

BUSINESS MOBILE BANKING TERMS AND CONDITIONS

These Services are provided to you by BAC Community Bank (or "we/us/our") and powered by a third party's ("Licensor's") mobile technology solution.

Section A of these Terms and Conditions is a legal agreement between you and BAC Community Bank. Section B is a legal agreement between you and the Licensor.

SECTION A

DEFINITIONS

Unless otherwise noted with respect to specific Services, the following terms shall have the following meanings: "Account" means a checking, savings, money market, certificate of deposit or loan account. "Agent" means any director, officer, employee, representative, affiliate, third-party vendor or any other person acting on behalf of the Customer with actual, implied or apparent authority of Customer. BAC Community Bank may rely on any grant of authority until it receives written notice of its revocation and is given a reasonable amount of time to act upon such notice. "Authorized Users" means each person(s) authorized (through a document or online instruction of a format required by BAC Community Bank for such authorization purpose) to act as the Customer's Agent regarding the applicable Services, as well as each person who BAC Community Bank in good faith believes is such an Agent. "Business Day" means any day on which we are open for business (generally, Monday through Friday, excluding Federal Reserve holidays). "Customer", "you" and "your(s)" mean, individually and collectively, as applicable, the person or business entity (and any parent company, subsidiary or affiliate of the same) and any authorized representatives, signers, and/or users on the Accounts(s) listed on BAC Community Bank's Cash Management Authorization form, that applies to use Business Mobile Banking for whom BAC Community Bank provides such Services and each person who uses Business Mobile Banking with your authorization or with respect to whom you create circumstances that have the effect of granting them access to such Services. By electing to use Business Mobile Banking, you agree to be bound by these Terms and Conditions, both on your behalf and, if applicable, on behalf of your business as its representatives, signers, and users. "Business Mobile Banking" means a service that allows you to use a Mobile Device (including, but not limited to, an Android™ phone or an iPhone®) to access BAC Community Bank's digital banking services as provided by our Master Cash Management Agreement and Cash Management Authorization, including, but not limited to, through a mobile application or through BAC Community Bank's mobile optimized internet site. "Business Mobile Deposit" means use of a mobile application to remotely deposit checks into a deposit account at BAC Community Bank using the Services and a camera on a Mobile Device to image the check. "Mobile Device" means an electronic device, including, but not limited to, a mobile phone, personal digital assistant, or tablet. "Business Online Banking" means digital banking services as provided by our Master Cash Management Agreement and Cash Management Authorization, including, but not limited to, Bill Pay Service (Bill Pay). "Service(s)" means BAC Community Bank's Business Mobile Banking including, but not limited to, Business Mobile Deposit and/or Business Bill Pay Service (Bill Pay). "We," "us," and "our" means BAC Community Bank.

TERMS AND CONDITIONS

1. Services are separate and apart from any other charges that may be assessed by your wireless provider. Your wireless provider's standard rates apply to Internet access, including, but not limited to, messaging rates that may apply to SMS usage. We do not charge for any content; however, downloading content may incur additional charges from your wireless provider. Please contact your wireless provider for information about your Internet access and messaging plans. Your wireless provider may impose Internet access, message and/or charge limitations that are outside of our control, for using this service on your account. All such charges are billed by and payable to your wireless provider. You are responsible for any charges from your wireless provider. We are not responsible for any damages resulting from your failure to comply with any terms and conditions of your wireless provider.
2. To enroll in Services, you must also be a user of digital banking services as evidenced by an executed Cash Management Authorization. You acknowledge that you have read and agreed to the terms and conditions of the BAC Community Bank's Master Cash Management Agreement, Cash Management Authorization, Business Bill Pay Terms & Conditions, and Your Deposit Account Agreement & Disclosure. You also acknowledge and agree to these Terms and Conditions which supplement the Master Cash Management Agreement when you enroll in the Services. For example, it is acknowledged that any and all warranty or other disclaimers, limitations of liability, and indemnifications in these Terms and Conditions are in addition to any and all disclaimers, limitations of liability, and indemnifications in the Master Cash Management Agreement.
3. We are not responsible or liable for the acts, omissions, systems or services provided by the Licensor or any of the provisions of Section B below, all of which are the responsibility of the Licensor. References to "Agreement" in Section B below are

references to Section B below.

4. Not all the digital banking services or the functionality on the digital banking services website are available when you use a Mobile Device, and Business Mobile Banking functionality available to you may vary based on the Mobile Device you use and/or other factors. For those digital banking services available through your Mobile Device, the online banking system may use different terminology and appear in different formats when viewed through your Mobile Device. You may be required to follow different instructions to access digital banking services through your Mobile Device. Processing of payment and transfer instructions may take longer through Business Mobile Banking.
5. You represent that you are the owner or authorized user of the Mobile Device you use to receive our Business Mobile Banking services, and that you are authorized to approve the applicable charges. You agree that we may send messages through your wireless provider to you and that your wireless provider is acting as your agent when sending and receiving messages. We may use the telephone or mobile phone number, email address or other delivery location we have in our records for you or other such information as you may provide to us to contact you for Business Mobile Banking.
6. **Warranty Disclaimer.** We will not be liable for any delays or failures in your ability to access our Services or in your transmission or receipt of any text or other messages, as access and messaging are subject to effective transmission from your network provider and processing by your Mobile Device, as well as delays and interruptions in the Internet. Services are 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 SERVICES WILL BE FREE FROM DEFECTS OR VIRUSES OR THAT OPERATION OF THE SERVICES WILL BE UNINTERRUPTED. YOUR USE OF THE SERVICES AND ANY OTHER MATERIAL OR SERVICES DOWNLOADED OR MADE AVAILABLE TO YOU THROUGH THE SERVICES IS AT YOUR OWN DISCRETION AND RISK, AND YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE RESULTING FROM THEIR USE.
7. The following Alerts terms and conditions ("Alerts Terms of Use") only apply to the Alerts feature (as defined below). If Alerts are not available to you, then this Alerts Terms of Use does not apply. To the extent there is any conflict between the terms of the Agreement and this Alerts Terms of Use with respect to Alerts, then the terms in this Alerts Terms of Use shall apply.

Alerts. Your enrollment in BAC Community Bank Online Banking and/or Mobile Banking (the "Service") includes enrollment to receive transaction alerts and notifications ("Alerts"). Alerts are electronic notices from us that contain transactional information about your BAC Community Bank account(s). Alerts are provided within the following categories:

- **Mandatory Alerts** provide you with important account notifications, such as information about changes to your Online Banking password, PIN, or login information. You do not have the option to suppress these Mandatory Alerts.
- **Account Alerts** provide you with notification of important account activities or when certain changes are made to your Service accounts. These Alerts are automatically activated for you. Although you may suppress these Account Alerts, we strongly recommend that you do not do so because they provide important information related to your Service accounts.
- **Additional Alerts** must be activated by you to be enabled. These Additional Alerts can be accessed from the More menu within BAC Community Bank Mobile Banking.

Account Alerts and Additional Alerts must be managed and/or added online through the Service. You cannot maintain all Alerts through your mobile device. We may add new Alerts from time to time, or cancel old Alerts. We usually notify you when we cancel Alerts, but are not obligated to do so. BAC Community Bank reserves the right to terminate its Alerts service at any time without prior notice to you.

Methods of Delivery. We may provide Alerts through one or more channels ("EndPoints"): (a) a mobile device, by text message; (b) a mobile device, by push notification; (c) an email account, by an e-mail message; or (d) your BAC Community Bank Online Banking message in-box, by an e-mail message. You agree to receive Alerts through these EndPoints, and it is your responsibility to determine that each of the service providers for the EndPoints described in (a) through (c) above supports the email, push notification, and text message Alerts provided through the Alerts service. Please be advised that text or data charges or rates may be imposed by your EndPoint service provider. Alert frequency varies by account and preferences. You agree to provide us a valid mobile phone number or email address

so that we may send you Alerts. If your email address or your mobile device's number changes, you are responsible for informing us of that change. Your Alerts will be updated to reflect the changes that you communicate to us with regard to your primary and secondary email addresses or mobile device number.

Alerts via Text Message. To stop Alerts via text message, text "STOP" to 99588 at any time. Alerts sent to your primary email address will be unaffected by this action. To restore Alerts on your mobile phone, just visit the Alerts tab in BAC Community Bank Online Banking and click the box next to your mobile number for the Alerts you'd like to receive again. For help with SMS text alerts, text "HELP" to 99588. In case of questions please contact customer service at 877-226-5820. Our participating carriers include (but are not limited to) AT&T, SprintPCS, T-Mobile®, U.S. Cellular®, Verizon Wireless, MetroPCS.

Limitations. BAC Community Bank provides Alerts as a convenience to you for information purposes only. An Alert does not constitute a bank record for the deposit or credit account to which it pertains. We strive to provide Alerts in a timely manner with accurate information. However, you acknowledge and agree that your receipt of any Alerts may be delayed or prevented by factor(s) affecting your mobile phone service provider, internet service provider(s) and other factors outside BAC Community Bank's control. We neither guarantee the delivery nor the accuracy of the contents of each Alert. You agree to not hold BAC Community Bank, its directors, officers, employees, agents and service providers liable for losses or damages, including attorneys' fees, that may arise, directly or indirectly, in whole or in part, from (a) a non-delivery, delayed delivery, or the misdirected delivery of an Alert; (b) inaccurate or incomplete content in an Alert; or (c) your reliance on or use of the information provided in an Alert for any purpose.

Alert Information. As Alerts delivered via SMS, email and push notifications are not encrypted, we will never include your passcode or full account number. You acknowledge and agree that Alerts may not be encrypted and may include your name and some information about your accounts, and anyone with access to your Alerts will be able to view the contents of these messages. You understand and agree that Business Mobile Banking alerts may not be encrypted and may contain personal or confidential information about you, such as, your mobile phone number, your wireless providers name, and the date, time, and content of any mobile banking messages, including, but not limited to, account activity and status of your accounts and other information that you or we may provide. We may use this information to contact you and to provide the Services and to otherwise operate, develop and improve the Business Mobile Banking services. Your wireless provider and other service providers may also collect data from your Business Mobile Banking usage, and their practices are governed by their own policies. We are not responsible or liable for the acts or policies of such service providers. We reserve the right to disclose any information as necessary to satisfy any law, regulation or governmental request, to avoid liability, or to protect our rights or property, or otherwise as required or permitted by our agreement(s) with you and our policies and procedures. When you complete forms online or otherwise provide us with information in connection with our Business Mobile Banking service, you agree to provide accurate, complete and true information. We will not be responsible or liable for losses or damages arising from any disclosure of your account information to third parties, non-delivery, delayed delivery, misdirected delivery or mishandling of, or inaccurate content in, the messages sent through Business Mobile Banking.

8. Our Business Mobile Banking service, as well as the content and materials you may receive or access through your use of the Services, is proprietary to us and our licensors, and is for authorized use only. You will not allow any other person or entity to use the Services through your account or Mobile Device, nor will you damage, impair, interfere with, or disrupt our Business Mobile Banking service or its functionality.
9. You agree that if you are using our Business Mobile Banking service outside the United States, you are, as always, responsible for having access to the appropriate wireless and/or telecommunications networks and you are, as always, responsible for all associated fees and charges.
10. We reserve the right to alter charges and/or these Terms and Conditions from time to time.
11. Business Mobile Banking and Business Mobile Deposit are provided for your convenience and do not replace your monthly account statement, which is the official record of your account.
12. Business Mobile Banking and Business Mobile Deposit, including, but not limited to, instructions for payment, transfer and other transactions, may be delayed, interrupted or otherwise negatively impacted by factors relating to your Mobile Device, your Internet service provider, wireless provider or other parties, or due to other reasons. We will not be liable for any such delays, interruptions, or negative impacts to Business Mobile Banking or Business Mobile Deposit and you agree that neither we nor our service providers will be liable for any errors or delays in the content, or for any actions taken in reliance

thereon.

13. Business Mobile Deposit. Business Mobile Deposit allows you to make deposits of the electronic image of a check, money order, cashier's check, or traveler's check drawn on or payable at or through a U.S. bank (an "item") to your eligible checking, savings, or money market accounts at BAC Community Bank by capturing an electronic image of the item with the capture device (such as a camera) on your mobile device and submitting images and associated information to us for processing. The terms and conditions listed above also apply, as applicable, to Business Mobile Deposit.
14. Eligible Items. You agree that you **will not** scan and deposit any of the following types of checks or other items which shall be considered ineligible items:
 - Checks in amounts over the Business Mobile Deposit limits
 - Checks payable to any person or entity other than you
 - Checks that have been previously deposited or have been converted to an image replacement document
 - 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 payable jointly, unless deposited into an account in the name of all payees
 - Checks made payable to Cash
 - Checks that have been previously returned stop payment or account closed
 - Checks that have previously been submitted through a remote deposit capture service offered at any other financial institution
 - Post-dated Checks or Stale-Dated Checks
 - Unsigned Checks or not dated Checks
 - Remotely created checks (whether in paper form or electronically created), checks drawn against a line of credit, savings bonds, or cash
 - Cash deposits
 - Starter Kit Checks
 - Foreign Checks or checks not payable in United States currency
 - Checks prohibited by BAC Community Bank's current procedures relating to the Service or which are otherwise not acceptable under the terms of your BAC Community Bank account
15. Image Quality. The image of an item transmitted to BAC Community Bank using the Services must be legible and contain images of the front and back of the check. It must not be altered. It must capture all pertinent information from both sides of the Item. Image quality must comply with industry requirements established and updated by the American National Standards Institute (ANSI), Federal Reserve Board and any other regulatory agency.
16. Endorsement / Indorsement. You agree to restrictively endorse all items captured and submitted using Mobile Deposit.
 - a. Endorsement / Indorsement means the payee's signature and/or depository account information on the back of check indicating that the payee has received the check.
 - b. Restrictive Endorsement/Indorsement refers to the above endorsement/indorsement to further include the statement "For Mobile Deposit Only at BAC Community Bank."
17. Processing Time and Availability of Funds. If we receive the image of an Item for deposit on or before 4:00 p.m. Pacific Time on a Business Day (as defined in the Master Cash Management Agreement), we will consider that day the day of deposit. If we receive the image of an Item for deposit after 4:00 p.m. Pacific Time or on a weekend or on a non-Business Day, we may consider the next Business Day as the day of deposit. Items submitted through Mobile Deposit are subject to the Funds Availability Policy in your deposit account agreement applicable to the relevant account.
18. Disposal of Transmitted Items. You agree to safeguard and keep the original Item for a minimum of five (5) calendar days, but no longer than fourteen (14) calendar days, from the transmission date ("Retention Period"). After the Retention Period following the deposit using Mobile Deposit, if you have verified that the funds have been credited to your account,

you agree to properly dispose of it to ensure it is not presented for deposit again.

19. Restrictions and Limitations. You agree:

- only Items that originated as paper Items (no electronically created items) and no third party or electronic checks may be deposited using Mobile Deposit;
- after you submit an Item for deposit using Mobile Deposit, you will not redeposit or otherwise transfer or negotiate the original Item;
- not to deposit Items into your Account unless you have authority to do so;
- after you submit an Item for deposit you are solely responsible for the storage or destruction of the original Items;
- the electronic image of the Item will become the legal representation of the Item for all purposes; and
- any image we receive accurately and legibly represents all of the information on the front and back of the original Item as originally drawn.

20. Fees. Fees may apply. You agree to pay fees as defined in Business Deposit Accounts Fee & Information Schedule. Any such fee will be automatically deducted from your account.

21. Minimum Hardware and Software Requirements. In order to use Mobile Deposit or any other Services, you must obtain and maintain, at your expense, compatible hardware and software, including, but not limited to, an Internet enabled mobile device as specified by us to use this service.

22. Eligibility, Termination and Changes. You and your Account must meet the eligibility requirements in order to use Mobile Deposit or any other Services. We have the right to suspend or terminate Mobile Deposit or any other Services at any time and without notice, if you or your account(s) do not meet the eligibility requirements for the service, or if you are in violation of these Terms and Conditions, the Master Cash Management Agreement or your account agreement with us, or otherwise at our election. We also reserve the right to change the Mobile Deposit service or any other Services at any time without notice to you.

23. Errors. You agree to notify us of any suspected errors related to your deposit made with Mobile Deposit or related to any other Services immediately and no later than 30 days after the applicable account statement is provided, or as otherwise specified in your account agreement with us. For consumers, the period in which you must notify us may be longer as set forth in your deposit account agreement.

24. Indemnification. You agree to indemnify, defend and hold us harmless from and against any claims, losses, liability, cost and expenses (including, but not limited to, reasonable attorneys' fees) arising from your use of Mobile Deposit. This obligation survives termination of these End User Terms, as do any other terms as the context may naturally dictate

25. Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL BAC COMMUNITY BANK OR LICENSOR OR ANY OF THEIR CONTRACTORS OR PROVIDERS OR ANY OF EACH OF THEIR AFFILIATES BE LIABLE FOR ANY DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE SERVICES OR 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, BAC COMMUNITY BANK, LICENSOR, OR ANY OF THE OTHER PERSONS OR ENTITIES DESCRIBED IN THE PRECEDING SENTENCE ARISING OUT OF THE USE OR INABILITY TO USE THE SERVICES OR THE SOFTWARE ASSUMES NO LIABILITY.

26. Your Warranty to BAC Community Bank. By scanning an item for Mobile Deposit, you guarantee that the item has not already been deposited and will not subsequently be deposited at another institution and you assume all liability for items remotely deposited into your account.

27. Touch ID® for Business Mobile Banking. Touch ID® is an optional fingerprint sign-in method for Business Mobile Banking that is currently available for most Apple® devices that have a fingerprint scanner. To use Touch ID®, you will need to save your fingerprint by going to "Settings > Touch ID & Passcode" on your Apple device to complete the setup (for more help with fingerprint scanning, contact Apple support at apple.com/support). Fingerprints are stored on your device only and BAC Community Bank never sees or stores your fingerprint information. You acknowledge that by enabling Touch ID®, you will allow anyone who has a fingerprint stored on your device access to your personal and payment account information within Business Mobile Banking. BAC Community Bank reserves the right to suspend or disable this feature at any time. Touch ID® can only be associated with one Business Mobile Banking

username at a time on a device. If your device doesn't recognize your fingerprint, you can sign in using your password. To use Touch ID® for Business Mobile Banking on multiple devices, you will need to set it up for each device. You can enable or disable Touch ID® anytime from the Services menu within Business Mobile Banking. Apple and Touch ID are trademarks of Apple Inc. Touch ID® fingerprint sign-in for Business Mobile Banking is only available on compatible iOS® devices.

28. **Android™ Fingerprint Login.** Fingerprint Login is an optional fingerprint sign-in method for Business Mobile Banking that may be available for certain Android™ mobile devices that have a built-in fingerprint scanner. To use Fingerprint Login, you will need to first save your fingerprint on your mobile device (for more help with fingerprint scanning, contact the manufacturer that supports your mobile device). Fingerprints are stored on your device only and BAC Community Bank never sees or stores your fingerprint information. You acknowledge that by enabling Fingerprint Login, you will allow anyone who has a fingerprint stored on your device access to your personal and payment account information within Business Mobile Banking. BAC Community Bank reserves the right to suspend or disable this feature at any time. Fingerprint Login can only be associated with one Business Mobile Banking username at a time on a device. If your device does not recognize your fingerprint, you can sign in using your standard login credentials (e.g. password). To use Fingerprint Login for Business Mobile Banking on multiple devices, you will need to set it up for each device. You can enable or disable Fingerprint Login anytime within Business Mobile Banking. Android is a trademark of Google Inc.
29. **Privacy and User Information – Data Analytics.** You acknowledge that in connection with your use of Mobile Banking, BAC Community Bank and its affiliates and service providers, including Fiserv, Inc. and its affiliates, may receive data about your usage of the service (such as session length, number of transactions and geolocation), and other data and information provided by you or from other sources in connection with Mobile Banking or the Software. BAC Community Bank and its affiliates and service providers will maintain reasonable safeguards to protect the information from unauthorized disclosure or use, but reserve the right to use and disclose this information as reasonably necessary to deliver Mobile Banking, perform analytics to improve the service, and as otherwise permitted by law, including compliance with court orders or lawful instructions from a government agency, to protect the personal safety of subscribers or the public, to defend claims, and as otherwise authorized by you.
<https://www.fiserv.com/about/privacypolicy.aspx>

SECTION B - END USER LICENSE AGREEMENT TERMS FOR 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").
2. **LICENSE.** Subject to the terms and conditions of this Agreement, you are hereby granted a limited, nonexclusive license to use the Software in accordance with the terms of this 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.** THE 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 LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL LICENSOR , THE PROVIDER OF ANY FINANCIAL SERVICES AVAILABLE THROUGH OR RELATED TO THE SOFTWARE, ANY OF THEIR CONTRACTORS OR PROVIDERS OR ANY OF EACH 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, BAC COMMUNITY BANK, LICENSOR, OR ANY OF THE OTHER PERSONS OR ENTITIES DESCRIBED IN THE PRECEDING SENTENCE ARISING OUT OF THE USE OR INABILITY TO USE THE SERVICES OR THE SOFTWARE ASSUMES NO LIABILITY.
6. **US GOVERNMENT RESTRICTED RIGHTS.** The 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 of California and the parties expressly consent to jurisdiction and venue thereof and therein. The parties confirm that this Agreement and all related documentation, is 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.