

**BANK OF THE VALLEY**  
**Mobile Banking Agreement and Terms and Conditions**

This is your Mobile Banking Agreement and Terms and Conditions (“Mobile Banking Agreement”) with us. Use of Mobile Banking indicates acceptance of the terms and conditions set forth in this Mobile Banking Agreement. This Mobile Banking Agreement should be read in conjunction with the Bank of the Valley Online Banking Agreement and Terms and Conditions (the “Online Banking Agreement”), Bank of the Valley Bill Pay Agreement and Terms and Conditions (the “Bill Pay Agreement”) and all other disclosures, terms and agreements associated with your account(s). All applicable terms and conditions of the Online Banking Agreement and Bill Pay Agreement apply to this Mobile Banking Agreement as if included herein.

We may offer additional features and services through Mobile Banking in the future. Any such added features and services will be governed by this Mobile Banking Agreement, the Online Banking Agreement, the Bill Pay Agreement and agreements for all other Electronic Banking Services for which you subscribe and by any terms and conditions provided to you at the time the new feature or service is added and/or at the time of enrollment for the feature or service, as applicable.

From time to time, we may amend these terms and modify or cancel the Mobile Banking Services we offer without notice, except as may be required by law. By your use, or by you permitting another person to use the Mobile Banking Service, you agree to abide by the terms and conditions of this or any subsequent Mobile Banking Agreement, Online Banking Agreement and Bill Pay Agreement, as modified from time to time. You should refer to the most current Online Banking Agreement available in Online Banking under the Info tab.

In this Mobile Banking Agreement:

“Access Device” or “Device” means a supportable mobile device including a cellular phone or similar device with access to a Web-enabled service whose network allows secure 256-bit SSL encryption, and which also is capable of receiving SMS (short message service) text messages and email notifications in addition to normal voice communications. Your wireless carrier may assess you fees for data or SMS text messaging services. Please consult your wireless plan or provider for details.

“Account(s)” or “Account Information” means your eligible Bank of the Valley checking, savings, loan and other Bank of the Valley products that can be accessed through Mobile Banking.

“Bank Documents” shall mean all applicable deposit account agreements, disclosures, rates and fee schedules provided by Bank of the Valley in your new account packet as they currently exist or as they may be amended from time to time. Bank Documents may also include loan or credit card agreements, disclosures and documents (as they may be amended from time to time), as applicable.

“Bank of the Valley”, “we”, “us”, “our” and the “Bank” refer to Bank of the Valley, a Nebraska state banking corporation.

“Business Day(s)” means Monday through Friday, excluding Federal legal holidays.

“Credentials” means any method or combination of methods used by Online Banking, Electronic Services or Access Devices in place to authenticate users and allow access to view Account or customer

information; make payments; make transfers; review, print or download Account activity; review eDocuments and eStatements; make deposits; or any other activities permitted by agreements with us. Credentials will include but may not be limited to: User ID; User ID and Password; Password; Mobile Banking App passcode; Personal Identification Number; PIN; Touch ID; or other biometric identifier as enabled by clients on their devices; specialized security tokens or other security measures such as codes emailed or texted to Access Devices to provide additional layers of security and assist in authentication.

“Electronic Service(s)” means each and every product and service we offer that you apply for, use, administer or access using the Internet, a website, email, messaging services (including text messaging) and/or software applications (including applications for mobile or handheld devices), either now or in the future.

“Good Standing” means an Account where no collection action has been required, overdrafts are paid in a timely manner and in accordance with agreements, all required Bank Documents and Account signature contracts are current, accurate and in possession of the Bank, no changes have occurred to the Account ownership or signors of which the Bank has not been apprised.

“Mobile Banking”, “Mobile Banking Service” and/or “Service” means the Mobile Banking Service that Bank of the Valley makes available and that is accessible from the Device which you have registered with us in accordance with and as described in this Mobile Banking Agreement and the Online Banking Agreement, as accessed through approved applications noted in this Mobile Banking Agreement.

“Online Banking Services” and/or “Online Banking”) means our services that allow you to obtain Account information, transfer funds, make payments including our Bill Payment Services, access Accounts and perform other transactions over the Internet by use of an internet access device and a User ID and Password.

“User ID” and/or “Password” are codes created to access our Electronic Services.

“You” and “your” means or refers to (i) each and every person who now or hereafter is an Account holder or owner with respect to or has any interest in the Account(s) tied to the Mobile Banking Service including those noted as authorized signer, and (ii) each and every person who now or hereafter subscribes to or uses any service including without limitation any person permitted by you to use the Mobile Banking Service.

Other definitions are included in the Online Banking Agreement and Bank Documents applicable to your services and Accounts.

## **Mobile Banking Service**

### *Description of Service*

Mobile Banking is offered as a convenience and supplemental service to our Online Banking Services. It is not intended to replace access to our Online Banking Services from your personal computer or other methods you use for managing your Accounts and services with us. Mobile Banking allows you to access your Bank of the Valley Account information, make payments, transfer funds and conduct other banking transactions. To utilize the Mobile Banking Service, you must be enrolled to use Online Banking and download the Bank of the Valley Mobile Banking App. Once the Mobile Banking App is downloaded you

will use your Online Banking Credentials to log in. You will be asked to create a 4 digit passcode. The Mobile Banking App is currently only available for Apple® phones, tablets and Android™ phones and tablets. The Mobile Banking App is required for Mobile Check Deposit and can be used for Bill Pay Services when available with your Electronic Services. More information about Bank of the Valley's Mobile Banking Service as well as the link to download the Mobile Banking App, is available on our website at <https://www.bankofthevalley.com/>.

We reserve the right to limit the types and number of Accounts eligible and the right to refuse to make any transaction you request through Mobile Banking. We also reserve the right to modify the scope of the Mobile Banking Service at any time. You will be notified of any restrictions electronically. You are responsible for updating your email address, cell phone number and service provider with us.

To access the Bank of the Valley Mobile Banking App and eStatements or eDocuments in the Mobile Banking App, you will need:

- A web-enabled personal mobile device;
- IOS version 10 or greater or Android version 5.0 or greater (as of July 1, 2019);
- iPhone allows the image to be viewed in the app; Android devices downloads the pdf and requires a pdfviewer; and
- A printer and/or storage capabilities if you wish to print or retain any eDocuments.

For eDocuments sent to you directly by email and for notifications of eStatements or eDocuments available in the App, you will need:

- Desktop or laptop computer with internet access or a web enabled personal mobile device;
- Email account;
- Internet browser that supports 256-bit SSL encryption;
- A current version of a pdf viewer such as Adobe® Reader®; and
- A printer and/or storage capabilities if you wish to print or retain any eDocuments.

Mobile Banking may not be accessible or may have limited utility over some network carriers. In addition, Mobile Banking may not be supportable for all Devices. Bank of the Valley cannot guarantee and is not responsible for the availability of data services provided by your mobile carrier, such as data outages or "out of range" issues.

We will use reasonable efforts to make the Mobile Banking Service available for your use on a continuous basis. The Service may be unavailable for short periods of time for regular or emergency system maintenance. We will endeavor to have our scheduled maintenance occur during non-peak hours. In addition, accessibility to the Service may be interrupted because of conditions beyond our control, including outages in Internet availability. We will use diligent efforts to re-establish the Services as promptly

as possible. We do not promise the Service will always be available for your use. We may elect to discontinue the Service at any time.

### *Use of Service*

We may modify the Mobile Banking Service from time to time at our sole discretion. In the event of any modifications, you are responsible for making sure you understand how to use the Service as modified. You also accept responsibility for making sure that you know how to properly use your Device and we will not be liable to you for any losses caused by your failure to properly use the Service or your Device. You should refer to the most current Mobile Banking Agreement to determine current requirements or restrictions. The most recent Mobile Banking Agreement can be found on the Bank of the Valley Mobile Banking App. Your initial and continued use of the Mobile Banking Service constitutes your acceptance to be bound by all the terms and conditions of this Mobile Banking Agreement, the Online Banking Agreement, the Bill Pay Agreement and by any other Bank Documents, as modified from time to time and acknowledges your receipt and understanding of this or any subsequent Mobile Banking Agreement. In the event that this Mobile Banking Agreement is modified, a new Mobile Banking Agreement will be presented at account sign on and must be read and accepted prior to continuing use of the Mobile Banking Service.

### *Other Agreements*

You agree that, when you use Mobile Banking, you remain subject to the terms and conditions of your existing agreements with any unaffiliated service providers, including, but not limited to, your mobile service provider and that this Mobile Banking Agreement does not amend or supersede any of those agreements. You understand that agreements with unaffiliated service providers may provide for fees, limitations and restrictions which might impact your use of Mobile Banking (such as data usage or text messaging charges imposed on you by your mobile service provider for your use of or interaction with Mobile Banking), and you agree to be solely responsible for all unaffiliated service provider fees, limitations and restrictions. You agree that only your mobile service provider is responsible for its products and services. Accordingly, you agree to resolve any problems with your provider directly without involving us. You warrant to us that neither this Mobile Banking Agreement nor any transaction contemplated by it will violate any currency exchange control regulations, economic or other sanctions regulations or any other legal restrictions applicable to you or to any other the transactions that will be made through your Accounts under this Mobile Banking Agreement. You acknowledge and agree that certain transactions under this Mobile Banking Agreement may be subject to regulations issued by the Office of Foreign Assets Control (“OFAC”) of the United States Department of the Treasury. You further acknowledge and agree that if any transaction under this Mobile Banking Agreement involves the payment of funds to a person or entity listed on OFAC’s lists (SDN, FSE, Sanctions and other government listings) we shall have the right to suspend the transaction and block the funds as indicated by OFAC.

### *Fees*

Bank of the Valley currently offers the benefits and convenience of the Mobile Banking Service to you at no charge. However, we reserve the right to assess a fee for the Mobile Banking Service in the future. Your service provider/wireless carrier may charge for text messaging, Web access, data transfer and other related services. Check with your carrier for information about any fees that might be imposed.

### *Unauthorized Access*

You should notify us immediately if any component of your Credentials have been or is suspected to be compromised. We will treat all instructions received via the Mobile Banking Service as authorized by you unless you provide notification as required in this Mobile Banking Agreement. Credentials include your User ID, Password or Mobile Banking App passcode. Please see the Authentication section for additional information.

### *Cancellation of Service*

You may cancel your participation in the Mobile Banking Service at any time by logging out of the Mobile Banking App completely and deleting the Mobile Banking App from your phone. We reserve the right to cancel the Mobile Banking Service at any time without notice and with or without cause by way of deactivating your access to Online Banking. We may also suspend your access to the Mobile Banking Service by way of deactivating your access to Online Banking at any time without notice for any reason, including but not limited to, your failure to use access Online Banking for a period of time established by Bank of the Valley from time to time, or your failure to maintain your Accounts in Good Standing. If we cancel your participation in the Mobile Banking Service via Online Banking deactivation, any scheduled transfer or bill payments will not be processed. Neither cancellation nor deactivation shall affect your liability or obligation under this Mobile Banking Agreement.

### *Authentication*

In order to make your Mobile Banking experience as secure as possible, you should safeguard all Credentials and alert us if you believe a compromise has occurred. You will not be asked by Bank of the Valley personnel to disclose your password.

Bank of the Valley has implemented strong Password controls and multifactor authentication. All new Online Banking/Mobile Banking Service Users are assigned a User ID and initial Password. You must be a Online Banking user in order to use the Mobile Banking Service.

High-risk actions in the App, such as adding a payee for Bill Pay Services, may require the user to enter their User ID and Password in order to complete the actions.

### **Permitted Mobile Banking Transfers**

You may use the Mobile Banking Service to transfer funds between your eligible Bank of the Valley Accounts. You may not transfer to or from an Account at another financial institution using the Mobile Banking App.

If you submit your transfer request prior to the deadline established by us for Mobile Banking Service, you will initiate an immediate transfer via Mobile Banking Service. Transfer transaction requests received after the cut-off time established by the Bank and all transactions which are requested on Saturdays, Sundays or Federal holidays on which the Bank chooses to remain closed, will be processed on the Bank's next Business Day.

The current balance and available balance are both displayed on the Mobile Banking Service. The current balance is the total amount of funds in your Account at the beginning of the business day. The available

balance is the funds in your Account that are available for withdrawal. This is the Account balance including pending transactions scheduled to post to the Account which may include automatic payments or deposits made electronically or checks or other items presented for payment.

We may process transfers that exceed your available balance at our sole discretion. If we process the transfer and the transfer utilizes funds from your overdraft limit, you agree to cover the amount of the transfer, any overdraft item fees and any other applicable fees. If the overdraft is covered via a sweep transaction from another Account designated as a sweep account, the fees for that service will apply (refer to your sweep agreement). Transactions may not be processed in the order in which they occurred and the order in which transactions are received by the Bank and processed can affect the total amount of overdraft item fees or return item fees you may incur. You may be charged returned item fees if there are insufficient funds in your Account and the item is returned unpaid by us. Your Account is subject to overdraft item fees for, including but not limited to, any paper item presented and paid on your behalf as a result of an action or transaction using our Bill Pay Services, if said action or transaction is presented against an Account containing insufficient funds. Your Account may be subject to overdraft item fees if an overdraft is created by in-person withdrawal, ATM withdrawal, the return of items deposited unpaid, the deposit of items not immediately available or other electronic transactions such as point of sale transactions made via a debit card, Internet Banking transfer or Bill Pay transactions.

Your Account is subject to stop payment fees for any stop payment originated through our Services. You may also be charged fees for withdrawals over the number of withdrawals allowed each statement cycle, pursuant to your Account agreements. Refer to the current Fee Schedule for the amounts of these charges and other fees that may apply.

Mobile Banking transfers made from savings or money market Accounts will be considered a limited transaction. You should refer to the Truth in Savings Disclosure and/or the Electronic Fund Transfer Disclosure that you were given at Account opening.

We may also limit the type, frequency and amount of transfers for security purposes and may change or impose the limits without notice, at our option. You agree to confirm the completion of each transfer in your Account balance and transaction history before withdrawing transferred funds.

### **Your Responsibilities**

You represent and agree to the following by enrolling for the Mobile Banking Service:

#### *Account Ownership/Accurate Information*

You represent that you are the legal owner of the Accounts and other financial information which may be accessed via Mobile Banking. You represent and agree that all information you provide to us in connection with Mobile Banking is accurate, current and complete, and that you have the right to provide such information to us for the purpose of using Mobile Banking. You agree not to misrepresent your identity or your Account Information. You agree to keep your Account Information up to date and accurate. You represent that you are an authorized user of the Device you will use to access Mobile Banking.

#### *User Security*

You agree to take every precaution to ensure the safety, security and integrity of your Account and transactions when using Mobile Banking. You agree not to leave your Device unattended while logged into Mobile Banking and to close out the Mobile Banking App immediately at the completion of each access by you. You agree not to provide your User ID, Password or other Credentials to any unauthorized person. If you permit other persons to use your Device, login information or other means to access Mobile Banking, you are responsible for any transactions they authorize and we will not be liable for any damages resulting to you. You agree not to use any personally identifiable information when creating shortcuts to your Account.

We make no representation that any content or use of Mobile Banking is available for use in locations outside of the United States. Accessing Mobile Banking from locations outside of the United States is at your own risk.

#### *Lost or Stolen Credentials or Devices*

You agree to contact your mobile service provider about a lost or stolen device. You agree to notify us immediately if your mobile device is lost or stolen, or if your User ID, Password, security question answers or security image has been compromised or if you believe someone has made unauthorized transactions or in any way accessed your Account(s), in accordance with the applicable Online Banking Agreement. Contact the Bank at (402) 538-3025, in writing at Bank of the Valley, PO Box 7, Bellwood, NE 68624 or at any branch location to report any such incidents. You also may send us a secure email through your Online Banking account. It is advised that you immediately change your Password in any situation where you suspect unauthorized access has occurred. You should change your Password periodically and may change it at any time by accessing your Online Banking account and changing the Password under the Options tab.

#### *Use of Authorized Application ("App")*

You agree, when you choose to use an App in conjunction with accessing Mobile Banking, that you ensure prior to download that the developer name and Bank name, Bank of the Valley, is displayed in both areas. The Bank's App name is BotV Mobile but it is recommended that you refer to the Bank's website under the Mobile Banking tab for links to the Bank's App. Use of any other App or download from any other source could compromise your device's security and in turn allow unauthorized access to your Accounts. We will not be liable for any liability resulting from an App downloaded and used from the authorized App store or any other location. You are responsible for ensuring you are utilizing the current version of the App. You should periodically check the App version info under the Settings tab of the App. The version number should be compared to the Bank App's link as mentioned above to ensure that the most recent App version is being used. If the App store has a newer version then you should consider updating the Mobile Banking App to the newest version.

#### *User Conduct*

You agree not to use Mobile Banking or the content or information delivered through Mobile Banking in any way that would: (a) infringe any third-party copyright, patent, trademark, trade secret or other proprietary rights or rights of privacy, including any rights in the software; (b) be fraudulent or involve the sale of counterfeit or stolen items, including, but not limited to, use of Mobile Banking to impersonate another person or entity; (c) violate any law, statute, ordinance or regulation (including, but not limited to, those governing export control, consumer protection, unfair competition, anti-discrimination or false

advertising); (d) be false, misleading or inaccurate; (e) create liability for us or our affiliates or service providers, or cause us to lose (in whole or in part) the services of any of our service providers; (f) be defamatory, trade libelous, unlawfully threatening or unlawfully harassing; (g) potentially be perceived as illegal, offensive or objectionable; (h) interfere with or disrupt computer networks connected to Mobile Banking; (i) interfere with or disrupt the use of Mobile Banking by any other user; or (j) use Mobile Banking in such a manner as to gain unauthorized entry or access to the computer systems of others.

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

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

#### *Indemnification*

Unless caused by our intentional misconduct or gross negligence, you agree to indemnify, defend and hold harmless Bank of the Valley, its affiliates, officers, directors, employees, consultants, agents, service providers and licensors from any and all third party claims, liability, damages, expenses and costs (including, but not limited to, reasonable attorney's fees) caused by or arising from: (a) a third party claim, dispute, action or allegation of infringement, misuse or misappropriation based on information, data, files or otherwise in connection with the Mobile Banking Service; (b) your violation of any law or rights of a third party; or (c) your use, or use by a third party, of the Mobile Banking Service.

#### *Cooperation with Investigations*

You agree to cooperate in any investigation of errors, issues, discrepancies, transactions, transmissions and resolution of customer claims by the Bank regarding any and all aspects of Mobile Banking, Online Banking Services or Electronic Services you utilize.

#### *Consent to Electronic Delivery of Notices*

You agree that any notice or other type of communication provided to you pursuant to the terms of this Mobile Banking Agreement and other associated agreements and any future disclosures required by law may be made electronically by posting the notice on the Bank's website, Online Banking, the Mobile Banking App or at our option by email or by SMS text message. You further agree to notify us immediately of any change to your email address, phone number or mobile service provider. You agree that posting or providing of any notice or other type of communication required by this Mobile Banking Agreement or any associated agreement and any future disclosures as described shall constitute full notice to you.

### **Mobile Check Deposit**

#### *Terms and Definitions*

The following terms and definitions apply with respect to our Mobile Check Deposit Service:

"Consumer" is a natural person who has successfully subscribed to Online Banking and Mobile Banking and that maintains personal Account(s) primarily for personal, family or household purposes and for which check deposits are within Deposit Limits.

“Mobile Check Deposit” or “MCD” is a feature that allows eligible and approved Consumer and Small Business clients that have successfully subscribed to Online Banking and Mobile Banking to make check deposits electronically to a designated Account by using a camera-enabled mobile device capable of capturing and transmitting check images through a wireless service.

“Prohibited Check(s)” means a check or other items that you are not permitted to scan and transmit using Mobile Check Deposit. Please refer to the Eligible Items section for more information.

“Repeated Overdrafts” refers to six (6) or more banking days the Account balance is negative, or the Account balance would have become negative if checks or other charges to the Account had been paid.

“Small Business” is a person or entity who has successfully subscribed to Online Banking and Mobile Banking and that maintains Business Account(s) for primarily Business or commercial purposes and for which check deposits are within Deposit Limits.

#### *Description of Mobile Check Deposit*

Mobile Check Deposit is a feature that allows eligible and approved Consumer and Small Business clients that have successfully subscribed to Online Banking and Mobile Banking to make check deposits electronically to designated Accounts by using a camera-enabled mobile device capable of capturing and transmitting check images through a wireless service. Customer must use the Mobile Banking App in order to use Mobile Check Deposit. The official App can be found at the Bank’s website (<https://www.bankofthevalley.com/>).

#### *Eligibility Requirements*

Mobile Check Deposit is available to Consumer and Small Business clients that have successfully subscribed to Online Banking and Mobile Banking. You may be eligible for approval to utilize MCD if:

- You meet the definition of either a Consumer or Small Business Account holder;
- Your Bank of the Valley designated deposit Account (checking or savings) has been opened for a minimum of 30 days;
- You have not been 60 days delinquent on any loan with Bank of the Valley;
- You do not have charged-off loans or deposit Accounts with Bank of the Valley;
- You are at least 18 years of age;
- You have no history of Repeated Overdrafts on deposit Accounts with Bank of the Valley;  
and
- You have a camera-enabled mobile device or smart phone (iPhone®, iPad®, Android™ or Android tablets) and subscribe to wireless services that permit Internet access.

Your eligibility requirements for MCD continue during your use of the service and may be terminated in the event that we become aware of any delinquency on Bank of the Valley loans, charged off loans or deposit Accounts, Repeated Overdrafts on deposit Accounts at Bank of the Valley, deposit of fraudulent checks or presentment of checks more than once, or you have shared your Credentials with someone other than an owner on the Account who is remotely depositing checks into your Account.

#### *Hardware and Software Requirements*

MCD requires a mobile device with a camera (Smart Phone, iPhone, iPad or Android,). The following are components necessary for an MCD installation.

**Hardware: One of the following camera-enabled mobile devices is required for MCD:**

- Apple® phones and tablets
- Android™ phones and tablets

**Wireless Service Provider: You must subscribe to the Internet and/or phone Services through a wireless service provider.**

We recommend that you routinely update your antivirus software, apply all security patches for your operating system and activate all other security features available on your mobile device.

#### *Email Fraud*

You acknowledge and agree that it is your responsibility to protect yourself and to be vigilant against email fraud and other Internet frauds and schemes (including without limitation, fraud commonly referred to as phishing). You acknowledge that we will never contact you by email in order to ask for or verify Account numbers, Credentials or any sensitive or confidential information. In the event you receive an email or other electronic communication that you believe or have reason to believe is fraudulent you agree not to respond to the email, provide any information to the email sender, click on any links in the email or otherwise comply with the instructions in the email. You agree that we are not responsible for any losses, injuries or harm you may incur as a result of any electronic email or Internet fraud subject to the requirements of applicable law.

#### *Deposit Limits*

The Bank reserves the right to establish and assign to you deposit limits for Mobile Check Deposit (including limits on the dollar amount and/or number of checks that you may transmit through the Mobile Banking Service each day and or each month) and to modify such limits from time to time in the Bank's sole discretion, and you agree to comply with all such limits. In the event that you attempt to make a deposit in excess of these limits, your deposit will not be accepted and a message will display on your mobile device that the deposit has failed due to your deposit limit being exceeded. Once your Mobile Check Deposit application has been reviewed and approved, you will receive an email from the Bank confirming your enrollment acceptance in Mobile Check Deposit. If at any time you would like to request an increase to the established Consumer or Small Business limits you should contact the Bank at (402) 538-3025. A permanent limit increase will require a revised MCD application. You may visit any branch

location or request an application to be mailed or emailed to you. You will receive an email from the Bank informing you if your permanent limit increase has been accepted or rejected.

Consumer Limits for MCD:

Consumer Tier –

Daily Check Limit .....	100 items
Daily Deposit Amount Limit.....	\$150,000 per month
Monthly Check Limit.....	100 items
Monthly Deposit Amount Total Limit.....	\$150,000 per month

Small Business Limits for MCD:

Small Business Tier –

Daily Check Limit .....	100 items
Daily Deposit Amount Limit.....	\$150,000 per month
Monthly Check Limit.....	100 items
Monthly Deposit Amount Total Limit.....	\$150,000 per month

All transactions will be set to “REJECT” if they fall outside the established deposit limits. You will receive a message in the Mobile Banking App stating that the deposit has failed because the deposit limit has been exceeded. You will then be informed to contact the Bank.

*Eligible Items*

You agree to deposit only “checks” as that term is defined in Federal Reserve Regulation CC (“Reg. CC”) and the checks that are eligible for deposit in this Mobile Banking Agreement. You agree that the image of the check transmitted shall be deemed an “item” within the meaning of Article 4 of the Uniform Commercial Code. You agree that you will not use the Service to make any remittance of funds on behalf of a third party. You agree that you will not use Mobile Check Deposit to deposit any of the following types of prohibited checks or other items which shall be considered ineligible items:

- Checks payable to any person or entity other than the person or entity that owns the Account that the check is being deposited into;
- Checks containing an alteration on the front of the check or item, or which you know or suspect, or should know or suspect, are fraudulent or otherwise not authorized by the owner of the Account on which the check is drawn;
- Checks that the customer suspects or knows is fraudulent or otherwise not authorized by the owner of the Account on which the check or item is drawn;

- Checks payable jointly, unless deposited into an Account in the name of all payees;
- Checks previously converted to a substitute check, as defined in Reg. CC;
- Checks drawn on a financial institution located outside the United States;
- Checks that are remotely created checks, as defined in Reg. CC;
- Checks not payable in United States currency;
- Checks dated more than 6 months prior to the date of deposit;
- Checks payable on sight or payable through drafts, as defined in Reg. CC;
- Checks with any endorsement on the back other than that specified in this Mobile Banking Agreement;
- Checks that have previously been submitted through the Mobile Banking Service or through a remote deposit capture service offered at this or any other financial institution;
- Digitally scanned, photocopied or otherwise duplicated versions of checks;
- Checks or items drawn or otherwise issued by you or any other person on any of your Accounts or any Account on which you are an authorized signer or joint Account holder;
- Any check that is drawn on or otherwise issued by the U.S. Treasury Department; and/or
- Any check that is a money order, cashier's check or traveler's check.

We reserve the right to reject or void any check or item transmitted by MCD that violates this Mobile Banking Agreement or is otherwise not acceptable under the terms on your Account. Submission of ineligible items (duplicate deposits, fraudulent checks, charged back deposit items, etc.) may result in termination of MCD for you.

#### *Endorsements*

Bank of the Valley only accepts restrictive endorsements. Each check transmitted through Mobile Check Deposit must bear the exact verbiage "For Mobile Deposit Only, Bank of the Valley" printed on the back of the check in the endorsement area. This restrictive endorsement will require the Bank to apply the check to the holder's deposit Account. If you fail to provide such an endorsement, the deposit will reject and not be accepted. However, the check may be deposited again through MCD but must have the required endorsement on the back of the check in the endorsement area. Any loss we incur from a delay or processing error resulting from an irregular endorsement or other markings by you will be your responsibility.

#### *Check Requirements (Including Image Quality)*

The image of an item transmitted to Bank of the Valley using Mobile Check Deposit must be legible and contain images of the front and back (including all four corners) of the check. The image quality of the items must comply with the requirements established from time to time by the American National Standards Institute (“ANSI”), the Board of Governors of the Federal Reserve Board or any other regulatory agency, clearing house or association. These requirements include, but are not limited to, ensuring the following information can clearly be read and understood by sight review of the check image: the amount of the check (both written and numeric); the payee; the signature of the drawer (maker); the date; the check number; the information identifying the drawer and the paying financial institution that is preprinted on the check including the MICR line; and all other information placed on the check prior to the time of an image of the check is captured (such as any required identification written on the front of the check and any endorsements applied to the back of the check). You agree that we are not responsible or liable to you for images that are dropped during transmission which we do not receive or that are intercepted or altered by or misdirected to any unauthorized third party. You assume the risk that any check image or information from a check image may be intercepted or misdirected during transmission. Bank has sole and absolute judgment regarding legibility.

#### *Processing Your Deposit(s)/Cut-Off Time*

When you submit a check through Mobile Check Deposit, we use systematic methods to review and verify the item for acceptance. Once this initial review has been completed, the system will generate an email confirmation of submission or rejection to you. The email notification will be from [ebanking@bankofthevalley.com](mailto:ebanking@bankofthevalley.com). If you submit your item(s) before the cut-off time established by the Bank, we will generally process your item(s) on that Business Day. If you submit your item(s) to us after the Cut-Off Time or your email confirmation of submission is generated after the Cut-Off Time on any Business Day, we shall process your item(s) on the next Business Day. Submission of an item for processing does not guarantee that the deposit will not be rejected after further review, as described below.

Our Business Days are Monday through Friday, excluding Federal holidays and any other day that we are not actually open.

#### *Availability of Funds*

You agree that items transmitted using Mobile Check Deposit are not subject to the funds availability requirements of Federal Reserve Board Regulation CC. It is our general policy to make funds from your check deposits through the Mobile Banking App available to you on the first Business Day after the day we receive your deposit (see *Processing Your Deposit(s)/Cut-Off Time* section above for when your deposit is considered received). In some cases, we may delay your ability to withdraw funds beyond the first Business Day. We may hold the funds and provide availability for the deposit on the seventh business day after the date of the deposit and a notice will be sent to you if a hold is placed on any deposited funds. Holds may be placed on items that have been submitted but not processed at end of day.

#### *Rejection of Deposits*

You agree that all deposits received by us are subject to verification and final inspection and may be rejected by us in our sole discretion, and you shall be liable to Bank of the Valley for any errors, inaccuracies, breach of warranties and any other loss sustained by, or claim made against, the Bank relating to such deposits. Bank of the Valley is not liable for any service or late charges that may be imposed against you due to the Bank’s rejection of any check that you transmit for deposit through Mobile

Check Deposit. In all cases, you are responsible for any loss or overdraft plus any applicable fees to your Account due to a check being returned. We will provide you a substitute check of the returned item, rather than the paper originals. You acknowledge and agree that while we normally provide notice of rejected deposits, we may reject any check transmitted through Mobile Check Deposit at our sole discretion without notice to you, and we will not be liable for any such rejection or failure to notify you of such rejection. Generally, if we reject (deny) a check for violations of the terms of the Mobile Banking Agreement, you must physically deposit the original check; you may not attempt to re-deposit it through Mobile Check Deposit.

#### *Unpaid Checks*

You are solely responsible for verifying that checks that you deposit by using Mobile Check Deposit have been received and accepted for deposit by the Bank. Bank of the Valley will provide you with notice of any deposits that it is unable to process because checks were returned unpaid by the payer financial institution. In the event that the Bank credits your Account for a check that is subsequently dishonored and returned, you authorize the Bank to debit the amount of such check plus any associated fees from the Account. To the extent that funds in your Account are insufficient to cover such amount, we shall debit the deficiency amount from any of your other Account(s) with the Bank in our sole discretion. Our right to charge your Account(s) will apply without regard to whether the check was timely returned or whether there is any other claim or defense that the check was improperly returned. You understand and agree that since the original check is your property, it will not be returned and the Bank may charge back an image of the check, an ACH debit or other electronic or paper debit, as applicable, to your Account. You further agree that any image that we charge back may be in the form of an electronic or paper reproduction of the original check or a substitute check. You may not use Mobile Check Deposit to deposit a substitute check and you may not redeposit the original check through Mobile Check Deposit or in any other manner if you receive a dishonored check. You agree to comply with any additional instructions we may provide to you in connection with returned checks.

#### *Duty to Report Errors*

Bank of the Valley will provide you with periodic Account statements that will identify the deposits that you make through Mobile Check Deposit. In addition, you may access Online Banking or the Mobile Banking App for information about your deposits, return items, deposit adjustments, checks and other transactions on your Accounts. You agree that it is your responsibility to review all such information that Bank of the Valley makes available to you in a timely manner to verify that deposits made through Mobile Check Deposit have been received and accepted by the Bank and are accurate. Receipt of a check by the Bank through Mobile Check Deposit does not constitute an acknowledgement by the Bank that the check is error-free or that we will be liable for the check. You agree to notify us promptly of any errors, omissions or discrepancies in a deposit within the time periods established in the Bank Documents for your Account. You may notify the Bank at (402) 538-3025, in writing at Bank of the Valley, PO Box 7, Bellwood, NE 68624, by email using the email feature in the Mobile Banking App or visit any branch location. You agree to cooperate in any investigation by the Bank of any unsuccessful or lost transmission. Subject to applicable law, any failure by you to notify the Bank of any error, omission or other discrepancy in accordance with this Mobile Banking Agreement and the Bank Documents for your Account shall relieve the Bank of any liability for such error, omission or discrepancy.

#### *Availability of Service/Contingency*

In the event you are unable to capture, submit or transmit a check image to the Bank or otherwise comply with the terms or the procedures for any reason, including but not limited to, communications, equipment or software outages, interruptions or failures, it may be necessary for you to consider an alternate method to make your deposit. You can make the deposit by bringing in to one of our branch locations or depending on your time frame for the deposit, you may mail it to us at Bank of the Valley, PO Box 7, Bellwood, NE 68624. The deposit of original checks at a branch of the Bank shall be governed by the Bank Documents for your Account and the Regulation CC Funds Availability Disclosure and not by the terms of this Mobile Banking Agreement.

#### *Storage, Security and Destruction/Disposal of the Checks*

After you receive a confirmation email notification from [ebanking@bankofthevalley.com](mailto:ebanking@bankofthevalley.com) that your deposit has been submitted, you agree to securely store the original check for a check retention period of sixty (60) business days. You must also make the original check accessible to us at our request. Upon our request, you will deliver to us within two (2) Business Days, at your expense, the requested original check in your possession. If not provided in a timely manner, such amount will be reversed from your Account. Promptly after the sixty (60) day retention period expires, you agree to destroy the original check by cross-cut shredding or another commercially acceptable means of destruction. After destruction of the original check, the image will be the sole evidence of the original check. You agree that you will never re-present the original check. You understand that you are responsible if anyone is asked to make a payment based on an original check that has already been paid.

#### *Presenting Checks More Than Once*

Once you have used Mobile Check Deposit to deposit a check and that check has been submitted and approved, you agree not to present or allow anyone else to present that original check or a substitute check of that original check again for deposit through Mobile Check Deposit or by any other means. If you or anyone else presents a check or substitute check for deposit more than once, in violation of this Mobile Banking Agreement, you agree to indemnify, defend and hold the Bank harmless from and against all liability and damages that may result from any claims, suits or demands from third parties with respect to such check or substitute check. You agree that we may debit from your Account the aggregate amount of any checks that that are deposited more than once. To the extent that funds in your Account are insufficient to cover such amount, we will debit the deficiency amount from any other of your Account(s) with the Bank in our sole discretion. Presentment of checks more than once will be a violation of this Mobile Banking Agreement and will be considered an action to terminate this Mobile Banking Agreement and your access to Mobile Check Deposit.

#### *Data Security*

You will complete each deposit promptly. If you are unable to complete your deposit promptly, you will ensure that your mobile device remains securely in your possession until the deposit has been completed. It is your responsibility to establish and maintain procedures to safeguard against unauthorized deposits. You will immediately notify the Bank at (402) 538-3025, in writing at Bank of the Valley, PO Box 7, Bellwood, NE 68624, by email using the email feature in the Mobile Banking App or visit any branch location if you learn of any loss or theft of original checks. You will ensure the safety and integrity of original checks from the time of receipt until the time of destruction. If warranted in our reasonable judgment we may audit and monitor your banking and Account activity and you agree to cooperate with

us to permit such monitoring to confirm that you have satisfied your obligations under this Mobile Banking Agreement.

#### *Cooperation with Investigations*

You agree to cooperate with us in the investigation of unusual transactions, poor quality transmissions and resolution of customer claims, including by providing, upon request and without further cost, any originals or copies of items deposited through Mobile Check Deposit in your possession and your records relating to such items and transmissions.

#### *Cancellation of Mobile Check Deposit*

We reserve the right to cancel your access to Mobile Check Deposit at any time and without notice. Your eligibility requirements continue throughout your Use of the service and may be terminated in the event that the Bank becomes aware of any delinquency on Bank of the Valley loans, charged off loans or deposit Accounts, Repeated Overdrafts on deposit Accounts at Bank of the Valley, deposit of fraudulent checks or presentment of checks more than once, or you have shared your Credentials with someone other than an owner on the Account who is remotely depositing checks into your Account. You may also request to have MCD removed from your Mobile Banking Service at anytime.

#### **Agreement Assignment and Amendment**

We may assign or delegate certain of our rights and responsibilities under this Mobile Banking Agreement to such third parties as we may elect upon notice to you whereupon we shall be released from any and all further liability or responsibility related thereto.

We reserve the right to amend or cancel any of the provisions of this Mobile Banking Agreement, including changes to any fees, costs or assessments. We may amend or cancel any provision or charge by disclosing the change electronically or in written form, and, at our discretion, by sending you notification in addition thereto. The Mobile Banking Agreement will be updated on the effective date, unless immediate change is necessary to maintain the security of the Service or unless a law, rule or regulation requires that it be updated at an earlier time. If such a change is made and it cannot be disclosed without jeopardizing the security of the system, the Mobile Banking Agreement will be updated within 30 days after the change. You will be notified as soon as possible when any changes are made which materially affect your rights. You may choose to accept or decline amendments, cancellations or changes by continuing or discontinuing the Services to which these changes relate. We also reserve the option, in our business judgment, to waive, reduce or reverse charges or fees in individual situations. Your continued use of any Service covered by this Mobile Banking Agreement, constitutes agreement with any amendments made to the Mobile Banking Agreement.

#### **Incorporation by Reference**

The terms and conditions of the Online Banking Agreement, Bill Pay Agreement and all other applicable Bank Documents are incorporated herein by this reference. To the extent of any inconsistency between this Mobile Banking Agreement and the Online Banking Agreement, Bill Pay Agreement or other applicable Bank Documents, this Mobile Banking Agreement shall govern.

## TERMS OF USE AND PRIVACY POLICY

The primary licenser for the online and/or mobile banking service you are using (the "Service") is Jack Henry & Associates, Inc. (the "Provider"). By enrolling in our Service, you hereby agree as follows:

(i) General. The Provider is not the provider of any of the financial services available to you through the Service, and the Provider is not responsible for any of the materials, information, products or services made available to you through the Service.

(ii) Provider Privacy Policy. Provider may access personal information while you use the Service. Provider may access records held by your financial institution for such information as your phone number, home address or email address. Provider will use this contact information to alert you about Service-related events or actions that require your attention. If you grant permission to use phone information, Provider will use the phone number to pre-populate forms that expect a personal phone number for contacting. If you grant permission to use your device's location, Provider will use the data when checking for nearby branch and ATM locations. If you grant permission to use access photos, media or other files stored on your device, Provider will use that information to add an image to a transaction and add a photo to your profile. If you grant permission to use a camera, Provider will use it when taking a picture to add an image to a transaction or to capture images of a check that is being deposited or to add a photo to your profile. In addition to this Provider Privacy Policy, your financial institution maintains a privacy policy covering the personal and financial information related to your use of the financial institution's services and products, including such information that may be gathered through use of this Service, such as the "Account Information" and "Registration Information" described below. A copy of that privacy policy is available from your financial institution.

(iii) Source of Information. The Service, at your direction, will retrieve your information maintained online by financial institutions and billers with which you have customer relationships, maintain accounts or

engage in financial transactions and other log-in related information ("Account Information"). Provider does not review, verify or analyze the Account Information for accuracy or any other purpose, but simply gathers, organizes and reports available Account Information to you. Technical difficulties may result in a failure to obtain data, a loss of data, a loss of personalized settings or other service interruptions. Account Information is timely only to the extent that it is promptly provided by the third-party sites. Account Information may be more complete or up to date when obtained directly from the third-party sites.

(iv) Your Responsibility for Information. You are responsible for providing Provider with accurate and updated (as necessary) account numbers, user names, passwords and other log-in related information ("Registration Information") so that the Service is able to access Account Information. If you become aware of any unauthorized use of your Registration Information, you should notify your financial institution immediately.

(v) Rights You Grant to Provider. By submitting data, passwords, user names, PINs, log-in information, materials and other Registration Information to Provider through the Service, you are voluntarily supplying that content to Provider for the purpose of providing the Service to you. By submitting such information to Provider, you represent that you are entitled to submit it to Provider for use for this purpose, without any obligation by Provider to pay any fees. By using the Service, you expressly authorize Provider to access your Account Information maintained by identified third parties, on your behalf as your agent. When you use the "Add Accounts" feature of the Service, you will be directly connected to the website for the third party you have identified. Provider will submit information including user names and passwords that you provide to log you into the site. You hereby authorize and permit Provider to use and store the information submitted by you (such as account passwords and user names) to accomplish the foregoing and to configure the Service so that it is compatible with the third-party sites for which you submit your information. You acknowledge and agree that when Provider is

accessing and retrieving Account Information from the third-party sites, Provider is acting on your behalf and not on behalf of the third party. You acknowledge that certain risks are inherent in the transmission of information over the internet, and you agree that by using the Service you are assuming those risks.

(vi) Consent to Use of Data. You agree that Provider may collect and use technical data and related information, including but not limited to technical information about your 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 Service. Provider 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.

(vii) Disclaimer of Warranty. THE SERVICE 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 SERVICE WILL BE FREE FROM DEFECTS OR VIRUSES OR THAT OPERATION OF THE SERVICE WILL BE UNINTERRUPTED. YOUR USE OF THE SERVICE AND ANY MATERIAL OR SERVICES OBTAINED OR ACCESSED VIA THE SERVICE 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.

(viii) Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL PROVIDER BE LIABLE FOR ANY DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE SERVICE, INCLUDING BUT NOT LIMITED TO ANY GENERAL, SPECIAL, DIRECT, INDIRECT, 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, PROVIDER'S LIABILITY ARISING OUT OF THE USE OR INABILITY TO USE THE SERVICE SHALL NOT EXCEED IN THE AGGREGATE THE SUM OF \$250. 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.

(ix) Google Analytics. To assist Provider in maintaining and improving this application, Provider uses Google Analytics to gather information about usage of the Service. For example, it tracks how many visitors the Service has, which screens they spend time on, what kinds of operating systems and devices they use, and how they found the Service. Google Analytics does not track, collect or upload any data that personally identifies an individual (such as a name, email address, account number or billing information), or other data which can be reasonably linked to such information. The information helps Provider improve the performance of this Service for you. For more information on Google's use of the data, please see the website "How Google uses data when you use our partners' sites or apps" located at <http://www.google.com/policies/privacy/partners/>.

(x) Miscellaneous. This End User Agreement constitutes the entire agreement between you and Provider concerning the subject matter hereof. This End User Agreement will be governed by and construed in accordance with the laws of the state of Iowa, 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 Iowa 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.