

## CARDHOLDER AGREEMENT / TERMS AND CONDITIONS

Thank you for banking with Happen Bank, National Association (“Happen Bank”). We look forward to serving you.

### AGREEMENT

This document (this “Agreement”), along with any other documents we give you pertaining to your debit card or ATM card issued by Happen Bank (the “Card”), is a contract that establishes the rules, terms, and conditions which control your Card(s) with us. By using or authorizing persons to use your Card, you acknowledge your understanding and agree to these rules, terms, and conditions. Please read this Agreement carefully and retain it for future reference.

This Agreement supplements but does not replace the Business Deposit Account Agreement (the “Account Agreement”), which can be found at <https://www.happen.com/bank/legal/business-deposit-agreement>.

This Agreement is revised periodically, so it may include changes from earlier versions. You can always find the most recent version of this Agreement at <https://www.happen.com/legal/deposits/business-debit-card-agreement>

See your Account Agreement for the USA PATRIOT ACT notice related to our request for and verification of personal information in accordance with federal laws and regulations. In the event of an inconsistency between this Agreement and the Account Agreement, this Agreement shall govern and control your use of the Card. All capitalized terms used but not defined in this Agreement shall have the meaning set forth in the Account Agreement.

As used in this Agreement the words “we,” “our,” and “us” mean Happen Bank and the words “you” and “your” mean the business entity, cardholder(s), and anyone else authorized to use the Card(s). 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 Card or the corresponding 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 document 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 document should be construed so the singular includes the plural and the plural includes the singular.

### OUR CONTACT INFORMATION

If you have any questions, you may contact us by calling or submitting written correspondence to the following:

Phone: 1-800-242-0272

Mail: Happen Bank, National Association

One Harbor St., Suite 201

PO Box 55063

Boston, MA 02205-5063

When calling or writing, you may be asked to provide your name, account number, and other identifying information.

### ABOUT YOUR CARD.

Generally – “Card” means the Mastercard® Debit Card or Mastercard® ATM Card issued by Happen Bank through which you can obtain funds from the available funds (the “Available Funds”) in your Happen Bank account (the “Account”) pursuant to the Account Agreement. The Card issued to you will be in the form of a physical card, which will be delivered to you. The Card is not a credit card. The Card remains the property of Happen Bank and must be surrendered to us upon demand.

The Card is non-transferable and it may be canceled, repossessed, or revoked at any time without prior notice subject to applicable law. The Card will have an expiration date identified on the back of the Card and the Card will expire, in accordance with applicable law, on the expiration date. If your Card and Account are in good standing, we may issue you a new Card upon expiration. We may also issue you a new Card when your Card expires even if you have no Available Funds in your Account. You must surrender a revoked Card, and you may not use an expired or revoked Card.

We may refuse to process any transaction that we believe may violate the terms of this Agreement or your Account Agreement. You must activate your Card before it can be used. To activate your Card, call our activation line at 1-800-418-3964 or customer service or follow the steps and instructions for activation in the documents mailed with your Card.

Address or Name Changes – You are responsible for notifying us of any change in your physical or mailing address, name, email address, and phone number pursuant to the Account Agreement. Unless we agree otherwise, change of address or name must be made in writing by at least one of the account holders. We will attempt to communicate with you only by use of the most recent address you have provided to us.

**Obtaining Your Card** – To request your Card, follow the directions provided by Happen Bank when you open your Account or contact us. You should receive your Card seven to ten days or more after we receive your request. You will need to provide personal information in order to verify your identity when you request and receive the Card. You must activate your Card and set a PIN before you may use it.

**Setting a PIN & PIN Security** – You will need to set a PIN for your Card. Your PIN must be four digits. Do not disclose or otherwise make your Card or PIN available to unauthorized persons. Do not write the PIN on a Card or keep it in the same location as the Card.

**Card Capabilities and Prohibited Uses** – You may use the Card to ① make cash withdrawals from savings and checking accounts at automated teller machines (“ATMs”), or certain electronic terminals, ② make deposits to checking and savings accounts, ③ transfer funds between checking and savings accounts, ④ get information about the account balances of your checking and savings accounts, and ⑤ obtain retail cash back and/or make point-of-sale (“POS”) purchases anywhere the Card is accepted. You may be required to sign a receipt as evidence of the transactions.

You represent and warrant that the Card will only be used by you for a commercial or other bonafide business purpose. You further represent and warrant that none of the Account(s) or Card(s), and transaction(s) related to the Card have been established or will be used for personal, family, or household purposes. You are responsible for both: (a) instructing all administrators and cardholders that the Card is only used to pay for bona fide business expenses; and (b) ensuring that the Card is only used to pay for bona fide business expenses and permitted types of transactions as may be limited by us. Any Account associated with this Card must be a business Account.

You agree not to use your Card(s) for illegal online gambling or other illegal purpose. Display of a payment card logo by, for example, an online merchant does not necessarily mean that transactions are lawful in all jurisdictions in which the cardholder may be located. We reserve the right to refuse a transaction that we believe involves illegal online gambling or other illegal activities.

**Transaction Limits** – You may use your Card to access your Account to purchase goods (in person or by phone), pay for services (in person or by phone), get cash from a merchant, if the merchant permits, or from a participating financial institution, and do anything that a participating merchant will accept. We may refuse any Card transaction which is greater in number than the frequency permitted, or which is for an amount greater or less than any withdrawal limitations. See your Product Terms & Conditions for additional information related to withdrawal rules and the funds availability policy.

In addition to the above, for security purposes we reserve the right to, in our sole discretion, impose additional limits to your use of your Card at ATMs or POS devices. Any funds withdrawn from a POS device or through a participating bank will be subject to the maximum amount that can be spent on your Card per day. If you seek to withdraw cash from a merchant POS device, please note that each merchant may establish limits as to how much cash may be obtained from a POS device at a single time or through a single location. This means that you may need to visit more than one merchant if you are seeking to withdraw cash in an amount which is less than or equal to the total limit above, but more than the limit established by the individual merchant.

**PIN and Non-PIN Transactions:** Merchants may limit the available options for the type of transaction you wish to conduct or may let you choose between a PIN (“Debit”) transaction or a signature (“Credit”) transaction at the point-of-sale. To initiate a signature transaction at the point-of-sale, select “Credit” and sign the receipt (if required by the merchant). To initiate a PIN transaction at the point-of-sale, select “Debit” and enter your PIN at the point-of-sale terminal. For mail order, telephone, Internet or other card- not-present purchases, merchants may choose to route a transaction as a PIN transaction without asking you to enter your PIN.

**Cross-Border Transactions** – If you effect a transaction with your debit card in a currency other than US Dollars, MasterCard, will convert the charge into a US Dollar amount. The MasterCard currency conversion procedure includes use of either a government-mandated exchange rate, or a wholesale exchange rate selected by MasterCard. The exchange rate MasterCard uses will be a rate in effect on the day the transaction is processed. This rate may differ from the rate in effect on the date of purchase or the date the transaction was posted to your account. See your Product Terms & Conditions for additional information:  
<https://www.happen.com/legal/deposits/business-product-terms-and-conditions>.

**Fees** – We will not charge you any fees for the initial issuance or use of the Card. However, certain third-party fees may apply as further described herein and in the Account Agreement. We will not charge you a fee to use your Card at any ATM in the MasterCard, MoneyPass and SUM networks, however, operators of other ATMs and cash dispensing devices, their networks, and merchants may charge you a fee. Note that you may also be charged a fee for a balance inquiry at an ATM that is not in the MasterCard, MoneyPass and SUM networks, even if you do not complete a fund transfer. We are not responsible for any such fee and they will be deducted from the balance of the Card, along with the withdrawal or transaction amount. See your Account Agreement for additional details related to any ATM fee rebates that may be available to you.

## USING YOUR CARD

**Generally** – You may use your Card to make purchases at any merchant that accepts Mastercard debit cards or other networks in which we participate, including MoneyPass and SUM, (each a “Network”), subject to the Available Funds in your Account, the transaction limits described above, and the other terms and conditions of this Agreement. You acknowledge and agree that the value available to you for use with the Card is limited to the Available Funds in your Account. So long as you do not exceed the Available Funds in your Account, you may use the Card to purchase goods or services wherever the Card is honored, and to obtain cash by initiating cash withdrawal transactions through the Card from any financial institution or ATM that accepts the Card. Each time you use the Card, you authorize us to reduce the Available Funds in your Account by the amount of the purchase or withdrawal and any applicable fees, costs, or holdings. Please see your Account Agreement for information about when funds are available for withdrawal. If you exceed the Available Funds in your Account you shall remain fully liable to us for the amount of the transactions and any applicable fees and charges.



# Business Debit Card Agreement

**Overdraft and Insufficient Funds** – We do not charge a fee for overdrawn accounts or insufficient funds. See your Account Agreement and Product Terms & Conditions for additional information.

**Suspicious Activity** – We may temporarily lock or suspend – “freeze” – your Card and try to contact you if we notice transactions that are unusual or appear suspicious or for any other reason. You are required to notify us immediately by contacting us if you believe the Card is lost or stolen.

**Mobile Wallet Terms of Use** – This section provides information on when you add, attempt to add, or keep your Card in a digital wallet or any other electronic payment system into which your Card may be enrolled by you (“Wallet”) on any mobile phone, tablet, watch or other device (“Device”) that supports the Wallet.

**Terms of Use with Wallet Provider** – You understand that your use of the Wallet will also be subject to agreements or Terms of Service with each Wallet provider (“Wallet Provider”) or other third parties such as wireless companies or data service providers.

**Using a Payment Card in the Wallet** – If you want to add a Card to the Wallet, you must follow the procedures adopted by each Wallet Provider and any further procedures we adopt. You understand that not all Cards are eligible to be added to the Wallet. We may not add a Card to the Wallet if we cannot authenticate the Card or if we otherwise suspect that there may be fraud associated with the Card. The Wallet allows you to make purchases using an added Card wherever the Wallet is accepted. The Wallet may not be accepted at all places where your Card is accepted.

**Applicable Fees** – We do not charge you any fees for adding a Card to the Wallet. Wallet Providers or other third parties, such as wireless companies or data service providers, may charge you service fees in connection with your use of your Mobile Device or the Wallet.

**We are NOT Responsible for the Use or Function of the Wallet** – Each Wallet Provider is solely responsible for its use and function. We are only responsible for the Card. You should contact the Wallet Provider’s customer service if you have questions concerning how to use the Wallet or for problems with the Wallet. We are not responsible for any failure of the Wallet or your inability to use a Wallet for any transaction. We are also not responsible for any loss, injury or inconvenience you suffer as a result of a merchant refusing to accept the Wallet.

**Security of the Wallet** – In addition to your efforts to keep your credentials secure, we take reasonable steps to help ensure that information we send to others from your use of a Card in the Wallet is sent in a secure manner. However, the Wallet Provider is responsible for the security of information provided to it or stored in the Wallet. We are not responsible if there is a security breach affecting any information stored in the Wallet or sent from a Wallet.

**We Can Block, Suspend, or Cancel Your Use of a Card** – We can block you from adding an otherwise eligible Card to the Wallet, suspend your ability to use a Card to make purchases using the Wallet, or cancel entirely your ability to continue to use a Card in the Wallet. We may take these actions at any time and for any reason, such as if we suspect fraud with your Card, if you have an overdue or negative balance on your Card account, or if applicable laws change. You may remove a Card from the Wallet by following the Wallet Provider’s procedures for removal.

## SECURITY

It is your responsibility to protect the Card and your Card information. Do not discuss, compare, or share information about your Card with anyone unless you are willing to give them full access to your Account and use of your funds. If you furnish your Card and grant actual authority to make transfers to another person (a family member or coworker, for example) who then exceeds that authority, you are liable for the transfers unless we have been notified that transfers by that person are no longer authorized.

## AUTHORIZED USERS

You are responsible for all transactions authorized by you and fees incurred by use of your Card. If you permit another person to have access to your Card or Card number, we will treat this as if you have authorized such person to use the Card for all purposes, and you will be liable for all transactions and fees incurred by such person, even if they exceed the authorization granted. You are wholly responsible for the use of your Card according to the terms and conditions of this Agreement.

## FUND TRANSFERS

Please refer to your Account Agreement for your rights and responsibilities related to funds transfers made using your Card.

## PERIODIC STATEMENTS; TRANSACTION HISTORY

You will get periodic account statement in accordance with your Account Agreement. See your Account Agreement for details about obtaining, reviewing, and reporting any errors in connection with your transaction history and periodic statements.

## REFUNDS

You will not receive cash refunds for Card transactions. If a merchant gives you a credit for merchandise returns or adjustments, the merchant may do so by processing a credit adjustment through the applicable Network. After such credit adjustment is processed by such Network and us, the amount of the credit adjustment will be available to be returned to your Account. We are not responsible for the delivery, quality, safety, legality, or any other aspects of goods or services that you purchase with your Card. All such disputes must be addressed and handled directly

with the merchant from whom those goods **or services were purchased**.

## **STOP PAYMENTS**

Please see the Account Agreement for additional information concerning our stop payment policy.

## **LOST OR STOLEN CARDS**

Tell us at once if you believe your Card and/or PIN has been lost or stolen. Upon notification to us that your Card may have been lost or stolen, we will cancel your Card. Upon your request, we will issue you a replacement Card.

## **LIABILITY AND UNAUTHORIZED CARD TRANSACTIONS**

Please see the Account Agreement for information concerning your liability with respect to authorized and unauthorized Card transactions and Account transfers.

In addition to your limitation of liability under the Account Agreement, your liability for the unauthorized use of your Card may also be limited by Mastercard for transactions processed through the Mastercard network. Subject to the limitations and exclusions stated herein, in the Account Agreement, and under the Mastercard rules, you will have no liability for a transaction that was not authorized by you if you exercised reasonable care in safeguarding the Card from risk of loss or theft, and, upon becoming aware of such loss or theft, promptly reported such loss or theft to us. The Mastercard Zero Liability Policy is subject to change without notice and changes made by Mastercard will automatically apply to your Card.

## **CONFIDENTIALITY**

We will disclose information to third parties about you, your Card or the transactions you make:

1. Where it is necessary or helpful for completing or correction transactions and resolving claims regarding transactions;
2. In order to verify the existence and condition of your Card for a third party, such as a merchant;
3. In order to comply with a valid request by a government agency, a court order, or other legal or administrative reporting requirements;
4. If you consent by giving us your written permission;
5. To our employees, auditors, affiliates, service providers, or attorneys as needed;
6. In order to prevent, investigate, or report possible illegal activity;
7. In order to issue authorizations for transactions on the Card;
8. To other persons and entities in order to resolve disputes arising from transactions;
9. As permitted by applicable law;
10. Otherwise as necessary to fulfill our obligations under this Agreement and the Account Agreement.

## **AMENDMENTS AND TERMINATION**

We may add to, delete, amend, or change any term of this Agreement at any time in sole discretion. We will give you reasonable notice of such change in writing or by any other method permitted by law.

To the extent permitted by applicable law, we may also cancel or suspend your Card, close your Account, or cancel or suspend this Agreement immediately, for any reason and without notice to you. Items presented for payment after the Card is suspended or cancelled may be dishonored.

You may cancel your Card or this Agreement at any time by notifying us. Cancellation or suspension of this Agreement will not affect any of our rights or your obligations arising under this Agreement prior to such cancellation or suspension.

## **SEVERABILITY AND WAIVER**

If any provision of this Agreement is held to be invalid or unenforceable, such provision will be deemed to be modified to the minimum extent necessary to make it valid and enforceable and the rest of this Agreement will not be affected. We do not waive our rights by delaying or failing to exercise them at any time.

## **ENTIRE AGREEMENT**

This Agreement, together with your Account Agreement, constitutes the entire and sole agreement between you and us with respect to the Card and supersedes all prior understandings, arrangements, or agreements, whether written or oral, regarding the Card.



# Business Debit Card Agreement

## 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 it in time to have a reasonable opportunity to act on it. Written notice we give you is effective when it is deposited in the United States Mail with proper postage and addressed to your mailing address we have on file. Notice to any of you is notice to all of you.

## ASSIGNMENT

To the extent permitted by applicable law, we may assign this Agreement without obtaining your consent. You may not assign or transfer your Card or this Agreement without our prior written consent.

## GOVERNING LAW

This Agreement is subject to applicable federal laws, the laws of the state of Utah and other applicable federal and card network rules and regulations.

## 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. Or, in our discretion, we may freeze the assets in the account and not allow any payments out of the account until 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. 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. The list of fees applicable to your Account(s) provided elsewhere may specify additional fees that we may charge for certain legal actions.

## RESOLUTION OF DISPUTES

PLEASE READ THIS PROVISION 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 SECTION 14(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 14 (ARBITRATION AGREEMENT) IS NOT APPLICABLE TO YOU AND YOU DO NOT NEED TO TAKE FURTHER ACTION TO OPT OUT. FOR PURPOSES OF THIS SECTION 14 (ARBITRATION AGREEMENT), THE TERMS "WE," "US," AND "OUR" INCLUDE HAPPEN BANK BANK, NATIONAL ASSOCIATION, HAPPEN, INC, AND/OR THEIR RESPECTIVE AFFILIATES, RELATED PERSONS OR ENTITIES, AND ANY PREDECESSORS AND SUCCESSORS IN INTEREST; ANY SUBSEQUENT HOLDER OF ANY LOAN YOU OBTAIN; AND ANY ASSIGNEE OF ANY CORRESPONDING LOAN AGREEMENT AND PROMISSORY NOTE.

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 ELECT 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.

a. 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 14 ("Arbitration Agreement"), unless you opt out as provided in Section 14(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 and advances only on an individual (non-class, non-representative) basis and seeks relief only applicable to you.

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 the Terms, any Service (including but not limited to the Site and the LC Platform), any 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, counter-claims, cross-claims, thirdparty claims, or otherwise.

The scope of this Arbitration Agreement is to be given the broadest possible interpretation that is enforceable. Your agreement to the Terms 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., 88 Kearny Street, Suite 600, San Francisco, CA 94108, which is received at the specified address within 30 days of the date of your electronic acceptance of the Terms. The opt-out notice must clearly state that you are rejecting arbitration; identify the Terms to which it applies by date; provide your name, address, and social security number; and be signed by you. You may send an opt-out notice by mail, delivery service (e.g., UPS, FedEx), 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, all other parts of the Terms will continue to apply.

c. Pre-Arbitration Notice of Dispute. 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. Before filing any claim in arbitration, you may notify us of a Claim or dispute you may have by sending an email to [customeradvocacy@happen.com](mailto:customeradvocacy@happen.com) at any time, or by calling (888) 596-3157 from Mon-Fri 6:00 AM to 5:00 PM PT and Sat 8:00 AM to 5:00 PM PT. 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 Section 14(f) below (Prohibition of Class and Representative Actions and Non-Individualized Relief) shall be for a court of competent jurisdiction to decide.

The party initiating arbitration shall do so with the American Arbitration Association (the "AAA") or JAMS. 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 administrator selected, 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). If you have any questions concerning JAMS or would like to obtain a copy of the JAMS arbitration rules, you may call 1(800) 352-5267 or visit JAMS's web site at: [www.jamsadr.com](http://www.jamsadr.com). In the case of a conflict between the rules and policies of the administrator 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 administrator apply.

If the value of the relief sought is \$10,000 or less, you or we may elect to have the arbitration conducted by telephone or based solely on written submissions, which election shall be binding on you and us subject to the discretion of the arbitrator(s) to require an in-person hearing, if the circumstances warrant. Attendance at an in-person hearing may be made by telephone by you and/or us, unless the arbitrator(s) requires otherwise.

Except to the extent preempted, superseded, or supplemented 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. If we elect arbitration, we shall pay all the administrator's filing costs and administrative fees (other than hearing fees). If you elect arbitration, filing costs and administrative fees (other than hearing fees) shall be paid in accordance with the rules of the administrator selected, or in accordance with countervailing applicable law, if contrary to the administrator's rules. We shall pay the administrator's hearing fees for up to one full day of arbitration hearings. Fees for hearings that exceed one day will be paid by the party requesting the hearing, unless the administrator's rules or applicable law require otherwise, you request that we pay them and we agree to do so, or you are able to demonstrate to the arbitrator(s) that the costs of accessing arbitration will be prohibitive as compared to the costs of accessing a court for purposes of pursuing litigation on an individual basis. Each party shall bear the expense of its own attorneys' fees, except as otherwise provided by countervailing applicable law.

f. Prohibition of Class and Representative Actions and Non-Individualized Relief. NO ARBITRATION SHALL PROCEED ON A CLASS, REPRESENTATIVE, OR COLLECTIVE BASIS (INCLUDING AS A PRIVATE ATTORNEY GENERAL ACTION ON BEHALF OF OTHERS), EVEN IF THE CLAIM OR CLAIMS THAT ARE THE SUBJECT OF THE ARBITRATION HAD PREVIOUSLY BEEN ASSERTED OR COULD HAVE BEEN ASSERTED IN COURT ON A PURPORTED CLASS, REPRESENTATIVE, OR COLLECTIVE BASIS. YOU AND WE ALSO AGREE NOT TO PARTICIPATE AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE ACTION AGAINST US OR YOU. UNLESS CONSENTED TO IN WRITING BY ALL PARTIES TO THE ARBITRATION: (i) NO PARTY TO THE ARBITRATION MAY JOIN, CONSOLIDATE, OR OTHERWISE BRING CLAIMS FOR OR ON BEHALF OF TWO OR MORE INDIVIDUALS OR ENTITIES IN THE SAME ARBITRATION UNLESS THOSE PERSONS OR ENTITIES ARE PARTIES TO A SINGLE TRANSACTION, AND (ii) AN AWARD IN ARBITRATION SHALL DETERMINE THE RIGHTS AND OBLIGATIONS OF THE NAMED PARTIES ONLY, AND ONLY WITH RESPECT TO THE CLAIMS IN ARBITRATION, AND SHALL NOT (A) DETERMINE THE RIGHTS, OBLIGATIONS, OR INTERESTS OF ANYONE OTHER THAN A NAMED PARTY, OR RESOLVE ANY CLAIM OF ANYONE OTHER THAN A NAMED PARTY; NOR (B) MAKE AN AWARD FOR THE BENEFIT OF, OR AGAINST, ANYONE OTHER THAN A NAMED PARTY. NO ADMINISTRATOR OR ARBITRATOR SHALL HAVE THE POWER OR AUTHORITY TO WAIVE, MODIFY, OR FAIL TO ENFORCE THIS SECTION 14(F), AND ANY ATTEMPT TO DO SO, WHETHER BY RULE, POLICY, ARBITRATION DECISION OR OTHERWISE, SHALL BE INVALID AND UNENFORCEABLE. ANY CHALLENGE TO THE VALIDITY OF THIS SECTION 14(F) SHALL BE DETERMINED EXCLUSIVELY BY A COURT OF COMPETENT JURISDICTION AND NOT BY THE ADMINISTRATOR OR ANY ARBITRATOR.

g. Survival and Severability. This Arbitration Agreement shall survive (i) the suspension, termination, revocation, closure of, or amendments to, the Terms and/or the 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 loan or Loan Agreement and Promissory Note(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 Section 14(f) 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 Section 14(f) above is invalid or unenforceable because it would prevent the exercise of a nonwaivable right to pursue public injunctive relief and that decision is not overturned after any rights to appeal are exhausted, then any dispute regarding the entitlement to such relief (and only that form of relief) must be severed from arbitration and may be litigated in court. Also, if

a court decides that any of the provisions of Section 14(f) above is invalid or unenforceable for any other reason and that decision is not overturned after any rights to appeal are exhausted, then any dispute or Claim that may not be arbitrated in accordance with the provisions of Section 14(f) that are held to be invalid or unenforceable must be severed from arbitration and may be litigated in court. For the sake of clarity, in no event shall any court decision finding a provision of Section 14(f) invalid or unenforceable be deemed to authorize an arbitrator to determine Claims or make awards beyond those authorized in this Arbitration Agreement.

## **CLAIM OF LOSS**

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.

## **INDEMNIFICATION**

At our request, you agree to defend, indemnify, and hold harmless Happen Bank and our respective parents, subsidiaries, and other affiliated companies, and each of their respective employees, contractors, officers, and directors against any and all claims, suits, damages, costs, lawsuits, fines, penalties, liabilities, and expenses (including, without limitation, reasonable attorneys' fees) that arise from your violation of this Agreement, applicable law, or any third-party rights or your fraud or willful misconduct. We reserve the right to assume the exclusive defense and control of any matter subject to indemnification by you, in which event you will cooperate in asserting any available defenses.

## **LIMITATION OF LIABILITY**

Except as otherwise expressly provided in this Agreement or as otherwise required by applicable law, we, our affiliates, and the parties with whom we contract in order to offer the Cards and related services are neither responsible nor liable for any indirect, incidental, consequential, special, exemplary, or punitive damages arising out of or relating in any way to the Cards, any products or services purchased using the Cards, or this Agreement (as well as any related or prior agreement that you may have had with us.

WE WILL NOT BE LIABLE TO YOU FOR: DELAYS OR MISTAKES RESULTING FROM ANY CIRCUMSTANCES BEYOND OUR CONTROL, INCLUDING, WITHOUT LIMITATION, ACTS OF GOVERNMENTAL AUTHORITIES, NATIONAL EMERGENCIES, INSURRECTION, WAR, OR RIOTS; THE FAILURE OF MERCHANTS TO HONOR THE CARD; THE FAILURE OF MERCHANTS TO PERFORM OR PROVIDE SERVICES; COMMUNICATION SYSTEM FAILURES; OR FAILURES OR MALFUNCTIONS ATTRIBUTABLE TO YOUR EQUIPMENT, ANY INTERNET SERVICE, OR ANY PAYMENT SYSTEM. IN THE EVENT THAT WE ARE HELD LIABLE TO YOU, YOU WILL ONLY BE ENTITLED TO RECOVER YOUR ACTUAL DAMAGES. IN NO EVENT SHALL YOU BE ENTITLED TO RECOVER

ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY OR SPECIAL DAMAGES (WHETHER IN CONTRACT, TORT OR OTHERWISE), EVEN IF YOU HAVE ADVISED US OF THE POSSIBILITY OF SUCH DAMAGES. THIS PROVISION SHALL NOT BE EFFECTIVE TO THE EXTENT OTHERWISE REQUIRED BY LAW.

## **NO WARRANTY OF AVAILABILITY OR UNINTERRUPTED USE**

From time to time the Card services may be inoperative, and when this happens, you may be unable to use your Card or obtain information from your Card, including the available balance of funds associated with your Card. Please notify us using the contact information above if you have any problems using your Card. You agree that we, and their respective affiliates, employees, or agents are not responsible for any interruption of service.

## **DISCLAIMER OF WARRANTIES**

EXCEPT AS EXPRESSLY OTHERWISE PROVIDED IN THIS AGREEMENT, WE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND TO YOU, AND HEREBY EXPRESSLY DISCLAIM ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, REGARDING THE CARD OR RELATING TO OR ARISING OUT OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

## **NO WARRANTY REGARDING GOODS OR SERVICES AS APPLICABLE**

We are not responsible for the quality, safety, legality, or any other aspect of any goods or services you purchase with your Card.

## **NOTICE OF ATM/NIGHT DEPOSIT FACILITY USER PRECAUTIONS**

As with all financial transactions, please exercise discretion when using an ATM. For your own safety, be careful. See the Account Agreement for safety suggestions and additional information.

## FEE SCHEDULE

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