

## EVOLVE BANK & TRUST CUSTOMER ACCOUNT TERMS

### **I. Introduction.**

This document, as amended or supplemented by the attached disclosures, (collectively, the “Account Terms”) contains the general terms, conditions and disclosures for the Evolve Bank & Trust transaction account (the “Account”) and constitutes an agreement between the Bank (as defined below) and you. For purpose of these Account Terms, the term “Account” may also collectively include Sub-Deposit Accounts.

References to the “Bank,” “we,” “us,” or “our” means Evolve Bank & Trust and any of its affiliates. References to “you” and “your” means you and any person that holds, whether individually, jointly or on behalf of another person, the Account. The Account Terms may be supplemented or amended as set forth in Section V(E) (Miscellaneous Terms). Bank services and access and use of your Account may be provided to you through the website and/or mobile phone application of our service provider (the “Service Provider,” and its website and mobile phone application, the “Service Provider Platform”). The Service Provider may offer you additional services through its Service Provider Platform, pursuant and subject to the terms and conditions between you and the Service Provider (the “Services” and such terms and conditions, the “Service Provider Terms”). Please see Section II(D) (The Account) for additional information.

By opening or continuing to maintain an Account with us, you agree to be bound by these Account Terms, and all applicable agreements, disclosures, and other documents, as well as by all applicable federal or state laws, statutes and regulations.

Please keep a copy of these Account Terms.

We may decline to open an Account for any reason, or for no reason. We are not liable for any damages or liabilities resulting from refusal of an Account relationship.

**THESE ACCOUNT TERMS IS SUBJECT TO MANDATORY ARBITRATION PURSUANT TO THE FEDERAL ARBITRATION ACT AND A WAIVER OF CLASS ACTION AND JURY PROVISION. PLEASE CAREFULLY READ SECTION IV (ARBITRATION AND WAIVERS).**

### **II. The Account.**

**A. Availability.** The Account is available to United States citizens or lawful permanent residents with a U.S. physical address or with military addresses (APO or FPO) who are at least 18 years old with a valid Social Security Number. To open an Account, you must provide any information we may request from time to time. Each owner of an Account shall have a continuing obligation to provide any other documentation we may request from time to time, including any information required under our customer identification program to establish your identity.

The Account is only available for personal, family or household purposes and not for business purposes. You are not entitled to open an Account under these Account Terms if you are a corporation, unincorporated business association, partnership, limited liability company, incorporated nonprofit organization or sole proprietorship. We reserve the right to close your Account if we determine that it is used for any impermissible purpose, as we may determine from time to time. You must also agree to go paperless. This means that: (1) you must keep us supplied with your valid email address and telephone number; and (2) you must agree to accept electronic delivery of all communications that we need or decide to send you. Please see the Evolve Bank & Trust Electronic Communication Consent for additional details. [\[Insert Hyperlink to Evolve Electronic Communications-Consent\]](#)

**B. Account Type and Ownership.** The Account is a transaction account that pays a variable rate of interest and allows you to make certain payments and transfers to third parties. The Account may not be opened as a joint account. You cannot give a security interest or pledge your Account to someone other than us without first getting our express written consent. We are not required to give consent to a security interest or pledge to someone else. Unless we agree in a separate writing otherwise a security interest or pledge to someone else must be satisfied or released before any right to withdraw from the account can be exercised.

**C. Opening an Account.** To open an Account, you must submit to us an application and all information that we may require. To help the government fight the funding of terrorism and money laundering activities, Federal law requires us to obtain, verify and record information that identifies each person who opens an Account. This means that when you open an Account, we will ask for your name, address, date of birth and other information that will allow us to identify you. We may also ask to see other identifying documents, such as a driver’s license. If, for any reason, you are unable to provide the information necessary to verify your identity, the Account may be blocked or closed, which may result in additional fees assessed to the Account.

By opening an Account, you agree that we can gather your personal information from one or more consumer reporting agencies, governmental entities and/or other third parties. You also agree that we have the right to access follow-up consumer reports while your Account is open for maintenance, review or collection purposes.

Your Account will not be considered “opened” until it is funded. This means your balance must be at least a penny. Once your account is considered “opened,” there is no minimum balance required and no maximum balance limit. However, we may, at our sole discretion and at any time, require a minimum balance and set a maximum balance limit.

**D. Service Providers.** You understand that we have engaged Service Providers to perform a number of services for you under these Account Terms, including, but not limited to, identity verification, compliance monitoring, risk mitigation, managing your transfer instructions and other related services. Service Providers, along with their partners and agents, are the servicer of your Account. In that capacity, Service Provider may act on our behalf, perform our obligations or enforce our rights under these Account Terms. A Service Provider may also offer Services in connection with your Account to allow you to provide us with payment instructions and to view certain Account information using the Service Provider Platform. You understand that any payment instruction or activity performed using the Services shall be deemed authorized and valid and Bank is under no obligation to investigate the instruction or activity.

To the fullest extent permitted by law, we will not have any liability in connection with the Services and disclaim all warranties, either express or implied or statutory, including, but not limited to, any implied warranties of merchantability, fitness for a particular purpose and lack of viruses related to the Services. In no event shall we be liable for: (1) damages caused other than by our own gross negligence or intentional misconduct; or (2) indirect, special, incidental, consequential or punitive damages whatsoever (including, but not limited to, damages for lost profits, disclosure of confidential information, or loss of privacy) arising out of or in any way related to the use of or inability to use the Services, even if we have been advised of the possibility of such damages.

### **III. Using Your Account and Account Disclosures.**

**A. Debit Card.** In connection with your Account, we may (but are not obligated to) issue you a debit card (the “Card”) that will automatically link to the Account. If a Card is made available to you, it is subject to a debit card agreement by and between you and us. The Card may be used to initiate withdrawals at ATMs and points of sale and may be used to purchase goods and services. By using your Card, you authorize us and/or our agents to debit your Account. We reserve the right to refuse to make any transfer for security, credit, legal/regulatory, or other reasons, as we determine in our sole discretion. You are responsible for all transactions you authorize using the Card, including any losses, charges, or penalties incurred as a result. You may be charged for your use of the Card at ATMs. The Card is the property of the Bank, and if your Account is closed or your Card privileges are cancelled, you agree to stop using the Card and destroy it.

**B. Linking Accounts.** You may link your bank account at another financial institution (“Linked Account”) to your Account in order to transfer funds between your Linked Account and your Account. You represent and warrant: (1) that you have the right to authorize any and all charges and debits to the Linked Account; (2) the Linked Account is held at a depository institution located in the U.S.; and (3) you are individually or jointly the owner of the Linked Account. You will indemnify and hold us harmless from any claims by any person related to the Linked Account, including any other owner of the Linked Account. You are not permitted to link your Account with a credit, debit, gift, or other type of card issued by a third party or another bank. You may deposit funds into or withdraw funds from your Account by using the Service Provider Platform to initiate an Automated Clearing House transfer (“ACH Transfer”) to or from the Linked Account. We do not accept requests made otherwise to initiate ACH Transfers. Requests for ACH Transfers to debit the Linked Account that are made before 4:00 PM MT on a business day, shall be considered received on the business day the request is made. Requests for ACH Transfers to debit the Linked Account that are made after 4:00 PM MT on a business day or on a non-business day, shall be considered received the next business day.

**C. ACH Transfer Initiated by an External Bank or Through a Third Party.** You may deposit funds into or withdraw funds from your Account by having an external bank (directly or through a third party) initiate an ACH Transfer to or from your Account at the Bank. The external account that you are depositing funds into or withdrawing funds from must be at an external bank located in the U.S.

**D. Internal Transfer Between Accounts at the Bank.** We may (but are not obligated to) permit you to initiate a transfer of funds between your accounts at the Bank through a Service Provider Platform. We do not accept requests made otherwise to initiate internal transfers.

**E. Deposits.** When you make a deposit, we will act only as your collection agent and will not be responsible beyond the exercise of good faith and ordinary care. All deposits are provisionally credited subject to our receipt of final payment. If a deposit or transfer of funds into your Account is returned or rejected by the paying financial institution for any reason, you agree that we may deduct the amount of the deposit or transfer against your Account, without prior written notice to you.

1. You may make a deposit into your Account by ACH Transfers or any other method we make available to you. You may also arrange for recurring deposits, such as direct deposits, to be made electronically to your Account.
2. Foreign Currency and Cash Deposits. We do not accept any deposits denominated in any foreign currency. We do not accept any deposits in cash, whether in U.S. dollars or any foreign currency. All deposits are considered to be non-cash deposits.
3. If we permit you to deposit a check into your Account, you agree not to deposit a check drawn on the same Account into which the check is being deposited. If available, you also agree not to deposit by ATM, mobile banking check deposit, or by mail any item that is drawn on a foreign bank or that is not denominated in US dollars. We may refuse a deposit, limit the amount of a deposit or return all or a portion of a deposit. We are not responsible for any deposit you mail to us that we do not receive. We will forward any items you deposit for collection to the bank on which the items are drawn. We may give you provisional credit for any item you deposit,

which we may revoke at any time if we do not receive final payment for that item. All deposits to your Accounts, regardless of how made, are subject to verification, final payment, and our Deposit Availability Disclosure.

**F.** You may only deposit with us funds that are immediately available, which under applicable law are irreversible and are not subject to any lien, claim or encumbrance.

**G. Withdrawals.**

1. Except as provided below, you may make withdrawals from your Account up to the available balance in your Account by any means that we make available to you. We may refuse a withdrawal request exceeding the available funds in your Account even if you make a deposit later in the business day after we refuse your withdrawal request. If your available balance is not enough to pay a transaction you make, we may assess an insufficient or unavailable funds fee, regardless of whether we pay the transaction. We may allow withdrawals at any time, but reserve the right to require seven (7) days written notice of intention to withdraw funds from your Account if your Account is a negotiable order of withdrawal (NOW) account.

2. You are not permitted to make withdrawals from your Account by creating a check drawn on your Account. If you attempt to make any transactions with your Account using a credit, debit, gift or other type of card issued by a third party or another bank or by creating a check drawn on your Account, we will reject and/or return the transaction without notice to you and may consider such action to be a violation by you of these Account Terms.

3. Before allowing a transaction, we may request you to provide us with identification, authorization, documentation or other information that we deem necessary. We may refuse a withdrawal if you fail to comply with our request. We may tell you in advance when we are going to refuse a withdrawal request but will not be required to do so.

**H. Payment Instructions.**

1. You agree that any payment instructions received by us (such as requests to withdraw or transfer funds from your Account) through the Service Provider Platform or in connection with your username, passphrase, PIN or mobile device used to access the Service Provider Platform (collectively "Credentials") will be deemed to be authorized by you. The use of any of your Credentials by another person will be as effective as your use of the Credentials, regardless of whether the person affixing the Credential was authorized by you and regardless of the means by which the Credential was affixed. For example, if you provide your username and password used to access the Service Provider Platform to another person and that person uses that information to withdraw funds from your Account, we will deem the withdrawal to be authorized by you. Unless prohibited by applicable law, you agree to hold us harmless and indemnify us for any liability incurred for reasonably acting upon such instructions which bear any of your Credentials. You agree to keep confidential and to take all reasonable precautions and make all reasonable efforts to protect the secrecy of all Credentials issued to you, selected by you, or utilized by you. If any of your Credentials become lost or known to another person, you agree to notify us immediately so that a replacement may be issued. If you believe your Credentials are no longer secure or confidential, or that someone has used your Credentials without your permission, please contact us immediately by calling +1 (888) 610-2324 or notifying us through the Service Provider Platform.

2. We may refuse to follow any of your payment instructions if we think they are illegal or potentially harmful to us. If we follow your payment instructions, we may require other security measures to protect us from any losses we may suffer. To the greatest extent permitted by law, you agree to pay us back for any damages or losses (including, but not limited to, the reasonable costs of an attorney) that we suffer if we take an action based on your (or what appears to be your) oral, written or electronic instructions.

**I. Posting Order of Credits and Debits.**

1. Posting Orders. This section summarizes how we generally post some common transactions to your Account. Posting transactions to your Account impact your Account balance. Posting a credit increases your balance, while posting a debit or hold reduces your balance. Credits include deposits and credits we make. Holds include deposit holds, Card authorizations and holds related to withdrawals and EFTs (as defined below). Debits include withdrawals, transfers, payments, Card transactions and fees.

We use automated systems to process transactions and then to post transactions to your Account. When we process multiple transactions for your Account on the same day, you agree that we may in our discretion determine our posting orders for the transactions and that we may credit, authorize, accept, pay, decline or return credits, debits and holds in any order at our option.

We generally post common transaction as follows. We group the different types of transactions into categories. We use several different categories for holds, credits, and debits. Most categories include more than one transaction type. After the end of the business day, our automated systems assign each transaction received for

that day to a category. We generally post all transactions within a category, using the posting order or orders that apply to that category, before we post any transactions assigned to the next category.

First, we start with the balance in your Account at the beginning of the business day, subtract holds from your balance, and make any adjustments from prior days. Next, we generally add available deposits and credits to your balance and then subtract debits from your balance based on the debit category. We subtract debits in a category from your balance in order from the highest to lowest dollar amount, unless specified otherwise herein. The first category of debits to be applied against your balance are certain Card and ATM transactions (e.g., Card transactions and ATM withdrawals and transfers). The debits within this category are subtracted from your balance in date and time order our systems receive date and time information. If we make checks available to you, this category is applied next against your balance. Check posting will be in sequential order based on the check number, and for any check for which the number cannot be read, from highest to lowest amount following the posting of number legible checks. We then subtract from your balance any other types of electronic debits in order from the highest to lowest dollar amount. These debits include ACH Transfers. Finally, we subtract from your balance most fees (such as monthly maintenance fees, overdraft fees, returned item fees, and ATM fees) in order from highest to lowest dollar amount. Some fees may show as “processing” until the next day.

2. Changing Posting Orders. You agree that we may determine in our discretion the orders in which we post transactions to your Account. You agree that we may determine in our discretion the categories, the transactions within a category, the order among categories and the posting orders within a category. We sometimes add or delete categories, change posting orders within categories and move transaction types among categories. You agree that we may in our discretion make these changes at any time without notice to you.

3. Posting Orders Determined at End of Day. We receive credits, debits and holds throughout the day. Regardless of when during the day we receive transactions for your Account, you agree that we may treat them as if we received all transactions at the same time at the end of the business day. During the day, we show some transactions as processing. Please note that transactions shown as processing have not been posted yet. The posting order for these transactions is determined at the end of the day, with the other transactions we receive for that day and based on the category. We do not always receive debits on the same day that you conduct them. We generally post credits and debits to your Account, and report them on your statement, in a different order than the order in which you conduct them or we receive them.

4. Overdraft Fees. We generally determine at the time we post a debit to your Account whether it creates an overdraft and whether an overdraft or returned item fee applies. You should note that sometimes we authorize a transaction at a time when you have enough available funds to cover it, but because other transactions post before it and reduce your balance, the transaction creates an overdraft when we post it to your Account. You can avoid fees for overdrafts and returned items by making sure that your Account always contains enough available funds to cover all of your transactions. When your Account balance includes some funds that are subject to a hold, dispute or legal process, you should note that those funds are not available to cover your transactions. Our posting orders can impact the number of overdraft fees we charge you when you do not have enough available funds to cover all of your transactions. When several debits arrive the same business day for payment from your Account and you do not have enough available funds in your Account to cover all of the debits we receive for that day, you understand that some posting orders can result in more overdrafts, and more fees for overdraft items and returned items, than if we had used other posting orders. You agree that we may in our discretion choose our posting orders, and also change them from time to time, regardless of whether additional fees may result. When your Account balance includes some funds that are not available at the time that we post a debit, and you do not have enough available funds in your Account to cover the debit, the debit results in an overdraft and we generally charge you an overdraft fee or returned item fee for the debit. We do not show holds or distinguish between available and unavailable funds in your Account balance on your statement.

5. Certain Transactions Made After Business Day Ends. During processing, we generally include in your Account balance some transactions that you make after the business day cut-off, but before the end of the calendar day. Deposits are made available based on Section VIII (Deposit Availability Disclosure). We generally subtract from your Account balance the following debits, when the transaction occurs after the cutoff time for the business day, but during the same calendar day: cash withdrawals made at an ATMs and any credit-push ACH Transfers of EFTs.

**J. Insurance Coverage.** The Federal Deposit Insurance Corporation (“FDIC”) insures deposits according to the ownership category in which the funds are insured. Not all accounts may be insured. Unless otherwise stated by us or the FDIC, the Account is insured by the FDIC up to the standard maximum deposit insurance amount per depositor, per FDIC-insured bank, and per ownership category (the “Standard Insurance Amount” or “SIA”). For purposes of determining the SIA applicable to your Account, you need to consider all accounts that you also hold at the Bank. To determine SIA applicable to your Account with us and for any other FDIC insurance requirements that may apply, please visit the FDIC’s website at [www.fdic.gov/deposit/deposits](http://www.fdic.gov/deposit/deposits) or call the FDIC directly at 1-877- ASKFDIC (1-877-275-3342). You can also use the FDIC’s

Electronic Deposit Insurance Estimator (EDIE) at [www.fdic.gov/edie](http://www.fdic.gov/edie). Please see subsection L below for additional information regarding FDIC insurance coverage for Sub-Deposit Accounts.

**K. Court Processes and Claims Against your Account.** If we receive a levy, attachment, or other legal process against you or any party to your Account, we may refuse to permit withdrawals or transfers from your Account until the legal process is dismissed or satisfied. Any levy, attachment, or other legal process will be subject to our right of set-off and security interest. You are responsible for any losses, costs, or expenses we incur as a result of any dispute or legal proceeding involving your Account. If we receive a claim against the funds in your Account, or if we know of or believe that there's a dispute as to the ownership or control of funds in your Account, we may, in our discretion: (1) place a hold on your Account and refuse to pay out any funds until we're satisfied that the dispute is settled; (2) close your Account and send the balance to the named account holder(s); (3) require a court order to act; or (4) take any other action we feel is necessary to protect us. We will not be liable to you for taking any such action.

**L. Statements.** We will deliver or make available to your periodic statements for your Account at least four (4) times a year, unless your Account is determined to be inactive. The Account statement will describe payments or transfers made in connection with your Account. You agree to notify us promptly if you do not receive your statement by the date you normally would expect to receive it. Your periodic statement may be accompanied by items or a facsimile of those items listed on the statement, unless the item or an image of the item is unavailable for any reason. You agree that the statement and items all have been delivered or made available to you in a reasonable manner. We will not be responsible for any indirect, special or consequential damages under any circumstances for our inability to provide copies of an item. Our liability, if any, will not exceed the face amount of an item in question.

Our records regarding your Account will be deemed correct unless you timely establish with us that we made an error. You are obligated to examine your Account statement promptly and carefully to determine if there were any errors, unauthorized transactions or any other improper or disputed transactions on your Account (collectively referred to as "Exceptions"). You must notify us within thirty (30) days after we have sent or made your Account statement available to you of any Exception on your Account. You must notify us within six (6) months after we have sent or made your Account statement available to you if you identify any unauthorized, missing or altered endorsements on your items. Electronic fund transfers are subject to different time periods for notification of errors. Please refer to Section VII (Electronic Fund Transfer Disclosure) for information regarding erroneous electronic fund transfers. If you fail to notify us of an Exception within the time frames specified herein, your Account statement will be considered correct. We will not be liable for the Exceptions in this Account statement. Except as provided by applicable law, you also agree that we will not be required to reimburse you for any Exceptions caused by your own negligence. If you timely report an Exception, we will investigate the Exception. After you submit a claim under this subsection, we may require you to: (1) complete and return a form detailing the Exception; (2) provide us with any and all requested documents we may require; (3) notify law enforcement; and (4) cooperate fully with us in our investigation. We may reverse any credit we make available to your Account resulting from the Exception claim if you fail to cooperate with us in our investigation or recovery efforts, or if we determine the transaction was authorized. You agree to repay us promptly any amount credited to your Account in error, and you authorize us to debit your Account to obtain payment of any erroneous credit. Different rules may apply to electronic fund transfers. For specific information on unauthorized electronic fund transfers, please refer to Section VII (Electronic Fund Transfer Disclosure).

**M. Sub-Deposit Accounts.** We will, from time to time, place your funds provided to us in a deposit account or omnibus custody account ("Sub-Deposit Account") with other depository institutions (each an "Insured Depository Institution"). You will not be charged a fee for our placement of your funds or in connection with the Sub-Deposit Account. We also will act as the agent/custodian with respect to your Sub-Deposit Account pursuant to this subsection. You consent to us placing funds with Insured Depository Institutions. If you do not consent to our placement of funds with Insured Depository Institutions, you should not open an Account or deposit funds with us.

The Sub-Deposit Account will be established by an Insured Depository Institution that has entered into agreements with us. Your funds in the Sub-Deposit Account will bear the interest rates and APY you have agreed to with us (if any). All payments with respect to the Sub-Deposit Account by the Insured Depository Institutions will be made to us, and we will credit the funds to your Account.

Your only rights with respect to the Sub-Deposit Account is to demand we repay you all amounts in your Account, including those transferred to the Sub-Deposit Account. The Sub-Deposit Account may not be transferred to another institution, except by us or the Insured Depository Institution. You may terminate our role as your agent/custodian and our ability to deposit funds you provide us in the Sub-Deposit Account. Any termination will result in a return of funds in accordance with law and closing of your Account and any Sub-Deposit Account opened specifically for you.

When we place funds with Insured Depository Institution and act as your agent with respect to the Sub-Deposit Account, we will ensure the records of the Insured Depository Institution are in our name, as agent or custodian. The funds deposited in the Sub-Deposit Account will be FDIC insured to the same extent as if such funds were held in the Account with us. In

other words, the depositing of your funds into the Sub-Deposit Account will not otherwise increase your FDIC deposit insurance coverage. You will not receive any written confirmation of the establishment of the Sub-Deposit Account or transfer of funds to the Sub-Deposit Account; instead, we will maintain records clearly indicating the transfer and beneficial ownership of the Sub-Deposit Account. You must immediately report to us any changes in Account ownership information that you originally provided to us in connection with the submission of your application for an Account.

Our placing of funds may reflect considerations of federal and state law, our funding needs and funding needs of Insured Depository Institutions, general economic conditions or other factors determined by us in our sole discretion. We will not place funds with more than one Insured Depository Institution. We may place funds to enhance our business objectives and for balance sheet management without any benefit to you, including increased FDIC deposit insurance coverage. Further, we may receive greater benefits when we place your funds with an Insured Depository Institution than if we otherwise maintained your funds with us. We are under no obligation to place your funds with an Insured Depository Institution. A Sub-Deposit Account will be a deposit obligation of the Insured Depository Institution that maintains the Sub-Deposit Account; provided, this does not modify our obligation to repay all amounts you deposited in your Account.

All deposits that are maintained with an Insured Depository Institution in the Sub-Deposit Account are aggregated with deposits maintained in your Account with us for purposes of the SIA. Funds you hold in one or more Accounts with us (including funds we maintain before placement with Insured Depository Institution), funds in the Sub-Deposit Account and any funds resulting from payment of interests on an Sub- Deposit Account will be aggregated for FDIC insurance purposes with all other deposits you hold in deposit accounts with us in the same ownership category and therefore may not be fully insured by the FDIC. For the avoidance of doubt, funds deposited in the Sub-Deposit Account will be treated as funds on deposit in the Account with us for FDIC insurance calculation purposes. As such, your total FDIC deposit insurance coverage for funds you provide us for deposit in your Account will not be increased by nature of any deposit of funds in the Sub-Deposit Account. Please see subsection J above for additional information on determining SIA.

We may provide your name, tax identification number and other pertinent identifying information to Insured Depository Institution, and other parties providing services in connection with the placement of your funds and the establishing and holding the Sub-Deposit Account. You hereby consent to such release of information. Nothing in this section shall be deemed to prevent us from disclosing information to a third party if required by law.

We will act as your agent in connection with the placement of your funds with the Insured Depository Institution and the establishment and maintenance of the Sub-Deposit Account. Although we will act as your limited agent in connection with the placement of your funds, we are not acting as your financial adviser. See subsection A of Section V for additional information. You hereby appoint us to act as your agent for purposes of placing funds with Insured Depository Institutions and establishing and maintaining, on your behalf, the Sub-Deposit Account. You further authorize us to collect for you all interest and other payments related to a Sub- Deposit Account, to place funds with Insured Depository Institution pursuant to the terms set forth herein, and to execute and deliver or file on your behalf all appropriate receipts, agreements, releases and other instruments, including whatever agreements may be required from Insured Depository Institution, for the purpose of establishing your ownership interest in the Sub-Deposit Account and maintaining a Sub- Deposit Account. Although there are two or more accounts associated with your funds (the account maintained with us, referred to as the Account, and the Sub-Deposit Account), your Account is considered a single account for your deposits and withdrawals, as well as for tax reporting, balance requirement, service charge, monthly statement and FDIC deposit insurance purposes. The existence of the Sub-Deposit Account and any other account maintained by us pursuant to these Account Terms is for internal purposes and will not change the manner in which you use, obtain information about or earn interest (if any) on your Account. These transfers, including the placement transfer, will not appear on your monthly statement.

**N. Interest and Interest Rate.** If your Account is an interest-bearing account, the following provisions apply. A minimum deposit of \$1.00 is required to earn the Annual Percentage Yield ("APY") disclosed to you from time to time. We only pay interest in whole cents and use standard rounding rules to calculate the amount of interest earned. This means that an amount equal to or greater than one half of one cent accrued during a monthly interest period is rounded up to the next whole cent and an amount less than one half of one cent accrued during a monthly interest period is rounded down to zero. Interest is compounded daily and credited to your Account monthly. Interest is calculated using the daily balance method. This method applies a daily periodic rate to the principal and interest that has accrued in the Account each day. This means that the interest from your Account is calculated every day on a 365-day year (and 366-day for leap year). Interest begins to accrue on the business day that we receive your deposit. If the Account is closed before interest is credited, accrued interest will be paid through the last full day before the day the Account is closed. The rate at which interest may be paid on the principal balance of the Account, and the corresponding APY at which the Account would earn interest each year if all interest paid on the Account remains in the Account, can be found on the Service Provider Platform, which may be modified by from time to time in our sole discretion. We may, at our discretion, at any time, change the interest rate and the APY.

**O. Prohibitions.** You must not use your Card or Account for any illegal purpose or internet gambling. This prohibition includes any transaction that is illegal in the jurisdiction where you live, in the jurisdiction where the transaction is consummated, or in any other jurisdiction affected by the transaction. You are responsible for determining the legality of

each of your transactions in all applicable jurisdictions before entering into the transaction. We have no obligation to monitor, review or evaluate the legality of any transaction. Nevertheless, we may deny transactions or authorizations if we believe the transaction is or may be illegal. We reserve the right to refuse or return any item that we believe is related to an illegal transaction, an Internet or online gambling transaction or a high-risk transaction. To the fullest extent permitted by law, you agree to pay for any item or transfer that you authorized, even if the transaction related to that item or transfer is determined to be illegal.

**P. Fees.** You agree to pay all fees and charges applicable to your Accounts, which will be automatically deducted from your Accounts and may result in your Accounts being overdrawn. The amounts of these fees and charges, the manner in which they are calculated, and the ways to potentially avoid them are listed in our Fee Schedule. Fees and our Fee Schedule are subject to change at any time and without notice to you, unless required by law. Fees set forth in the Fee Schedule are charged by Bank for its services. Service Provider may charge you fees separate and apart from the fees set forth in the Fee Schedule for its Services, pursuant to the Service Provider Terms. Bank is not responsible for any fees charged by Service Provider for its Services.

**Q. Power of Attorney/Agents.** Subject to applicable law, you may not give another person (called an "attorney in fact") authority to act on your behalf, unless permitted by us. Unless we agree to in writing, we are not required to honor orders and instructions concerning your Account by an attorney in fact for any Account Owner, or by a personal representative, guardian, conservator, or custodian of an account owner. If we approve your appointment of an attorney in fact, we have no duty to monitor or ensure that the acts of your attorney in fact are for your use or benefit or are otherwise permissible under applicable law. We will not be liable if your attorney in fact exceeds his or her powers or does not comply with your instructions or applicable law. We may terminate acceptance of a power of attorney at any time and for any reason and without notice to you. You agree to hold us harmless from and against any actions we take based upon the instructions of your attorney in fact or that your attorney in fact takes regarding your Account, unless or until we receive and have had a reasonable opportunity to act on written notice that you have died or that the power of attorney has been revoked.

**R. Death, Incapacity or Termination.** You agree to notify us immediately if an Account owner on your Account dies or is declared legally incompetent. In the case of an individual Account, if we have reason to believe the Account owner has died or has been declared legally incompetent, we may place a hold on the Account to retain funds and refuse to accept deposits or to permit withdrawals until we know and have verified the identity of the successor. We will require proof of death or adjudication of incompetence. If you die while residing outside the United States, we may require a personal representative to be appointed by a court in a United States jurisdiction. Until we receive notice and any required proof of death or incompetence, we may act as if all owners are alive and competent. In the event we receive written notice from a personal representative, executor, administrator, conservator or guardian purporting to represent you or your estate, we shall be entitled to rely on all information supplied and representations made in such written notice to the full extent permitted by applicable law. If certain payments originating from government entities are deposited into your Account after your death, we may be required to return those payments to the originator upon notice. If we have any tax liability because of paying your balance to your estate, the estate will be responsible for repaying us the amount of that tax. If you owe us a debt at the time of your death, we are authorized to exercise our right of setoff (our right to apply funds in one account to the debt associated with another account) or security interest rights against the funds credited to your balance after your death.

**S. Monitoring and Closing Your Account.** Subject to the terms herein, you can close your Account at any time and for any reason by contacting us or terminating the Account through the Service Provider Platform, if applicable. We reserve the right to refuse your request to close your Account if your Account is not in good standing or if you have a negative balance on your Account. If you intend to close your Account, you should notify us. Simply reducing your Account balance to \$0.00 is insufficient notice. If you close your Account you are responsible for transactions you initiated or authorized, including those that we receive after the Account is closed. Withdrawals from your Account may be restricted prior to Account closing.

We reserve the right to monitor all Account activity for inappropriate use. We can close your Account at any time, for any reason, without advance notice. If we close your Account, we will notify you by mail, electronically or by telephone that we have closed your Account unless your Account has had a zero balance for thirty (30) days or more. If we close your Account, all collected funds (less any amounts due to us or for debits in process) will be transferred to your Linked Account.

Alternatively, we may, at our discretion, mail you a check for the available balance in your Account. Written notice that the Account has been closed and a check, if any, will be sent to any address shown on our records for you, or if the Account is a jointly owned, to any account owner to whom we elect to send it. Once we have closed your Account, you agree that we can assess any service charge otherwise applicable against any remaining balance in your Account. We are not responsible to you for any damages you may suffer as a result of your Account being closed. If you attempt to make a deposit to an Account we closed, we may collect the deposit and set-off your indebtedness to us. Any funds in excess of \$1.00 will be returned to you.

State laws (called "escheat" or unclaimed property laws) require us to close your Account and transfer your money to the state if your Account is dormant for a period of time as defined by your state of residence. Your Account can become

dormant if, for 24 months, there is no transactional activity. If your Account becomes dormant, you may no longer receive statements, but you can still view your accounts online.

State abandoned property law establishes guidelines under which unclaimed property must be surrendered to the applicable state. 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, defined by your state of residence. All products offered by us are subject to abandoned property laws. If your funds are surrendered to the state, you may be able to reclaim them, but your claim may need to be presented to the state. You can avoid the transfer of your money to the state simply by signing into your Account, transacting periodically, or contacting us, or replying to any abandoned property correspondence.

#### **IV. Arbitration and Waivers.**

THIS ARBITRATION PROVISION WILL HAVE A SUBSTANTIAL IMPACT ON HOW LEGAL DISPUTES BETWEEN YOU AND US ARE RESOLVED. PLEASE READ THIS SECTION IV (ARBITRATION AND WAIVERS) CAREFULLY. YOU HAVE THE RIGHT TO OPT OUT OF THE ARBITRATION PROVISION AS SET FORTH BELOW. If you do not opt out, for a dispute subject to arbitration, neither you nor we will have the right to: (A) have a court or a jury decide the dispute; (B) engage in information-gathering (discovery) to the same extent as in court; (C) participate in a class action in court or in class arbitration; or (D) join or consolidate a claim with claims of any other persons. Arbitration procedures are simpler and more limited than rules applicable in court. The decision of the arbitrator is final and binding.

**A. Definitions.** If you have a dispute with us or our Service Provider, and we are not able to resolve the dispute informally, you and we agree that upon demand by either you or us, the dispute will be resolved through the arbitration process as set forth in this section. A “claim” or “dispute,” as used in this Section IV (Arbitration and Waivers), is any unresolved disagreement between you, us and/or our Service Provider, arising from or relating in any way to the Account or these Account Terms. The terms “claim” and “dispute” are to be given the broadest possible meaning that will be enforced and includes, by way of example and without limitation, any disagreement relating in any way to services offered in connection with an Account or any other services offered pursuant to these Account Terms; to your use of any of our banking products or services; to any means you may use to access your Account(s); to any advertisements, promotions or oral or written statements related to the Account; to the benefits and services related to an Account; or your approval, establishment or enrollment for an Account. Claims also include disagreements about the meaning, application or enforceability of this arbitration agreement. As solely used in this Section IV (Arbitration and Waivers), “we” or “us” shall include the Bank, its affiliates and their successors, employees, directors, officers and agents, and the terms “you” or “yours” shall mean each Account owner and all persons or entities approved to have, approved to use and/or given access to an Account. The term “Account,” for purposes of arbitration, includes any updated or substitute Account for you.

**B. Binding Arbitration and Appeals.** Arbitration applies whenever there is a claim between you and us. If a third party is also involved in a claim between you and us, then the claim will be decided with respect to the third party in arbitration as well, and it must be named as a party in accordance with the rules of procedure governing the arbitration. No award or relief will be granted by the arbitrator except on behalf of, or against, a named party. Claims are subject to arbitration, regardless of on what theory they are based, whether they seek legal or equitable remedies, or whether they are common law or statutory (Federal or state) claims. Except for small claims addressed in subsection D (Excluded Claims) below, arbitration applies to any and all such claims or disputes, whether they arose in the past, may currently exist, or may arise in the future.

Judgment upon the arbitrator’s award may be entered by any court having jurisdiction. The arbitrator’s decision is final and binding, except for any right of appeal provided by the FAA. However, if the amount of the claim exceeds \$25,000 or involves a request for injunctive or declaratory relief that could foreseeably involve a cost or benefit to either party exceeding \$25,000, any party can, within thirty (30) days after the entry of the award by the arbitrator, appeal the award to a three-arbitrator panel administered by the forum. The panel shall reconsider anew all factual and legal issues, following the same rules of procedure and decide by majority vote. Reference in this Section IV (Arbitration and Waivers) to “the arbitrator” shall mean the panel if an appeal of the arbitrator’s decision has been taken.

**C. Opting Out.** If you do not want this arbitration provision to apply to your Account, you may opt out by sending us written notice of your decision within ten (10) days of the opening of your Account. Such notice must clearly state that you wish to cancel or opt out of the arbitration provision of these Account Terms. It should include your name, address, Account name, Account number, and your signature and must be mailed to: 2955 Campus Drive #110, San Mateo, CA 94403.

**D. Excluded Claims.** You and we retain the right to pursue in small claims court (or an equivalent state court) any dispute that is within that court’s jurisdiction, so long as the disputes remain in such court and advance only an individual claim for relief. If either you or we fail to submit to binding arbitration of an arbitrable dispute following lawful demand, the party so failing shall bear all costs and expenses incurred by the other in compelling arbitration.



**E. Initiation of Arbitration.** Any claim must be resolved, upon the election by you or us, by arbitration pursuant to this Section IV (Arbitration and Waivers) and the code of procedures of the national arbitration organization to which the claim is referred in effect at the time the claim is filed. Claims shall be referred to either Judicial Arbitration and Mediation Services (“JAMS”) or the American Arbitration Association (“AAA”), as selected by the party electing to use arbitration. If a selection by us of one of these organizations is unacceptable to you, you have the right within ten (10) days after you receive notice of our election to select the other organization listed to serve as arbitrator administrator. For a copy of the procedures, to file a claim or for other information about these organizations, contact them as follows: (i) JAMS at 1920 Main Street, Suite 300, Los Angeles, CA 92614; website at [www.jamsadr.com](http://www.jamsadr.com); and (ii) AAA at 335 Madison Avenue, New York, NY 10017; website at [www.adr.org](http://www.adr.org).

In the event that JAMS or the AAA is unable to handle the dispute for any reason, then the matter shall be arbitrated instead by a neutral arbitrator selected by agreement of the parties pursuant to the AAA rules of procedure; or, if the parties cannot agree, selected by a court in accordance with the Federal Arbitration Act (Title 9 of the United States Code) (“FAA”). To the extent that there is any variance between the selected forum’s rules and this Section IV (Arbitration and Waivers), this Section IV (Arbitration and Waivers) shall control.

If you initiate the arbitration, you must notify us in writing at: 2955 Campus Drive #110, San Mateo, CA 94403. If we initiate the arbitration, we will notify you in writing at your last known address in our file.

**F. Class Action and Jury Waiver.** NEITHER YOU NOR WE SHALL BE ENTITLED TO JOIN OR CONSOLIDATE DISPUTES BY OR AGAINST OTHERS IN ANY COURT ACTION OR ARBITRATION, OR TO INCLUDE IN ANY COURT ACTION OR ARBITRATION ANY DISPUTE AS A REPRESENTATIVE OR MEMBER OF A CLASS, OR TO ACT IN ANY ARBITRATION IN THE INTEREST OF THE GENERAL PUBLIC OR IN A PRIVATE ATTORNEY GENERAL CAPACITY, UNLESS THOSE PERSONS ARE BENEFICIARIES ON YOUR ACCOUNT. THIS IS SO WHETHER OR NOT THE CLAIM HAS BEEN ASSIGNED. FURTHER, NEITHER YOU NOR WE SHALL HAVE THE RIGHT TO LITIGATE A CLAIM IN COURT, SUBJECT TO SUBSECTION D (EXCLUDED CLAIMS), OR HAVE A JURY TRIAL ON A CLAIM, OR TO ENGAGE IN DISCOVERY, EXCEPT AS PROVIDED FOR IN THE CODE OF PROCEDURES OF JAMS OR AAA.

**G. Location of Arbitration and Cost.** The arbitration shall take place in the Federal judicial district in which you reside, unless the parties agree to a different location in writing. The party initiating the arbitration (or appeal of the first arbitration award) shall pay the initial filing fee. If you file the arbitration and an award is rendered in your favor, we will reimburse you for your filing fee. If there is a hearing, we will pay the fees and costs for the first day of that hearing. All other fees and costs will be allocated in accordance with the rules of the arbitration forum. However, we will advance or reimburse filing and other fees if the arbitrator rules that you cannot afford to pay them or finds other good cause for requiring us to do so, or if you ask us in writing and we determine in good faith there is a justifiable reason for doing so. Each party shall bear the expense of their respective attorneys, experts, and witnesses and other expenses, regardless of who prevails, but the arbitrator will have the authority to award attorneys and expert witness fees and costs to the extent permitted by these Account Terms, the forum’s rules, or applicable law.

**H. Governing Law.** You and we agree that in our relationship arising from these Account Terms: (1) the parties are participating in transactions involving interstate commerce; (2) the arbitrator shall decide any dispute regarding the enforceability of this arbitration agreement; and (3) this arbitration agreement and any resulting arbitration are governed by the provisions of the FAA, and, to the extent any provision of that act is inapplicable, the laws of the State of Tennessee. The arbitrator must apply applicable substantive law consistent with the FAA and applicable statutes of limitations and claims of privilege recognized at law. At the timely request of either party, the arbitrator must provide a brief written explanation of the basis for the award.

**I. Continuation and Severability.** This Section IV (Arbitration and Waivers) shall survive termination of your Account, these Account Terms and any bankruptcy by you or us. If any portion of this Section IV (Arbitration and Waivers) is deemed invalid or unenforceable under any principle or provision of law or equity, consistent with the FAA, it shall not invalidate the remaining portions of this Section IV (Arbitration and Waivers), these Account Terms or any prior agreement you may have had with us, each of which shall be enforceable regardless of such invalidity.

## **V. Miscellaneous Terms.**

**A. Ordinary Care; No Fiduciary Obligation.** You agree that any act or omission made by us in reliance upon or in accordance with any provision of the Uniform Commercial Code as adopted in the State of Tennessee, or any rule or regulation of the State of Tennessee or a federal agency having jurisdiction over the Bank, shall constitute ordinary care. Unless otherwise specified, we do not assume any fiduciary obligation on your behalf. This means that we do not act as your trustee or financial advisor, and we don't assume any responsibility for your account beyond reasonable care.

**B. Governing Law, Forum and Time Limits.**

1. All Accounts are opened at the Tennessee branch office of the Bank. All actions relating to your Account, including these Account Terms, will be governed by the laws and regulations of the United States and the State of

Tennessee (to the extent that laws of the State of Tennessee are not preempted by Federal law). Federal and the laws of the State of Tennessee shall be applied without giving effect to principles of conflicts of law.

2. To the extent any dispute arising under these Account Terms or relating in any way to your Account or your relationship with us is not arbitrated, you consent to the jurisdiction of, and agree that such dispute will be resolved by the Federal or state court located in Shelby County, Tennessee.

3. You must file any lawsuit or arbitration against us within two (2) years after the claim arises, unless Federal law or the laws of the State of Tennessee or an applicable agreement provides for a shorter time. This limit is in addition to limits on notice as a condition to making a claim. If Tennessee law does not permit contractual shortening of the time during which a lawsuit must be filed to a period as short as two (2) years, you agree to the shortest permitted time under Tennessee law. Any action against us must be brought within the period that the applicable law requires us to preserve records, unless applicable law or this agreement provides a shorter limitation period.

**C. Reporting Information.** We may report information about your Account to consumer reporting agencies, governmental agencies, and/or third-party data services. Defaults on your Account may be reflected in your consumer report.

**D. Compliance with Law.** You agree to comply with applicable law and to not use your Account for illegal transactions or activities.

**E. Changes in Terms.** We may change these Account Terms, or any fees and features of your Account, at any time. We will give you advance notice of any change required by law in accordance with such law. We may provide this notice to you on or with your statement, by mailing the notice to you directly or by posting the notice on the Service Provider Platform. We may change or terminate these Account Terms without notice to comply with any appropriate Federal or state law or regulation.

**F. Security Interest.** You grant us a security interest in your Account to secure payment of any money that you owe to us arising under these Account Terms or any other agreements with us. You acknowledge and grant us the right to use any of the funds in your Account to cover any money you owe to us (a "right of set-off"). You agree that the security interests you have granted to us are consensual and in addition to any rights of set-off. We may exercise our security interest or right of set-off without prior recourse to other sources of repayment or collateral, if any, and even if such action causes you to lose interest, incur any penalty or suffer any other consequence. If we exercise our security interest or right to set-off, we will notify you to the extent required by applicable law. If the law imposes conditions or limits on our ability to take or set off funds in your Account, to the extent that you may do so by contract, you waive those conditions and limits, and you authorize us to apply funds as we deem applicable. We may also exercise these rights against any Account beneficiary. These rights exist no matter who contributed the funds to the Account. We will consider these Account Terms as your consent for us asserting our security interest or exercising our right of set-off should any laws governing your Account require your consent.

**G. No Waiver of Rights.** If we fail to exercise or waive a right with respect to your Account on one or more occasions, it does not mean we have waived, or are obligated to waive, the same right on any other occasion. We may release any other person obligated under these Account Terms without affecting your responsibilities under these Account Terms. In any event, no such waiver or delay by us is effective unless it is in writing and approved by us.

**H. Assignment.** Your Account is not transferable and is not assignable as collateral for a loan or for any other purpose.

**I. Other Services and Conflicts.** If we make available to you any of our other banking services offered in connection with your Account (e.g., wire or check services), we may provide certain terms and conditions of the additional service to you in a separate agreement or disclosure. If a service we offer has a separate agreement, and there is a conflict between the terms of these Account Terms and the separate agreement, the separate agreement shall control.

**J. Privacy Policy.** You authorize us to share information about you and your Account with our affiliates and third parties, unless applicable law or our [Privacy Notice](#) prohibits us from doing so. Please see our Privacy Notice for your choices about information sharing.

**K. Severability.** In the event that any court or tribunal of competent jurisdiction determines that any provision of these Account Terms is illegal, invalid, or unenforceable, the remainder of these Account Terms shall not be affected thereby. To the extent permitted by applicable law, the parties hereto waive any provision of law which prohibits or renders unenforceable any provision hereof, and to the extent that such waiver is not permitted by applicable law, the parties intend that such provision be interpreted as modified to the minimum extent necessary to render such provision enforceable.

#### **L. Limitation of Liability, Disclaimer of Warranty, Indemnification and Reimbursements.**

1. Limitation of Liability. EXCEPT AS OTHERWISE REQUIRED BY APPLICABLE LAW, WE ARE NOT LIABLE FOR ANY CLAIMS, COSTS, LOSSES, OR DAMAGES RESULTING DIRECTLY OR INDIRECTLY FROM OUR FAILURE TO ACT, OR ANY DELAY BEYOND TIME LIMITS PRESCRIBED BY LAW OR PERMITTED BY THESE ACCOUNT TERMS IF SUCH FAILURE OR DELAY IS CAUSED BY YOUR NEGLIGENCE, ACTS OR OMISSIONS OF THIRD PARTIES, INTERRUPTION OR MALFUNCTION OF EQUIPMENT OR COMMUNICATION FACILITIES, SUSPENSION OF PAYMENTS BY ANOTHER FINANCIAL INSTITUTION, FIRE, NATURAL DISASTERS, ELEMENTS OF NATURE, GOVERNMENT ACTION, ACTS OF WAR, TERRORISM OR CIVIL STRIFE, EMERGENCY CONDITIONS, OR OTHER CIRCUMSTANCES BEYOND THE REASONABLE CONTROL OF THE BANK, PROVIDED THE BANK EXERCISED SUCH DILIGENCE AS THE CIRCUMSTANCES REQUIRE. EXCEPT AS OTHERWISE REQUIRED BY APPLICABLE LAW, THE BANK SHALL BE EXCUSED FROM SUCH FAILURE TO ACT OR DELAY AS LONG AS SUCH CIRCUMSTANCES PREVAIL, AND THE BANK CONTINUES TO USE ITS COMMERCIALY REASONABLE EFFORTS TO RECOMMENCE PERFORMANCE. EXCEPT AS OTHERWISE REQUIRED BY APPLICABLE LAW, OUR LIABILITY TO YOU FOR A CLAIM IS LIMITED TO THE FACE VALUE OF THE ITEM OR TRANSACTION, OR THE ACTUAL VALUE OF ANY FUNDS NOT PROPERLY CREDITED OR DEBITED. IN NO EVENT WILL WE BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES EVEN IF YOU ADVISE US OF THE POSSIBILITY OF SUCH DAMAGES.

2. To the fullest extent permitted by law, we are not liable for any Services or the Service Provider Platform and disclaim all warranties, either express or implied or statutory, including, but not limited to, any implied warranties of merchantability, fitness for a particular purpose and lack of viruses related to the Services or the Service Provider Platform.

3. Indemnification. You agree to indemnify and hold us harmless from any losses, damages, suits and expenses, including reasonable attorneys' fees, which we may incur as a result of: (i) taking any action or not taking any action that we are entitled to take pursuant to these Account Terms; (ii) any action or omission by you; or (iii) relying upon instructions or information from you.

This subsection does not, in any case, reduce our liability to you as described in Section VII (Electronic Fund Transfer Disclosure).

4. Disclaimer. ALL ACCOUNT FEATURES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

5. Reimbursement for Losses. If we take any action to collect debt incurred by you or other amounts you owe us under these Account Terms or defend ourselves in a lawsuit brought by you where we are the prevailing party, you agree to reimburse us for our losses, including, without limitation, reasonable attorneys' fees, to the extent permitted by applicable law. We may charge your Account for our losses without prior notice to you.

**M. Liability for Service Interruptions.** From time to time, due to maintenance, malfunctions or failures of software, equipment, or telecommunications devices, as well as unusual transaction volume or similar reasons, access to your Account may not be available to you. We minimize the periods of time during which your Account is unavailable. Access to your Account may also be interrupted as a result of things beyond our reasonable control, computer failures, loss of power, failure or interruption of communication or transportation facilities, riots, strikes, or civil unrest. You agree that we shall not be responsible for any loss, damages, costs or expenses that you may suffer or incur, directly or indirectly, as a result of the unavailability of access to your Account, regardless of whether it could be shown that we could have prevented or reduced the duration of such unavailability by taking any action within our reasonable control. We shall also not be responsible for any loss, damages, costs or expenses which you may suffer or incur, directly or indirectly, as a result of your inability to access your Account caused directly or indirectly, in whole or in part, by your computer or mobile device, your inability to establish a connection to or to access the Internet, or other limitations or constraints of the Internet. The provisions set forth in this section shall apply in addition to any other provisions in these Account Terms but as applied to service interruptions for access to your Account, this section shall control.

**N. Section Headings and Successors.** The headings in these Account Terms are only for convenience and do not in any way limit or define your or our rights or obligations under these Account Terms. These Account Terms will be binding on your personal representatives, executors, administrators, and successors.

**O. Change of Address or any Application Information.** You must notify us through the Service Provider Platform of any change of address, email address or phone number or any material change to information you provided us in your application to open an Account. Any notice we provide to you will be binding and sent to the last (postal or electronic) address in our records. We may change your address if we receive an address change notice from the U.S. Postal Service or if a company in the business of providing correct addresses informs us that the address in our records no longer matches your address.

**P. Communications.** You acknowledge that data, including emails, may be accessed by unauthorized third parties when communicated between you and the Bank, using the Internet, telephone, or other electronic devices. We are not responsible for any misdirected data or disclosures that occur as a result of your use of third-party electronic communication channels.

**Q. Calls and Messages.** You agree that we or our agents or service providers may contact you regarding any matter for any non- telemarketing reason using any kind of telecommunications technology at any email and telephone number you provide to us, including the phone number for your mobile device. You agree to receive these calls and messages, including pre-recorded or auto-dialed calls. You also agree that we may send text messages to any phone number for your mobile device you provide to us. You understand and accept that your service provider may charge you for these calls and messages consistent with applicable law. For quality control purposes and for other reasons, you permit us to record and monitor your telephone conversations and electronic communications with us (including email). Unless the law requires otherwise, you consent in advance to such recording and monitoring and we do not need to remind you of these activities at the time of the call or communication. To revoke the consent provided pursuant to this subsection, you must send ten (10) days' prior written notice of such revocation to 2955 Campus Drive #110, San Mateo 94403.

**R. Survival.** Termination of these Account Terms shall not impact any right or obligation arising prior to termination, and in any event, the parties agree that any right or obligation which, by its nature, should survive termination of these Account Terms will survive any such termination (including, but not limited to Sections IV (Arbitration and Waivers) and V (Miscellaneous Terms) of these Account Terms).

## **VI. Tax Reporting and Backup Withholding.**

Federal law requires us to have a valid Social Security Number or Individual Taxpayer Identification Number for each Account owner so that we can correctly report the interest you have earned to the relevant tax authorities (if your Account is an interest-bearing account). Accordingly, you must certify your Social Security Number or Individual Taxpayer Identification Number as part of opening an Account. If you do not provide us with and certify a valid Social Security Number or Individual Taxpayer Identification Number within the time period specified, we are required to withhold a percentage of the taxable interest that we pay to you. This withholding is commonly referred to as "Backup Withholding." In some states, we may also be required to withhold taxable interest for state taxes.

## **VII. Electronic Fund Transfers Disclosure.**

We may offer a variety of electronic banking services for your use with your Account. The purpose of this Section VII (Electronic Fund Transfer Disclosure) is to inform you of some of the electronic banking services and also provide you with disclosures applicable to the services. We may also provide separate agreements to you that govern the terms of some services, including a separate agreement for Cards.

**A. Supported EFTs.** The electronic fund transfers ("EFTs") that we may support are listed below. EFT available to you will depend on the EFTs supported by the Service Provider Platform and all the below listed EFT services may not be available to you.

1. Direct deposits of federal government payroll, disability, veteran's benefits, Social Security, and other federal government payments that you may receive and that may be deposited to your Account and of your

paycheck to your Account, provided that your employer offers direct deposit and you complete any forms required by your employer.

2. Any deposit or withdrawal to your Account that is handled electronically as an ACH Transfer.
3. Card transactions at ATMs to withdraw cash, transfer funds and find out balances.
4. Card transactions at participating merchants to purchase goods and services. Some merchants may also allow you to withdraw cash from your Account while making a purchase.
5. Deposit cash and checks by using your Card at an ATM.
6. Online fund transfers using your Card and the Service Provider Platform, if available.

We do not charge for EFTs, but we may add charges at any time by providing you with prior notice if required by law. An ATM owner may charge you for using the ATM.

**B. Transfer Limitations.** The transfer limit depends on the EFT type. If a Card is made available to you, it is subject to a purchase and withdrawal limit, as set forth in the debit card agreement governing your Card. The Card may be further limited based on fraud risk and security of the Account. All EFTs are subject to limits. Such EFT limits include limits on ATM withdrawals, cash advances and PIN or signature-based purchases. ACH Transfers to external accounts are also subject to limits on the dollar amount of electronic transfers between your Account and external accounts at other financial institutions, including Linked Accounts. All limits described here are designed to be flexible in order to protect the security and integrity of the service and accounts, including the Account, as well as you and all other users of the service. These limitations may be based on confidential fraud and risk criteria that are essential to our management of risk and the protection of you and the integrity of the service and all Accounts and may be modified at our sole discretion without advance notice.

**C. Preauthorized Credits.** If you have arranged to have direct deposits to your Account at least once every sixty (60) days from the same person or company (including your employer), you can call us at +1 (888) 610-2324 or access your Account through the Service Provider Platform to find out whether or not the deposit has been made.

**D. Periodic Statements.** For purposes of this Section, we may send you a monthly Account statement that sets forth all of your EFTs made in the past month, unless there are no EFTs in a particular month. In that case, we will send you a statement at least quarterly, unless your account is considered inactive.

**E. Terminal Transfers.** If you are able to make transfers to or from your Account using an ATM or point-of-sale terminal, you can get a receipt at the time you make any such transfers.

**F. Liability for Failure to Make EFTs.** If we do not complete a transfer to or from your Account on time or in the correct Amount according to our agreement with you, we will be liable for damages or losses proximately caused by our failure. All such damages and losses for a failure to make a transfer will have to be actual proven damages. However, there are some exceptions, and we will not be liable for any damages or losses if, for example: (1) there are insufficient funds in your Account to complete the transaction through no fault of ours; (2) the funds in your Account are not yet available for use or withdrawal; (3) the ATM where you are making the transfer does not have enough cash; (4) the ATM, system, equipment or terminal involved in the transfer is not working properly and you know about the improper functioning at the time you started the transaction; (5) the funds in your Account are subject to legal process or other encumbrance restricting the transfer; (6) the circumstances preventing the transfer or the failure of the transfer is beyond our control (e.g., power outage, an Act of God, fire, natural disaster) even after we have taken reasonable precautions; (7) the Account is inactive or dormant; or (8) your Card has been revoked due to inactivity or at our discretion. There may be additional exceptions stated in our agreement with you or permitted by law.

**G. Liability for Unauthorized Transfers.**

Tell us AT ONCE if you believe your Card (if one is made available to you) or Credentials have been lost or stolen, or if you believe that an electronic fund transfer has been made without your permission using information from your Account. You could lose all the money in your Account. If you tell us within two (2) business days after you learn of the loss or theft of

your Card or Credentials, you can lose no more than \$50 if someone used your Card or Credentials without your permission. If you do NOT tell us within two (2) business days after you learn of the loss or theft of your Card or Credentials, and we can prove we could have stopped someone from using your Card or Credentials without your permission if you had told us, you could lose as much as \$500.

Also, if your statement shows transfers that you did not make, tell us at once. If you do not tell us within sixty (60) days after the statement was mailed to you or first became available via electronic means, you may not get back any money you lost after the sixty (60) days if we can prove that we could have stopped someone from taking the money if you had told us in time. We can extend these time periods if extenuating circumstances (such as a long trip or hospital stay) kept you from notifying us.

**H. Business Days.** Our business days are (Monday through Friday) (Monday through Saturday) (any day including Saturdays and Sundays). Holidays are (not) included.

**I. Confidentiality.** We will disclose information to third parties about your Account or the transfers you make: (1) where it is necessary for completing transfers; (2) in order to verify the existence and condition of your Account for a third party, such as a credit bureau or merchant; (3) in order to comply with government agency or court orders; or (iv) if you give us your written permission.

**J. Preauthorized Payments.**

1. Stop Payment Procedure. You may not stop payment of an electronic transfer that is not recurring once you have initiated the transaction. If you informed us, in advance, to make automatic recurring transfers out of your Account, you can stop any of these transfers by calling us at [INSERT NUMBER] or sending us an electronic communication through the Service Provider Platform. We must receive your stop payment request at least three (3) business days before the transfer is scheduled to be made. When you make the request, you must tell us your name, the Account to which the transfer is scheduled to be made, specify the exact amount of the transfer you want stopped, and the date the transfer is scheduled to be made. If you call us, we may require you to put your request in writing and get it to us within fourteen (14) days after you call. If you do not, then your verbal request will expire after fourteen (14) days. We will charge you [INSERT AMOUNT] for each stop-payment order you give.

2. Notice of Varying Amounts. If these regular payments may vary in amount, the person you are paying must tell you ten (10) days before each payment when it will be made and how much it will be. You may choose instead to get this notice only when the payment would differ by more than a certain amount from the previous payment, or when the amount would fall outside certain limits that you set.

3. Liability for Failure to Stop Payment of Preauthorized Transfer. If you order us to stop one of these payments three (3) business days or more before the transfer is scheduled, and we do not do so, we will be liable for your losses or damages. We will not be responsible if our computer system does not act on your order because you did not give us precise and correct information. Our liability for losses or damages may be limited to actual damages that you have sustained if the failure to stop payment was due to a bona fide error.

**K. Error Resolution.** In Case of Errors or Questions About Your Electronic Transfers Telephone us at [insert telephone number] Write us at [insert address] [or email us at [insert email address]] as soon as you can, if you think your statement or receipt is wrong or if you need more information about a transfer listed on the statement or receipt. We must hear from you no later than 60 days after we sent the FIRST statement on which the problem or error appeared.

You must provide us with the following information: (1) tell us your name and account number (if any); (2) describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information; and (3) tell us the dollar amount of the suspected error.

If you tell us orally, we may require that you send us your complaint or question in writing within ten (10) business days. We will determine whether an error occurred within ten (10) business days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 days to investigate your complaint or question. If we decide to do this, we will credit your Account within 10 business days for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within ten (10) business days, we may not credit your Account. For errors involving new Accounts, point-of-sale, or foreign-initiated transactions, we may take up to ninety (90) days to investigate your complaint or question. For new Accounts, we may take up to twenty (20) business days to credit your Account for the amount you think is in error.

We will tell you the results within three business days after completing our investigation. If we decide that there was no error, we will send you a written explanation. You may ask for copies of the documents that we used in our investigation. If we credit your Account with funds while investigating an error, you must repay those funds to us if we conclude that no error has occurred.

### **VIII. Deposit Availability Disclosure.**

When a deposit is made to your Account, the funds may not be available immediately. This Section VIII (Deposit Availability Disclosure) describes when funds will be made available to you.

**A. Delays.** We may delay the availability of funds from certain types of deposits to your Account. There are exceptions that may apply in certain circumstances (e.g., if you have overdrawn your Account repeatedly in the last six months or there is an emergency). During the delay, you may not withdraw funds and may not use the funds. Interest will be paid on deposits we receive, even if the funds are not yet available for withdrawal. We will notify you if we delay the availability of your funds, and we will tell you when you can expect your funds to be available.

**B. Day of Deposits.** Any transaction that you conduct on Saturday, Sunday, a federal holiday, or other days on which we are closed will be handled the following business day. If we receive a deposit before 4:00 PM MT on a business day, we will consider that business day to be the day of your deposit. However, if we receive a deposit after 4:00 PM MT or on a non-business day, we will consider the deposit as having been made the next business day.

**C. Availability of Cash, Wire and Check Deposits.** If your Account supports cash, wire or check deposits, we will provide you with a separate deposit and fund availability disclosure and schedule for such deposits.

**D. Availability of ACH Transfer and EFT Deposits.** Funds from ACH Transfers or EFTs that you initiate through another bank will generally be available on the next business day after the day the ACH Transfer is deemed to be received by us. An ACH Transfer or EFT debit to a Linked Account or any other external account that we originate on your behalf will generally be made available on the third business day after the date the ACH Transfer or EFT is deemed to be received by us. Once they are available, you can use the funds for EFTs and ACH Transfers. Even after we have made funds available to you and you have withdrawn the funds, you remain responsible if any deposit to your Account is returned, rejected, or otherwise uncollected by the Bank.





