in the event there is an interruption in the Service.

ACH. Tax payments are made through the Automated Clearing House and will be subject to the "Fund Transfer Services" section of this Agreement.

No Tax Advice. You acknowledge that our employees are not authorized or permitted to give tax advice to you. You agree not to seek or place any reliance upon tax advice from us or our employees.

9. **Other Services.** You can use our online Service to make payments on a loan or line of credit with us and download information into Quicken (.QIF) or (.QFX), QuickBooks (.IIF) or (.QBO), Microsoft Money (.OFX), Comma Delimited (.CSV), or Excel Spreadsheet (.XLS).

## GENERAL PROVISIONS

10. **Amendments.** We may amend (add to, delete or change) the terms of this Agreement, the Service fees, and our User Guides by providing you with prior notice. We may amend our security procedures without prior notice if immediate changes are required for security reasons or the changes do not have a material impact on your use of the Services.
11. **Assignment.** We may assign our rights and delegate our duties under this Agreement to a company affiliated with us or to a third party. You may not assign any right or delegate any obligation under this Agreement without our prior written consent.
12. **Audit.** You agree to cooperate with any audit we undertake to confirm your compliance with this Agreement
13. **Cutoff Hours and Business days.** Some of our Services are subject to processing cutoff hours. Current information on cutoff hours is available by calling us and may be found online. Our business days are Monday through Friday, excluding holidays. Instructions received after the cutoff hour or on a non-business day may be deemed received as of the next business day. Services may occasionally be unavailable due to needed maintenance or system/network interruptions.
14. **Dispute Resolution.** If a dispute involving \$25,000 or more arises between us with respect to this Agreement, its enforcement or our Services, either of us may require that it be resolved by judicial reference in accordance with California Code of Civil Procedure, Sections 638, et seq. The referee shall be a retired judge, agreed upon by the parties, from either the American Arbitration Association (AAA) or Judicial Arbitration and Mediation Service, Inc. (JAMS). If you and we cannot agree on the referee, the party who initially selected the reference procedure shall request a panel of ten retired judges from either AAA or JAMS, and the court shall select the referee from that panel. The costs of the reference procedure, including the fee for the court reporter, shall be borne equally by both parties as the costs are incurred. The referee shall hear all pre-trial and post-trial matters, including requests for equitable relief; prepare an award with written findings of fact and conclusions of law; and apportion costs as appropriate. Judgment upon the award shall be entered in the court in which such proceeding was commenced and all parties shall have full rights of appeal. This provision will not be deemed to limit or constrain our right to set off, to obtain provisional or ancillary remedies, to interplead funds in the event of a dispute, to exercise any security interest or lien we may hold in property, or to comply with legal process involving your accounts or other property.

15. **E-mail Messages.** If you send us electronic mail (“e-mail”), we may not receive or review it immediately. We will have a reasonable time to act upon any e-mail request or notice, and reserve the right to reject any transaction or request received by e-mail (e.g., a request to wire funds). You acknowledge that, even though e-mail may be encrypted, we cannot ensure that it will not be intercepted or affected by the actions or omissions of others, such as third party networks or persons with access to the Internet. Our service providers and we assume no responsibility for viruses created by third parties, or for any third party’s unauthorized access to, or use of, your computer system.

You may receive e-mail messages from us through the Service. Messages to us will automatically be routed to our e-mail box. You may also wish to add account or data alerts via online banking. Both account and data alerts are triggered by an event and are delivered via a method you select through Preferences. We are not responsible for any delay in messages being retrieved. Urgent messages should be verified by a telephone call to us. You are responsible to periodically check for messages sent by us. You cannot use e-mail to stop payments, transfer funds or perform bill payment.

16. **Entire Agreement.** This Agreement incorporates, supplements, and supersedes where inconsistent the terms of your account agreement with us. Unless we provide otherwise in writing, they constitute (along with any related Service applications, setup forms, User Guides, and schedules) the entire agreement between you and us with respect to the Services.

17. **Fees.** You agree to pay us the fees we establish for each of the Services. If your accounts with us are analyzed, you may be able to use your available earnings credit to offset certain Service charges. In addition to Service charges, you agree to pay for all taxes, tariffs and assessments levied or imposed by any government agency in connection with the Services and/or this Agreement. If your analyzed accounts contain funds belonging to third parties, you represent that your use of any related earnings credit is not limited by law, regulation or any agreement with such third parties, and that you have any required authorization by such third parties for such use.

18. **Financial Statement.** You agree to provide us with a current financial statement and other information regarding your financial condition upon our request.

19. **Governing Law/Compliance.** This Agreement will be governed by and construed in accordance with federal law and, to the extent applicable, by the laws of the State of California, without reference to its conflict of law provisions. You agree not to conduct any transactions that would violate the laws of any state or the United States, including the economic sanctions administered by the U.S. Treasury’s Office of Foreign Assets Control. You may not use your account or any Service to process Internet gambling transactions or facilitate any activity that would violate applicable law.

20. **Indemnification.** You agree to indemnify, defend and hold us, our parent company, affiliates, and subsidiaries, and our respective directors, officers, employees and agents, harmless from and against any claim, damage, loss, liability and cost (including, without limitation, attorney’s fees) of any kind which results directly or indirectly, in whole or in part, from: (a) our actions or omissions, if they are in accordance with your instructions, the terms of this Agreement, or instructions purporting to come from you that are accompanied by your Password; (b) the actions or omissions of you, your agents or employees; (c) any warranty that we are required or deemed to make to a third party in connection with your transactions, provided we act in compliance with this Agreement; (d) your failure to comply with NACHA Rules, applicable law, or the rules of any clearing house or payment organization that processes your transactions; or (e) Internal Security

Breaches or Internal Security Losses. This provision shall survive the termination of this Agreement.

- 21. Information Processing and Reporting.** Some of our Services require us to receive, process and report information involving your accounts and transactions. We will not be responsible for determining the accuracy, timeliness or completeness of any information that you, your agents or others provide to us. We will not have a duty to interpret the content of any data transmitted to us, except to the limited extent set forth in this Agreement. Unless otherwise agreed in writing, we will not be required (by means of any security procedure or otherwise) to detect errors in the transmission or content of any information we receive from you or third parties. Our sole responsibility for any reporting errors caused by us will be to reprocess the information for the period in question and to provide corrected reports at our own expense. You agree to maintain adequate backup files of the data you submit for a reasonable period of time in order to facilitate any needed reconstruction of your transactions (e.g., due to a telecommunications failure). If we are unable to provide a Service for any reason, we will promptly inform you of the problem and will take reasonable steps to resume processing.
- 22. Limitation of Liability.** Except as otherwise stated in this Agreement, we will be liable to you only for damages arising directly from our intentional misconduct or gross negligence in the performance of the Services. We will not be responsible for any loss, delay, cost or liability to the extent that it arises, directly or indirectly, in whole or in part, from: (a) your actions or omissions, or those of third parties which are not within our immediate and reasonable control (including, but not limited to, any Internal Security Breaches or the interception, corruption and/or modification of instructions that you send to us); (b) your negligence or breach of any agreement with us; (c) any ambiguity, inaccuracy or omission in any instruction or information provided to us; (d) any error, failure or delay in the transmission or delivery of data, records or items due to a breakdown or transmission error in any computer or communications facility; (e) accidents, strikes, labor disputes, blackouts, civil unrest, fire, flood, water damage (e.g., from fire suppression systems), or acts of God; (f) causes beyond our reasonable control; (g) the application of any government or funds-transfer system rule, guideline, policy or regulation; (h) the lack of available funds in your account to complete a transaction; (i) our inability to confirm to our satisfaction the authority of any person to act on your behalf; or (j) your failure to follow our Service instructions. There may be other exceptions to our liability, as stated in your account or other Service agreements with us.

We will not be responsible under any circumstances for special, indirect, or consequential damages which you incur as a result of our actions or omissions, even if we are aware of the possibility for such damages. Our liability and your remedy for actual costs and losses resulting from our failure to transmit funds in the correct amount or to the correct payee listed in your instructions shall not exceed the direct money damages that you incur as a result of the failure (e.g., the amount of a payment that is sent to the wrong party, or the amount by which a transfer exceeds the amount you authorized, plus interest as permitted by law). In all other cases, our liability and your remedy for actual costs and losses resulting from our actions and/or omissions, whether the claim is in contract or tort, will not exceed the lesser of (i) six times the average monthly charge for the Service(s) in question for the three months immediately preceding the cost or loss, or (ii) \$25,000.

Any claim, action or proceeding by you to enforce the terms of this Agreement or to recover for any Service-related loss must be commenced within one year from the date that the event giving rise to the claim, action or proceeding first occurs. You agree to

cooperate with us in any loss recovery efforts we undertake to reduce any loss or liability that arises in connection with your Services. You acknowledge that our 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.

- 23. Notices.** You agree to notify us immediately if you discover: (a) any error or discrepancy between your records and the information we provide to you about your accounts or transactions (e.g., in a statement, confirmation, or electronic report); (b) unauthorized transactions involving any account; (c) a breach in the confidentiality of any Password; or (d) other problems related to the Services. You must send us a written notice of any discrepancy or other problem, including a statement of the relevant facts, within a reasonable time (not to exceed 15 days from the date you first discover the problem or receive information reflecting the problem, whichever occurs first). If you fail to notify us in writing within 15 days, you agree that, in addition to any other limitations on our liability: (a) in the case of an erroneous funds transfer, you will be liable for all losses up to the amount thereof (as well as any loss of interest), which result from your failure to give us such notice or which might have been prevented by your giving us such notice; and (b) in the case of an unauthorized funds transfer, we will not be liable for any loss of interest which results from your failure to give us such notice or which might have been prevented by your giving us such notice.

You agree to provide us with at least 30 days' advance notice of: (a) any material (20% or greater) change in your ownership; (b) any material change in the type, scope or nature of your business; or (c) any anticipated (20% or greater) increase in the amount or volume of your automated clearing house transactions over the preceding calendar quarter (if applicable).

Unless otherwise agreed, notices required by this Agreement must be in writing. Notices to you may be mailed or sent to you at the statement, e-mail or mailing address shown for you in our deposit or Service records, or by posting the notice at our website. You agree to provide us with advance notice of any change in your address or email address. Notices to us must be sent to Pacific Western Bank, Electronic Banking, PO Box 131207, Carlsbad, CA 92013-1207.

You agree on behalf of yourself, your employees and agents that we may monitor and record your telephone and electronic communications in connection with the Services at any time.

- 24. Records.** Unless a different period is provided in a User Guide, you will retain and provide to us, upon request, all information necessary to remake or reconstruct any transaction, transmission, file or entry for 10 business days.
- 25. Reliance on Third Parties.** Our ability to provide certain Services is dependent upon our ability to obtain or provide access to third party vendors and networks. In the event any third party is unavailable or we determine, in our discretion, that we cannot continue providing any third party network access, we may discontinue the related Service or may provide the Service through a different party. In such situations, we will have no liability for the delay or unavailability of access. We will not be responsible for any services you receive from third party vendors.

26. **Security Interest.** You grant us a security interest in your accounts with us (other than fiduciary accounts maintained for the benefit of others) to secure the repayment of any overdraft or other obligation that you incur under this Agreement.
27. **Termination.** Either party may terminate this Agreement as to some or all of the Services, with or without cause, by giving 30 days prior notice to the other party. We may suspend or terminate any Service or this Agreement immediately and without prior notice if: (a) you breach any agreement with us; (b) the confidentiality of your Password is compromised; (c) we have reason to believe that an unauthorized transaction has taken or may take place involving any of your accounts or any of the Services; (d) you become insolvent or the subject of a bankruptcy, receivership, or dissolution proceeding; or (e) we are uncertain as to any person's authority to give us instructions regarding your accounts or the Services. The termination of this Agreement will not affect the rights or obligations of the parties that arise prior to termination.
28. **Third Parties.** This Agreement is made for the exclusive benefit of you and us. No third party has any rights under this Agreement. Unless you have our prior written consent, you may not use the Services to process transactions for third parties or permit others to initiate Service transactions on your behalf.
29. **Transaction Limits and Safeguards.** You agree not to exceed the transaction limits we establish from time to time for your account or any Service. You will not allow anyone to initiate transactions on your behalf without proper supervision and adequate safeguards. You agree to review pending instructions prior to their submission to ensure that they are complete, accurate and properly authorized.
30. **Validity/Waivers/Overdrafts.** If any provision of this Agreement is found to be void or invalid, the remainder of this Agreement will remain in full force and effect. Any waiver by us must be in writing to be effective. Our waiver of any right will not be deemed a waiver of other rights or of the same right at another time. Our practice of allowing overdrafts will not obligate us to continue the practice at a later date. We may discontinue permitting overdrafts at any time and without prior notice.



**AUTHORIZATION AND AGREEMENT FOR CASH MANAGEMENT SERVICE**

Each of the undersigned is an officer, owner, principal, or other authorized individual of the business organization named below (the "Client"). The Client has received Pacific Western Bank's Commercial Cash Management Access Agreement (the "Agreement") and agrees to adhere to the Agreement, as amended from time to time, and any applicable System Documentation, set-up forms and other disclosures provided to the Client with regard to the provision of one or more Services from Pacific Western Bank (the "Bank").

\_\_\_\_\_  
Client Name

\_\_\_\_\_  
Date

**MINIMUM OF TWO AUTHORIZED SIGNERS REQUIRED**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Name and Title

Please note that if the business organization specified above is a corporation, then an authorized officer other than the person(s) signing the Certification below must sign above. If the business organization is a partnership, limited liability company, limited liability partnership or sole proprietorship, then all general partners, all members, or the sole proprietor must sign this form, unless your organizational or constituent documents specify otherwise. Attach additional signature sheets if necessary.

**AUTHORIZATION AND AGREEMENT CERTIFICATION**

The undersigned certifies that on \_\_\_\_\_ the Client took all action required by its organizational or constituent documents to authorize each of the undersigned to execute and deliver on behalf of the Client this Authorization and Agreement form and any other documents the Bank may require with respect to a Service, including at a minimum the adoption or approval of the following:

1. Resolved, that the persons named as Authorized Signers above are authorized, on behalf of Client and in its name, to execute and deliver the Agreement, and to bind the Client to the same as they may be amended by Bank from time to time. The Agreements include but are not limited to: the Commercial Cash Management Agreement, the Wire Transfer Agreement, and the ACH Agreement, and such other documents as may be requested by Bank from time to time in connection with the System Services, including amendments or supplements. Any one of them acting alone or together may so act to bind the Client.
2. Resolved that the foregoing Resolutions shall remain in full force and effect and the authority herein given to all of said persons shall remain irrevocable as far as Bank is concerned until three (3) business days after Bank is notified in writing of the revocation of such authority and that receipt of such notice shall not affect any action taken by Bank prior thereto.
3. Each of the Authorized Signers is authorized to enter into all transactions contemplated by the provision of Services to the Client. These may include, but are not limited to, giving Bank instructions with regard to Funds Transfer Services and designating employees or agents to act in the name and on behalf of the Client. While an Authorized Signer shown above may also be an Authorized Signer on any account of Client, it is not required that the two functions be the same.

The undersigned further certifies that each of the signature(s) appearing above is the true signature of a person authorized to execute the form, and further certifies that the undersigned has full authority to execute this certification. The Bank is entitled to rely upon this certification until written notice of its revocation is delivered to the Bank.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title

Please note that if the business organization specified above is a corporation, the Secretary must sign this Certification. If the entity is a partnership, limited liability company, or limited liability partnership, one of the general partners or members must sign this Certification. **Sole proprietors do not need to complete this Certification.**

**BRANCH USE**

**ELECTRONIC BANKING USE**

Prepared By: \_\_\_\_\_  
Branch Number: \_\_\_\_\_  
Date Sent: \_\_\_\_\_

Received By: \_\_\_\_\_  
Input By: \_\_\_\_\_  
Date Completed: \_\_\_\_\_



# VIPbanker™ Customer Enrollment Form

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Tax Identification Number: \_\_\_\_\_

Telephone: \_\_\_\_\_ Secondary Telephone Number: \_\_\_\_\_

Client Administrator: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

Client Administrator Email Address: \_\_\_\_\_

## ACCOUNT AUTHORIZATION

Account Type				Account Number
<input type="checkbox"/> DDA	<input type="checkbox"/> COD	<input type="checkbox"/> LAS	<input type="checkbox"/> SAV	_____
<input type="checkbox"/> DDA	<input type="checkbox"/> COD	<input type="checkbox"/> LAS	<input type="checkbox"/> SAV	_____
<input type="checkbox"/> DDA	<input type="checkbox"/> COD	<input type="checkbox"/> LAS	<input type="checkbox"/> SAV	_____
<input type="checkbox"/> DDA	<input type="checkbox"/> COD	<input type="checkbox"/> LAS	<input type="checkbox"/> SAV	_____
<input type="checkbox"/> DDA	<input type="checkbox"/> COD	<input type="checkbox"/> LAS	<input type="checkbox"/> SAV	_____
<input type="checkbox"/> DDA	<input type="checkbox"/> COD	<input type="checkbox"/> LAS	<input type="checkbox"/> SAV	_____

Attach Additional Sheet if Needed

## FUNDS TRANSFER AUTHORIZATION

Permit account transfers between any of the above deposit accounts?  Yes  No

Permit electronic tax payments from the above accounts?  Yes  No

## SIGNATURES

AUTHORIZED COMPANY SIGNATURE: _____		PACIFIC WESTERN BANK: _____	
Authorized Signature	Date	PWB Authorized Signature	Date
_____	_____	_____	_____
Print Name and Title		Print Name and Title	
_____		_____	

## BRANCH USE

Customer Port #: \_\_\_\_\_ Branch #: \_\_\_\_\_ Service Charge Acct #: \_\_\_\_\_

**SERVICE PLANS:** *(Select One)*

Basic Business  Inquiry/Book Transfers/Stops\*/Bill Payment  
\* Stop Payment Fee as Stated in Schedule of Fees

Basic Corporate  Inquiry/Book Transfers/Stops\*/Bill Payment – Account Analysis Billing  
\* Stop Payment Fee as Stated in Schedule of Fees

Optional Modules\*  ACH Module  Wire Module  Remote Deposit  Positive Pay  
\* Separate Agreement is Required for the Use of these Modules

Prepared By: \_\_\_\_\_ Date Sent: \_\_\_\_\_

## ELECTRONIC BANKING USE

Received By: \_\_\_\_\_ Called Back By: \_\_\_\_\_

Date Received: \_\_\_\_\_ Date Completed: \_\_\_\_\_



## VIPbanker™ ONLINE BANKING PRICING

### **Value Checking – Personal**                      No Monthly Access or Per Account Charge

- ▶ Account Inquiry/Bill Payment/Stop Payments/Book Transfers/Statements  
Stop payment fee as stated in Schedule of Fees

### **Business Checking**

#### **Basic Business Plan**                                      No Monthly Access or Per Account Charge

- ▶ Account Inquiry/Bill Payment/Stop Payments/Book Transfers/Statements  
Stop Payment Fee as Stated in Schedule of Fees.

### **Business Account Analysis Checking**

#### **Basic Corporate Plan**                                      Account Analysis Billing

- ▶ Account Inquiry/Stop Payments/Book Transfers/Statements/Bill Payment  
1<sup>st</sup> Account/per month                      \$25.00  
Each Additional Account                \$ 5.00 (maximum charge \$125)  
Stop Payment Fee as Stated in Schedule of Fees.

### **Corporate Plan Options:**

Add to Basic Corporate Service:

- ▶ Wire Transfer Module                      \$25.00 per month
- ▶ US\$ Wire Transfer                         \$10.00 each
- ▶ ACH Editor Module                         \$35.00 per month
- ▶ Remote Deposit                             \$50.00 per month
- ▶ Positive Pay                                 \$50.00 per month

### **Remote Deposit Scanner Prices:**

#### **One Year Warranty**

Digital Check CheXpress	Single Check	\$275*
-------------------------	--------------	--------

#### **Two Year Warranty**

Epson CaptureOne	Single Check	\$320*
Epson CaptureOne	100 Doc Feeder/30 DPM	\$589**
Epson CaptureOne	100 Doc Feeder/60 DPM	\$715**
Epson CaptureOne	100 Doc Feeder/90 DPM	\$858**

\* Charged to account analysis in three (3) monthly installments.

\*\* Charged to account analysis in six (6) monthly installments.