

**BNC Online Banking Services Agreement**  
(Version effective June 27, 2016)

This Online Banking Services Agreement (the "Agreement") is between Customer ("Customer," "you," or "your") and BNC National Bank and any of its affiliates (collectively, "Bank," "we," "us," "our" or "BNC") for the delivery of the Online Banking System. By using the Online Banking System or by clicking "I Agree," you agree to the terms of this Agreement.

### **1. Contact Us**

If at any time you have questions or need assistance with the Online Banking System or any of the products or services described in this Agreement, please contact us. You may contact us by phone at (800) BNC-BANK (1-800-262-2265); by writing us at BNC National Bank, P.O. Box 4050, Bismarck, ND 58502-4050 or by emailing us at [eservices@bncbank.com](mailto:eservices@bncbank.com)

### **2. Notification of an Unauthorized Transfer, Error or Inquiry**

You agree to notify us immediately if you believe your user name or password has become known or an unauthorized transaction has occurred involving your Account. Please call us immediately at (701) 250-3000 or (800) 262-2265, this is the best way of keeping your possible losses to a minimum.

You must include the following information: (1) your name and account number; (2) describe the error, or Transfer that you are unsure about, and explain why you believe it is an error or why you need more information; and (3) the dollar amount of the suspected error or unauthorized Transfer.

If you tell us orally, we may require that you send us your complaint or question in writing within 10 business days.

We must hear from you no later than 60 days after the date we send the first statement on which the problem or error appeared.

### **3. Definitions and Construction**

Unless otherwise defined herein, the following terms, whether or not capitalized have the meanings set forth below:

**Accounts:** Any BNC personal or business account, included on the Online Banking Application (as defined below) or any additional accounts added after completing the Online Banking Application and as approved by Bank.

**Available Balance:** The Current Balance of the Account minus Holds and Memo Posted Debits plus Memo Posted Credits and unused overdraft protection line.

**Business Day:** A day during which the main office of the Bank is open for business, in accordance with specified cut-off times, and during which the Bank is able to download Customer's information and process transactions.

**Current Balance:** The Account balance that is the result of the total debit and credit activity as of a specific date and time for all Accounts.

**Hold:** A restriction on payment of all or any part of the balance in an Account.

**Memo Posted Credits:** Any credits being posted to the Account for the Business Day. For example, ACH credit transactions and wire transfers.

**Memo Posted Debits:** Any debits being posted to the Account for the Business Day. For example, ACH debit transactions, wire transfers, and teller cashed checks.

**Online Banking Application:** All Account forms, agreements, documents and records related to access to the Online Banking System.

**Transfer:** An electronic movement of funds from your account to another party by means of the products and services listed below, including, without limitation, Person-to-Person payments system offered within the Online Banking System.

#### **4. Online Banking Products and Services**

Depending on your Account type and the information in your Online Banking Application, you may access some or all of the products or services listed below. The following products and services available at <https://www.bncbank.com/online-banking.htm> are collectively referred to as the “Online Banking System.”

**A. View Account Information.** You may perform Account inquires on Account data, balances and transaction history.

**B. Initiate funds transfers between Accounts maintained with Bank.** You may initiate transfers between Accounts set up within the Online Banking System (excluding time deposit accounts) on a one-time or recurring basis. You are limited to six pre-authorized automatic transfers or withdrawals per month out of statement savings and money market deposit accounts (MMDA). Three of the six transfers from MMDA can be made by check or draft. Transfers made through the Online Banking System are included are pre-authorized or automatic transfers subject to the foregoing limitations. Any transfers in excess of the limits must be completed at the Bank in person or the Account may be closed. You are not permitted to transfer more than the Available Balance from deposit accounts. Transfers within BNC Accounts are processed throughout the day and Bank cutoff time for same day credit for online transfers is 8:00 p.m. Central Time.

**C. View and download statements and check images.** You may view and download statements and check images.

**D. Make loan payments.** You may use the Online Banking System to make loan payments, including, without limitation, principal, interest-only or principal and interest.

**E. Receive loan advances or draws.** Subject to Bank officer approval, you may receive loan advances or draws through the Online Banking System.

**F. Initiate and monitor stop-payment requests.** You may initiate and monitor stop-payment requests. Customer understands the electronically transmitted stop-payment orders are pending final verification that check has not been processed and that stop-payment is valid. Bank must receive the stop-payment order in time to allow Bank reasonable opportunity to act on it. Bank must receive the stop-payment prior to the item being presented for payment. Computer initiated stop-payment orders must be printed, signed and sent to the Bank within 14 calendar days to be effective for six months. If such order is not received within 14 calendar days, the stop-payment order will expire on the fourteenth calendar day.

**G. Pay bills through the Online Banking System.** You may use the Online Banking System to pay a bill as a check payment. When you make a check payment, the funds are not debited from the applicable Account until the check is cashed. In using this service, you understand that payees or the U.S. Postal Service may return payments for various reasons, including, the payee’s forwarding address has expired, the payee’s account number is not valid, payee is not able to locate the account, or payee’s account is paid in full.

You may use the Online Banking System to pay a bill as an electronic payment. When you make an electronic payment, the funds are debited from the applicable Account on the date of the bill payment.

Some payees may not be able to receive an electronic payment. The Online Banking System will notify you if a payee can receive electronic payments.

The Online Banking System also allows you to make a Quick Payment. A Quick Payment is a one-time payment.

The Online Banking System also allows you to schedule recurring payments. You may schedule bill payments to occur on a weekly, bi-weekly, monthly, semi-monthly, quarterly, annually and semi-annually basis.

Bill payments are processed twice a day at 12:00 PM (noon) Central Time and 2:00 AM Central Time.

YOU MAY OPT OUT OF THE BILL PAY FEATURE. IF YOU NO LONGER WANT TO ACCESS THE BILL PAY FEATURE, PLEASE CONTACT US.

**H. Send and receive messages (to and from Bank).** Messages sent by you to the Bank will automatically be routed to the Bank. Bank is not responsible for any delay in messages being retrieved. Urgent messages should be verified by a telephone call to the Bank. Customer is responsible to periodically check for messages sent by the Bank.

**I. Receive alerts through the Online Banking System.** Alerts may be created by you in the My Options section of the Online Banking System. You may create alerts for events, balance amounts, items and personal notes.

**J. Manage ATM/Debit Cards.** The Online Banking System allows you to activate your ATM/Debit Card. The Online Banking System also permits you to report that your ATM/Debit Card is lost or stolen.

**K. Enable Mobile Banking.** The Online Banking System allows you to enroll in mobile banking. Mobile Banking has additional terms and conditions that are available for review when you log into the app. YOU MUST DOWNLOAD THE MOBILE BANKING APPLICATION TO BEGIN USING BNC MOBILE BANKING. THE MOBILE APPLICATION IS AVAILABLE ON YOUR MOBILE DEVICE'S APP STORE. SEARCH FOR: "BNC NATIONAL BANK MOBILE".

**L. eStatements.** You may receive eStatements through the Online Banking System. The Online Banking System allows you to manage your eStatement delivery preferences, including, without limitation, updating your email address and designating additional recipients of eStatements.

If you would like to enroll to receive eStatements, instructions are available at <https://www.bncbank.com/estatemnts.htm>. By enrolling to receive eStatements through the Online Banking System, you agree that we may provide you with your periodic banking account statements, in electronic form. Once enrolled in the eStatements service you will receive your next statements, notices, and documents only electronically. By checking the box that states "I Agree" you also demonstrate that you are able to open the sample statement provided during the enrollment process.

Pursuant to the Electronic Banking Account Statement Disclosure and Agreement between Bank and you, you requested and consented to receive eStatements (statements, notices, and documents for your Account(s)) by electronic delivery. This Agreement is in addition to the terms and conditions described in the Electronic Fund Transfer Act Disclosure.

eStatements include, without limitation, any future disclosures, amendments, privacy policies, letters, correspondences, and any other notices that may be legally required to be provided to you. You must be enrolled in our Online Banking System to sign up for and view eStatements. All Account types for which the Bank generates periodic statements are eligible for eStatements. For a statement that contains information for more than one Account (a "Combined Statement"), the lead Account must be linked to our Online Banking System and enrolled in eStatements to allow display of the Combined Statement.

eStatements can only be set up for an Account under one Online Banking ID. If you wish for your eStatements to go to more than one person for an Account then that party must be set up on the Additional Recipients tab on the Online Banking ID under which the Account is established. You will receive an email notification from [noreply@BNCeServices.bncbank.com](mailto:noreply@BNCeServices.bncbank.com) for all eStatements, which will allow you to log in to your eStatements using

your Online Banking ID and Password. You are required to ensure that your computer software meets the following system requirements in order to view, print, and/or save your eStatements:

- Computer with the capability to access the Internet
- Internet Browser that supports 128-bit encryption and is on the list of supported browsers.  
<http://info.netteller.com/go/Supported-Browsers>
- Adobe Acrobat Reader 6.0 or higher
- Email address [noreply@BNCCeServices.bncbank.com](mailto:noreply@BNCCeServices.bncbank.com) should be added as an allowed sender in your email settings

Your statements and notices will be available to you online for 18 months. You may also request historical statements; please refer to the applicable account agreement and disclosures for details. If you wish to receive a paper copy of a disclosure or other information presented to you electronically please contact us.

We will use our best efforts to deliver your eStatements in a timely manner and in accordance with any applicable time required by law.

You must promptly access/review your eStatement and any accompanying items and notify us in writing immediately of any error, unauthorized transaction, or any other irregularity. If you allow someone else to access your eStatement, you are still fully responsible to review the eStatement for any errors, unauthorized transactions or any other irregularities. Any applicable time periods within which you must notify us of any errors on your account statement(s) shall begin on the eStatement notification date regardless of when you access and/or review your eStatement. If you do not immediately report to BNC any non-receipt of eStatements or any error, irregularity, discrepancies, claims or unauthorized debits or items, you shall be deemed conclusively to have accepted all matters contained in the eStatements to be true, accurate and correct in all respects.

It is your responsibility to notify us if you change your email address. You may update your email address by going to the eStatements tab in the Online Banking System, clicking on Email Settings, and making changes to your information.

At any time, you can change the way that we send eStatements to you by going to the eStatements tab in the Online Banking System, clicking on "Sign Up/Changes" and removing the checkmark from the All Account box or by removing the checkmark from the Account(s) and/or document(s) that you want to remove from eStatements. When you change your settings, the change will take place with the next statement cycle or at time of next document delivery.

**M. Person2Person Payments.** You may initiate Person2Person Payments through the Online Banking System. Person2Person Payments can be initiated in the My View section of the Online Banking System. Person2Person Payments allow you to transfer funds to another person at the recipient's bank. You may enroll to use the Person2Person Payment product at anytime. The Online Banking System allows you to manage Person2Person Payments. You will need the recipient's email address to send funds through a Person2Person Payment.

You may view your Person2Person Payment transaction history by logging into the Online Banking System and looking at your Account history. Your Account history is also available through the periodic statements we provide you.

By using Person2Person Payments, you agree to the following terms, conditions and notices and accept responsibility for your use of Person2Person Payments.

You authorize BNC to make any inquiries it deems necessary to validate your identity. This may include asking you for further information, requiring you to take steps to confirm ownership of your email address or financial

instruments, ordering a credit report and verifying your information against third party databases or through other sources. Bank will, at its sole discretion, authorize the use of Person2Person Payments and may, at its sole discretion, disallow the use of Person2Person Payments from any Customer.

You agree that within 10 business days after you receive notification that your Person2Person Payment request has been executed, you will notify Bank of any errors, delays, or other problems related to your request. If your funds transfer request is delayed or erroneously executed as a result of Bank's error, Bank's sole obligation to you is to pay or refund such amounts as may be required by applicable law. If you initiate a payment to a party or payee to which you did not intend, you are responsible to contact the receiving party to have the funds returned. Bank and any of its payment processors are not responsible for payments which were made in error by you or anyone you authorize to make payments on your behalf. In any event, if you fail to notify Bank of any claim concerning your funds transfer request within 60 days from the date that you receive notification that your request has been executed, any claim by you shall be barred under applicable law.

If we do not complete a transfer to or from your Account on time or in the correct amount, according to our agreement with you when you have properly instructed us to do so, we will NOT be liable, in cases such as, but not limited to the following:

- If, through no fault of ours, you do not have enough money in your account to make a Transfer.
- If a legal order directs us to prohibit withdrawals from the Account.
- If your Account is closed, or if it has been frozen.
- If the Transfer would cause your balance to go over the credit limit of an established line of credit.
- If you, or anyone authorized by you, commits any fraud or violates any law or regulation.
- If any electronic terminal, telecommunication device, or any part of the online banking electronic funds transfer system is not working properly and you knew about the problem when you started the transfer.
- If you have not properly followed the on-screen instructions for using Person2Person Payments.
- If circumstances beyond our control (including, without limitation, fire, flood, power outages, Online Banking System failures, natural disasters, extreme weather or cyber-attacks) prevent the Transfer, despite reasonable precautions that we have taken.

The transfer limitations noted below may be changed at any time by Bank without notice to you: (a) Per Transfer limit is \$2500.00; and (b) Daily Transfer limit is \$2500.00.

Request for a Person2Person Payment will be executed on the current Business Day so long as it is initiated by the 7:00 AM Central Time or 2:00 PM Central Time cut off time. If the request is received on a day that is not a Business Day or on a Business Day after the 2:00 PM Central Time cut off time, Bank will not process the request until the next Business Day.

**N. Interbank Transfers.** You may initiate Interbank Transfers through the Online Banking System. You may transfer funds from an Account with the Bank to any of your accounts maintained with other banks. Bank will enable this feature and input all data to facilitate any requested Interbank Transfers.

You will need to enroll each of your non-BNC accounts that you wish to use for this service. You agree that you will only attempt to enroll accounts for which you have the authority to transfer funds. All accounts requested to be used as part of this service will be verified in accordance with BNC procedures. The verification process must be completed by you prior to using the service. You will have seven (7) days after enrolling an account to complete the verification process. Verification instructions are displayed to you during the enrollment process.

Requests for Interbank Transfers are processed every thirty (30) minutes during the Bank's business hours on Business Days. Funds requested to be transferred will be debited/credited to your Account on the same Business Day if you have met the Bank's cut-off time for submitting Interbank Transfers. Funds requested to be transferred will be debited/credited to the non-BNC account according to the receiving financial institution's availability and transaction processing schedule.

Request for immediate Interbank Transfers cannot be cancelled. Interbank Transfers scheduled for a future date or as a recurring transfer can be cancelled by 3:00 P.M. Central Time the day prior to the scheduled transfer date. If the transfer status is "In Process", "Pending", or "Processed", you cannot cancel the transfer.

**BNC reserves the right to determine on a customer by customer basis the maximum/minimum dollar amount of an Interbank Transfer. BNC also reserves the right to determine the number of times per day a customer can schedule an Interbank Transfer. BNC may change your dollar limits and transfer limits at any time.**

**O. Text Banking.** The Online Banking System allows you to enable Text Banking for your Accounts. Text Banking allows you to receive Account balance and history information through a text on your mobile device.

We will use reasonable efforts to make Text Banking available for your use on a continuous basis. Text Banking 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 Text Banking may be interrupted because of conditions beyond our control, including, without, outages in internet availability and network outages for mobile devices. We will use diligent efforts to re-establish Text Banking as promptly as possible. Text Banking may not always be available. We may elect to discontinue Text Banking at any time.

You are responsible for providing your own hardware and software to access Text Banking. The hardware and software that you use may be subject to unauthorized tracking or other manipulation by "spyware" or other malicious code. We are not responsible for advising you of the existence or potential effect of such malicious code, and your use of your hardware and software is at your own risk. We do not guarantee functionality of Text Banking on all wireless devices. You are responsible for the charges of any wireless service provider while using Text Banking. You are responsible for the security of any mobile device using Text Banking.

We reserve the right at all times to take actions to protect our systems and information, including denial of access to users of Text Banking.

We will use commercially reasonable efforts to secure Text Banking to prevent access by unauthorized persons and to prevent the introduction of any malicious code, such as a computer virus. However, no security system is failsafe, and despite our efforts the security of Text Banking could be compromised or malicious code could be introduced by third parties. We will provide you with notice if your information is the subject of a security breach as required by applicable law.

**P. Additional Products and Services.** We may offer additional products and services as part of the Online Banking System. Such additional products and services are provided on the terms and subject to the conditions set forth herein.

## **5. Fees**

SOME OF THE PRODUCTS AND SERVICES IN THE ONLINE BANKING SYSTEM MAY RESULT IN ADDITIONAL FEES. PLEASE SEE THE CURRENT SERVICE FEE SCHEDULE, AVAILABLE AT ANY BNC LOCATION, TO DETERMINE IF AN ADDITIONAL FEE APPLIES. YOU ARE RESPONSIBLE FOR ANY FEES ASSOCIATED WITH THE USE OF THE SERVICES IN THE ONLINE BANKING SYSTEM.

## **6. Overdraft**

Upon occurrence of any overdraft incurred in the Accounts, Bank shall have the right, in Bank's sole discretion to: (i) refuse payment of any outstanding and unpaid checks drawn on any Account listed on the Online Banking Application; and (ii) withhold from processing any transaction generated on the Accounts if sufficient funds to cover such transaction have not been credited to the Accounts.

## **7. Additional Accounts**

Subject to Bank approval, it may be possible to associate additional Accounts with your Online ID. Any accounts added after completing the Online Banking Application, shall be subject to this Agreement. The Bank, in its sole discretion, may impose requirements for the addition of any accounts not included in the Online Banking Application.

## **8. Changes to Online Banking System and Guides**

Bank reserves the right to eliminate or change any of the functions, features, products or services available through the Online Banking System at any time without prior notice. Except during system maintenance (scheduled and emergency) and any outages beyond the control of Bank, Customer will have access to the Online Banking System, 24 hours a day, seven (7) days a week.

Customer will have online banking guides available at [www.bncbank.com](http://www.bncbank.com). Bank may from time to time update the Online Banking System documentation.

## **9. Security and Access to Online Banking System; Electronic Communications**

CUSTOMER IS RESPONSIBLE FOR KEEPING HER/HIS ONLINE ID, ONLINE PASSWORD, ACCOUNT NUMBERS AND OTHER ACCOUNT DATA CONFIDENTIAL. BNC IS NOT RESPONSIBLE FOR CUSTOMER ERRORS OR NEGLIGENT USE OF THE ONLINE BANKING SYSTEM. SPECIFICALLY, BUT WITHOUT LIMITATION, BNC IS NOT LIABLE FOR LOSSES DUE TO: 1) NEGLIGENT SHARING OR HANDLING OF IDS OR PASSWORDS LEADING TO UNAUTHORIZED ACCESS TO ACCOUNTS; 2) LEAVING A COMPUTER UNATTENDED WHILE YOU ACCESS YOUR ONLINE ACCOUNTS; AND 3) MISUSE OF THE ONLINE BANKING SYSTEM OR INPUT ERRORS.

Customer's use of the Online Banking System requires the use of certain numbers, codes, passwords, user IDs, security images or other means which are acceptable to Bank for establishing identity. You agree to comply with any other security procedures that we may establish. All electronic communications transmitted, sent, delivered or received through the Online Banking System will be deemed to be valid and authentic. Customer intends and agrees that these electronic communications will be given the same legal effect as written and signed paper communications. Customer agrees that electronic copies of communications are valid and Customer will not contest the validity of the originals or copies, absent proof of alerted data or tampering.

CUSTOMER IS REQUIRED TO NOTIFY BANK IMMEDIATELY IF CUSTOMER BELIEVES HIS/HER ID AND/OR PASSWORD HAS BEEN USED WITHOUT HIS/HER PERMISSION.

Although the Online Banking System software runs in a secure environment using firewalls and an encryption process to ensure security for all traffic that is transmitted over the internet, you are required to protect your user Online ID and password.

## **10. Online Banking Services Agreement in addition to other Account Agreements**

Customer has received and understands all signature card rules and regulations and all agreements and disclosures related to the opening of Accounts and acknowledges that this Agreement is in addition to any of those agreements and disclosures. You also acknowledge that this Agreement is in addition to the Terms of Use at [www.bncbank.com/terms.htm](http://www.bncbank.com/terms.htm). Changes to fees or terms applicable to your Accounts are governed by the Account agreements and disclosures.

## **11. Customer Responsibility and Duty to Review Account Statements**

Customer will continue to receive regular account statements that describe all transactions for the Accounts including the transactions that Customer has initiated through the Online Banking System. Customer is responsible for prompt review of all statements and must report in writing any irregularities to the Bank at once. For all

electronic transactions governed by Reg. E, errors must be reported in writing within sixty (60) days; other discrepancies must be reported within thirty (30) days after the statement date.

You agree: to provide true, accurate and complete information about yourself as required; not misrepresent your identity; not use the Online Banking System for illegal purposes; comply with all regulations, policies, and procedures of networks through which you access and use the Online Banking System; and not access or attempt to access any Account for which you have no authorization.

## **12. Limits on Liability of Bank and Disclaimer of Warranties**

Bank and its affiliates are not liable for any consequential (including, without limitation, loss of data, files, profits or goodwill or the costs to procure substitute goods or services), indirect, incidental, special or punitive damages. This is true whether these damages occur in an action under contract, or from negligence or any other theory, arising out of, or in connection with, this Agreement, the Online Banking System, or the inability to use the Online Banking System in whole or in a part. In addition to reasons such as scheduled system maintenance, damages could arise from circumstances beyond our control, even if we advise you of the possibility of such damages. These circumstances could include (but are not limited to): power outage, system failures, fires, floods, natural disasters, extreme weather, cyber-attacks, including a denial of service attack. In states that prohibit the limitation of liability for consequential or incidental damages, the above limitations may not apply.

Except as specifically provided in this Agreement or otherwise required by applicable law, we, our service providers or other agents, also are not liable for: 1) any loss or liability you may incur resulting wholly or partly from failure or misuse of your equipment or software provided by an external company (such as an Internet browser provider, an Internet access provider, an online service provider or an agent or subcontractor of any of them); 2) any direct, indirect, special or consequential, economic or other damages arising in any way from your access/use/failure to obtain access to the Service. Bank does not make any representation that any content or use of the Service is appropriate or available for use in locations outside of the continental United States, Alaska or Hawaii.

To the fullest extent permitted by law, Bank makes no warranties or representations with respect to the Online Banking System, either express or implied, including but not limited to, warranties of merchantability or fitness for a particular purpose.

We are not obligated to honor any transaction that: 1) is not in accordance with this Agreement; 2) we have reason to believe is unauthorized; 3) we have reason to believe involves funds or other property subject to a hold, dispute, or other restriction; 4) would violated any applicable provision of any risk control program of the Federal Reserve, the Office of the Comptroller of the Currency, or any applicable rule or regulation of any other federal or state regulatory authority; 5) is not in accordance with any of our policies or procedures; or 6) we have other reasonable cause to not honor for your protection or security.

## **13. Indemnification**

Except where we are liable under the terms of this Agreement, you agree to indemnify, defend and hold us, our affiliates, officers, directors, employees, consultants, agents, service providers and licensors harmless from any and all third-party claims, liability, damages, and/or costs (including but not limited to reasonable attorneys' fees) arising from: a third-party claim, action, or allegation of misuse or misappropriation based on information, data files, or other materials you submit to us; any fraud, manipulation, or other breach of this Agreement; your violation of any applicable laws or rights of a third-party; and the use of the Online Banking System by you or any third-party.

## **14. Assignment**

We may assign our interest in this Agreement to BNCCORP, INC., its successors, or to any now-existing or future direct or indirect subsidiary of BNCCORP, INC or BNC. However, you may not assign or transfer this Agreement.

We may also assign or delegate certain of our rights and responsibilities under this Agreement to independent contractors or other third parties.

## **15. Intellectual Property and Other Proprietary Rights**

Other than your personal account information, all content included or available on the Online Banking System, such as advertisements, text graphics, button icons, images, audio clips and software, including the collection, arrangement and assembly thereof, is the property of Bank and/or third parties, and is protected by the Copyright Act and international treaties in addition to other state and federal intellectual property laws (collectively, the “Site Materials”).

The trademarks, logos, and service marks displayed on the Online Banking System (collectively, the “Trademarks”) are the registered and unregistered trademarks of Bank, or third parties. You may not use, copy, alter, modify, or change these Trademarks or copy, display, distribute, transfer, link to, reproduce, license, frame, alter, create derivative works of, or republish all or any portion of the Site Materials for any commercial or public purpose. The Online Banking System does not grant (by implication or otherwise) any license or right to use any Trademarks or Site Materials without the express written permission of Bank, or the third party that has rights to such Trademarks or Site Materials.

## **16. Governing Law; Entire Agreement; Amendment**

This Agreement is governed by and will be interpreted under the laws of the State of North Dakota, Minnesota, and Arizona as determined by location of customer accounts.

In any legal action or claim regarding this Agreement, the prevailing party will be entitled to recover costs and reasonable attorneys’ fees.

This Agreement incorporates by reference all information on Customer’s Online Banking Application, which Customer represents as true and complete in all respects.

If at any time any section of this Agreement is found to be invalid, that does not make the remaining sections or terms invalid.

Except as otherwise required by law, rule, or regulation, we may change to the terms of this Agreement at any time. This Agreement will be updated on the effective date, unless an immediate change is necessary to maintain the security of the Online Banking System 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 Online Banking System, this Agreement will be updated within thirty (30) days after the change. You will be notified as soon as possible when any changes are made which materially affect your rights. Your continued use of the Online Banking System and the products and services described herein is your acceptance to the Agreement. It is your responsibility to review this Agreement and BNC Bank’s Privacy Policy from time to time.

## **17. Waiver.**

We may agree in writing (or otherwise) to waive a provision of this Agreement, including a fee (a “Waiver”). We may revoke any Waiver.

## **18. Failure to Act.**

Our failure to act with respect to a breach of the Agreement by you or others does not waive our right to act with respect to subsequent or similar breaches.

## **19. Headings**

Headings are for reference only and don't define, limit, construe, or describe the scope or extent of a section.

## **20. Termination**

This Agreement shall continue until Bank receives written notification of Customer's revocation or until we advise Customer in writing that we will not continue the Online Banking System for Customer. Termination of this Agreement does not end our rights under this Agreement. Termination by either party does not relieve Customer of his/her/its liability for transactions or responsibilities for payment of all fees incurred prior to termination. Bank agrees to add/terminate services provided to Customer within a reasonable time period after receipt by Bank of written notice or email by Customer. We may also terminate services at any time by notifying you.

CUSTOMER HAS READ AND UNDERSTANDS THIS AGREEMENT.