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## Business Deposit Account Agreement

Please read this Business Deposit Account Agreement carefully and print or save a copy for future reference.

### NOTICE OF BINDING ARBITRATION AGREEMENT

THE ARBITRATION AGREEMENT INCLUDED BELOW CONTAINS PROVISIONS GOVERNING HOW TO RESOLVE DISPUTES BETWEEN YOU AND US. AMONG OTHER THINGS, THE ARBITRATION AGREEMENT PROVIDES, WITH LIMITED EXCEPTIONS, THAT YOU OR WE MAY ELECT TO HAVE DISPUTES RESOLVED BY BINDING AND FINAL ARBITRATION INSTEAD OF COURT. THE ARBITRATION AGREEMENT ALSO CONTAINS CLASS ACTION AND JURY TRIAL WAIVER. PLEASE READ THE ARBITRATION AGREEMENT CAREFULLY AND IN ITS ENTIRETY. IF YOU HAVE QUESTIONS ABOUT ARBITRATION, PLEASE CONSULT AN ATTORNEY, AS THIS SECTION AFFECTS YOUR LEGAL RIGHTS.

UNLESS YOU OPT OUT OF THE ARBITRATION AGREEMENT WITHIN 30 DAYS OR ARE A "COVERED BORROWER" AS DEFINED BY THE MILITARY LENDING ACT: (1) WE CAN REQUIRE YOU TO PURSUE DISPUTES OR CLAIMS AND SEEK RELIEF AGAINST US ONLY THROUGH BINDING, FINAL ARBITRATION, WITH LIMITED EXCEPTIONS; (2) YOU WAIVE YOUR RIGHT TO PURSUE DISPUTES OR CLAIMS AND SEEK RELIEF IN A COURT OF LAW AND TO HAVE A JURY TRIAL; AND (3) YOU WAIVE YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR OTHER REPRESENTATIVE PROCEEDING OR CLASS-WIDE ARBITRATION.

## TERMS AND CONDITIONS OF YOUR ACCOUNT

**IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT** - To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

What this means for you: When you open an account, we will ask for your name, address, date of birth (for individuals), and other information that will allow us to identify you. We may also ask to see your driver's license (for individuals) or other identifying documents.

**AGREEMENT** - This document, along with any other documents we give you pertaining to your account(s), is a contract (also referred to as "this agreement") that establishes rules which control your account(s) with us. Please read this carefully and retain it for future reference. If you open the account (whether in-person, electronically, or by any other method permitted by us) or continue to use the account after receiving a notice of change or amendment, you agree to these rules. You will receive a separate schedule of rates, qualifying balances, and fees if they are not included in this agreement. If you have any questions, please ask us.

**GOVERNING LAW** - This Agreement is governed by and interpreted according to federal law and the laws and regulations of the state of Utah. If state and federal law are inconsistent, or if state law is preempted by federal law, federal law governs. This Agreement may rely upon all applicable preemptions afforded to national banks by the laws and regulations of the United States of America. The purpose of this agreement is to:

- (1) summarize some laws that apply to common transactions;
- (2) establish rules to cover transactions or events which the law does not regulate;
- (3) establish rules for certain transactions or events which the law regulates but permits variation by agreement; and
- (4) give you disclosures of some of our policies to which you may be entitled or in which you may be interested.

If any provision of this agreement is found to be unenforceable according to its terms, all remaining provisions will continue in full force and effect unless otherwise provided. We may permit some variations from our standard agreement, but we must agree to any variation in writing either on the signature card for your account or in some other document. Nothing in this agreement is intended to vary our duty to act in good faith and with ordinary care when required by law.

As used in this agreement the words "we," "our," and "us" mean the financial institution and the words "you" and "your" mean the account holder(s) and anyone else with the authority to deposit, withdraw, or exercise control over the funds in the account. However, this agreement does not intend, and the terms "you" and "your" should not be interpreted, to expand an individual's responsibility for an organization's liability. If this account is owned by a corporation, partnership or other organization, individual liability is determined by the laws generally applicable to that type of organization. The headings in this agreement are for convenience or reference only and will not govern the interpretation of the provisions. Unless it would be inconsistent to do so, words and phrases used in this agreement should be construed so the singular includes the plural and the plural includes the singular.

**LIABILITY** - You agree, for yourself (and the person or entity you represent if you sign as a representative of another) to the terms of this account and the schedule of charges. You authorize us to deduct these charges, without notice to you, directly from the account balance as accrued. You will pay any additional reasonable charges for services you request which are not covered by this agreement.

Each of you also agrees to be jointly and severally (individually) liable for any account shortage resulting from charges or overdrafts, whether caused by you or another with access to this account. This liability is due immediately, and we can deduct any amounts deposited into the account and apply those amounts to the shortage. You have no right to defer payment of this liability, and you are liable regardless of whether you signed the item or benefited from the charge or overdraft.

You will be liable for our costs as well as for our reasonable attorneys' fees, to the extent permitted by law, whether incurred as a result of collection or in any other dispute involving your account. This includes, but is not limited to, disputes between you and another joint owner; you and an authorized signer or similar party; or a third party claiming an interest in your account. This also includes any action that you or a third party takes regarding the account that causes us, in good faith, to seek the advice of an attorney, whether or not we become involved in the dispute. All costs and attorneys' fees can be deducted from your account when they are incurred, without notice to you.

**DEPOSITS** - We will give only provisional credit until collection is final for any items, other than cash, we accept for deposit (including items drawn "on us"). Before settlement of any item becomes final, we act only as your agent, regardless of the form of indorsement or lack of indorsement on the item and even though we provide you provisional credit for the item. We may reverse any provisional credit for items that are lost, stolen, or returned. Unless prohibited by law, we also reserve the right to charge back to your account the amount of any item deposited to your account or cashed for you which was initially paid by the payor bank and which is later returned to us due to an allegedly forged, unauthorized or missing indorsement, claim of alteration, encoding error, counterfeit cashier's check or other problem which in our judgment justifies reversal of credit. You authorize us to attempt to collect previously returned items without giving you notice, and in attempting to collect we may permit the payor bank to hold an item beyond the midnight deadline. Actual credit for deposits of, or payable in, foreign currency will be at the exchange rate in effect on final collection in U.S. dollars. We are not responsible for transactions by mail or outside depository until we actually record them. We will treat and record all transactions received after our "daily cutoff time" on a business day we are open, or received on a day we are not open for business, as if initiated on the next business day that we are open. At our option, we may take an item for collection rather than for deposit. If we accept a third-party check or draft for deposit, we may require any third-party indorsers to verify or guarantee their indorsements, or indorse in our presence.

#### **WITHDRAWALS -**

**Important terms for accounts where more than one person can withdraw** - Unless clearly indicated otherwise on the account records, any of you, acting alone, who signs to open the account or has authority to make withdrawals may withdraw or transfer all or any part of the account balance at any time. Each of you (until we receive written notice to the contrary) authorizes each other person who signs or has authority to make withdrawals to indorse any item payable to you or your order for deposit to this account or any other transaction with us.

**Postdated checks** - A postdated check is one which bears a date later than the date on which the check is written. We may properly pay and charge your account for a postdated check even though payment was made before the date of the check, unless we have received written notice of the postdating in time to have a reasonable opportunity to act. Because we process checks mechanically, your notice will not be effective and we will not be liable for failing to honor your notice unless it precisely identifies the number, date, amount and payee of the item.

**Checks and withdrawal rules** - If you do not purchase your check blanks from us, you must be certain that we approve the check blanks you purchase. We may refuse any withdrawal or transfer request which you attempt on forms not approved by us or by any method we do not specifically permit. We may refuse any withdrawal or transfer request which is greater in number than the frequency permitted by our policy, or which is for an amount greater or less than any withdrawal limitations. We will use the date the transaction is completed by us (as opposed to the date you initiate it) to apply any frequency limitations. In addition, we may place limitations on the account until your identity is verified.

Even if we honor a nonconforming request, we are not required to do so later. If you violate the stated transaction limitations (if any), in our discretion we may close your account or reclassify your account as another type of account. If we reclassify your account, your account will be subject to the fees and earnings rules of the new account classification.

If we are presented with an item drawn against your account that would be a "substitute check," as defined by law, but for an error or defect in the item introduced in the substitute check creation process, you agree that we may pay such item.

**Cash withdrawals** - We recommend you take care when making large cash withdrawals because carrying large amounts of cash may pose a danger to your personal safety. As an alternative to making a large cash withdrawal, you may want to consider a cashier's check or similar instrument. You assume full responsibility of any loss in the event the cash you withdraw is lost, stolen, or destroyed. You agree to hold us harmless from any loss you incur as a result of your decision to withdraw funds in the form of cash.

#### **Multiple signatures, electronic check conversion, and similar transactions**

-An electronic check conversion transaction is a transaction where a check or similar item is converted into an electronic fund transfer as defined in the Electronic Fund Transfers regulation. In these types of transactions the check or similar item is either removed from circulation (truncated) or given back to you. As a result, we have no opportunity to review the signatures or otherwise examine the original check or item. You agree that, as to these or any items as to which we have no opportunity to examine the signatures, you waive any requirement of multiple signatures.

#### **UNDERSTANDING AND AVOIDING OVERDRAFT AND NONSUFFICIENT FUNDS (NSF) FEES -**

**Generally** - The information in this section is being provided to help you understand what happens if your account is overdrawn. Understanding the concepts of overdrafts and nonsufficient funds (NSF) is important and can help you avoid being assessed fees or charges. This section also provides contractual terms relating to overdrafts and NSF transactions.

Generally, an overdraft occurs when there is not enough money in your account to pay for a transaction, but we pay (or cover) the transaction anyway. An NSF transaction is slightly different. In an NSF transaction, we do not cover the transaction. Instead, the transaction is rejected and the item or requested payment is returned.

**Determining your available balance** - We use the "available balance" method to determine whether your account is overdrawn, that is, whether there is enough money in your account to pay for a transaction. Importantly, your "available" balance may not be the same as your account's "actual" balance. This means an overdraft or an NSF transaction could occur regardless of your account's actual balance.

Your account's actual balance (sometimes called the ledger balance) only includes transactions that have settled up to that point in time, that is, transactions (deposits and payments) that have posted to your account. The actual balance does not include outstanding transactions (such as checks that have not yet cleared and electronic transactions that have been authorized but which are still pending). The balance on your periodic statement is the ledger balance for your account as of the statement date.

As the name implies, your available balance is calculated based on the money "available" in your account to make payments. In other words, the available balance takes ACH credit transactions and debit card transactions that have been authorized, but not yet settled, and adds or subtracts them from the actual balance. In addition, when calculating your available balance, any "holds" placed on deposits that have not yet cleared are also subtracted from the actual balance. For more information on how holds placed on funds in your account can impact your available balance, read the subsection titled "A temporary debit authorization hold affects your account balance."

**Overdrafts** - You understand that we may, at our discretion, honor withdrawal requests that overdraw your account. However, the fact that we may honor withdrawal requests that overdraw the account balance does not obligate us to do so later. So you can NOT rely on us to pay overdrafts on your account regardless of how frequently or under what circumstances we have paid overdrafts on your account in the past. We can change our practice of paying, or not paying, discretionary overdrafts on your account without notice to you. You can ask us if we have other account services that might be available to you where we commit to paying overdrafts under certain circumstances, such as an overdraft protection line-of-credit or a plan to sweep funds from another account you have with us. You agree that we may charge fees for overdrafts. We may use subsequent deposits, including direct deposits of social security or other government benefits, to cover such overdrafts and overdraft fees.

**Payment types** - Some, but not necessarily all, of the ways you can access the funds in your account include debit card transactions, automated clearing house (ACH) transactions, and check transactions. All these payment types can use different processing systems and some may take more or less time to post. This information is important for a number of reasons. For example, keeping track of the checks you write and the timing of the preauthorized payments you set up will help you to know what other transactions might still post against your account.

**Balance information** - Keeping track of your balance is important. You can review your balance in a number of ways including reviewing your periodic statement, reviewing your balance online or accessing your account information by phone.

**Funds availability** - Knowing when funds you deposit will be made available for withdrawal is another important concept that can help you avoid being assessed fees or charges. Please see our funds availability disclosure (generally titled, "Your Ability to Withdraw Funds") for information on when different types of deposits will be made available for withdrawal. For an account to which our funds availability policy disclosure does not apply, you can ask us when you make a deposit when those funds will be available for withdrawal. An item may be returned after the funds from the deposit of that item are made available for withdrawal. In that case, we will reverse the credit of the item. We may determine the amount of available funds in your account for the purpose of deciding whether to return an item for insufficient funds at any time between the times we receive the item and when we return the item or send a notice in lieu of return. We need only make one determination, but if we choose to make a subsequent determination, the account balance at the subsequent time will determine whether there are insufficient available funds.

**A temporary debit authorization hold affects your account balance** - On debit card purchases, merchants may request a temporary hold on your account for a specified sum of money when the merchant does not know the exact amount of the purchase at the time the card is authorized. The amount of the temporary hold may be more than the actual amount of your purchase. Some common transactions where this occurs involve purchases of gasoline, hotel rooms, or meals at restaurants. When this happens, our processing system cannot determine that the amount of the hold exceeds the actual amount of your purchase. This temporary hold, and the amount charged to your account, will eventually be adjusted to the actual amount of your purchase, but it could be three calendar days, or even longer in some cases, before the adjustment is made. Until the adjustment is made, the amount of funds in your account available for other transactions will be reduced by the amount of the temporary hold. If one or more transactions are presented for payment in an amount greater than the funds left after the deduction of the temporary hold amount, you will be charged an NSF or overdraft fee according to our NSF or overdraft fee policy, which may result in one or more overdraft or NSF fees. You will be charged the fee even if you would have had sufficient funds in your account if the amount of the hold had been equal to the amount of your purchase.

If an item was initiated at a point-of-sale terminal or is a debit card transaction or ATM transaction, you agree that we may charge the amount of the item to your account or place a hold on your account in the amount requested by the merchant immediately upon authorization of such transaction, even though we have not then actually received the item for payment. We will make payment for a transaction only after the actual transaction is presented to us physically or electronically. Each such hold will reduce the available balance in your account by the amount of the hold.

**Payment order of items** - The order in which items are paid is important if there is not enough money in your account to pay all of the items that are presented. The payment order can affect the number of items overdrawn or returned unpaid and the amount of the fees you may have to pay. To assist you in managing your account, we are providing you with the following information regarding how we process those items.

You authorize and agree that we may, in our sole discretion, determine the order that we process and post credits, debits and holds to your account. You also authorize and agree that the order and/or manner in which we process and post credits, debits and holds may vary by the product, service, account type or type of transaction. You also authorize and agree that we are allowed to pay or authorize some credits, debits, and holds, and decline or return others, in any order we deem appropriate. The order in which we post credits, debits and holds to your account may not be the same as the order in which you make the withdrawals from or deposits to your account. You agree that any order in which we process and post credits, debits and holds to your account will not be an abuse of discretion. If two or more items are presented for payment from your account on the same day, we may pay or charge the items to your account in any order without regard to any contrary instructions from you, even if paying a particular item or items causes the available balance for your account to be insufficient to pay one or more other items that otherwise could have been paid, which may result in the occurrence of additional or other service charges that otherwise may not have occurred. We may pay items drawn on us, debit your account for any service charges and other amounts that you owe us under this Agreement or otherwise, and we may exercise any rights of set off we may have against the account before we pay any other item.

Without limiting our options to process and post credits, debits and holds to your account in a different order and without limiting your authorization for us to do so, we generally process and post transactions to your account as follows. We post PIN debit card transactions, online banking internal transfers and wires to your account throughout the day, unlike many banks that post all transactions at the end of the day. ACH transactions also post throughout the day, in multiple batches. We post ACH credits and then debits, from largest to smallest within each of the ACH batches that post throughout the day. Checks are posted in check number numerical order in nightly batch, one time per day. Mobile deposits and signature debit card transactions are posted in the order they are received on the day they are processed.

Our system allows us to more closely match the posting of these types of transactions to your account with the timing of your actual transaction activity. It is important to remember that because transactions post throughout the day, deposits made later in the day may not be available to cover withdrawals that post earlier in the day. Because transactions will post to your account throughout the day, it is important to keep an accurate account record and to be sure your available balance is always sufficient to cover your purchases, withdrawals and payments.

If one or more checks, items, or transactions are presented without sufficient funds in your account to pay it, you will be charged an NSF or overdraft fee according to our NSF or overdraft fee policy, which may result in one or more overdraft or NSF fees. The amounts of the overdraft and NSF fees are disclosed elsewhere. We encourage you to make careful records and practice good account management. This will help you to avoid creating items without sufficient funds and potentially incurring the resulting fees.

**BUSINESS, ORGANIZATION AND ASSOCIATION ACCOUNTS** - Earnings in the form of interest, dividends, or credits will be paid only on collected funds, unless otherwise provided by law or our policy. You represent that you have the authority to open and conduct business on this account on behalf of the entity. We may require the governing body of the entity opening the account to give us a separate authorization telling us who is authorized to act on its behalf. We will honor the authorization until we actually receive written notice of a change from the governing body of the entity.

**STOP PAYMENTS** - The rules in this section cover stopping payment of items such as checks and drafts. Rules for stopping payment of other types of transfers of funds, such as consumer electronic fund transfers, may be established by law or our policy. If we have not disclosed these rules to you elsewhere, you may ask us about those rules.

We may accept an order to stop payment on any item from any one of you. You must make any stop-payment order in the manner required by law and we must receive it in time to give us a reasonable opportunity to act on it before our stop-payment cutoff time. Because the most effective way for us to execute a stop-payment order is by using an automated process, to be effective, your stop-payment order must precisely identify the number, date, and amount of the item, and the payee. You may stop payment on any item drawn on your account whether you sign the item or not. Generally, if your stop-payment order is given to us in writing it is effective for six months. Your order will lapse after that time if you do not renew the order in writing before the end of the six-month period. If the original stop-payment order was oral your stop-payment order will lapse after 14 calendar days if you do not confirm your order in writing within that time period. We are not obligated to notify you when a stop-payment order expires.

If you stop payment on an item and we incur any damages or expenses because of the stop payment, you agree to indemnify us for those damages or expenses, including attorneys' fees. You assign to us all rights against the payee or any other holder of the item. You agree to cooperate with us in any legal actions that we may take against such persons. You should be aware that anyone holding the item may be entitled to enforce payment against you despite the stop-payment order.

Our stop-payment cutoff time is one hour after the opening of the next banking day after the banking day on which we receive the item. Additional limitations on our obligation to stop payment are provided by law (e.g., we paid the item in cash or we certified the item).

**TELEPHONE TRANSFERS** - A telephone transfer of funds from this account to another account with us, if otherwise arranged for or permitted, may be made by the same persons and under the same conditions generally applicable to withdrawals made in writing. Limitations on the number of telephonic transfers from a savings account, if any, are described elsewhere.

**AMENDMENTS AND TERMINATION** - We may amend or delete any term of this agreement. We may also add new terms to this agreement. In addition, we may suspend, modify, convert, or terminate a service, convert this account to another account type, or close this account for any reason. For any of these types of changes, we will give you reasonable notice in writing by any reasonable method including by mail, by any electronic communication method to which you have agreed, on or with a periodic statement, or through any other method permitted by law. If we close the account, we will tender the account balance to you or your agent personally, by mail, or by another agreed upon method.

Reasonable notice depends on the circumstances, and in some cases, such as when we cannot verify your identity or we suspect fraud, it might be reasonable for us to give you notice after the change becomes effective. For instance, if we suspect fraudulent activity with respect to your account, and if we deem it appropriate under the circumstances and necessary to prevent further fraud, we might immediately freeze or close your account and then give you notice.

Unless otherwise indicated in the notice of change, if we have notified you of a change to your account, and you continue to have your account after the effective date of the change, you have accepted and agreed to the new or modified terms. You should review any change in terms notice carefully as the notice will provide important information of which you may need to be aware.

We reserve the right to waive any term of this agreement. However, such waiver shall not affect our right to enforce the term at a later date.

If you request that we close your account, you are responsible for leaving enough money in the account to cover any outstanding items or transactions to be paid from the account. Once any outstanding items or transactions are paid, we will close the account and tender the account balance, if any, to you or your agent personally, by mail, or by another agreed upon method.

Any items and transactions presented for payment after the account is closed may be dishonored. Any deposits we receive after the account is closed may be returned. We will not be liable for any damages for not honoring any such debits or deposits received after the account is closed.

Note: Rules governing changes in interest rates are provided separately in the Product Terms & Conditions disclosure or in another document. In addition, for changes governed by a specific law or regulation, we will follow the specific timing and format notice requirements of those laws or regulations.

**CORRECTION OF CLERICAL ERRORS** - Unless otherwise prohibited by law, you agree, if determined necessary in our reasonable discretion, to allow us to correct clerical errors, such as obtaining your missing signature, on any account documents or disclosures that are part of our agreement with you. For errors on your periodic statement, please refer to the STATEMENTS section.

**NOTICES** - Any written notice you give us is effective when we actually receive it, and it must be given to us according to the specific delivery instructions provided elsewhere, if any. We must receive any notice in time to have a reasonable opportunity to act on it. If a notice is regarding a check or other item, you must give us sufficient information to be able to identify the check or item, including the precise check or item number, amount, date and payee. Notice we give you via the United States Mail is effective when it is deposited in the United States Mail with proper postage and addressed to your mailing address we currently have on file. Notice we give you through your email of record, or other electronic method to which you agreed, will be treated as delivered to you when sent. Notice to any of you is notice to all of you.

**STATEMENTS - Your duty to report unauthorized signatures (including forgeries and counterfeit checks) and alterations on checks and other items** - You must examine your statement of account with "reasonable promptness." If you discover (or reasonably should have discovered) any unauthorized signatures or alterations (including forgeries and counterfeit checks), you must promptly notify us of the relevant facts. As between you and us, if you fail to do either of these duties, you will have to either share the loss with us, or bear the loss entirely yourself (depending on whether we used ordinary care and, if not, whether we substantially contributed to the loss). The loss could be not only with respect to items on the statement but other items with unauthorized signatures or alterations by the same wrongdoer.

You agree that the time you have to examine your statement and report to us will depend on the circumstances, but will not, in any circumstance, exceed a total of 30 days from when the statement is first sent or made available to you.

You further agree that if you fail to report any unauthorized signatures or alterations in your account within 60 days of when we first send or make the statement available, you cannot assert a claim against us on any items in that statement, and as between you and us the loss will be entirely yours. This 60-day limitation is without regard to whether we used ordinary care. The limitation in this paragraph is in addition to that contained in the first paragraph of this section.

**Your duty to report other errors or problems** - In addition to your duty to review your statements for unauthorized signatures and alterations, you agree to examine your statement with reasonable promptness for any other error or problem - such as an encoding error or an unexpected deposit amount. Also, if you receive or we make available either your items or images of your items, you must examine them for any unauthorized or missing indorsements or any other problems. You agree that the time you have to examine your statement and items and report to us will depend on the circumstances. However, this time period shall not exceed 60 days. Failure to examine your statement and items and report any errors to us within 60 days of when we first send or make the statement available precludes you from asserting a claim against us for any errors on items identified in that statement and as between you and us the loss will be entirely yours.

**Duty to notify if statement not received** - You agree to immediately notify us if you do not receive your statement by the date you normally expect to receive it. Not receiving your statement in a timely manner is a sign that there may be an issue with your account, such as possible fraud or identity theft. Absent a lack of ordinary care by us, a failure to receive your statement in a timely manner does not extend the time you have to conduct your review under this agreement.

**ACCOUNT TRANSFER** - This account may not be transferred or assigned without our prior written consent.

**REIMBURSEMENT OF FEDERAL BENEFIT PAYMENTS** - If we are required for any reason to reimburse the federal government for all or any portion of a benefit payment that was directly deposited into your account, you authorize us to deduct the amount of our liability to the federal government from the account or from any other account you have with us, without prior notice and at any time, except as prohibited by law. We may also use any other available legal remedy to recover the amount of our liability.

**TEMPORARY ACCOUNT AGREEMENT** - If the account documentation indicates that this is a temporary account agreement, it means that all account owners have not yet signed the signature card, or that some other account opening requirement has not been completed. We may give you a duplicate signature card so that you can obtain all of the necessary signatures and return it to us. Each person who signs to open the account or has authority to make withdrawals (except as indicated to the contrary) may transact business on this account. However, we may at some time in the future restrict or prohibit further use of this account if you fail to comply with the requirements we have imposed within a reasonable time.

**SETOFF** - We may (without prior notice and when permitted by law) set off the funds in this account against any due and payable debt any of you owe us now or in the future. If this account is owned by one or more of you as individuals, we may set off any funds in the account against a due and payable debt a partnership owes us now or in the future, to the extent of your liability as a partner for the partnership debt. If your debt arises from a promissory note, then the amount of the due and payable debt will be the full amount we have demanded, as entitled under the terms of the note, and this amount may include any portion of the balance for which we have properly accelerated the due date.

This right of setoff does not apply to this account if prohibited by law. For example, the right of setoff does not apply to this account if: (a) it is an Individual Retirement Account or similar tax-deferred account, or (b) the debt is created by a consumer credit transaction under a credit card plan (but this does not affect our rights under any consensual security interest), or (c) the debtor's right of withdrawal only arises in a representative capacity. We will not be liable for the dishonor of any check when the dishonor occurs because we set off a debt against this account. You agree to hold us harmless from any claim arising as a result of our exercise of our right of setoff.

**RESTRICTIVE LEGENDS OR INDORSEMENTS** - The automated processing of the large volume of checks we receive prevents us from inspecting or looking for restrictive legends, restrictive indorsements or other special instructions on every check. For this reason, we are not required to honor any restrictive legend or indorsement or other special instruction placed on checks you write unless we have agreed in writing to the restriction or instruction. Unless we have agreed in writing, we are not responsible for any losses, claims, damages, or expenses that result from your placement of these restrictions or instructions on your checks. Examples of restrictive legends placed on checks are "must be presented within 90 days" or "not valid for more than \$1,000.00." The payee's signature accompanied by the words "for deposit only" is an example of a restrictive indorsement.

**FACSIMILE SIGNATURES** - Unless you make advance arrangements with us, we have no obligation to honor facsimile signatures on your checks or other orders. If we do agree to honor items containing facsimile signatures, you authorize us, at any time, to charge you for all checks, drafts, or other orders, for the payment of money, that are drawn on us. You give us this authority regardless of by whom or by what means the facsimile signature(s) may have been affixed so long as they resemble the facsimile signature specimen filed with us, and contain the required number of signatures for this purpose. You must notify us at once if you suspect that your facsimile signature is being or has been misused.

**CHECK PROCESSING** - We process items mechanically by relying almost exclusively on the information encoded in magnetic ink along the bottom of the items. This means that we do not individually examine all of your items to determine if the item is properly completed, signed and indorsed or to determine if it contains any information other than what is encoded in magnetic ink. You agree that we have exercised ordinary care if our automated processing is consistent with general banking practice, even though we do not inspect each item. Because we do not inspect each item, if you write a check to multiple payees, we can properly pay the check regardless of the number of indorsements unless you notify us in writing that the check requires multiple indorsements. We must receive the notice in time for us to have a reasonable opportunity to act on it, and you must tell us the precise date of the check, amount, check number and payee. We are not responsible for any unauthorized signature or alteration that would not be identified by a reasonable inspection of the item. Using an automated process helps us keep costs down for you and all account holders.

**INDORSEMENTS** - We may accept for deposit any item payable to you or your order, even if they are not indorsed by you. We may give cash back to any one of you. We may supply any missing indorsement(s) for any item we accept for deposit or collection, and you warrant that all indorsements are genuine.

**DEATH OR INCOMPETENCE** - You agree to notify us promptly if any person with a right to withdraw funds from your account(s) dies or is adjudicated (determined by the appropriate official) incompetent. We may continue to honor your checks, items, and instructions until: (a) we know of your death or adjudication of incompetence, and (b) we have had a reasonable opportunity to act on that knowledge. You agree that we may pay or certify checks drawn on or before the date of death or adjudication of incompetence for up to ten (10) days after your death or adjudication of incompetence unless ordered to stop payment by someone claiming an interest in the account.

**FIDUCIARY ACCOUNTS** - Accounts may be opened by a person acting in a fiduciary capacity. A fiduciary is someone who is appointed to act on behalf of and for the benefit of another. We are not responsible for the actions of a fiduciary, including the misuse of funds. This account may be opened and maintained by a person or persons named as a trustee under a written trust agreement, or as executors, administrators, or conservators under court orders. You understand that by merely opening such an account, we are not acting in the capacity of a trustee in connection with the trust nor do we undertake any obligation to monitor or enforce the terms of the trust or letters.

**CREDIT VERIFICATION** - You agree that we may verify credit and employment history by any necessary means, including preparation of a credit report by a credit reporting agency.

**LEGAL ACTIONS AFFECTING YOUR ACCOUNT** - If we are served with a subpoena, restraining order, writ of attachment or execution, levy, garnishment, search warrant, or similar order relating to your account (termed "legal action" in this section), we will comply with that legal action as required by applicable law. However, nothing in this agreement shall be construed as a waiver of any rights you may have under applicable law with regards to such legal action. Subject to applicable law, we may, in our sole discretion, choose to freeze the assets in the account and not allow any payments or transfers out of the account, or take other action as may be appropriate under the circumstances, until there is a final court determination regarding the legal action. We may do these things even if the legal action involves less than all of you. In these cases, we will not have any liability to you if there are insufficient funds to pay your items because we have withdrawn funds from your account or in any way restricted access to your funds in accordance with the legal action and applicable law. Any fees or expenses we incur in responding to any legal action (including, without limitation, attorneys' fees, and our internal expenses) may be charged against your account, unless otherwise prohibited by applicable law. The list of fees applicable to your account(s) - provided elsewhere - may specify additional fees that we may charge for responding to certain legal actions.

#### **ACCOUNT SECURITY -**

**Your duty to protect account information and methods of access** - Our policy may require methods of verifying your identity before providing you with a service or allowing you access to your account. We can decide what identification is reasonable under the circumstances. For example, process and identification requirements may vary depending on whether they are online or in person. Identification may be documentary or physical and may include collecting a fingerprint, voiceprint, or other biometric information.

It is your responsibility to protect the account numbers and electronic access devices (e.g., an ATM card, point-of-sale card and/or PIN) we provide you for your accounts. You should also safeguard your username, password, and other access and identifying information when accessing your account through a computer or other electronic, audio, or mobile device or technology. If you give anyone authority to access the account on your behalf, you should exercise caution and ensure the trustworthiness of that agent. Do not discuss, compare, or share information about your account numbers with anyone unless you are willing to give them full use of your money. Checks and electronic withdrawals are processed by automated methods, and anyone who obtains your account number or access device could use it to withdraw money from your account, with or without your permission.

**Positive pay and other fraud prevention services** - Except for consumer electronic fund transfers subject to Regulation E, you agree that if we offer you services appropriate for your account to help identify and limit fraud or other unauthorized transactions against your account, and you reject those services, you will be responsible for any fraudulent or unauthorized transactions which could have been prevented by the services we offered. You will not be responsible for such transactions if we acted in bad faith or to the extent our negligence contributed to the loss. Such services include positive pay or commercially reasonable security procedures. The positive pay service can help detect and prevent check fraud and is appropriate for account holders that issue a high volume of checks, a lot of checks to the general public, or checks for large dollar amounts.

**Account numbers** - Thieves can encode your account number on a check which looks and functions like an authorized check and can be used to withdraw money from your account. Your account number can also be used to issue a "remotely created check." Like a typical check, a remotely created check (sometimes called a telecheck, preauthorized draft or demand draft) is a draft or check that can be used to withdraw money from your account. Unlike a typical check or draft, however, a remotely created check is not issued by the paying bank and does not contain the signature of the account owner (or a signature purported to be the signature of the account owner). If you have truly authorized the remotely created check (to purchase a service or merchandise, for example), it is properly payable. But it can be risky to authorize a remotely created check. A swindler could issue a remotely created check in an amount greater than you authorized, or issue additional remotely created checks that you have not authorized. We will not know if the withdrawal is unauthorized or in an amount greater than the amount you have authorized. Payment can be made from your account even though you did not contact us directly and order the payment.

**Access devices** - If you furnish your access device and grant actual authority to make transfers to someone who then exceeds that authority, you will be liable for the transfers unless we have been notified that transfers by that person are no longer authorized. Please review the additional information you have received or will receive regarding transfers by access device. **Blank checks** - You must also take precaution in safeguarding your blank checks. Notify us at once if you think your blank checks have been lost or stolen. As between you and us, if you are negligent in safeguarding your checks, you must bear the loss entirely yourself, or share the loss with us if we failed to use ordinary care which substantially contributes to the loss.

**INSTRUCTIONS FROM YOU** - Unless required by law or we have agreed otherwise in writing, we are not required to act upon instructions you give us via facsimile transmission, email, voicemail, or phone call to a facsimile number, email address, or phone number not designated by us for a particular purpose or for a purpose that is unrelated to the request or instruction.

**MONITORING AND RECORDING TELEPHONE CALLS AND ACCOUNT COMMUNICATIONS** - Subject to federal and state law, we may monitor or record phone calls for security reasons, to maintain a record, and to ensure that you receive courteous and efficient service. You consent in advance to any such recording.

To provide you with the best possible service in our ongoing business relationship for your account, we may need to contact you about your account from time to time by telephone, text messaging, or email. In contacting you about your account, we may use any telephone numbers or email addresses that you have previously provided to us by virtue of an existing business relationship or that you may subsequently provide to us.

You acknowledge that the number we use to contact you may be assigned to a landline, a paging service, a cellular wireless service, a specialized mobile radio service, other radio common carrier service, or any other service for which you may be charged for the call. You acknowledge that we may contact you by voice, voicemail, or text messaging. You further acknowledge that we may use pre-recorded voice messages, artificial voice messages, or automatic telephone dialing systems.

If necessary, you may change or remove any of the telephone numbers, email addresses, or other methods of contacting you at any time using any reasonable means to notify us.

**CLAIM OF LOSS** - The following rules do not apply to a transaction or claim related to a consumer electronic fund transfer governed by Regulation E (e.g., an every day/one-time consumer debit card or ATM transaction). The error resolution procedures for consumer electronic fund transfers can be found in our initial Regulation E disclosure generally titled, "Electronic Fund Transfers." For other transactions or claims, if you claim a credit or refund because of a forgery, alteration, or any other unauthorized withdrawal, you agree to cooperate with us in the investigation of the loss, including giving us an affidavit containing whatever reasonable information we require concerning your account, the transaction, and the circumstances surrounding the loss. You will notify law enforcement authorities of any criminal act related to the claim of lost, missing, or stolen checks or unauthorized withdrawals. We will have a reasonable period of time to investigate the facts and circumstances surrounding any claim of loss. Unless we have acted in bad faith, we will not be liable for special or consequential damages, including loss of profits or opportunity, or for attorneys' fees incurred by you.

You agree that you will not waive any rights you have to recover your loss against anyone who is obligated to repay, insure, or otherwise reimburse you for your loss. You will pursue your rights or, at our option, assign them to us so that we may pursue them. Our liability will be reduced by the amount you recover or are entitled to recover from these other sources.

**CHANGES IN NAME AND CONTACT INFORMATION** - You are responsible for notifying us of any change in your name, address, or other information we use to communicate with you. Unless we agree otherwise, notice of such a change must be made in writing. Informing us of your address or name change on a check reorder form is not sufficient. We will attempt to communicate with you only by use of the most recent information you have provided to us. If provided elsewhere, we may impose a service fee if we attempt to locate you.

**RESOLVING ACCOUNT DISPUTES** - We may place an administrative hold on the funds in your account (refuse payment or withdrawal of the funds) if it becomes subject to a claim adverse to (1) your own interest; (2) others claiming an interest as survivors or beneficiaries of your account; or (3) a claim arising by operation of law. The hold may be placed for such period of time as we believe reasonably necessary to allow a legal proceeding to determine the merits of the claim or until we receive evidence satisfactory to us that the dispute has been resolved. We will not be liable for any items that are dishonored as a consequence of placing a hold on funds in your account for these reasons.

**WAIVER OF NOTICES** - To the extent permitted by law, you waive any notice of nonpayment, dishonor or protest regarding any items credited to or charged against your account. For example, if you deposit an item and it is returned unpaid or we receive a notice of nonpayment, we do not have to notify you unless required by federal Regulation CC or other law.

**TRUNCATION, SUBSTITUTE CHECKS, AND OTHER CHECK IMAGES** - If you truncate an original check and create a substitute check, or other paper or electronic image of the original check, you warrant that no one will be asked to make payment on the original check, a substitute check or any other electronic or paper image, if the payment obligation relating to the original check has already been paid. You also warrant that any substitute check you create conforms to the legal requirements and generally accepted specifications for substitute checks. You agree to retain the original check in conformance with our policy for retaining original checks. You agree to indemnify us for any loss we may incur as a result of any truncated check transaction you initiate. We can refuse to accept substitute checks that have not previously been warranted by a bank or other financial institution in conformance with the Check 21 Act. Unless specifically stated in a separate agreement between you and us, we do not have to accept any other electronic or paper image of an original check.

**REMOTELY CREATED CHECKS** - Like any standard check or draft, a remotely created check (sometimes called a telecheck, preauthorized draft or demand draft) is a check or draft that can be used to withdraw money from an account. Unlike a typical check or draft, however, a remotely created check is not issued by the paying bank and does not contain the signature of the account owner (or a signature purported to be the signature of the account owner). In place of a signature, the check usually has a statement that the owner authorized the check or has the owner's name typed or printed on the signature line.

You warrant and agree to the following for every remotely created check we receive from you for deposit or collection: (1) you have received express and verifiable authorization to create the check in the amount and to the payee that appears on the check; (2) you will maintain proof of the authorization for at least 2 years from the date of the authorization, and supply us the proof if we ask; and (3) if a check is returned you owe us the amount of the check, regardless of when the check is returned. We may take funds from your account to pay the amount you owe us, and if there are insufficient funds in your account, you still owe us the remaining balance.

**UNLAWFUL INTERNET GAMBLING NOTICE** - Restricted transactions as defined in Federal Reserve Regulation GG are prohibited from being processed through this account or relationship. Restricted transactions generally include, but are not limited to, those in which credit, electronic fund transfers, checks, or drafts are knowingly accepted by gambling businesses in connection with the participation by others in unlawful Internet gambling.

**FUNDS TRANSFERS** - You agree that this section is governed by Article 4A of the Uniform Commercial Code - Funds Transfers (UCC 4A) and the terms used in this section have the meaning given to them in UCC 4A. You also agree to be bound by all funds-transfer system rules, rules of the Board of Governors of the Federal Reserve System (Board) and their operating circulars, as appropriate. Unless otherwise required by applicable law, such as Regulation J or the operating circulars of the Board, this section is subject to UCC 4A as adopted in the state in which you have your account with us. If any part of this section is determined to be unenforceable, the rest shall remain effective. This section controls funds transfers unless supplemented or amended in a separate record. Generally, this section will not apply to you if you are a consumer. For example, this section generally does not apply to a funds transfer if any part of the transfer is governed by the Electronic Fund Transfer Act of 1978 (EFTA). However, this section does apply to a funds transfer that is a remittance transfer as defined in EFTA unless the remittance transfer is an electronic fund transfer as defined in EFTA. To the extent this section is not inconsistent with the EFTA, this section may also apply to a consumer electronic fund transfer sent through the FedNow system or through the Real Time Payments system (RTP) operated by The Clearing House. In addition, even if you are a consumer, this section will apply to that part of any funds transfer that is conducted by Fedwire.

**Funds transfer** - A funds transfer is the transaction or series of transactions that begin with the originator's payment order, made for the purpose of making payment to the beneficiary of the order. A funds transfer is completed by the acceptance by the beneficiary's bank of a payment order for the benefit of the beneficiary of the originator's order. Unless otherwise required by the type of funds transfer you are initiating, you may transmit a payment order orally or in a record, but your order cannot state any condition to payment to the beneficiary other than the time of payment. Credit entries may be made by ACH.

**Authorized account** - An authorized account is a deposit account you have with us that you have designated as a source of payment of payment orders you issue to us. If you have not designated an authorized account, any account you have with us is an authorized account to the extent that payment of the payment order is not inconsistent with the use of the account.

**Acceptance of your payment order** - We are not obligated to accept any payment order that you give us, although we normally will accept your payment order if you have a withdrawable credit in an authorized account sufficient to cover the order. If we do not execute your payment order, but give you notice of our rejection of your payment order after the execution date or give you no notice, we are not liable to pay you as restitution any interest on a withdrawable credit in a non-interest-bearing account.

**Cutoff time** - If we do not receive your payment order or communication canceling or amending a payment order before our cutoff time on a funds transfer day for that type of order or communication, the order or communication will be deemed to be received at the opening of our next funds transfer business day.

**Payment of your order** - If we accept a payment order you give us, we may receive payment by automatically deducting from any authorized account the amount of the payment order plus the amount of any expenses and charges for our services in execution of your payment order. We are entitled to payment on the payment or execution date. Unless your payment order specifies otherwise, the payment or execution date is the funds transfer date we receive the payment order. The funds transfer is completed upon acceptance by the beneficiary's bank.

Your obligation to pay your payment order is excused if the funds transfer is not completed, but you are still responsible to pay us any expenses and charges for our services. However, if you told us to route the funds transfer through an intermediate bank, and we are unable to obtain a refund because the intermediate bank that you designated has suspended payments, then you are still obligated to pay us for the payment order. You will not be entitled to interest on any refund you receive because the beneficiary's bank does not accept the payment order.

**Security procedure** - As described more fully in a separate writing, the authenticity of a payment order or communication canceling or amending a payment order issued in your name as sender may be verified by a security procedure. You affirm that you have no circumstances which are relevant to the determination of a commercially reasonable security procedure unless those circumstances are expressly contained in a separate writing signed by us. You may choose from one or more security procedures that we have developed, or you may develop your own security procedure if it is acceptable to us. If you refuse a commercially reasonable security procedure that we have offered you, you agree that you will be bound by any payment order issued in your name, whether or not authorized, that we accept in good faith and in compliance with the security procedure you have chosen.

**Identifying number** - If your payment order identifies an intermediate bank, beneficiary bank, or beneficiary by name and number, we and every receiving or beneficiary bank may rely upon the identifying number rather than the name to make payment, even if the number identifies an intermediate bank or person different than the bank or beneficiary identified by name. Neither we nor any receiving or beneficiary bank have any responsibility to determine whether the name and identifying number refer to the same financial institution or person.

**Record of oral or telephone orders** - You agree that we may, if we choose, record any oral or telephone payment order or communication of amendment or cancellation.

**Notice of credit** - If we receive a payment order to credit an account you have with us, we are not required to provide you with any notice of the payment order or the credit.

**Provisional credit** - You agree to be bound by the automated clearing house association operating rules that provide that payments made to you or originated by you by funds transfer through the automated clearing house system are provisional until final settlement is made through a Federal Reserve Bank or otherwise payment is made as provided in Article 4A-403(a) of the Uniform Commercial Code.

**Refund of credit** - You agree that if we do not receive payment of an amount credited to your account, we are entitled to a refund from you in the amount credited and the party originating such payment will not be considered to have paid the amount so credited.

**Cancellation or amendment of payment order** - You may cancel or amend a payment order you give us only if we receive the communication of cancellation or amendment before our cutoff time and in time to have a reasonable opportunity to act on it before we accept the payment order. The communication of cancellation or amendment must be presented in conformity with the same security procedure that has been agreed to for payment orders.

**Intermediaries** - We are not liable for the actions of any intermediary, regardless of whether or not we selected the intermediary. We are not responsible for acts of God, outside agencies, or nonsalaried agents.

**Limit on liability** - You waive any claim you may have against us for consequential or special damages, including loss of profit arising out of a payment order or funds transfer, unless this waiver is prohibited by law. We are not responsible for attorney fees you might incur due to erroneous execution of payment order.

**Erroneous execution** - If we receive an order to pay you, and we erroneously pay you more than the amount of the payment order, we are entitled to recover from you the amount in excess of the amount of the payment order, regardless of whether you may have some claim to the excess amount against the originator of the order.

**Duty to report unauthorized or erroneous payment** - You must exercise ordinary care to determine that all payment orders or amendments to payment orders that we accept that are issued in your name are authorized, enforceable, in the correct amount, to the correct beneficiary, and not otherwise erroneous. If you discover (or with reasonable care should have discovered) an unauthorized, unenforceable, or erroneously executed payment order or amendment, you must exercise ordinary care to notify us of the relevant facts. The time you have to notify us will depend on the circumstances, but that time will not in any circumstance exceed 14 days from when you are notified of our acceptance or execution of the payment order or amendment or that your account was debited with respect to the order or amendment. If you do not provide us with timely notice you will not be entitled to interest on any refundable amount. If we can prove that you failed to perform either of these duties with respect to an erroneous payment and that we incurred a loss as a result of the failure, you are liable to us for the amount of the loss not exceeding the amount of your order.

**Objection to payment** - If we give you a notice that reasonably identifies a payment order issued in your name as sender that we have accepted and received payment for, you cannot claim that we are not entitled to retain the payment unless you notify us of your objection to the payment within one year of our notice to you.

**PLEDGES** - Each owner of this account may pledge all or any part of the funds in it for any purpose to which we agree. Any pledge of this account must first be satisfied before the rights of any surviving account owner or account beneficiary become effective.

**POWER OF ATTORNEY** - You may wish to appoint an agent to conduct transactions on your behalf. (We, however, have no duty or agreement whatsoever to monitor or insure that the acts of the agent are for your benefit.) This may be done by allowing your agent to sign in that capacity on the signature card or by separate form, such as a power of attorney. A power of attorney continues until your death or the death of the person given the power. If the power of attorney is not "durable," it is revoked when you become incompetent. We may continue to honor the transactions of the agent until: (a) we have received written notice or have actual knowledge of the termination of the authority or the death of an owner, and (b) we have had a reasonable opportunity to act on that notice or knowledge. You agree not to hold us responsible for any loss or damage you may incur as a result of our following instructions given by an agent acting under a valid power of attorney.

**STALE-DATED CHECKS** - We are not obligated to, but may at our option, pay a check, other than a certified check, presented for payment more than six months after its date. If you do not want us to pay a stale-dated check, you must place a stop-payment order on the check in the manner we have described elsewhere.

**FDIC INSURANCE** - Funds in your account(s) with us are insured by the Federal Deposit Insurance Corporation (FDIC) and backed by the full faith and credit of the United States. The amount of insurance coverage you have depends on the number of accounts you have with us that are of different "ownership." An individual account is one unique form of "ownership"; a joint account, a pay-on-death account, and a self directed qualified retirement account (e.g., an IRA) are examples of some of the others. Deposit insurance for a person's self directed qualified retirement account is up to \$250,000. (An IRA is a self directed qualified retirement account as is any account where the owner decides where and how to invest the balance.) Funds are insured to \$250,000 per depositor for the total of funds combined in all of your other insured accounts with us. If you want a more detailed explanation or additional information, you may ask us or contact the FDIC. You can also visit the FDIC website at [www.fdic.gov](http://www.fdic.gov) and click on the Deposit Insurance link. The link includes detailed contact information as well as a deposit insurance estimator.

**UNCLAIMED PROPERTY** - The law establishes procedures under which unclaimed property must be surrendered to the state. (We may have our own rules regarding dormant accounts, and if we charge a fee for dormant accounts it will be disclosed to you elsewhere.) Generally, the funds in your account are considered unclaimed if you have not had any activity or communication with us regarding your account over a period of years. Ask us if you want further information about the period of time or type of activity that will prevent your account from being unclaimed. If your funds are surrendered to the state, you may be able to reclaim them, but your claim must be presented to the state. Once your funds are surrendered, we no longer have any liability or responsibility with respect to the funds.

**CASH TRANSACTION REPORTING** - To help law enforcement agencies detect illegal activities, the law requires all financial institutions to gather and report information on some types of cash transactions. If the information we need to complete the report is not provided, we are required to refuse to handle the transaction. If you have any questions regarding these rules, the U.S. Treasury Financial Crimes Enforcement Network (FinCEN) maintains a frequently asked questions (FAQ) document online. The FAQ also includes additional information for contacting FinCEN.

**BACKUP WITHHOLDING/TIN CERTIFICATION** - Federal tax law requires us to report interest payments we make to you of \$10 or more in a year, and to include your taxpayer identification number (TIN) on the report (the taxpayer identification number is your social security number if you are an individual). Interest includes dividends, interest and bonus payments for purposes of this rule. Therefore, we require you to provide us with your TIN and to certify that it is correct. In some circumstances, federal law requires us to withhold and pay to the IRS a percentage of the interest that is earned on funds in your accounts. This is known as backup withholding. We will not have to withhold interest payments when you open your account if you certify your TIN and certify that you are not subject to backup withholding due to underreporting of interest. (There are special rules if you do not have a TIN but have applied for one, if you are a foreign person, or if you are exempt from the reporting requirements.) We may subsequently be required to begin backup withholding if the IRS informs us that you supplied an incorrect TIN or that you underreported your interest income.

**LOST, DESTROYED, OR STOLEN CERTIFIED, CASHIER'S, OR TELLER'S CHECKS** - Under some circumstances you may be able to assert a claim for the amount of a lost, destroyed, or stolen certified, cashier's or teller's check. To assert the claim: (a) you must be the remitter (or drawer of a certified check) or payee of the check, (b) we must receive notice from you describing the check with reasonable certainty and asking for payment of the amount of the check, (c) we must receive the notice in time for us to have a reasonable opportunity to act on it, and (d) you must give us a declaration (in a form we require) of your loss with respect to the check. You can ask us for a declaration form. Even if all of these conditions are met, your claim may not be immediately enforceable. We may pay the check until the ninetieth day after the date of the check (or date of acceptance of a certified check). Therefore, your claim is not enforceable until the ninetieth day after the date of the check or date of acceptance, and the conditions listed above have been met. If we have not already paid the check, on the day your claim is enforceable we become obligated to pay you the amount of the check. We will pay you in cash or issue another certified check.

At our option, we may pay you the amount of the check before your claim becomes enforceable. However, we will require you to agree to indemnify us for any losses we might suffer. This means that if the check is presented after we pay your claim, and we pay the check, you are responsible to cover our losses. We may require you to provide a surety bond to assure that you can pay us if we suffer a loss.

**CHANGING ACCOUNT PRODUCTS** - We may change your account to another product offered by us at any time by giving you notice that your account will be changed to another product on a specified date. If your account is a time account, the change will not occur before the next maturity date of your account. If you do not close your account before the date specified in the notice, we may change your account to that other product on the date specified in the notice.

**TRANSACTIONS BY MAIL** - You may deposit checks or drafts by mail. You should endorse the item being sent through the mail with the words "For Deposit Only" and should include your correct account number underneath to ensure the item is credited to the correct account. You should use the pre-encoded deposit slips found in your checkbook. If you do not use your deposit slip or provide us with instructions indicating how or where the item should be credited, we may apply it to any account or any loan balance you have with us or we may return the item to you. Receipts for such transactions will be mailed to you only if a self-addressed stamped envelope is provided. Following your deposit, examine your statement carefully or call us to ensure that we received the item. Do not send cash through the mail for deposit.

**CHECK STORAGE AND COPIES** - You agree that you will not receive your canceled checks. We will store your canceled checks or copies of them for a reasonable retention period. You may request copies from us in the manner we require.

**INTERNATIONAL ACH TRANSACTIONS** - Financial institutions are required by law to scrutinize or verify any international ACH transaction (IAT) that they receive against the Specially Designated Nationals (SDN) list of the Office of Foreign Assets Control (OFAC). This action may, from time to time, cause us to temporarily suspend processing of an IAT and potentially affect the settlement and/or availability of such payments.

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#### **ARBITRATION AGREEMENT:**

**RESOLUTION OF DISPUTES:** PLEASE READ THIS ARBITRATION AGREEMENT CAREFULLY. IT AFFECTS YOUR RIGHTS AND WILL IMPACT HOW LEGAL CLAIMS YOU AND WE HAVE AGAINST EACH OTHER ARE RESOLVED, IF YOU DO NOT OPT OUT OF THIS ARBITRATION AGREEMENT AS PROVIDED IN SUBSECTION (b) BELOW. IF YOU ARE A "COVERED BORROWER" AS DEFINED BY THE MILITARY LENDING ACT (32 C.F.R. § 232, AS AMENDED FROM TIME TO TIME), THIS SECTION (ARBITRATION AGREEMENT) IS NOT APPLICABLE TO YOU AND YOU DO NOT NEED TO TAKE FURTHER ACTION TO OPT OUT. FOR PURPOSES OF THIS SECTION (ARBITRATION AGREEMENT), THE TERMS "WE," "US," AND "OUR" INCLUDE HAPPEN BANK, NATIONAL ASSOCIATION, HAPPEN BANK CORPORATION, AND/OR THEIR RESPECTIVE SUBSIDIARIES, AFFILIATES, RELATED PERSONS OR ENTITIES, AND ANY PREDECESSORS AND SUCCESSORS IN INTEREST; ANY SUBSEQUENT HOLDER OF ANY ACCOUNT OR LOAN YOU OBTAIN; AND ANY ASSIGNEE OF ANY CORRESPONDING ACCOUNT AGREEMENT OR LOAN AGREEMENT.

YOU AND WE ACKNOWLEDGE THAT WE AND YOU HAVE A RIGHT TO LITIGATE CLAIMS IN COURT BEFORE A JUDGE OR JURY BUT WILL NOT HAVE THAT RIGHT IF EITHER WE OR YOU ELECTS TO HAVE A DISPUTE DECIDED THROUGH ARBITRATION PURSUANT TO THIS ARBITRATION AGREEMENT. YOU AND WE NEVERTHELESS HEREBY KNOWINGLY AND VOLUNTARILY WAIVE OUR RIGHTS TO LITIGATE CLAIMS IN A COURT BEFORE A JUDGE OR JURY UPON ELECTION OF ARBITRATION BY EITHER YOU OR US.

b. You and We Agree to Arbitrate Disputes Between Us. Either you or we may, at either's sole election, require that the sole and exclusive forum for resolution of a Claim be final and binding arbitration pursuant to this Section ("Arbitration Agreement"), unless you opt out as provided in Subsection (b) below. We agree not to invoke our right to arbitrate an individual Claim you may bring in small claims court, so long as the Claim remains in such court, is within that court's jurisdiction, and advances only on an individual (non-class, non-representative) basis and seeks relief only applicable to you. Accordingly, filing or pursuing a Claim in small claims court does not waive any right to seek arbitration for Claims outside the court's jurisdiction or if the Claim is transferred, removed, or appealed to a different court. As used in this Arbitration Agreement, "Claim" shall include any past, present, or future claim, dispute, or controversy involving you (or persons claiming through or connected with you), on the one hand, and us (or persons claiming through or connected with us), on the other hand, relating to or arising out of any of our terms, service provided by us, deposit account, deposit account application, loan application, loan request, or loan, and/or the activities or relationships that involve, lead to, or result from any of the foregoing. Claims are subject to arbitration regardless of whether they arise from contract, tort (intentional or otherwise), a constitution, statute, common law, principles of equity, or any other legal theory. Claims include matters arising as initial claims, counterclaims, crossclaims, third-party claims, or otherwise. Even if all parties have opted to litigate a Claim in court, you or we may choose to arbitrate any Claim made by a new party or any Claim later asserted by a party in that action or any related or unrelated lawsuit. The scope of this Arbitration Agreement is to be given the broadest possible interpretation that is enforceable. Your agreement to the Agreement is made pursuant to a transaction in interstate commerce, and thus the Federal Arbitration Act, 9 U.S.C. § 1, et seq., governs the interpretation and enforcement of this Arbitration Agreement.

b. **Opt Out Procedure.** You may opt out of this Arbitration Agreement for all purposes by sending an arbitration opt-out notice to Happen Bank, N.A., 2701 N Thanksgiving Way, Suite 300, Lehi, UT 84043, Attention: Legal Department, which is received at the specified address within 30 days of the date of your electronic acceptance of the Agreement. The opt-out notice must be personally signed by you and clearly state: (i) that you do not wish to resolve disputes with us through arbitration; (ii) the date of your Agreement and your account number; and (iii) your first and last name, mailing address, email address and social security number. You may send an opt-out notice by U.S. mail, delivery service (e.g., UPS, FedEx, etc.) or courier as long as it is received at the specified address within the specified time. No other methods can be used to opt out of this Arbitration Agreement. If the opt-out notice is sent on your behalf by a third party, such third party must include evidence of his or her authority to submit the opt-out notice on your behalf. If you opt out of this Arbitration Agreement then we will also not be bound by it; however, all other parts of the Agreement will continue to apply.

c. **Pre-Arbitration Notice of Dispute and Informal Dispute Resolution Period.** If a Claim arises, our goal is to learn about and address your concerns and, if we are unable to do so to your satisfaction, to provide you with a neutral and cost-effective means of resolving the dispute quickly. Therefore, before filing any Claim in arbitration, you agree to notify us by sending an email to [customeradvocacy@happen.com](mailto:customeradvocacy@happen.com) that provides your first and last name, current email address, mailing address, and telephone number, as well as the name, email address, and telephone number associated with your account (if different from your current information) and account number; and describe the nature of the Claim and the specific relief being sought. To protect your account information, any authorization of a third-party, including any counsel you may have, to access your account information must comply with our customer authentication policies in effect at such time, which may require, among other things, that you provide identifying information to confirm your identity against account information maintained in our systems. Further, before you file a Claim in arbitration, you and we agree to meet and confer, via teleconference or videoconference, in a good faith effort to informally resolve any Claim covered by this Arbitration Agreement. If either party is represented by counsel, that counsel may participate in the informal dispute resolution conference. During this process, you may be provided with, or you can provide, an offer of judgment. All offers, promises, conduct, and statements made in the course of the informal dispute resolution process by any party, its agents, employees, and attorneys are confidential and not admissible for any purpose in any subsequent proceeding, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or nondiscoverable as a result of its use in the informal dispute resolution process. The informal dispute resolution conference shall occur within 60 days of receipt of the written notice described above, unless an extension is mutually agreed upon. If, after participating in that conference, the parties are unable to resolve the Claim, you may commence an arbitration in accordance with this Arbitration Agreement. Completion of this informal dispute resolution is a condition precedent to filing any demand for arbitration. Failure to do so is a breach of this Arbitration Agreement, and no demand for arbitration shall be valid unless such written notice is provided and good faith discussions have been conducted. Any statute of limitations will be tolled while the parties engage in the informal dispute resolution process described in this Subsection (c).

d. **Arbitration Procedures.** Arbitration is more informal than a lawsuit in court. Arbitration uses a neutral arbitrator or arbitrators instead of a judge or jury, and court review of an arbitration award is very limited. The arbitrator(s) can award the same damages or other types of relief on an individual basis that a court could under applicable law, subject to the limitations set forth in this Arbitration Agreement. All issues are for the arbitrator(s) to decide, except issues relating to arbitrability, the scope or enforceability of this Arbitration Agreement, or the interpretation or enforceability of Subsection (g) below (Class Action Waiver and Jury Trial Waiver) shall be for a court of competent jurisdiction to decide. The party initiating arbitration shall do so with the American Arbitration Association (the "AAA"). The arbitration shall be conducted according to, and the location of the arbitration shall be determined in accordance with, the rules and policies of the AAA, except to the extent such rules or policies conflict with this Arbitration Agreement or any countervailing applicable law. If you have any questions concerning the AAA or would like to obtain a copy of the AAA arbitration rules, you may call 1(800) 778-7879 or visit the AAA's web site at: [www.adr.org](http://www.adr.org). In the case of a conflict between the rules and policies of the AAA and this Arbitration Agreement, this Arbitration Agreement shall control, subject to countervailing applicable law, unless all parties to the arbitration consent to have the rules and policies of the AAA apply. Except to the extent superseded by Federal law, the arbitrator(s) will apply the substantive law of the State of Utah, without regard to principles of conflicts of law, to any dispute or Claim in arbitration, including recognized principles of equity, and will honor all claims of privilege recognized by law. The arbitrator shall take steps to reasonably protect confidential information. The award of the arbitrator(s) shall be final and binding, and judgment on the award may be entered in any court of competent jurisdiction.

e. **Costs of Arbitration.** Payment of all filing, administration, and arbitrator fees will be governed by the AAA's rules. Each party shall bear the expense of its own attorneys, experts, witnesses, and other expenses, regardless of which party prevails. However, if the arbitrator finds at any time that a Claim was filed frivolously, for purposes of harassment, or otherwise in bad faith, then the filing party will reimburse the other party for all costs and fees, including attorneys' fees, associated with such Claim.

f. **Procedures for Mass Arbitration.** To increase the efficiency of administration and resolution of arbitrations, you and we agree that if 25 or more similar consumer Claims (including yours) or 100 or more non-consumer Claims (including yours) are asserted against us by or through the same or coordinated counsel or are otherwise coordinated, then the resolution of your dispute will be subject to these Procedures for Mass Arbitration. These Procedures for Mass Arbitration will apply whether or not such Claims are filed simultaneously. You also agree to the following process and application of the AAA's rules for Mass Arbitration, including the AAA Consumer Mass Arbitration and Mediation Fee Schedule or the AAA Non-Consumer and NonEmployment/Workplace Mass Arbitration Fee Schedule (as applicable to the Claims), and the AAA Mass Arbitration Supplementary Rules:

- i. **Stage 1:** Counsel for the claimants and counsel for us shall each select 10 cases (per side) to proceed first in individual arbitration proceedings. The parties may, but are not required to, agree in writing to modify the number of cases to be included. The remaining cases shall not be filed or deemed filed in arbitration nor shall any AAA fees be assessed in connection with those cases until they are selected to proceed to individual arbitration proceedings pursuant to this Subsection (f). A single arbitrator shall preside over each case. Only one case may be assigned to each arbitrator during the process unless the parties agree otherwise, and the arbitrator is encouraged to resolve the case(s) within 120 days of appointment. After decisions have been rendered in the first 20 cases, we and all claimants shall engage in a global mediation in an attempt to resolve the remaining cases with the benefit of the decisions in the first 20 cases.
- ii. **Stage 2:** If the parties are unable to resolve the remaining cases after the mediation in Stage 1, each side shall select another 10 cases (per side) to proceed to individual arbitration proceedings. The parties may, but are not required to, agree in writing to modify the number of cases to be included. A single arbitrator shall preside over each case. Only one case may be assigned to each arbitrator during the process unless the parties agree otherwise, and the arbitrator is encouraged to resolve the case(s) within 120 days of appointment. After decisions have been rendered in the second group of 20 cases, we and all claimants shall engage in another global mediation in an attempt to resolve the remaining cases with the benefit of the decisions in the first 40 cases.

If a global settlement cannot be reached in the global mediation in Stage 2, the parties and the mediator may discuss and agree upon an alternative process for resolving the remaining cases that incorporates the decisions in the first 40 cases decided upon in Stages 1 and 2; however, the parties are not required to agree to any modifications to the process set forth herein.

Following the global mediation in Stage 2, you or we may separately or by agreement, opt out of arbitration and elect to have your Claim heard in court consistent with this Arbitration Agreement. You may opt out of arbitration by providing an opt-out notice in accordance with Subsection (b), except this notice shall be provided within 30 days after the conclusion of the global mediation in Stage 2. We may opt your Claim out of arbitration by sending an individual notice of our intention to opt out to your counsel, signed by a corporate representative and sent by U.S. mail, delivery service (e.g., UPS, FedEx, etc.) or courier within 14 days of the expiration of your 30-day period to opt out.

You agree to cooperate in good faith with us and the arbitration provider to implement the above "staged approach" or other similar approach to provide for an efficient resolution of Claims, including the payment of single filing and administrative fees for batches of Claims. For the sake of clarity, the "staged approach" or other similar approach shall in no way be interpreted as authorizing class arbitration of any kind. The remaining cases shall not be filed or deemed filed in arbitration nor shall any AAA fees be assessed in connection with those cases until they are selected for inclusion in a batch pursuant to this Subsection (f).

We do not agree or consent to class arbitration, private attorney general arbitration, or arbitration involving joint or consolidated Claims under any circumstances, except as set forth in this Subsection (f).

The statute of limitations and any filing fee deadlines shall be tolled for Claims subject to this Subsection (f) from the time these Procedures for Mass Arbitration are triggered until the time your Claim is selected to proceed, withdrawn, opted-out of these Procedures for Mass Arbitration or otherwise resolved.

**g. Class Action Waiver and Jury Trial Waiver.** YOU AND WE AGREE THAT EACH PARTY MAY BRING CLAIMS AGAINST THE OTHER PARTY ONLY IN AN INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING, INCLUDING, WITHOUT LIMITATION, A FEDERAL OR STATE CLASS ACTION LAWSUIT OR A CLASS ARBITRATION. Accordingly, there shall be no right or authority for any claims to be arbitrated on a class action basis or on bases involving Claims brought in a purported representative capacity on behalf of the general public, as a private attorney general or other similarly situated persons. YOU AND WE acknowledge and agree that under no circumstances will a class action be arbitrated. Notwithstanding the foregoing, an arbitrator may consolidate more than one person's claims if we provide consent to such consolidation in writing. This Class Action Waiver is material and essential to the arbitration of any disputes between the parties and is non-severable from this agreement to arbitrate Claims. To the fullest extent allowable by applicable law, you and we waive the right to a jury trial.

**h. Survival and Severability.** This Arbitration Agreement shall survive (i) the suspension, termination, revocation, closure of, or amendments to, the Agreement and/or this and any other relationship between you and us; (ii) the bankruptcy or insolvency of you or us or any other person; and (iii) any transfer or assignment of any account, loan or Loan Agreement(s) or any other promissory note(s) which you owe, or any amounts owed on such loans or notes, to any other person or entity. If any portion of this Arbitration Agreement other than Subsection (g) is deemed invalid or unenforceable, the remaining portions of this Arbitration Agreement shall nevertheless remain valid and in force. If a court decides that any of the provisions of Subsection (g) is deemed invalid, limited or unenforceable, and all rights to appeal have been exhausted such that the court's decision is final, then this Arbitration Agreement shall be null and void and you and we agree that in such instance any Claims shall be adjudicated in the State or Federal Courts in the State of Utah. The forgoing sentence notwithstanding, if a court decides that any of the provisions of Subsection (g) is found to prohibit an individual claim seeking public injunctive relief, then: (i) such prohibition against public injunctive relief shall be deemed unenforceable; and (ii) the remainder of Subsection (g) and this Arbitration Agreement shall remain valid and in force in all other respects. For the sake of clarity, in no event shall any court decision finding a provision of Subsection (g) invalid or unenforceable be deemed to authorize an arbitrator to determine Claims or make awards beyond those authorized in this Arbitration Agreement.

If you make the deposit in person to one of our employees, funds from the following deposits are also available on the first business day after the day of your deposit:

Cash.  
State and local government checks that are payable to you. \*Note: For state and local government checks to receive next-day availability, the depository bank must be located in the same state as the governmental unit issuing the check. Cashier's, certified, and teller's checks that are payable to you.  
Federal Reserve Bank checks, Federal Home Loan Bank checks, and postal money orders, if these items are payable to you.

If you do not make your deposit in person to one of our employees (for example, if you mail the deposit), funds from these deposits will be available on the second business day after the day we receive your deposit.

#### **Other Check Deposits Subject to Second-Day Availability**

The first \$275 from a deposit of other checks will be available on the first business day after the day of your deposit. The remaining funds will be available on the second business day after the day of your deposit.

For example, if you deposit a check of \$700 on a Monday, \$275 of the deposit is available on Tuesday. The remaining \$425 is available on Wednesday.

#### **LONGER DELAYS MAY APPLY**

If we are not going to make all of the funds from your deposit available according to the preceding schedule, we will notify you at the time you make your deposit. We will also tell you when the funds will be available. If your deposit is not made directly to one of our employees, or if we decide to take this action after you have left the premises, we will mail you the notice by the day after we receive your deposit.

If you will need the funds from a deposit right away, you should ask us when the funds will be available.

**Safeguard exceptions.** In addition, funds you deposit by check may be delayed for a longer period under the following circumstances:

We believe a check you deposit will not be paid.

You deposit checks totaling more than \$6,725 on any one day.

You redeposit a check that has been returned unpaid.

You have overdrawn your account repeatedly in the last six months.

There is an emergency, such as failure of computer or communications equipment.

We will notify you if we delay your ability to withdraw funds for any of these reasons, and we will tell you when the funds will be available. They will generally be available no later than the fifth business day after the day of your deposit.

#### **SPECIAL RULES FOR NEW ACCOUNTS**

If you are a new customer, the following special rules will apply during the first 30 days your account is open.

Funds from electronic direct deposits to your account will be available on the day we receive the deposit. Funds from deposits of cash, wire transfers, and the first \$6,725 of a day's total deposits of cashier's, certified, teller's, traveler's, and federal, state and local government checks will be available on the first business day after the day of your deposit if the deposit meets certain conditions. For example, the checks must be payable to you (and you may have to use a special deposit slip). The excess over \$6,725 will be available on the fifth business day after the day of your deposit. If your deposit of these checks (other than a U.S. Treasury check) is not made in person to one of our employees, the first \$6,725 will not be available until the second business day after the day of your deposit.

Funds from all other check deposits will be available on the fifth business day after the day of your deposit.

#### **DEPOSITS AT AUTOMATED TELLER MACHINES**

Funds from any deposits (cash or checks) made at automated teller machines (ATMs) we do not own or operate will not be available until the second business day after the day of your deposit.

#### **FUNDS AVAILABILITY FOR MOBILE DEPOSIT**

The cut-off time applicable to Mobile Deposit Service ("Mobile Deposit") is Monday through Friday at 4:00 P.M. Eastern Standard Time (EST). Mobile Deposits confirmed as received before 4:00 P.M. EST on Monday through Friday will be considered deposited on that day. Mobile Deposits confirmed as received after 4:00 P.M. EST and deposits confirmed received on a Saturday, Sunday or holiday at any time will be considered deposited on the next Business Day as defined in the Account Agreement. Funds from Mobile Deposits will generally be available to you in accordance with our Mobile Deposit Funds Availability Policy provided in the Personal Online and Mobile Agreement. All Mobile Deposits are subject to verification and may be adjusted upon review.

## **YOUR ABILITY TO WITHDRAW FUNDS**

This policy statement applies to "transaction" accounts and savings accounts. Transaction accounts, in general, are accounts which permit an unlimited number of payments to third persons and an unlimited number of telephone and preauthorized transfers to other accounts of yours with us. Checking accounts are the most common transaction accounts. Feel free to ask us whether any of your other accounts might also be under this policy.

Our policy is to make funds from your check deposits available to you on the second business day after the day we receive your deposit, with the first \$275 available on the first business day after the day of your deposit. Electronic direct deposits will be available on the day we receive the deposit. Cash, wire transfers, and some specified check deposits will also be available before the second business day, as detailed below. Once the funds are available, you can withdraw them in cash and we will use the funds to pay checks that you have written.

Please remember that even after we have made funds available to you, and you have withdrawn the funds, you are still responsible for checks you deposit that are returned to us unpaid and for any other problems involving your deposit.

For determining the availability of your deposits, every day is a business day, except Saturdays, Sundays, and federal holidays. If you make a deposit before closing on a business day that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit after closing or on a day we are not open, we will consider that the deposit was made on the next business day we are open.

If you make a deposit at an ATM before 3:30 P.M. EST on a business day that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit at an ATM after 3:30 P.M. EST or on a day we are not open, we will consider that the deposit was made on the next business day we are open.

#### **Same-Day Availability**

Funds from electronic direct deposits to your account will be available on the day we receive the deposit.

#### **Next-Day Availability**

Funds from the following deposits are available on the first business day after the day of your deposit:

U.S. Treasury checks that are payable to you.  
Wire transfers.  
Checks drawn on Happen Bank.