



Business Mobile Banking Enrollment Terms & Conditions

END USER TERMS

Dime Business Mobile Banking is provided to you by Dime Community Bank (“Dime”) and powered by FIS Global (the “Licensor”), a Third Party mobile technology solution. This document (the “Agreement”) contains terms and conditions governing Dime Business Mobile Banking (“Business Mobile”) services. Section A of these End User Terms is a legal agreement between you and Dime. Section B of these End User Terms is a legal agreement between you and the Licensor.

SECTION A

Dime Community Bank Terms and Conditions

Thank you for using Dime Business Mobile. In case of questions, please contact customer service at 1-800-321-DIME (3463).

Terms and Conditions

1. The services are separate and apart from any other charges that may be assessed by your wireless carrier for text messages sent to or received from Dime. You are responsible for any fees or other charges that your wireless carrier may charge for any related data or message services, including without limitation for short message service.
2. The services are provided by Dime and not by any other third party.

This Agreement is an Addendum to Dime’s Online Banking Agreement for Business Account Customers (“Business Online Banking Agreement”). Please note: all rules governing Dime’s Online Banking service also apply to Business Mobile.

Other Deposit and Credit Agreements with Dime

The terms and conditions in this Agreement are in addition to any deposit Account, credit Account or other agreement you may have with Dime relating to your Accounts, including any disclosures made pursuant to such agreements. Such agreements are incorporated by reference into this Agreement. In the event of any conflict between this Agreement and your other agreements with Dime, this Agreement shall govern with respect to the use of Business Mobile.

Mobile Banking Features

There are no fees or charges to use Business Mobile, but the Bank’s standard Account fees will apply and data and messaging rates may apply from your wireless provider. These following services are accessible:

- **Obtain balances and transaction information**
- **View Account history**
- **Transfer funds between your linked Dime Accounts**
- **Approve ACH and wire transactions**
- **Pay bills**
- **Make remote deposits to your Dime Accounts**

Definitions

The following terms, as used in this Agreement, will have the same meaning as set forth in the Business Online Banking Agreement:

“You”, “your”, and “yours” mean each person who is authorized to have access to your Account(s) through the Dime Online Banking Service in accordance with the terms of this Agreement;

“We”, “us”, “our”, “Bank” or “Dime” refers to Dime Community Bank and its various branches;

“Account” means a bank account, including a Credit Account or Deposit Account, which you have or may have designated for use in or access to the Services and which is an Eligible Account. The term “Account” does not include any such account established for personal, family or household purposes.

“Agreement” refers to this document containing the terms and conditions of the Business Mobile services, together with any amendments made from time to time.

“Business Day” means any day other than a Saturday, Sunday or Bank Holiday.

“Business Mobile”, “Mobile Banking” and “Service” refer to our electronic banking and information service which permits you through the use of a Cellular Phone, tablet or similar device, and an internet service provider, to access designated deposit and credit accounts through the Internet using either a browser or other software.

Eligibility and Terms and Conditions

To be eligible for this Service, you must have an Account in good standing at Dime and be enrolled in the Dime Business Online Banking. Your use of any of the services means that you have agreed to the terms and conditions stated in this Agreement and the instructions we will give to you. This Agreement contains the terms that govern your use of the Service. You may use the Service to access your Accounts using a mobile device. By using this Service, you are agreeing to the terms of this Agreement which supplements the terms and agreements of your Account (s) and Business Online Banking Agreement (and all other agreements with Dime) to which you have previously agreed.

Business Mobile is offered as a convenient and supplemental gateway to Dime Business Online Banking services. It is not intended to replace access to Business Online Banking from your computer or other methods you use for managing your accounts and services with us. Business Mobile allows you to view your Dime account balances, account history, pay bills, approve ACH and wires, transfer funds between Dime accounts, and make remote deposits to your Dime accounts.

Use of Business Mobile

We may modify, suspend, or terminate your access to Business Mobile, or any of its services at any time, without notice or refund of previously incurred fees, subject to applicable law. We may modify this Service from time to time in our sole discretion. In the event of any modifications, you are responsible for making sure you understand how to properly use Business Mobile as modified. You also accept responsibility for making sure that you know how to properly use your mobile device and we will not be liable to you for any losses caused by your failure to properly use the services or your

mobile device.

Periodic Statements

You will continue to receive periodic statements for your Accounts. Any transfers or bill payments you authorized to be made using Business Mobile will be included in these statements, along with your other Account activity. You agree to review your Account disclosures carefully, as they may include transaction limitations and fees that may apply to your use of Business Mobile.

Business Mobile Requirements and Limitations

You are responsible for any service charges from mobile carriers as a result of using this Service. This Service may not be accessible or may have limited service over some network carriers. This Service may also not be supported by all mobile devices. Dime cannot guarantee, and is not responsible for, the availability of data services provided by your mobile carrier, such as data outages or “out of network” issues.

As provided in your Deposit Account disclosure, as well as the Business Online Banking Agreement, the transfer of funds from a savings or money market Account is limited by federal law to a maximum of six transfers per monthly statement cycle (whether initiated on your computer or by means of mobile banking, telephone, wire or pre-authorized transfers). Federal regulations require that if you continually violate these limits, we may be obligated to close your Account. We will notify you before taking any action against your Account.

As provided in the Business Online Banking Agreement, transfers of funds and bill payment transactions are subject to the specific limitations (See sections on “Types of Transfers and Online Services Available”, “Bill Payment Limits”, and “‘Send on’ Date vs. ‘Deliver By’ Date”).

Other Business Mobile Agreements

You agree that, when you use Business Mobile, you remain subject to the terms and conditions set forth in your existing agreements with any unaffiliated service providers, including, but not limited to your mobile service provider and that this Agreement does not amend or supersede any of those agreements. You understand that those agreements may provide for fees, limitations, and restrictions which might impact your use of Business Mobile (such as data usage or text messaging charges imposed on you by your mobile service provider). You also agree to be solely responsible for all such fees, limitations, and restrictions. You agree that only your mobile service provider is responsible for its products and services and you also agree to resolve any issues or problems with your provider directly with the provider without involving us.

Equipment and Software Requirements

We do not guarantee functionality of the Business Mobile services on all wireless communication devices. The mobile application is available for many smartphones and tablets including: iPhone®, iPad®, and Android® devices. When using Business Mobile, you may experience technical or other difficulties. We cannot assume responsibility for any technical or other difficulties or any inconvenience or losses you may experience as a result. If Business Mobile has qualification requirements, we reserve the right to change the qualifications at any time without prior notice. We recommend that you properly secure your software and equipment. We are not responsible for any errors or failures from any malfunction of your equipment and

software, and we are not responsible for any breaches to your own security, virus, or related problems, whether or not they may be associated with the use of Business Mobile.

Disclaimer of Warranties; Limitation of Liability.

The Disclaimer of Warranties and Limitation of Liability set forth in the Business Online Banking Agreement apply to this Agreement.

WE DISCLAIM ALL WARRANTIES REGARDING YOUR EQUIPMENT AND YOUR SOFTWARE, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSES.

User Security

You agree to take every precaution to ensure the safety, security, and integrity of your Account(s) and transactions when using Business Mobile. You agree not to leave your mobile device unattended while logged into Business Mobile and to log off immediately at the completion of each access by you. You agree not to provide your username, password, or other access information to any unauthorized person. If you allow access to Business Mobile to an unauthorized user, you will be responsible for any transactions they authorize and we will not be liable for any damages as a result. You agree not to use any personally identifiable information when creating shortcuts to your Account(s). We are not obligated to verify that the person using Business Mobile has been duly authorized by you to access Business Mobile using your username and password.

YOU are responsible for keeping personal information in your mobile device secure. For your protection, you agree to contact Dime at 800 321-DIME (3463) if your mobile device is lost or stolen.

Termination

Dime reserves the right to modify or terminate this Service, in whole or in part, at any time with or without cause and without prior written notice as allowed by law. We also reserve the right to suspend Business Mobile either temporarily or permanently in situations where it is deemed appropriate in our sole and absolute discretion. Termination of this Service does not affect your obligations under this Agreement in respect to occurrences before termination.

You may terminate your use of Business Mobile by either deleting the mobile app from your device and/or removing your mobile entitlement from the Administration tab within Business Online Banking.

REMOTE DEPOSIT SERVICE (“RDS”)

This section contains the terms and conditions for the use of Dime’s business Remote Deposit Services (“RDS”) that Dime may provide to you (subject to Bank approval). Other agreements you have entered into with Dime, including the Account Terms and Conditions (Guide to Business Banking) and Business Online Banking Agreement, as applicable to your Dime Account(s), are incorporated by reference herein.

1. RDS Service

RDS is designated to allow you to make deposits to your business checking, statement

savings, or statement money market Accounts from your business location or other remote locations by scanning checks using your mobile device and delivering the images and associated deposit information to Dime or Dime's designated processor.

2. Acceptance of These Terms

Your use of RDS constitutes your acceptance of this Agreement. This Agreement is subject to change from time to time. We will notify you of any material change via email, text message, or on our website(s) by providing a link to the revised Agreement or by an online secure message. Further, Dime reserves the right, in its sole discretion, to change, modify, add, or remove portions from the RDS service. Your continued use of RSD will indicate your acceptance of any such changes to the service.

3. Eligible Items

In using RDS, you agree to scan and remotely deposit into a deposit Account checks ("Checks" or "Items"), as that term is defined in Article 4 of the New York Uniform Commercial Code ("UCC") that is not an Ineligible Item, as defined below Federal Reserve Board Regulation CC ("Reg CC"). You agree that you will not deposit, without our prior written consent, items prohibited by this Agreement, or in violation of applicable laws and/or regulations, or a "Substitute Check" as that term is defined by the Check Clearing for the 21st Century Act (also known as 'Check 21'), which are sometimes also referred to as an Image Replacement Documents ("IRD"), that purport to be a substitute check and has not been previously endorsed by a bank. If you deposit such an Ineligible Item, you agree to reimburse us for any losses, costs and expenses we may incur associated with warranty, or indemnity claims, including but not limited to, the duplicate payment of a Check.

You agree that using RDS to transmit an image of a check to Dime for deposit to your Account shall be deemed an "item" within the meaning of Articles 3 and 4 of the UCC and you warrant that:

- The item is eligible for deposit using RDS;
- The item is not a duplicate of an item previously deposited;
- You will not re-deposit or re-present the item;
- All information you provide to Dime in connection with the item is accurate and true;
- You are in compliance with this Agreement and with all applicable laws, rules and regulations;
- You are not aware of any factor which may impair the collectability of the item; and
- You will indemnify and hold harmless Dime from any loss resulting from any breach of this warranty provision.

You agree that you will not use RDS to electronically present to Dime for deposit any of the following "Ineligible Items":

- a)** Any check or item payable to any person or entity other than you (i.e., a double endorsed check);
- b)** Items that are issued by you or your affiliates drawn on your or your affiliates' accounts;
- c)** Any check or item containing an alteration on the front of the check or item, or which you know or suspect, or should know or suspect is

fraudulent or otherwise not authorized by the owner of the account on which the check or item is drawn;

- d) Any check or item payable jointly, unless deposited into an Account in the name of all payees;
- e) Any check previously converted to a substitute check, as defined in Reg. CC;
- f) Any check drawn on a financial institution located outside the United States;
- g) Any check that is a 'remotely created check', as defined in Reg CC;
- h) Any check not payable in United States currency;
- i) Any check dated more than 6 months prior to the date of deposit;
- j) Any check or item prohibited by Dime's current procedures relating to RDS or which is not acceptable under the terms of your Dime Account;
- k) Any check payable on sight or payable through draft, as defined in Reg. CC;
- l) Any check not properly endorsed as specified herein; or
- m) Any check that has previously been submitted through RDS or through a remote deposit capture service offered at any other financial institution.

4. Endorsements and Procedures

You agree to sign and restrictively endorse "For Deposit Only" any item transmitted through RDS. You agree to follow any and all other procedures and instructions for use of RDS that Dime may establish from time to time.

You shall ensure that the images you transmit to us shall be of such quality that the following information can clearly be read:

- a) The Amount of the Item
- b) The Payee
- c) The Drawer's Signature
- d) The Date of the Item
- e) The Item Number
- f) The information identifying the drawer and the paying bank that is preprinted on the Check, including the complete MICR line
- g) Other information placed on the Item prior to the time an image of the Item is captured, such as any required identification written on the front of the Item and any endorsements applied to the back of the Item; and
- h) Such other information as may be reasonably required by Bank.

The legibility of the image of an item transmitted to us shall be determined in our sole discretion. Without limiting the foregoing, the image quality of the item must comply with the requirements established from time to time by Dime, the American National Standards Institute (ANSI), the Federal Reserve Board, and any other regulatory agency, clearinghouse or association.

5. Receipt of Items

We reserve the right to reject any item transmitted through RDS, at our discretion, without liability to you. We are not responsible for items we do not receive or for images that are dropped during transmission. By using RDS, you accept the risk that an item may be intercepted, altered, or misdirected during transmission. Dime bears no liability to you or to others for any such intercepted, altered, or misdirected items or information disclosed through such errors.

An image of an item shall be deemed received by Dime when you receive via e-mail on your Access Device or otherwise a confirmation from Dime that we have received the image. Receipt of such confirmation does not mean that the transmission was error free or complete or will be considered a deposit and credited to your Account. We further reserve the right to charge back to your Account at any time any item that we subsequently determine was not an eligible item. You agree that Dime is not liable for any loss, costs, or fees you may incur as a result of our chargeback of an ineligible item.

Upon your receipt of a confirmation from Dime that we have received an image of an item, you agree to prominently and indelibly mark the item, "Electronically Presented" or "VOID" and to properly secure the item to ensure that it is not re-presented for payment. You agree never to re-present the item. You agree to retain the item for at least 60 calendar days from the day on which you receive or have access to your applicable Account statement and until any suspected error in processing the item is resolved. During that period, you agree to promptly provide the item, or a sufficient copy of the front and back of the item, to Dime as requested to aid in the clearing and collection process, to investigate suspected errors in your Account statement of which you notify Dime, to resolve claims by third parties with respect to the item, or for Dime's audit purposes. After such period, you agree to destroy the item in such a manner as will render it incapable of further transmission, deposit, or presentment.

6. Availability of Funds

Deposits made via RDS are subject to verification and are not available for immediate withdrawal. In general, if an image of an item you transmit through RDS is received and accepted before 6:00pm Eastern Time on a Business Day that we are open, we consider that day to be the day of your deposit. Otherwise, we will consider that the deposit was made on the next Business Day we are open. Funds deposited using RDS will generally be made available in two Business Days from the day of deposit including on-us checks drawn on Dime.

7. Presentment

The manner in which items are cleared, sent for collection and presented for payment shall be in Dime's sole discretion. The availability of funds deposited through RDS is subject to our Funds Availability Policy. Likewise, we shall select the clearing agents used to collect and present the items and our selection of the clearing agents shall be considered to have been designated by you. We shall not be liable for the actions or omissions of any clearing agent.

8. Deposit Limits

The current maximum dollar limit for Business Mobile for check deposits made using RDS, is \$10,000 per Business Day. From time to time, we may establish or change

limits on the dollar amount and/or number of items you may deposit using RDS during specified time periods. If you attempt to initiate a deposit using RDS in excess of these limits, we may reject your deposit. If we permit you to make a deposit in excess of these limits, our acceptance of such deposit will be subject to the terms of this Agreement, and we will not be obligated to allow a deposit in excess of applicable limits at any other time.

9. Errors

You agree to notify Dime of any suspected errors regarding items deposited through RDS immediately, and in no event later than 14 days after the applicable Account statement is received or made available to you. Unless you notify Dime within 14 days, such statement regarding all deposits made through RDS shall be deemed correct, and you will be precluded from bringing a claim against Dime for any alleged error or omission in such statement. You agree to cooperate with us in the investigation of unusual transactions, poor quality transmissions, and resolution of customer or third party claims, including by providing, upon request and without reimbursement, any originals or copies of any items deposited through RDS in your possession and your records relating to such items and transmissions.

If you need assistance with RDS, or need to notify us of an error or suspected error in your statement, or if you need to communicate with Dime for other reasons, please contact us by:

- a) Calling DimeDirect at (800) 321-DIME (3463). You agree that we may monitor the conversations our employees have with you for quality of service and accuracy of information provided to you; or
- b) Writing to us at: Dime Community Bank, P.O. Box 25676, Brooklyn, NY 11202.

10. Errors in Transmission

By using RDS, you accept the risk that an item may be intercepted or misdirected during transmission. Dime bears no liability to you or others for any such intercepted or misdirected items or information disclosure through such errors.

11. Image Quality

The image of an item transmitted to Dime using RDS must be legible, as determined in the sole discretion of Dime. Without limited the foregoing, the image quality if the items must comply with the requirements established by Dime, ANSI, the Board of Governors of the Federal Reserve System, or any other regulatory agency, clearinghouse or association.

12. Cooperation with Investigations

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

13. Compliance with RDS Procedures

You agree to comply with all existing and future-operating procedures used by Dime for processing of transactions and/or rendering of these services. You further agree to

comply with and be bound by all applicable state or federal law, rules and regulations affecting the use of checks, drafts and ACH transactions, including but not limited to, rules and procedural guidelines established by the Federal Trade Commission (FTC), the Board of Governors of the Federal Reserve, the National Automated Clearing House Association (NACHA), and any other clearinghouse or other organization in which Dime is a member or to which rules Dime has agreed to be bound and/or Dime is required to follow. These laws, procedures, rules, regulations, and definitions (collectively the "Rules") shall be incorporated herein by reference. In the event of conflict between the terms of this Agreement and the Rules, the Rules will control the interpretation of this Agreement.

14. Enforceability

We may waive enforcement of any provision of this Agreement. No waiver of a breach of this Agreement shall constitute a waiver of any prior or subsequent breach of the Agreement. Any such waiver shall not affect our rights with respect to any other transaction or to modify the terms of this Agreement. In the event that any provision of this Agreement shall be deemed to be invalid, illegal, or unenforceable to any extent, the remainder of the Agreement shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law. This Agreement is governed and construed in accordance with the laws of the State of New York.

15. Duties and Responsibilities

Dime's duties and responsibilities under this Agreement are limited to those expressly described in this Agreement and/or as may be required by applicable law and/or regulation. We shall not be responsible for suspension of performance of all our obligations, responsibilities and covenants hereunder, whether expressed or implied, if at any time, or from time to time, compliance therewith should be prevented or hindered by, or be in conflict with, any federal or state law, regulation or rule, the order of any court of competent jurisdiction.

DISCLAIMER OF WARRANTIES. YOU AGREE THAT EXCEPT AS EXPRESSLY PROVIDED HEREIN, YOUR USE OF RDS AND ALL RELATED INFORMATION AND CONTENT (INCLUDING THAT OF THIRD PARTIES) IS AT YOUR RISK AND IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. EXCEPT AS EXPRESSLY PROVIDED HEREIN, WE DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. WE MAKE NO WARRANTY THAT (I) THE SERVICES WILL MEET YOUR REQUIREMENTS, (II) THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (III) THE RESULTS THAT MAY BE OBTAINED FROM THE SERVICES WILL BE ACCURATE OR RELIABLE, OR (IV) ANY ERRORS IN THE SERVICES OR TECHNOLOGY WILL BE CORRECTED.

LIMITATION OF LIABILITY:

- a) TO THE FULLEST EXTENT ALLOWED BY LAW AND SUBJECT TO THE FOREGOING PROVISIONS OF THIS AGREEMENT, DIME'S LIABILITY TO YOU UNDER THIS AGREEMENT SHALL BE LIMITED TO CORRECTING ERRORS RESULTING FROM ITS FAILURE TO EXERCISE ORDINARY CARE OR TO ACT IN GOOD FAITH. IN NO

EVENT SHALL DIME'S LIABILITY TO YOU EXCEED THE FEES PAID BY YOU IMMEDIATELY PRECEDING THE EVENT FROM WHICH SUCH LIABILITY AROSE FOR THE SERVICES PERFORMED WHICH GAVE RISE TO THE CLAIM.

- b) YOU AGREE THAT IN NO EVENT SHALL DIME OR DIME'S SERVICE PROVIDERS BE RESPONSIBLE OR LIABLE TO YOU FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR INCIDENTAL DAMAGES, LOSSES OR INJURIES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOSS OF USE, LOSS OF DATA OR COST OF COVER) ARISING OUT OF THE USE BY CUSTOMER OF ANY SERVICE OR THE FAILURE OF DIME OR ITS SERVICE PROVIDERS TO PROPERLY PROCESS AND COMPLETE TRANSACTIONS THEREUNDER, EVEN IF DIME OR DIME'S SERVICE PROVIDERS HAVE BEEN SPECIFICALLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES OR INJURIES.

The person accepting this Agreement has the power to execute this Agreement on your behalf and is authorized to carry out its obligations under this Agreement and upon execution and delivery of this Agreement by you, this Agreement shall be your legal, valid, and binding obligation, enforceable against you in accordance with the terms hereof, and will not violate any law, or conflict with any other agreement to which you are subject.

In addition to any other indemnification obligations you may have as provided elsewhere in this Agreement, you will be liable for, hold harmless, and will indemnify Dime, its officers, directors, shareholders, agents, employees, and affiliates, and their respective officers, directors, agents and employees, harmless from and against any and all losses, costs, suits, damages, claims, liabilities and expenses (including reasonable attorney's fees) arising from or related in any way to (i) any services performed in connection with this Agreement, (ii) Dime's action or inaction in accordance with or reliance upon any instructions or information received from any person reasonably believed by us to be your authorized representative or authorized user, (iii) your breach of any of your covenants, agreements, responsibilities, representations or warranties under this Agreement, (iv) your breach of or failure to comply with applicable laws, regulations, Rules, (v) your failure to report required changes, or transmission of incorrect data to us and/or (vi) claims of any sort by third parties or others arising out of this Agreement.

Links to:

To view the following disclosures, simply visit these URLs on your web browser:

- Dime Online [Banking Agreement for Business Account Customers](#)
- [Dime Guide to Business Banking](#)

SECTION B

END USER AGREEMENT TERMS FOR THE DOWNLOADABLE APP

(To be Agreed to by End User Prior to Use of the Downloadable App)

1. Ownership. You acknowledge and agree that a third party provider or licensor to your financial services provider (“Licensor”) is the owner of all right, title and interest in and to the downloaded software to be used for access to mobile banking services from your financial services provider and the computer programs contained therein in machine readable object code form as well as any accompanying user documentation along with all subsequent copies, updates, or versions thereof which are made available to you (if any), regardless of the media or form in which they may exist (collectively the “Software”). Such Software is considered copyrighted material and constitutes trade secrets and represents significant economic and commercial value to the Licensor. Customer shall take all reasonable steps to safeguard the Software to ensure no unauthorized disclosure is made.
2. License. Subject to the terms and conditions of this Agreement, you are hereby granted a limited, nonexclusive, non-assignable, non-transferable license to use the Software in accordance with the terms of the Agreement. All rights not expressly granted to you by this Agreement are hereby reserved by the owner of the Software. Nothing in this license will entitle you to receive hard-copy documentation, technical support, telephone assistance, or updates to the Software. This Agreement may be terminated at any time, for any reason or no reason. Upon termination, you agree to immediately destroy all copies of the Software in your possession or control.
3. Restrictions. You shall not: (i) modify, revise or create any derivative works of the Software; (ii) decompile, reverse engineer or otherwise attempt to derive the source code for the Software; (iii) redistribute, sell, rent, lease, sublicense, or otherwise transfer rights to the Software; or (iv) remove or alter any proprietary notices, legends, symbols or labels in the Software, including, but not limited to any trademark, logo, or copyright.
4. Disclaimer Warranty. THIS SOFTWARE IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. NO WARRANTY IS PROVIDED THAT THE SOFTWARE WILL BE FREE FROM DEFECTS OR VIRUSES OR THAT OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED. YOUR USE OF THE SOFTWARE AND ANY OTHER MATERIAL OR SERVICES DOWNLOADED OR MADE AVAILABLE TO YOU THROUGH THE SOFTWARE IS AT YOUR OWN DISCRETION AND RISK, AND YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE RESULTING FROM THEIR USE.
5. Limitations of Warranty. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE LICENSOR, THE PROVIDER OF ANY FINANCIAL SERVICES AVAILABLE THROUGH OR RELATED TO THE SOFTWARE, ANY OF THEIR CONTRACTORS OR PROVIDERS OR ANY OF THEIR AFFILIATES BE LIABLE FOR ANY DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE, INCLUDING BUT NOT LIMITED TO ANY GENERAL, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, AND REGARDLESS OF THE LEGAL OR EQUITABLE

THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH ANY CLAIM IS BASED. IN ANY CASE, LIABILITY OF LICENSOR OF ANY OF THE OTHER

PERSONS OR ENTITIES DESCRIBED IN THE PRECEDING SENTENCE ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE SHALL NOT EXCEED IN THE AGGREGATE THE LESSER OF \$10.00 OR THE SUM OF THE FEES PAID BY YOU FOR THIS LICENSE.

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

7. Miscellaneous. This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof. This Agreement will be governed by and construed in accordance with the laws of the state of California excluding that body of laws pertaining to conflict of laws. If any provision of 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 Agreement are subject to the exclusive jurisdiction of the courts in California and the parties expressly consent to jurisdiction and venue thereof and therein. The parties confirm that this 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.

8. Content and Services. Neither Licensor nor the provider of the wireless network is the provider of any financial services available through or related to the Software, and neither Licensor nor the provider of the wireless network or any contractor of the provider of the financial services available through or related to the Software, is responsible for any of the materials, information, products or services made available to you via the Software.