

**EVOLVE BANK & TRUST**  
**BUSINESS ACCOUNT AND CARDHOLDER AGREEMENT**

**I. INTRODUCTION.**

This document, as amended or supplemented by the attached disclosures (collectively, this “Agreement”), contains the general terms, conditions and disclosures for the Evolve Bank & Trust commercial deposit account (the “Account”) and any Card (as defined below) and constitutes an agreement between the Bank (as defined below) and you. For purpose of this Agreement, the term “Account” may also collectively include Sub-Deposit Accounts of such Account. This Agreement also includes any disclosures or notices we may provide to you related to your Account or Card.

References to the “Bank,” “we,” “us,” or “our” means Evolve Bank & Trust, our successors, affiliates, and assignees. References to “you” and “your” means the entity that holds the Account, and, as applicable, each person who has been issued a Card, is provided access to the Account or is an authorized user of the holder of the Account. This Agreement may be supplemented or amended as set forth in Section V(5) (Changes in Terms). Bank services and access and use of your Account may be provided to you through the website and/or smart phone application of our service provider, Apto Payments, Inc. at <https://www.aptopayments.com> (the “Service Provider,” and its website and smart phone application, the “Service Provider Platform”). The Service Provider or its affiliates 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”), and such Services are not governed by this Agreement and not offered by Bank. Please see Section II(5) (Service Provider) for additional information.

By opening or continuing to maintain an Account with us or by accepting or using the Card, you agree to be bound by this Agreement, 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 this Agreement for your future reference.

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

**THIS AGREEMENT 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.**

**1. Availability.** The Account and Card are available to an entity legally operating in the U.S. and with a U.S. physical address. The Account is only available for business purposes only, and you must not use it for personal, family, or household purposes. The Card may not be used for personal, family, or household purposes. You acknowledge and understand that neither the Account nor Card will not be treated as a consumer account or card under the provisions of state and federal law. You are not entitled to open an Account under this Agreement if you are not 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. To open an Account or be issued a Card, you must provide any information we may request from time to time. Each owner of an Account and/or Card 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.

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 the [Evolve Bank & Trust Electronic Communication Consent](#), which governs entering into electronic transactions and electronic delivery of all communications.

**2. Account Type and Ownership.** The Account is a transaction account that does not pay interest, and the Card is a payment access device to your Account that allows you to make certain purchases, 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. 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.

You may designate authorized users to initiate transactions on your behalf or take any action under this Agreement that you may have taken, and any action taken by an authorized user shall be fully binding on you. You may not permit an authorized user to initiate a transfer, payment order or transaction in the absence of proper supervision and safeguards. If you permit another person to have access to the Card or Account, this will be treated as if you authorized such use and you will be liable for all transactions and fees incurred by those persons. You are wholly responsible for the use of each Card and Account use according to the terms and conditions of this Agreement. You are liable for all transactions made with the Card(s) or Account by your authorized user(s). You are the Card owner and are responsible for all transactions and fees incurred by you or any authorized user(s). You may terminate the authority of any authorized user at any time by giving us prior notice of termination. To terminate access of an authorized user to a Card or Account, call the toll-free number on the back of your Card or customer service at 855-459-0326 and you must follow-up not later than ten (10) business days with the written notification to revoke (cancel) permission for any person you previously authorized to use your Card or Account. Until we have received your written notice of such a revocation (cancellation) and have had a reasonable time to act upon the written notification of cancellation, you are responsible for all transactions and fees incurred by you or any authorized user. If you tell us to revoke (cancel) another person's use of your Card or Account, we may revoke (cancel) your Card and Account credentials.

Except as otherwise provided by law, you shall be liable for any loss or damage to which your negligence contributed or which resulted in unauthorized, fraudulent, or dishonest acts by your current and/or former authorized users. Such liability includes instances when a current or former authorized user effects one or more payment orders or transactions or improper use of security procedures to effect a payment order or transaction to your detriment. Notwithstanding anything to the contrary, you are liable for all losses relating to unauthorized funds transfers that do not result solely from our negligence or intentional misconduct, unless the laws governing your account requires a lesser liability.

**3. Opening an Account.** To open an Account and request a Card, you must submit to us an application and all information that we may require. You represent to the Bank that you are authorized to do business in the manner indicated to us and that the acts of person(s) opening the Account have been ratified and that all information submitted to us by and concerning you is true and complete and, to the extent applicable, reflects in all material respects the business, financial condition, and principal partners, owners, or officers of your business. You agree that the Bank may rely on such representations without requiring additional information or documentation and that you will furnish such information upon request. You are solely responsible for meeting any legal requirements to establish and maintain the type of Account requested and have a duty to inform us of the status of any change to your organization, including any change to the type of entity.

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 customer who opens an Account. This means that when you open an Account, we will ask for your name, address, tax identification number, and other information that will allow us to identify you. Federal regulations require that you provide us with information concerning the beneficial owners of a legal entity at Account opening. We will request the name, address, date of birth, and taxpayer ID number or social security number of certain beneficial owners and a control person. We may also ask to see other identifying documents, such as a driver's license, taxpayer identification number; passport number and country of issuance; alien identification card number; or number and country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard. If, for any reason, you, any control person or beneficial owner 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. You may also be asked to provide such information at other times (and on any qualifying account) upon request of the Bank. You 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. If at any time we determine that the information you provided to us was false, incorrect, or of concern to the Bank, or if you refuse to provide, or delay in providing, us with the information when requested, we may close, block, restrict or freeze any or all of your Accounts and Cards.

You represent and warrant that you have the power, and where applicable, each of your authorized users have the power to execute and perform your obligations under this Agreement. We reserve the right to require you to furnish us with resolutions, agreements or documents as we may reasonably request to evidence the authority of individuals to act on behalf of the Account holder(s). It is agreed that the power and authority of each person named as authorized to take action with respect to the Account shall continue in full force and effect until we receive actual written notice of revocation, whether the same be brought about by dissolution or termination of the Account holder or otherwise.

By requesting to or opening an Account with us, you agree that we can gather personal information about you and/or your beneficial owners from one or more consumer reporting agencies, governmental entities and/or other third parties to determine your eligibility for an Account or Card. 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.

**4. BSA and OFAC Compliance Obligations.** Among other compliance obligations imposed on us by the Financial Crimes Enforcement Network (“FinCEN”) (pursuant to the Bank Secrecy Act, as amended and supplemented from time to time (“BSA”)) and the Office of Foreign Assets Control (“OFAC”), we are required to report certain transactions to FinCEN and OFAC (all such obligations, the “BSA/OFAC Compliance Obligations”). You acknowledge and agree that we may capture and transmit or disclose information collected from or about you in connection with this Agreement for the purpose of satisfying our BSA/OFAC Compliance Obligations, including without limitation information regarding you, your authorized users and beneficial owners, and your Account (for example, name, address, and account number) and regarding beneficiaries (for example beneficiary’s name, address and account number) to FinCEN or OFAC, as part of the processing of a payment order. You agree to assist us in connection with any requirements imposed on us in fulfilling our obligations under law, including without limitation the BSA/OFAC Compliance Obligations. You agree to observe and comply with all applicable law and all anti-money laundering and sanctions laws, including, without limitation the BSA and the Trading with the Enemy Act, as amended, and each of OFAC’s economic and trade sanctions regulations in connection or related to your Account.

**5. Service Provider.** You understand that we have engaged the Service Provider to perform a number of services for you under this Agreement, including, but not limited to, identity verification, compliance monitoring, risk mitigation, managing your Account and Card and other services we may require. The Service Provider, along with its partners and agents, is the servicer of your Account and Card. In that capacity, Service Provider may act on our behalf, perform our obligations and/or enforce our rights under this Agreement. You agree that you may only access the Account through the Service Provider. You may provide us with payment instructions and view certain Account information by 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.

Separate and apart from its role as our servicer, the Service Provider may also offer Services to you. We are neither responsible for the provisioning of such Services nor do we make any recommendations, representations, warranties or suggestions regarding such Services. To the fullest extent permitted by law, we will not have any liability in connection with the Services or 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, data (including unauthorized access), intellectual property infringement and/or lack of viruses related to the Services or Service Provider Platform. In no event shall we be liable for any losses or damages related to your use of Services or Service Provider Platform.

### **III. USING YOUR ACCOUNT, DEBIT CARD AND ACCOUNT DISCLOSURES.**

#### **1. Debit Card.**

i. **General Card Information.** In connection with your Account, we may (but are not obligated to) issue you a debit card to access the Account (the “Card”) that will automatically link to your Account and be funded by your Account. If a Card is made available to you, the Card allows you to access funds deposited to your Account by you or on your behalf pursuant to the terms of this Agreement. The Card is not a credit card, prepaid card or a gift card and may not be gifted, sold or transferred. The expiration date of the Card is listed on the Card. However, the funds in your Account will not expire, regardless of the expiration date listed on your Card. The Card will remain the property of the Bank and must be surrendered upon demand. The Card is nontransferable, and it may be canceled, repossessed, or revoked at any time without prior notice, subject to applicable law. We have no responsibility for failure of any machine, merchant, financial institution or any other party to honor your Card. We may decline to authorize a transaction for any reason. We are not responsible for any losses you may incur if we do not authorize a transaction. You understand that any person may deny acceptance of or refuse to accept your Card and we are not responsible for such denial or refusal.

Not all services or features of your Card described in this Agreement are available to all persons or at all locations. Any offer of a service or feature of your Card or Account in this Agreement will be deemed void where prohibited. Use of the Card is also subject to all applicable rules and customs of any payment network, clearing house or other association involved in transactions in addition to this Agreement. We reserve the right to limit, at our sole discretion, the provision of any such services under this Agreement to any person or in any location. We can waive or delay enforcement of any of their rights under this Agreement without losing them.

ii. **Card Activation.** You must activate the Card and complete the activation process, including setting a Personal Identification Number (“PIN”), before it may be used. You must maintain your PIN in confidence and not give it to anyone. You should memorize your PIN and not write down your PIN or keep your PIN with your Card. If you believe that anyone has gained unauthorized access to your PIN, you should advise the Bank and Service Provider immediately, following the procedures in Section III(1)(xii) (Card Cancellation, Suspension and Limits, Lost or Stolen Card, Card Replacement). You agree to sign the back of the Card immediately upon receipt.

iii. **Card Use.** Once your Card is active, subject to the limitations of this Agreement, you may use your Card, as applicable, to make purchases at any merchant that accepts payment using the Card, as long as you do not exceed the value available in your Account

and as no purchase (whether individually or in aggregate) exceeds the transaction limits determined by us. Each time you use the Card, you authorize the Bank to reduce the value available in your Account (i.e., debit your Account) by the amount of the transaction and any applicable fees. We reserve the right to refuse to make any transfer or process any transaction for security, credit, legal/regulatory, or other reasons, as we determine in our sole discretion. Subject to applicable law, 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. There may be fees associated with some of your Card transactions. If your Account is closed or your Card privileges are canceled, you agree to stop using the Card and destroy the Card or return the Card to the Bank, upon its request.

iv. Limits. For security reasons, the amount or number of Card or Account transactions you may make may be limited, without notice to you. Card and Account limits are subject to periodic review and may be changed based on your Account history, activity, and other factors. We retain sole discretion to apply and change limits, with or without notice to you.

v. Card and Account Fees. The fees relating to the use (including misuse) of your Card and/or Account are set forth in this Agreement and the attached Exhibit 1 Fee Schedule (Exhibit 1) (the "Fees"), which is incorporated herein by reference. Fees incurred pursuant to the terms of this Agreement will be withdrawn from your Account and will be assessed even if there is no remaining balance in your Account, unless prohibited by law.

You are responsible for all transactions initiated and fees incurred by use of the Card, including those initiated by authorized users of the Card or any person you provide the Card to. If you permit another person to have access to your Card or Account, this will be treated as if you authorized such use and you will be liable for all transactions and fees incurred by those persons. You are wholly responsible for the use of each Card according to the terms of this Agreement, subject to the terms herein.

vi. ATMs. With your PIN, the Card may be used to obtain cash at any Automated Teller Machine ("ATM") in the U.S. displaying the Visa or Maestro acceptance marks, subject to limits set by us from time to time. The Card cannot be used at ATMs outside the U.S. without prior notice and approval. Fees may apply (see Exhibit 1 for details). ATM owner-operators may impose their own fees and lower limits on cash withdrawals. You may be charged a fee by the ATM operator even if you do not complete a withdrawal. This ATM fee is a third party fee amount assessed by the individual ATM operator only and is not assessed or controlled by us. This ATM fee amount will be charged to your Account. You may use your PIN and Card at any Point of Sale ("POS") device, as permitted by a merchant that bears the Maestro acceptance marks, and subject to your daily purchase limit.

vii. Foreign Transactions. The Card may be used to conduct transactions within the 50 United States, District of Columbia and U.S. Territories (Puerto Rico, Guam, Northern Marianas, the U.S. Virgin Islands, and American Samoa). The Card may be used to conduct international purchase transactions, including, without limitation, transactions conducted on international merchant websites or mobile applications accessible within the U.S.; provided the merchant accepts the Card. Charges from foreign merchants and financial institutions may be made in a foreign currency. We will post transactions to your Account in U.S. dollars based on the exchange rate on the day we settle the transaction, plus any special currency exchange charges that may be imposed by us, the Visa network and/or by any third-party used to complete the transaction. The exchange rate applied to each such transaction is (1) a rate selected by the Visa from the range of rates available in wholesale currency markets for the applicable central processing date, which rate may vary from the rate Visa itself receives; or (2) the government-mandated rate in effect for the applicable central processing date. Because of the special charges and possible differences in exchange rates between the time we settle and the time you initiated the transaction, the charge for a foreign transaction may be less than or greater than the cash advance or purchase at the time it was made. Foreign transactions are subject to foreign transaction fees, including those set forth in Exhibit 1 and any other fees imposed by the payment network and/or any third party used to complete the transaction, and will be included in the amount charged to your Card or otherwise be debited from your Account.

viii. Card Not Present Transactions. If you initiate a transaction without presenting your Card (such as for a mail order, internet or telephone purchase), the legal effect will be the same as if you used the Card itself.

ix. Split Transactions. If you do not have sufficient funds in your Account, you can instruct the merchant to charge a part of the purchase to the Card and pay the remaining amount with cash or another card. These are called "split transactions." Some merchants do not allow cardholders to conduct split transactions. Some merchants will only allow you to do a split transaction if you pay the remaining amount in cash. If you fail to inform the merchant that you would like to complete a split transaction before swiping your Card, your Card is likely to be declined.

x. Authorization Holds. When you use your Card to purchase goods or services or to make a cash back withdrawal transaction, the merchant may request a preauthorization for the transaction. If the merchant makes such a request and there are sufficient available funds in your Account, we will approve the transaction and a "hold" is placed on your Account for the amount of the preauthorization request (which may vary in some cases from the amount of the actual purchase, depending on the merchant or purchase type), until the merchant sends the final payment amount of your purchase, or for up to sixty (60) days, even if you fail to make the purchase, to the extent permitted by applicable law. The merchant controls the timing of both the Card authorization and settlement

of the transaction. During the hold period, you may not have access to the preauthorized amount in your Account. We will not be responsible if any transactions are not completed because of the hold. If the preauthorization request varies from the amount of the actual transaction, the actual transaction amount will be debited from your Account, even if this results in your Account balance becoming negative. You remain responsible for any negative balances in your Account. If you use the Card at an automated fuel dispenser ("pay at the pump"), the transaction may be preauthorized for an amount up to \$100.00. If the Card is declined, but you have sufficient funds available in your Account for which the Card was issued, you should use the Card to pay for the purchase inside with the cashier. If you use the Card at a restaurant, a hotel, for a car rental purchase, or for similar purchases, the transaction may be preauthorized for the purchase amount plus up to 20% to ensure there are sufficient funds available to cover tips or incidental expenses incurred. You do not have the right to stop payment on any purchase or payment transaction originated by use of the Card once an authorization is approved.

xi. **Return of Funds.** If you are entitled to a refund for any reason for goods or services obtained with the Card, you agree to accept credits to your Account for refunds and agree to the refund policy of the merchant. Neither the Bank nor Service Provider is responsible for the delivery, quality, safety, legality or any other aspects of the goods or services you purchase from others with the Card. If you have a problem with a purchase you made with the Card, or if you have a dispute with the merchant, you must handle it directly with the merchant. The amounts credited to your Account for refunds are generally made available to you within seven (7) days from the date the refund transaction occurs.

xii. **Receipts.** You should get or request a receipt at the time you make a transaction or obtain cash using your Card. You agree to retain your receipts to verify your transactions. You can get a receipt at the time you make a withdrawal from one of our ATM terminals (if available) using your Card.

xiii. **Card Cancellation, Suspension and Limits, Lost or Stolen Card, Card Replacement.** We reserve the right, at any time and in our sole discretion, to limit your use of the Card, including limiting or prohibiting specific types of transactions. We may refuse to issue a Card, revoke Card privileges, or cancel your Card with or without cause or notice, other than as required by applicable law. If you would like to cancel the use of your Card, you may do so by calling the referenced number in Section II.2 or the number on the back of your Card. You agree not to use or allow others to use an expired, revoked, canceled, suspended or otherwise invalid Card. The cancellation of Card privileges will not otherwise affect your rights and obligations under this Agreement.

If you believe your Card or PIN has been lost, stolen or compromised, immediately call the referenced number in Section II.2 or the number on the back of your Card or contact Service Provider by email at [cardsupport@aptopayments.com](mailto:cardsupport@aptopayments.com). You are responsible for all transactions made using your Card, until you notify us and only after a reasonable period of time for us to act on your notice. If you need to replace the Card for any other reason, call the referenced number in Section II.2 or send an email to the referenced email in Section III.1.xiii to request a replacement. You will be required to provide information which may include the last four digits of your Card number and knowledge of the Card transaction history.

We may refuse to issue, deactivate, revoke, suspend or cancel your Card at any time with or without notice to you, other than as required by law. This includes deactivating or canceling your Card if it has been lost or stolen to prevent unauthorized transactions. You agree not to use your Card once it has been deactivated, revoked, suspended or canceled. We may also limit your use of the Card, including limiting or prohibiting specific types of transactions. If you would like to cancel your Card, you may do so at any time by contacting us by emailing Service Provider at the referenced email in Section III.1.xiii. The cancellation of your Card privileges will not otherwise affect your rights and obligations under this Agreement.

**2. Digital Wallets.** Generally, this section of the Agreement governs your election to use eligible Cards issued by us when you add, attempt to add or keep your Card in one or more digital wallets ("Digital Wallet") supported by us if we make such Digital Wallet services available to you. If you add your Card to a Digital Wallet supported by us, your use of your Card in connection with the Digital Wallet is subject to the terms and conditions of this Agreement and the terms and conditions set forth by the third party Digital Wallet provider or another third party supporting the Digital Wallet or Digital Wallet provider (collectively, the "Digital Wallet Provider"). By using your Card in connection with a Digital Wallet, you agree you will comply with the terms of this Agreement and any agreement with the applicable Digital Wallet Provider. If you do not agree to the terms of this Agreement, you may not add your Card to, or use your Card in connection with, a Digital Wallet.

i. **Availability of a Digital Wallet and Your Eligibility.** A Digital Wallet may be available to you for the purpose of purchasing goods and services or for other transactions where the Digital Wallet is accepted. A Digital Wallet may not be accepted at all places where your Card is accepted, and your Card in a Digital Wallet may not be eligible to be used for all the features and functionalities of that Digital Wallet.

We reserve the right to restrict your use of your Card within the Digital Wallet including, but not limited to (i) if your Account is not in good standing with us; (ii) if you are restricted due to limitations on your use imposed by your Digital Wallet Provider, wireless

service provider or any third party associated with your Digital Wallet; (iii) if the Digital Wallet or Digital Wallet Provider is not one that we support; or (iv) for any other reason determined by us in our sole discretion.

ii. **Digital Wallet Provider Relationship.** A Digital Wallet is offered exclusively by your Digital Wallet Provider (e.g., Apple, Google, Samsung) and can only be used with eligible and supported devices determined by your Digital Wallet Provider (the “Supported Devices”). You understand and acknowledge that we do not own, control or operate your Digital Wallet. We are not responsible or liable for any service provided to you by your Digital Wallet Provider or any third party that supports your Digital Wallet or your Digital Wallet Provider or for any failure of or performance of your Digital Wallet or your Digital Wallet Provider’s products or services. Your Digital Wallet Providers have their own terms and conditions that you must comply with when you access or use the Digital Wallet Provider’s Digital Wallet. For instance:

Google Pay: This Agreement does not apply to transactions involving Google products that are not initiated or effectuated through the Digital Wallet. Your use of Google Pay is also subject to the terms and conditions set forth in the [Google Pay Terms of Service](#). We do not control or endorse the provisioning or use of Google Pay.

Apple Pay: Your use of Apple Pay is also subject to the terms and conditions set forth in the [Apple Pay Terms of Service](#). We do not control or endorse the provisioning or use of Apple Pay.

Samsung Pay: Your use of Samsung Pay is also subject to the terms and conditions set forth in the [Samsung Pay Terms and Conditions](#). We do not control or endorse the provisioning or use of Samsung Pay Money Transfer services.

iii. We are not responsible for and do not provide support or assistance for any Digital Wallet or Digital Wallet Provider’s software, systems, products or services (including any Digital Wallet or Supported Device). If you have questions concerning the use of a Digital Wallet or the operation of a Supported Device equipped with the Digital Wallet, such questions should be directed to the Digital Wallet Provider. We are not responsible for (a) providing Digital Wallet services to you; (b) any failure of the Digital Wallet or any Supported Device; (c) your inability to use, or the unavailability of, the Digital Wallet to make a payment in connection with any transaction; (d) the performance or nonperformance of the Digital Wallet, Digital Wallet Provider or any third party providing services on behalf of such Digital Wallet or Digital Wallet Provider; or (e) any loss, injury or inconvenience that you sustain as a result of matters addressed subparts (a) through (d) of this Section. For the avoidance of doubt, we are not responsible for the security, accuracy, legality, appropriateness or any other aspect of the content or function of a Digital Wallet, Digital Wallet Provider’s or any third party’s products or services.

iv. **Adding your Card to a Digital Wallet.** Before you are able to use your Card in a Digital Wallet, you must first add your Card to a Digital Wallet. To add your Card to a Digital Wallet, you must first register your Card with that Digital Wallet by linking your Card to that Digital Wallet. By doing this, you agree that certain of your account information for the Card will be transmitted and stored according to the Digital Wallet and payment card network procedures for the Supported Device and you authorize and allow us to share your Card information with the Digital Wallet Provider and payment card networks. You will be required to complete this process for each Digital Wallet and for each Card. We may require you to take additional steps to authenticate yourself before your Card is added to a Digital Wallet.

Your authorized user may also be permitted to add your Card to a Digital Wallet supported by another financial institution or third party, which could be used for purchases or other transactions without presenting the Card. Any such transactions are covered by this Agreement.

If your physical plastic Card is lost or stolen and your Supported Device is not lost or stolen, you may be required to add the new physical plastic Card to a Digital Wallet. If your Supported Device is lost or stolen, you will need to add your Card to a Digital Wallet on a new Supported Device. We do not recommend, endorse or make any representation or warranty of any kind regarding the performance or operation of your Supported Device or the Digital Wallet. You are responsible for the Supported Device, including its selection, and for all issues relating to the operation, performance and costs associated with such Supported Device. You authorize your wireless operator and/or Bank to disclose your mobile number, name, address, email, network status, customer type, customer role, billing type, account activation date and device make and model, where provided, in accordance with your mobile operator’s or our privacy policy, to allow verification of your identity and for fraud prevention purposes.

v. **Using Your Card with a Digital Wallet.** By adding your Card to a Digital Wallet, you create a virtual or digital version of your Card to enable you to make payments utilizing the Card at any merchant that accepts the Digital Wallet and Card. You may also (i) make contactless payments at merchants who accept the Digital Wallet and the Card and have physical point-of-sale terminals or card readers that accept contactless payments; (ii) make in-app purchases or purchases through merchants’ websites where permitted; (iii)

enter into transactions where the Digital Wallet and Card are accepted; and (iv) use other services that are offered by the Digital Wallet Provider. You agree that the virtual or digital representation of your Card in a Digital Wallet may, in our sole discretion, be automatically updated or upgraded without notice to you. We reserve the right for any reason to discontinue your use of your Card in participation with any Digital Wallet at any time.

You are required to have a Supported Device in order to use your Card in a Digital Wallet. Your Digital Wallet Provider, in its sole discretion, determines which mobile device is a Supported Device that is eligible to be used with a Digital Wallet under this Agreement. Any mobile device which is unlocked in an unauthorized fashion ("jailbroken") or otherwise altered or modified are not Supported Devices under this Agreement and are therefore not eligible to be used with any Digital Wallet under this Agreement. You acknowledge that use of any ineligible, non-supported mobile device with any Digital Wallet is expressly prohibited, constitutes a breach of the terms and conditions of this Agreement and is cause for us to temporarily suspend, permanently terminate or otherwise restrict or deny your further access to, attempted use of or use of your Card in any Digital Wallet. We will not be liable to you (or any third party or otherwise) for such suspension, restriction or termination.

The Digital Wallet may display transaction history on your Supported Device. The transaction history does not reflect any post-authorization activities (e.g., settlement, foreign currency exchange, chargebacks, etc.). The details for your transaction history in connection with that Digital Wallet may not match the actual transaction details, including the amount that ultimately clears, settles and posts to your Card account.

All transactions initiated by you using the Card or Digital Wallet must comply with all federal, state and local laws, rules and regulations applicable to you, including any applicable tax laws and regulations, and you must not use your Card through a Digital Wallet for any fraudulent undertaking or in any manner so as to interfere with the operation of a Digital Wallet.

vi. **Digital Wallet Fees.** We do not charge you any fees to add a Card to a Digital Wallet or to use the Card through a Digital Wallet. However, Digital Wallet Providers and/or other third parties, such as your wireless carrier or data service providers, may charge you fees in connection with your use of a Digital Wallet. You agree to be solely responsible for all such fees and agree to comply with any limitations and restrictions relating to a Digital Wallet and/or your Supported Device. We reserve the right to institute or change a fee to add a Card to a Digital Wallet and/or to use a Card in connection with a Digital Wallet after sending you prior notice.

vii. **Third-Party Agreements and Merchant Relationships.** Each Digital Wallet provider, your wireless carrier and other third-party websites or services that support the Digital Wallet have their own terms and conditions and privacy policies ("Third-Party Agreements"), and you are subject to those Third-Party Agreements when you give them your personal information, use their services or visit their respective sites. Merchants may present to you certain discounts, rebates or other benefits in a Digital Wallet (the "Promotions"). Promotions are subject to separate terms and conditions and are subject to change at any time and without notice to you. We will not be liable for any loss or damage as a result of any interaction between you and a merchant relating to Promotions. Subject to applicable law and this Agreement, all matters, including delivery of goods and services, returns and warranties, are solely between you and the applicable merchants. We do not endorse or warrant the merchants that are accessible through a Digital Wallet or the Promotions that they provide.

viii. **Compromised Supported Device.** In addition to the security procedures described elsewhere in this Agreement, you are solely responsible for maintaining the confidentiality of your Digital Wallet Provider credentials and any other means that you may use to securely access your Digital Wallet or your Supported Device. If another person's biometric identifier is loaded onto a Supported Device, you must take immediate steps to ensure that the biometric identifier is removed from the Supported Device, otherwise any transaction using such Supported Device by a person who you have granted access to will not be an unauthorized transaction for the purposes of determining liability. Similarly, if you provide your user ID, PIN or password necessary to access your Supported Device, you must take immediate steps to change such user ID, PIN or password to ensure no third party has access to or knows such user ID, PIN or password. Otherwise, any transaction using such Supported Device by a person to whom you provide your user ID, PIN or password will not be an unauthorized transaction for the purposes of determining liability. If your PIN, biometric authentication or other passcode is compromised or your Card has been used through a Digital Wallet without your permission, or you have a Supported Device and it has been lost or stolen, you must notify us immediately. If you fail to notify us without delay, you may be liable for part or all of the losses in connection with any unauthorized use of your Card in connection with that Digital Wallet. You should notify us by calling the number on the back of your Card or in the app you use to manage your Card.

ix. **Suspension; Cancellation of Digital Wallet Services.** We reserve the right to discontinue offering or supporting any Card with any Digital Wallet. Except as otherwise required by applicable law, we may block, restrict, suspend or terminate the use of your Card at any time without notice and for any reason, including if you violate the terms of this Agreement or any of other agreement you may have with us, if we suspect fraudulent activity or as a result of cancellation or suspension of your Card account. You agree that we will not be liable to you if your Digital Wallet Provider or any third party blocks, cancels or terminates your use of the Card or Digital Wallet

services.

You may remove one or more of your Cards from your Digital Wallet at any time by following the instructions in your Digital Wallet or by calling the number on the back of your Card.

x. **Use Your Card with a Digital Wallet.** You may only use your Card with a Digital Wallet under the terms and conditions of this Agreement. We reserve all rights not expressly granted to you. You understand and agree that you are granted a non-exclusive, non-sublicensable, non-transferable, personal, limited license to install and use your Card with the Digital Wallet on a Supported Device solely in accordance with the terms and conditions of this Agreement. The license is limited to use on a Supported Device that you own and control and as permitted by any applicable third party agreement. Such license does not allow you to use your Card on any device that you do not own or control (or for which you do not have authorization to install or run the Digital Wallet, such as where prohibited by applicable security policies), and you may not distribute or make any Card or the Digital Wallet available over a payment network where it could be used by multiple devices at the same time. This limited license may be revoked by us. We and any third party, including any Digital Wallet Provider, retains all right, title and interest in and to the software used to provide the Card, Digital Wallet and any modifications or updates thereto. You agree not to use any third-party materials associated with the Card or the Digital Wallet in a manner that would infringe or violate the rights of any party, and that we are not in any way responsible for any such use by you. All third-party intellectual property marks, including the logos of merchants, are the property of their respective owners. We disclaim any representations or warranties related to non-infringement of the Digital Wallet or in connection with your use of the Card with the Digital Wallet.

You agree that we may automatically update or upgrade your Card at any time, in our sole discretion and without prior notice, we may expand, reduce, or suspend the type and/or dollar amounts of transactions allowed using your Card with a Digital Wallet.

The license granted hereunder is effective until terminated by you or us. Your rights will terminate automatically without notice from us if you fail to comply with these terms or if we terminate the use of your Card or the Digital Wallet. Upon termination of the license, you must cease all use of the Digital Wallet and delete your Card(s) from the Digital Wallet.

xi. **Electronic Communications Involving the Digital Wallet and Your Use of the Digital Wallet.** In addition to communications that you expressly consent to elsewhere in this Agreement, you expressly consent to receive phone calls, text messages, push notifications, and emails related to the Digital Wallet from us, Service Provider, Digital Wallet Provider and any of our third-party service providers that support or provide assistance in connection with your Digital Wallet at any phone number (including any mobile phone number) and email address you have provided to us, Service Provider, Digital Wallet Provider or any of our other third-party service providers. Such phone calls and text messages may include auto-dialed phone calls and text messages, prerecorded phone calls and text messages, or both.

**3. 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.

**4. 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.

i. 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.

ii. We do not accept deposits by wire transfer, mail, cash, paper check or foreign currency deposits. We are not liable for wire transfers that you may attempt into your Account or deposits of any kind that you mail to us, including if it is lost in transit, lost in the mail, or otherwise not received by us. If you attempt to make a deposit through a prohibited means, the transaction will be rejected. If you mail us a cash deposit, we may send the cash back to you or, if you owe us funds, set off such amounts from the cash you send us. We may but are not obligated to accept checks. If you mail a paper check to us, including personal checks, money orders or cashier's checks, we may either apply the check to any negative balance you may have on your Account or send the check back to you. We do not accept any deposits in foreign currency. Any deposits received in foreign currency, whether in the form of cash or check, will be sent back to you. We will send all items back to the address we have for you on file and we are not liable if you do not receive the return mail or cash or items.

iii. In addition to any other limitation set forth herein, 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.



**5. Withdrawals.** Subject to any limitations we may prescribe, 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 in the 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. 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 may reject and/or return the transaction without notice to you and may consider such action to be a violation by you of this Agreement.

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.

Subject to any limits we may impose and the terms of this Agreement, you may also withdraw funds from certain ATMs. Other third-party fees may also apply to out-of-network ATM transactions. Please refer to Section II(1) (Debit Card) and the Fee Schedule for additional information.

**6. Payment Instructions.** Your unique passwords, access codes, PIN, security devices, or authentication techniques and related instructions ("Credentials") as we may require from time to time will be made available to you. You agree that your Credentials are strictly confidential and must be safeguarded. You shall have sole responsibility for controlling the distribution and maintaining the confidentiality of your Credentials. You authorize us to execute transactions pursuant to the instructions of anyone who has provided us with proper Credentials (including, but not limited to, 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 mobile device used to access the Service Provider Platform) and you acknowledge that we shall conclusively presume that any person possessing your Credentials is an authorized user and will regard their request for such transaction or payment instruction as being authorized by you, subject to applicable law. 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, subject to applicable law. 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 you become aware of the unauthorized use of your Credentials, suspect that an unauthorized use may occur, any of your Credentials become lost or known to another person, or you have terminated authorization of any authorized user, you agree to immediately notify us, to deactivate your Credentials by contacting us at the referenced number or email in Section III.1.xiii or notifying us through the Service Provider Platform. IN NO EVENT WILL WE BE RESPONSIBLE FOR ANY DAMAGES RESULTING, EITHER DIRECTLY OR INDIRECTLY, FROM THE UNAUTHORIZED USE OF YOUR CREDENTIALS PRIOR TO SUCH NOTICE AND WITHIN A REASONABLE TIME PERIOD THEREAFTER.

We may refuse to follow any of your payment instructions if we think they are illegal or potentially harmful to us or any other person. 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.

## **7. Posting Order of Credits and Debits.**

i. **Posting Orders.** This section summarizes how we generally post some common transactions to your Account. Posting transactions to your Account impacts 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 electronic fund transfers, which includes ACH Transfers. Debits include withdrawals, transfers, payments from your Account, 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 transactions as set forth herein. 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 and settled 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) and associated Card fees. 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 debits in order from the highest to lowest dollar amount. 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.

ii. **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 at 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.

iii. **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.

iv. **Certain Transactions Made After Business Day Ends.** During processing, we may 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 ATM(s) and any credit-push ACH Transfers or electronic fund transfers.

**8. 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).

**9. Legal Processes and Claims Against you or your Account.** If we receive a levy, attachment, execution, garnishment, tax withholding order, restraining order, subpoena, warrant, injunction, government agency request for information, search warrant, forfeiture or other similar order (“Legal Process”) against you, any party to your Account, or against your Account, we may accept and comply with such Legal Process whether it was served to us in person, by mail, by facsimile, by email, or at one of our locations (other than where your Account, property or records are held). You direct us not to contest the Legal Process; provided, however, we are under no obligation to contest any Legal Process. Subject to any law or government authority prohibiting such disclosure, we may, but are not required to send notice to you of the Legal Process. We may refuse to permit withdrawals or transfers from your Account until the Legal Process is dismissed or satisfied. We may hold and turn over funds or other property to the court or creditor as directed by the Legal Process, subject to our right of set-off and security interest in the funds or other property. You are responsible for any losses, costs, or expenses we incur as a result of any Legal Process involving you, any party to your Account or 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.

We may charge your Account a fee for each Legal Process or claim involving you, any party to your Account or your Account. You agree to pay us for fees and expenses (including administrative expenses) that we incur in responding to any Legal Process or claim related to your Account, such as expenses for research and copying of documents. The fees and expenses may include attorneys' fees. We may deduct these fees and expenses from your Account or any account you have with us without prior notice to you.

We may produce or provide access to property, including documents, that are located in or at any of our locations or facilities or at any facility of a third party holding such property or documentation on our behalf, even if the facility or location is not subject to being searched per the Legal Process.

We have no liability to you if we accept and comply with a Legal Process as provided in this section or by law.

#### **10. Statements.**

Statements will periodically be provided to you electronically by either email or made available through your Service Provider's mobile app or website located at <https://www.aptopayments.com> as long as your Account is active. You will not receive paper statements. You agree to notify us promptly if you do not receive your statement by the date you normally would expect to receive it. You agree that the statements have been delivered or made available to you in a reasonable manner.

You have a duty to review your Account statements. You agree to review and to examine your receipts and account statements and to reconcile your Account daily using reasonable care and to promptly report any discrepancy between your records and the information provided in your account statement and any errors or problems to us. Except as provided by applicable law, you agree that we are not required to provide you with a separate notice of incoming or outgoing Wire Transfers and you should review your statement for any discrepancies, unauthorized transactions or errors in connection with any transaction. If you choose not to receive your statements, you remain responsible to review and report any errors. If you are absent from your Account mailing address, you are responsible to make arrangements to have your statements reviewed for errors and report them in accordance with the terms of this Agreement.

You agree that if you fail to report any unauthorized signatures, alterations or forgeries in your account within 60 days of when we first send or make the statement available, you cannot assert a claim against us on any items in that statement, and as between you and us, the loss will be entirely yours. This 60-day limitation is without regard to whether we used ordinary care. In addition to your duty to review your statements for unauthorized signatures, alterations and forgeries, you agree to examine your statement with reasonable promptness for any other error such as an encoding error. In addition, if you receive or we make available either your items or images of your items, you must examine them for any unauthorized or missing endorsements or any other problems. You agree that the time you have to examine your statement and items and report to us will depend on the circumstances. However, this time period will not exceed 60 days. Failure to examine your statement and items and report any errors to us within 60 days of when we first send or make the statement available precludes you from asserting a claim against us for any errors on items identified in that statement and, as between you and us, the loss will be entirely yours.

You further agree that if you fail to report any unauthorized transaction on your statement to us within 10 days from when the statement is postmarked or otherwise made available to you, whichever is earlier, we will not be required to pay interest on any unauthorized, erroneous or other Wire Transfer or Funds Transfer request or on any refund to which you may be entitled and you will also be liable to us for any damages or losses we may incur as a result of your failure to notify us within the time period stated in this section. Because you are in the best position to discover an unauthorized transaction, you agree that, without regard to care or lack of care by either you or Bank, we will not be liable for any unauthorized transaction reflected on your statement that is not reported within 60 days of the statement issuance date, subject to applicable law and payment network rules. We will only credit your account for errors or problems as required by law. Email us immediately with errors or questions about electronic transfers at the referenced email in Section III.1.xiii. If you tell us orally, you must submit your complaint or question in writing within 10 business days. If you provide us with timely notice of an error or problem in your periodic statement, we will investigate the matter and notify you of the results within a reasonable amount of time. The exact time will depend on the specific circumstances of the error or problem. You may ask for copies of the documents that we used in our investigation.

**11. Sub-Deposit Accounts.** We will, from time to time, place your funds provided to us in a Sub-Deposit Account. You hereby direct Bank, as agent for you and at its election, to open and maintain in Bank's Trust Department and/or with other financial institutions (each, an "Insured Depository Institution" and collectively, "Insured Depository Institutions") a deposit account or omnibus custody account (individually and collectively, "Sub-Deposit Account") in the name of Bank (for your benefit), and to deposit in the Sub-Deposit Account from time to time (at Bank's discretion) all or some moneys you may deliver to Bank from time to time for credit to the Account. The owner of the Sub-Deposit Account is Bank as agent and custodian for you and ownership will be evidenced by a book entry in records maintained by us. You authorize us to act as your agent with respect to establishing, maintaining and administering the Sub-Deposit

Account, and you authorize us to take any action necessary to establish, maintain and administer the Sub-Deposit Account and to initiate transfers to and from your Sub-Deposit Account and Account as we may determine in our sole discretion. Bank, in its sole discretion, may divide the funds deposited into the Account into one or more separate Sub-Deposit Account to be managed by Bank. As your agent, Bank will, in its sole discretion, determine the amount of funds to deposit in and withdraw from each Sub-Deposit Account, subject to the terms herein. No evidence of ownership related to the Sub-Deposit Account will be issued to you, and you will not receive any written confirmation of the establishment of the Sub-Deposit Account or transfer of funds to or from the Sub-Deposit Account. All deposits to your Sub-Deposit Account and withdrawals from the Sub-Deposit Account necessary to satisfy any debits to or withdrawals from your Account will be made by us, as your agent. The depositing of your funds into the Sub-Deposit Account will not increase your FDIC deposit insurance coverage. You authorize us to execute and deliver or file on your behalf all appropriate receipts, agreements, releases and other instruments, including whatever agreements may be required to establish and maintain the Sub-Deposit Account or to establish your ownership interest in the Sub-Deposit Account. Notwithstanding anything to the contrary, you acknowledge and agree that the funds deposited in your Account and transferred to the Sub-Deposit Account may be used by us and/or each Insured Depository Institution as a source of funding and for investment; provided, however, we will only invest such funds in certain securities, equities and debt (e.g., U.S. Treasury Bills, U.S. or state issued or guaranteed securities, corporate bonds, mutual funds, exchange traded funds, etc.) or any other investments or assets permitted by applicable law. For the avoidance of doubt and notwithstanding any other provision herein, Bank and each Insured Depository Institution intend to (and you authorize each such party to) use deposits in the Account and/or Sub-Deposit Account each such party holds to fund current and new businesses, including lending activities and investments, without benefit to you (and for their respective benefit). You acknowledge and agree that the Sub-Deposit Account and any investments made by us in connection with the Sub-Deposit Account will earn no interest or fees for you, and that we may collect any interest, investment returns and/or fees in connection with a Sub-Deposit Account or any investment contemplated herein for the exclusive benefit and account of Bank and/or Insured Depository Institutions (if applicable). However, the funds you deposit with us in your Account will be made available to you in accordance with this Agreement (and regardless of the performance of any of our loans or investments, subject to FDIC insurance limitations). You further acknowledge and agree the income that we and/or an Insured Depository Institution earn through our respective lending and investing activities may be greater than the interest earned by you pursuant to the Account Agreement (if any), that we and Insured Depository Institutions may also receive other financial benefits in connection with the funds in your Sub-Deposit Account. Our placement of funds in the Sub-Deposit Account 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 may place funds to enhance our business objectives and for balance sheet management purposes without any benefit to you. We are under no obligation to place your funds with an Insured Depository Institution. Subject to applicable law, your only rights with respect to the Sub-Deposit Account are to demand we repay you all amounts in your Account that were deposited with us, including those transferred to the Sub-Deposit Account from your 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 hereunder by providing us with thirty (30) days' prior electronic written notice, such notice to be sent to [cardsupport@aptopayments.com](mailto:cardsupport@aptopayments.com). 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. Each Sub-Deposit Account at each Insured Depository Institution constitutes an obligation of the Insured Depository Institution and is not directly or indirectly an obligation of Bank. You can obtain publicly available financial information concerning each Insured Depository Institution at [www.ffiec.gov/nicpubweb/nicweb/nichome.aspx](http://www.ffiec.gov/nicpubweb/nicweb/nichome.aspx) or by contacting the FDIC Public Information Center by mail at 3501 North Fairfax Drive, Arlington, VA 22226, or by phone at 1-877-275-3342. We do not guarantee in any way the financial condition of an Insured Depository Institution or the accuracy of any publicly available financial information concerning an Insured Depository Institution. 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. Although there are two or more accounts associated with your funds (the Account and the Sub-Deposit Account), your Account is treated as a single account for reporting deposits and withdrawals, as well as for tax reporting, balance requirement, service charge, and monthly statement (which will reflect the total balance in your Account and each Sub-Deposit Account, excluding any interest or amounts owed or belonging to us or any Insured Depository Institution). The existence of the Sub-Deposit Account will not change the manner in which you use, obtain information about or earn interest (if any) on your Account. Transfers to and from the Sub-Deposit Account will not appear on your monthly statement. We are responsible for the accuracy of your Account statements, not the Insured Depository Institutions.

**12. Interest and Interest Rate.** Your Account is not an interest-bearing account.

**13. Prohibitions.** We reserve the right to close your Account and/or Card if we determine that it is used for any impermissible purpose, as we may determine from time to time. You may not use your Account or Card for illegal gambling or any other illegal transaction or purpose. 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, as determined by us. To the fullest extent permitted by law, you agree to pay for any transaction that you authorized, even if the transaction is determined to be illegal or associated with an illegal activity. We reserve the right to cancel, close or restrict use of the Card and Account, including by refusing the processing of any transaction, if we believe you have violated this Agreement or any applicable law.

**14. Account Fees; Fee Schedule.** You agree to pay all fees and charges applicable to your Account and Card, which will be automatically deducted from your Account and may result in your Account being overdrawn. The amounts of these fees and charges are listed in Exhibit 1. Fees are subject to change at any time and without notice to you, unless required by law. Fees are charged by Bank for its services. Service Provider may charge you fees separate and apart from the Fees set forth in Exhibit 1 for its Services, pursuant to the Service Provider Terms. Bank is not responsible for any fees charged by Service Provider for its Services. If you request a service that is not included in Exhibit 1 and there is a fee for such service, such fee will be disclosed at the time you request the service and you agree that any such fee may be deducted from your Account.

**15. Negative Balance.** Each time you initiate a transaction using your Account, you authorize the Bank to reduce the funds available in your Account by the amount of the transaction and all associated fees. You are not allowed to exceed the available amount in your Account through an individual transaction or a series of transactions (creating a "negative balance"). Nevertheless, if any transaction causes the balance in your Account to go negative, including any purchase transactions where the retailer or merchant does not request authorization, you shall remain fully liable to us for the amount of any negative balance and any corresponding transaction fees. You may also be liable for any related Insufficient Funds/NSF Fee(s) as set forth in Exhibit 1. We reserve the right to bill you for any negative balance or to recoup such negative balance from your Account or any other account you have at the Bank. You agree to pay us promptly for the negative balance and any related fees. We also reserve the right to terminate your Account or Card if you create one or more negative balances. If you fail to pay us amounts owed under this Agreement, we may refer your Account, and collection of amounts owed, to a collection agency.

**16. Insolvency and Dissolution.** You agree to notify us promptly through your representative if you seek to dissolve corporate formation, materially limit operations or cease operating, transfer a substantial percentage of your assets, are unable to pay your debts when due or are insolvent or bankrupt (individually and collectively, "Incapacitation"). We may continue to honor instructions until: (a) we know of your Incapacitation, and (b) we have had a reasonable opportunity to act on that knowledge. You agree that we may continue to accept deposits and process transactions to your Account until we receive notice and any required proof of Incapacitation and may pay transactions initiated on or before the date of Incapacitation for up to 10 days after your Incapacitation unless ordered to stop payment by someone claiming an interest in the Account. If we receive notification or if we have reason to believe that you have become Incapacitated, we may place a hold on your Account and refuse all transactions. You agree to hold us harmless for any actions we take based on our belief that you have become Incapacitated. If certain payments originating from government entities are deposited into your Account after Incapacitation, we may be required to return those payments to the originator upon notice. If you owe us a debt at the time of your Incapacitation, we are authorized to exercise our right of setoff or security interest rights against the funds credited to your Account after your Incapacitation.

**17. 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 through the Service Provider Platform. 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, subject to applicable law. Withdrawals from your Account may be restricted prior to Account closing.

We reserve the right to monitor all Account activity for inappropriate use. We may also suspend or close your Account or suspend or terminate your Card at our discretion and for any reason with or without notice. This includes if we believe you are using your Account or Card for fraudulent or illegal purposes or in violation of law or regulation, this Agreement, any other agreement you may have with us or Service Provider, or if you otherwise present undue risk to us or Service Provider. We are not responsible to you for any damages you may suffer as a result of the closure or suspension of your Account. If we close your Account, all collected funds (less any amounts due to us or for debits in process) will be sent to you in the form of a check to your address on file. Written notice that the Account has been closed, to the extent required by law, 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, or the email address we have on file for the Account. 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. We reserve the right not to return funds to you if your account balance is less than \$10.00. The closure of your Account or termination of this Agreement does not impact any right or obligation that arose prior to closure or termination, or any right or obligation that, by its nature, should survive termination (including, but not limited to, any indemnification obligation by you, our limitations of liability, and any terms governing

arbitration).

**18. Dormancy and Unclaimed Property.**

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. State and federal law and our policy govern when your Account is considered dormant. Your Account is usually considered dormant if you have not accessed your Account, communicated to us about your Account or otherwise shown an interest in your Account within the period of time specified under applicable law. Each state has varying laws as to when an account is subject to escheatment and we may be required to send the balance in your Account to the state of your last known address or, if not in the U.S., the state in which we reside. We will make all reasonable efforts to contact you if required by applicable law before transferring the remaining balance of your Account to the applicable state. After we surrender the funds to the state, we have no further liability to you for those funds and you must apply to the appropriate state agency to reclaim your funds. 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. If your Account becomes dormant, you may no longer receive statements, but you can still view your accounts online.

**19. Fraud and Unauthorized Transactions.**

i. **Duty to Safeguard Account, Card, Supported Device and/or Digital Wallet.** You agree to keep any Account and/or Card information, Credentials, security code, password or other confidential identification number used to access your Supported Device, Account, Card or to access your Card through your Digital Wallet, secure and strictly confidential and to not permit disclosure of such information to any unauthorized person. You agree to immediately notify the Bank if this information has become known to, or been used by, an unauthorized person. You acknowledge that Bank has no method to determine whether a transaction conducted with use of a valid Account name, Account number, Credentials and/or security code was proper, and you therefore authorize Bank to complete any transaction involving your Account, Card, Digital Wallet made with the use of such information, and verifying the authenticity of a transaction request using Account information, Credentials, security code, password or other confidential identification number used to access your Account constitutes a commercially reasonable security procedure of purposes of UCC Article 4A. You agree to be responsible for any transaction initiated with the use of valid Credentials or any access device. Bank shall have no liability for any loss, claim, or damage sustained as a result of the use of your Credentials or access device whether such transaction was authorized or not and you agree to indemnify and hold harmless Bank for any such transaction alleged to be unauthorized.

ii. **Duty of Care.** You agree that you will exercise ordinary care in handling your Account, Card and Digital Wallet. In exercising ordinary care, you shall have the duty to: carefully examine your bank statements for fraudulent or unauthorized transactions and promptly notify Bank of any such transaction; timely reconcile your statement with your internal records to detect any other Account discrepancies, including any missing or diverted deposits; implement security precautions regarding the use and access of your Accounts, Card, Digital Wallet through any access device, Credentials, security codes, passwords, or confidential identification numbers; conduct background checks of all individuals having access to any Credentials, security or access devices or sensitive Account information; conduct background checks on all individuals who have authority to prepare Account transactions or reconcile statements; independently review the work of individuals who are responsible for reconciling statements and preparing transactions using your Account; and comply with all other duties under this Agreement or under any applicable law. Your failure to exercise ordinary care will constitute negligence and will preclude you from asserting against the Bank any unauthorized transaction on your Account.

iii. **Security Procedures.** You are responsible for establishing and maintaining safeguards, policies and procedures that ensure your computer systems and networks and information stored on or transmitted through your network are not accessed or used by any unauthorized person and to ensure that your origination of payment orders and your transfer requests are secure and that unauthorized access or issuance of transfer requests is prevented. The parties have agreed on and adopted the security procedure set forth in this section to govern the origination of payment orders and transfer requests (the "Security Procedures"). You represent, warrant and agree that the Security Procedures constitute a "security procedure" for purposes of UCC § 4A-201. You represent that you: (a) consider yourself qualified to have, and have, independently evaluated the risks presented by the Security Procedures; and (b) have determined that the Security Procedures are no less protective than other security procedures in use by similarly situated companies. You hereby represent, warrant and agree that the Security Procedures are commercially reasonable within the meaning of UCC § 4A-202. We shall comply and you shall comply with the Security Procedures with respect to transfer requests and payment orders submitted to us. You acknowledge that the purpose of the Security Procedures is to verify authenticity and not to detect an error in the transmission or content of any file transmission, transfer request or payment order. No Security Procedures have been agreed upon between you and us for the detection of any such error and you shall be solely responsible for any transmission errors. If a file transmission is authorized or issued by you, or on your behalf, or you otherwise benefit from such file, you agree to be bound by the data contained in the file transmission whether or not we complied with the Security Procedures.

All payment orders and your transfer requests (other than wire transfer requests, which are not supported) submitted to us through the Service Provider Platform shall be considered authorized by you. Notwithstanding anything to the contrary herein, you shall

be entitled to deem any person having knowledge of any Security Procedure to be an authorized user.

If you believe or suspect that any such information or instructions have been compromised, known or accessed by any unauthorized person, you agree to notify us immediately, but in no event longer than one (1) business day, by calling us at the referenced number in Section III.1.xiii followed by written confirmation to Evolve Bank & Trust, the referenced address in Section III.11 or by email to the referenced email in Section III.1.xiii. The occurrence of unauthorized access will not affect any payment order or transfer request made, the processing of a file transmission, transfer requests or payment orders processed, in compliance with the Security Procedures prior to receipt of such notification and within a reasonable time period to prevent unauthorized payment or transfer. You warrant that no individual will be allowed to initiate transfer requests or payment orders in the absence of proper supervision and safeguards, and agree to maintain the confidentiality of Security Procedures and any passwords, codes, security devices and related instructions provided by us in connection with the Security Procedures and prevent the disclosure of the same except on a need to know basis. If you believe or suspect that any such information or Security Procedures are accessed by unauthorized persons, you will notify us immediately followed by written confirmation. You agree to defend all claims and indemnify and hold us harmless from and against any loss, damages, or expenses, including but not limited to attorney's fees, caused by your failure or the failure of your employees or agents, to keep the Security Procedures confidential and secure. The occurrence of unauthorized access will not affect any payment or transfer made in good faith by us prior to receipt of notification and within a reasonable time period to prevent unauthorized transfers.

If a transfer request (or a request for cancellation or amendment of a transfer request) or payment order (or a request for cancellation or amendment of a payment order) received by us purports to have been transmitted or authorized by you, it will be deemed effective as your transfer request or payment order and you shall be obligated to pay us the amount of such related payment order or transfer request even though the transfer request or payment order (or request for cancellation or amendment of the same) was not authorized by you so long as we acted in compliance with the Security Procedures. You shall examine the Account(s) each business day to review each transfer request and notify us immediately (and confirm such notice promptly in writing) of any unauthorized, incorrect or delayed transfers reflected in such information. You acknowledge that time is of the essence in reviewing the Account(s) and reporting discrepancies in order to prevent or limit loss by reason of unauthorized, erroneous, or delayed transfers, and compliance with this requirement is a condition precedent to any recovery against us for any alleged error or negligence in connection with such transfer request. If a transfer request (or request for cancellation or amendment of a transfer request) or payment order (or request for cancellation or amendment of a payment order) received by us was transmitted or authorized by you, you shall be obligated to pay the amount of the associated payment order or transfer requests as provided herein, whether or not we complied with the Security Procedures and whether or not that transfer request or payment order was erroneous in any respect or that error would have been detected if we had complied with such Security Procedures. For the avoidance of doubt, you further agree that any transfer request or payment order that is acted upon in good faith by us in compliance with these Security Procedures, whether or not in fact authorized by you, shall constitute an authorized transfer request or payment order.

In the event of a breach of the Security Procedure, you agree to assist us in determining the manner and source of the breach. Such assistance shall include, but shall not be limited to, providing us or our agent access to your hard drive, storage media and devices, systems and any other equipment or device that was used in breach of the Security Procedure. You further agree to provide to us any analysis of such equipment, device, or software or any report of such analysis performed by you, your agents, law enforcement agencies, or any other third party. Failure of you to assist us shall be an admission by you that the breach of the Security Procedure was caused by a person who obtained access to transmitting facilities of you or who obtained information facilitating the breach of the Security Procedure from you and not from a source controlled by us.

We reserve the right to modify, amend, supplement, or cancel any or all Security Procedures at any time and from time to time in our discretion. We will endeavor to give you reasonable notice of any change in Security Procedures; provided that we may make any change in Security Procedures without advance notice to you if we, in our judgment and discretion, believe such change to be necessary or desirable to protect the security of our systems and assets. Your use of any services described herein, including issuance of a payment order, after any change in Security Procedures shall constitute your agreement to the change and your agreement that the applicable Security Procedures, as changed, are commercially reasonable and adequate for the purposes intended.

iv. Limitation to File Claim. You agree that no legal proceeding or action may be commenced against Bank to recover any amounts alleged to have been improperly paid out of the Account due to any fraudulent or unauthorized transaction unless: (i) you have timely provided written notice as required by subsections 1 and 2 of this paragraph 5 (Fraud and Unauthorized Transactions), (ii) Bank did not comply with the Security Procedures; and (iii) such proceeding or action shall have been commenced within six (6) months from the date the first statement containing the unauthorized transaction was made available to you. Any proceeding or action not brought within one year from the date of the first statement containing the unauthorized transaction is forever barred.

v. 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 Card, 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 Card or Credentials or unauthorized withdrawals. We will have a reasonable period of time to investigate the facts and circumstances surrounding any claim of loss. In no event will we be liable for special or consequential damages, including loss of profits or opportunity, or for attorneys' fees incurred by you. You are liable for Card transactions not authorized by you if the Bank can prove that the transaction was processed in good faith and in compliance with commercially reasonable security procedures, unless otherwise required by law. 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.

vi. **Duty of Insurance.** You are under a duty to maintain fidelity bond coverage on any individual who has access to your Account information, Credentials or access devices and on any individual responsible for reviewing or reconciling statements. You agree to pursue all rights under such policy or any other insurance policy you maintain before making a claim against the Bank in connection with any unauthorized banking transaction. You agree to provide Bank with all reasonable information about your insurance coverage, including the name of the insurance carrier, the policy number, policy limits, and applicable deductibles. Bank's liability, if any, will be reduced by the amount of any insurance proceeds you are entitled to receive. At Bank's request, you agree to assign your rights under any insurance policy to Bank.

#### **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. 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.

**1. 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, Card or this Agreement. 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 your Account or Card, or the any additional account, joint accountholder, additional Cards or cardholders; services offered in connection with an Account, Card or any other services offered pursuant to this Agreement; 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 or Card; to the benefits and services related to an Account or Card; or your approval, establishment or enrollment for an Account or Card. 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. In addition, "we" or "us" shall include Service Provider, any third party, their respective subsidiaries, affiliates, licensees, predecessors, successors, and assigns using or providing any product, service or benefit in connection with this Agreement or any Account or Card if, and only if, such third party is named as a co-party with us (or files a claim with or against us) in connection with a claim asserted by you. The terms "you" or "yours" shall mean each Account owner or cardholder and all persons or entities approved to have, approved to use and/or given access to an Account or Card, including but not limited to all persons or entities contractually obligated under this Agreement and all joint accountholder and any additional cardholders. The term "Account," for purposes of arbitration, includes any updated or substitute account for you related to the Account or any other account contemplated by this Agreement.

**2. Binding Arbitration and Appeals.** If either party elects arbitration, that claim shall be arbitrated on an individual basis. Arbitration applies whenever there is a claim between you and us. The arbitrator's authority to resolve claims or make awards is limited to claims between you and us alone. 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. Furthermore, claims brought by you against us or by us against you may not be joined or consolidated with claims brought by or against someone other than you, unless otherwise agreed to in writing by all parties. 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. 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 Federal Arbitration Act (Title 9 of the United States Code) ("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.

**3. 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. 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 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 the referenced address in Section III.11. If we initiate the arbitration, we will notify you in writing at your last known address in our file.

**4. Class Action and Jury Waiver.** NEITHER YOU NOR WE (I) HAVE THE RIGHT TO LITIGATE THAT CLAIM IN COURT OR HAVE A JURY TRIAL ON THAT CLAIM, (II) SHALL BE ENTITLED TO JOIN OR CONSOLIDATE DISPUTES BY OR AGAINST OTHERS IN ANY COURT ACTION OR ARBITRATION, (III) HAVE THE RIGHT TO INCLUDE IN ANY COURT ACTION OR ARBITRATION ANY DISPUTE AS A REPRESENTATIVE OR MEMBER OF ANY CLASS OF CLAIMANTS PERTAINING TO ANY CLAIM SUBJECT TO ARBITRATION, (IV) HAVE THE RIGHT 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; OR (V) ENGAGE IN DISCOVERY EXCEPT AS PROVIDED FOR IN THE CODE OF PROCEDURES OF JAMS OR AAA, AS APPLICABLE (THE “CODE”). THIS IS SO WHETHER OR NOT THE CLAIM HAS BEEN ASSIGNED. NOTE THAT OTHER RIGHTS THAT YOU WOULD HAVE IF YOU WENT TO COURT MAY NOT BE AVAILABLE IN ARBITRATION.

**5. Location of Arbitration and Cost.** Any arbitration shall take place in Memphis, Tennessee, 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. All fees and costs will be allocated in accordance with the rules of the arbitration forum. 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 this Agreement, the forum’s rules, or applicable law.

**6. Arbitration Procedures:** This Section IV (Arbitration and Waivers) is made pursuant to a transaction involving interstate commerce, and shall be governed by the Federal Arbitration Act, 9 U.S.C. Sections 1-16, as it may be amended (the “FAA”). The arbitration shall be governed by the applicable Code, except that (to the extent enforceable under the FAA) this Arbitration Section shall control if it is inconsistent with the applicable Code. The arbitrator shall apply applicable substantive law consistent with the FAA and applicable statutes of limitations and shall honor claims of privilege recognized at law and, at the timely request of either party, shall provide a brief written explanation of the basis for the decision. In conducting the arbitration proceeding, the arbitrator shall not apply the Federal or any state rules of civil procedure or rules of evidence. Either party may submit a request to the arbitrator to expand the scope of discovery allowable under the applicable Code. The party submitting such a request must provide a copy to the other party, who may submit objections to the arbitrator with a copy of the objections provided to the requesting party, within fifteen (15) days of receiving the requesting party’s notice. The granting or denial of such request will be in the sole discretion of the arbitrator who shall notify the parties of his/her decision within twenty (20) days of the objecting party’s submission. The arbitrator shall take reasonable steps to preserve the privacy of individuals, and of business matters. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The arbitrator’s decision will be final and binding, except for any right of appeal provided by the FAA. However, any party can appeal that award to a three-arbitrator panel administered by the same arbitration organization, as set forth in Section IV(2) (Arbitration and Waivers).

**7. Governing Law.** You and we agree that in our relationship arising from this Agreement: (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.

**8. Continuation and Severability.** This Section IV (Arbitration and Waivers) shall survive termination of your Account, Card, any voluntary payment of any debt owed to us and paid in full by you, any legal proceeding by us to collect a debt owed by you, and/or any

bankruptcy by you or us. If any portion of this Section IV (Arbitration and Waivers) of this Arbitration Section 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), this Agreement or any prior agreement you may have had with us, each of which shall be enforceable regardless of such invalidity.

## **V. MISCELLANEOUS TERMS.**

**1. 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 or required by law, we do not assume any fiduciary obligation on your behalf. Unless required by law, 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.

**2. Account Disputes.** If a dispute arises concerning your Account (including, for example, a dispute over who is an authorized signer or owner), or if we believe we have a claim against you or we have or receive a claim by a third party (including our affiliates) to all or a portion of the property (including money, certificates of deposit, securities and other investment property, financial assets, etc.) in your Account, or if we have concerns regarding your Account or the use of your Account, we have the right to hold any portion of the property in your Account until the dispute, claim, or concern is resolved to our satisfaction. We will not be liable to you if the hold we place on your Account leaves insufficient funds to cover outstanding transactions. If the dispute, claim or concern remains unresolved, you agree that we may at our option deposit the property in your Account with a court and ask the court to determine to whom the property belongs. If we deposit your property with a court, you agree that we may charge your Account for our costs, including attorney's fees and expenses.

### **3. Governing Law, Forum and Time Limits.**

i. All Accounts are opened at the Tennessee branch office of the Bank. All actions relating to your Account, including this Agreement and issuance of a Card, 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 laws and the laws of the State of Tennessee shall be applied without giving effect to principles of conflicts of law.

ii. To the extent any dispute arising under this Agreement or relating in any way to your Account, Card 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.

iii. Subject to applicable law, you must file any lawsuit (to the extent permitted by this Agreement) or arbitration against us within one (1) year after the claim arises, unless Federal law or the laws of the State of Tennessee or an applicable agreement requires a longer time. This limit is in addition to limits on notice as a condition to making a claim. If applicable law does not permit contractual shortening of the time during which a lawsuit must be filed to a period as short as one (1) year, 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.

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

**5. Changes in Terms and Termination.** We may amend or revise the terms and conditions of this Agreement, including any fees, and features of your Account or Card at any time by posting a revised version within your mobile app or website located at <https://legal.aptopayments.com/terms/bushel> and any such revisions or changes shall be effective upon posting. We will give you advance notice if we are required by applicable law. We may also amend or revise the terms and conditions of this Agreement, including any fees, and features of your Account or Card at any time by providing you notice. We may provide notice contemplated by this section to you with your statement, electronically, or by mail. 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 any third party vendor. Subject to the terms of this Agreement, you may determine to cease use of or close your Account or Card if you do not agree with any change or revision to this Agreement prior to the effective date of such revision. Any continued use of your Account or Card is presumed your acceptance of an agreement to be bound by revisions to this Agreement. We may terminate this Agreement with or without notice at our discretion and at any time. Following the termination of this Agreement, you shall remain liable for any breach of your representations, warranties, covenants and obligations during the term of this Agreement.

**6. Security Interest.** You grant us a security interest in your Account to secure payment of any money that you owe to us arising under this Agreement 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"). We have the right to set-off any liability, direct or contingent, past, present or future that you owe against any account you have with us. This means that we can take any funds in your Account or any other account

you have with us to pay any debt or liability you owe us. 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 your consent to this Agreement 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.

**7. No Waiver of Rights.** If we fail to exercise or waive a right with respect to your Account or Card 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 this Agreement without affecting your responsibilities under this Agreement. In any event, no such waiver or delay by us is effective unless it is in writing and approved by us.

**8. Assignment.** Your Account and/or Card is not transferable and is not assignable by you as collateral for a loan or for any other purpose. The Bank may transfer or assign its rights under this Agreement, including transferring or assigning your Account without your consent and without notice, unless required by applicable law.

**9. Other Services and Conflicts.** If you and Bank have entered into any other agreement related to additional bank services offered in connection with your Account ("Other Agreement"), this Agreement and the Other Agreement shall be read together as if one agreement. If any term of such Other Agreement conflicts with any term of this Agreement, this Agreement shall control. If any statement that is made by one of our employees, our affiliates' employees, or by Servicer or Servicer's employees or affiliates, conflicts with this Agreement, the terms of this Agreement shall govern.

**10. Privacy.** You authorize us to collect, transmit, store, use or share technical, location and login or other information about you and your use of the Account, Card or use of a Card through a Digital Wallet with our affiliates, the Service Provider, Digital Wallet Provider, card payment network and third parties, unless applicable law or our Privacy Policy prohibits us from doing so. Please see our Privacy Notice for your choices about information sharing. We will use, share and protect your personal information in accordance with our privacy policy, as it may be amended from time to time, and that is available at <https://www.getevolved.com/privacy-policy/>.

You understand, acknowledge and agree that the use and disclosure of any information provided by you directly to a Digital Wallet provider, the applicable payment network branded on your Card, the Service Provider or other third parties (including their respective agents, representatives, affiliates and service providers) will permit such parties to have access to certain details of your transactions made with your Account, Card or Digital Wallet and such use, accesses and disclosure will be governed by such party's privacy policy and not our privacy policy, and, to the greatest extent permitted by law, we are not liable for the use of your information by any such parties. You understand that the information that is provided to or held by a Digital Wallet Provider or other third parties in relation to your Account, Card, or Digital Wallet is outside of our control. Any information you provide to a Digital Wallet Provider or any other third party through your use of your Card with the Digital Wallet or that is accessed or collected by your Digital Wallet Provider, is subject to the Digital Wallet Provider's separate agreement with you, including that party's privacy policy.

We periodically collect and use technical data and related information (for example, we may collect technical information about your Supported Device to facilitate the updates to our services).

Push notifications can be displayed on a locked or inactive device screen. Since it is possible to view this information even when your Supported Device is locked, you must maintain physical control over your Supported Device and/or turn off push notifications to prevent potential unauthorized use.

**11. Severability.** In the event that any court or tribunal of competent jurisdiction determines that any provision of this Agreement is illegal, invalid, or unenforceable, the remainder of this Agreement 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.

**12. Limitation of Liability, Disclaimer of Warranty, Indemnification and Reimbursements.**

i. **Limitation of Liability.** EXCEPT AS REQUIRED BY 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 THIS AGREEMENT IF SUCH FAILURE OR DELAY IS CAUSED BY MAINTENANCE OR INTERRUPTION OR MALFUNCTION OF EQUIPMENT OR COMMUNICATION FACILITIES, UNUSUAL TRANSACTION VOLUME, 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 BANK. IN NO EVENT WILL WE BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE DAMAGES OR DAMAGES OF ANY KIND EVEN IF YOU ADVISE US OF THE POSSIBILITY OF SUCH DAMAGES. WE SHALL NOT BE LIABLE TO ANY THIRD PARTY OR FOR ANY ACT OR OMISSION OF YOURS OR ANY THIRD PARTY, INCLUDING, BUT NOT LIMITED TO, THIRD PARTIES USED BY US IN EXECUTING A PAYMENT ORDER OR TRANSACTION REQUEST OR PERFORMING A RELATED ACT AND NO SUCH THIRD PARTY SHALL BE DEEMED TO BE OUR AGENT. NOTWITHSTANDING ANYTHING TO THE CONTRARY, WE SHALL ONLY BE RESPONSIBLE AND LIABLE FOR OUR OWN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT IN PERFORMING OUR OBLIGATIONS UNDER THIS AGREEMENT. SUBJECT TO THE PRECEDING SENTENCE, 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. WE SHALL NOT BE LIABLE TO ANY THIRD PARTY OR FOR ANY ACT OR OMISSION OF YOURS OR ANY THIRD PARTY, INCLUDING, BUT NOT LIMITED TO, THIRD PARTIES USED BY US IN EXECUTING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT OR PERFORMING A RELATED ACT AND NO SUCH THIRD PARTY SHALL BE DEEMED TO BE OUR AGENT. ALL BANK SERVICES AND ACCOUNT OR CARD FEATURES ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE. WE DO NOT WARRANT THE BANK'S SERVICES OR ACCOUNT OR CARD FEATURES WILL MEET YOUR REQUIREMENTS, BE CONTINUOUS, UNINTERRUPTED, SECURE, TIMELY, OR ERROR-FREE, OR THAT DEFECTS WILL BE CORRECTED. IN ADDITION, EXCEPT AS REQUIRED BY LAW, WE ARE NOT LIABLE OR RESPONSIBLE FOR ANY SERVICES OR FEATURES OF THE SERVICE PROVIDER PLATFORM OR SERVICES ANY OTHER PRODUCTS PROVIDED TO YOU BY SERVICE PROVIDER. WE ARE ALSO NOT LIABLE FOR ANY UNAUTHORIZED ACCESS OF YOUR INFORMATION OR DATA BY A THIRD PARTY DUE TO YOUR USE OF THIRD-PARTY COMMUNICATION CHANNELS NOT OFFERED BY US. TO THE FULLEST EXTENT PERMITTED BY LAW, WE 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 AND/OR PRODUCTS OF SERVICE PROVIDER AND/OR THE SERVICE PROVIDER PLATFORM.

YOU ACKNOWLEDGE AND UNDERSTAND THAT THE DIGITAL WALLET IS BEING PROVIDED TO YOU BY THE APPLICABLE DIGITAL WALLET PROVIDER AND OTHER THIRD PARTIES THAT SUPPORT SUCH DIGITAL WALLET PROVIDER. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT THE USE OF ANY CARD IN A DIGITAL WALLET IS AT YOUR SOLE RISK. YOU UNDERSTAND THAT WE NEITHER CONTROL NOR ENDORSE, AND ARE NEITHER RESPONSIBLE NOR LIABLE FOR: (A) ANY DIGITAL WALLET OR SERVICES PROVIDED BY ANY DIGITAL WALLET PROVIDER; (B) ANY ACT OR OMISSION OF A DIGITAL WALLET PROVIDER OR ANY PARTY SUPPORTING A DIGITAL WALLET OR ANY MERCHANT; (C) SUPPORTED DEVICES, INCLUDING THEIR OPERATION; OR (D) ANY ACT OR OMISSION OF ANY OTHER THIRD PARTY. WE ARE NOT RESPONSIBLE FOR THE ACCURACY, COMPLETENESS, RELIABILITY, INTEGRITY, QUALITY, LEGALITY, USEFULNESS OR SAFETY OF ANY THIRD PARTY INFORMATION OR DIGITAL WALLET. WE DO NOT WARRANT THAT THE FUNCTIONS CONTAINED IN, OR SERVICES PROVIDED OR PERFORMED BY ANY DIGITAL WALLET OR DIGITAL WALLET PROVIDER (INCLUDING ANY THIRD PARTY PROVIDING SUPPORT FOR ANY DIGITAL WALLET OR DIGITAL WALLET PROVIDER) WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OR AVAILABILITY OF DIGITAL WALLET OR SERVICES OF A DIGITAL WALLET PROVIDER WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE DIGITAL WALLET OR WITH THE DIGITAL WALLET PROVIDER'S SERVICES OR PRODUCTS WILL BE CORRECTED. ACCESS, USE AND MAINTENANCE OF YOUR CARD IN A DIGITAL WALLET WILL DEPEND ON THE DIGITAL WALLET AND THE PAYMENT CARD NETWORKS AND WIRELESS CARRIERS. WE DO NOT OPERATE OR CONTROL THE DIGITAL WALLET OR SUCH PAYMENT CARD NETWORKS OR WIRELESS CARRIERS. WE WILL NOT BE LIABLE FOR ANY CIRCUMSTANCES THAT INTERRUPT, PREVENT OR OTHERWISE AFFECT THE FUNCTIONING OF ANY CARD WITH A DIGITAL WALLET OR DIGITAL WALLET SERVICE OR YOUR WIRELESS SERVICE, COMMUNICATIONS, NETWORK DELAYS, LIMITATIONS ON YOUR WIRELESS COVERAGE, SYSTEM OUTAGES OR INTERRUPTIONS OF YOUR WIRELESS CONNECTION. WE DISCLAIM ANY RESPONSIBILITY FOR ANY DIGITAL WALLET OR ANY WIRELESS SERVICE USED TO ACCESS, USE OR MAINTAIN YOUR CARD IN ANY DIGITAL WALLET.

USE OF YOUR CARD WITH A DIGITAL WALLET INVOLVES THE ELECTRONIC TRANSMISSION OF PERSONAL INFORMATION THROUGH THIRD-PARTY CONNECTIONS. BECAUSE WE DO NOT OPERATE OR CONTROL THESE CONNECTIONS, WE CANNOT GUARANTEE THE PRIVACY OR SECURITY OF THESE DATA TRANSMISSIONS. ADDITIONALLY, YOUR SUPPORTED DEVICE'S BROWSER IS GENERALLY PRE-CONFIGURED BY YOUR WIRELESS CARRIER. YOU SHOULD CHECK WITH YOUR DIGITAL WALLET PROVIDER AND YOUR WIRELESS CARRIER FOR INFORMATION ABOUT THEIR PRIVACY AND SECURITY PRACTICES. FOR PERSONAL OR CONFIDENTIAL INFORMATION SENT TO OR FROM US OVER THE INTERNET FROM YOUR SUPPORTED DEVICE, WE RESERVE THE RIGHT TO LIMIT SUCH CONNECTIONS TO "SECURE SESSIONS" THAT HAVE BEEN ESTABLISHED USING TRANSPORTATION LAYER SECURITY OR OTHER SECURITY STANDARDS WE, IN OUR SOLE DISCRETION, SELECT. WE MAKE NO GUARANTEES ABOUT THE INFORMATION SHOWN IN THE DIGITAL WALLET SOFTWARE OR HARDWARE IT CONTAINS AND MAKE NO REPRESENTATIONS, WARRANTIES, OR GUARANTEES REGARDING THE SAME.

YOU AGREE THAT THE AMOUNT OF ANY CLAIM YOU HAVE AGAINST US IN CONNECTION WITH ANY ACCOUNT OR TRANSACTION WITH US, WHETHER BROUGHT AS A WARRANTY, NEGLIGENCE, WRONGFUL DISHONOR OR OTHER ACTION, IS SUBJECT TO REDUCTION TO THE EXTENT THAT: 1) NEGLIGENCE OR FAILURE TO USE REASONABLE CARE ON YOUR PART, OR ON THE PARTY OF ANY OF YOUR AGENTS OR EMPLOYEES, CONTRIBUTED TO THE LOSS WHICH IS THE BASIS OF YOUR CLAIM AND 2) DAMAGES COULD NOT BE AVOIDED BY OUR USE OF ORDINARY CARE.

ANY LOSS RECOVERY YOU OBTAIN FROM THIRD PARTIES ON A PARTICULAR CLAIM WILL REDUCE THE AMOUNT OF ANY OBLIGATIONS WE MAY HAVE TO YOU ON THAT CLAIM AND YOU WILL IMMEDIATELY NOTIFY US OF ANY SUCH RECOVERY. YOU AGREE TO PURSUE ALL RIGHTS YOU MAY HAVE UNDER ANY INSURANCE POLICY YOU MAINTAIN IN CONNECTION WITH ANY LOSS AND TO PROVIDE US INFORMATION REGARDING COVERAGE. OUR LIABILITY WILL BE REDUCED BY THE AMOUNT OF ANY INSURANCE PROCEEDS YOU RECEIVE OR ARE ENTITLED TO RECEIVE IN CONNECTION WITH THE LOSS. IF WE REIMBURSE YOU FOR A LOSS COVERED BY INSURANCE, YOU AGREE TO ASSIGN US YOUR RIGHTS UNDER THE INSURANCE TO THE EXTENT OF YOUR REIMBURSEMENT.

ii. **Indemnification.** To the greatest extent permitted by law, you agree to indemnify and hold us and our officers, directors, shareholders, employees, successors, predecessors, representatives, principals, agents, assigns, parents, subsidiaries and/or insurers harmless from any losses, damages, suits and expenses, including reasonable attorneys' fees, that we may incur, without regard to the merit or lack thereof, arising out of, or related in any way to: (i) taking any action or not taking any action that we are entitled to take pursuant to this Agreement; (ii) any action or omission by you; (iii) any misuse of the services hereunder by you or any third party within your control or on your behalf; (iv) the matters set forth herein; (v) our action or inaction in reliance upon oral, written or electronic instructions or information from you or any of your authorized representatives; (vi) your performance of the services under this Agreement or refusing to perform any transfer request in accordance with a transfer request; (vii) any delay, suspension or cancellation of arrangements we made with respect to any transfer request when the rejection, suspension or cancellation is for any reason permitted under this Agreement, including your cancellation of a payment order or transfer request for any reason; or (viii) any crediting or debiting of the Account, except where applicable law requires otherwise. Without limiting the foregoing, if we comply with the provisions of this Agreement, you agree that we shall not be responsible for any communication or miscommunication by you or your representatives, and you further agree to indemnify, to the extent allowed by law, us and hold us harmless from and against any and all losses, claims, expenses, suits, costs or damages, demands or liabilities of whatever kind or nature, whether now existing or hereafter relating in any way to a payment order, payment instruction, payment order, transfer request or other payment related request or instruction made pursuant to this Agreement.

iii. **Reimbursement for Losses.** If we take any action to collect debt incurred by you or other amounts you owe us under these Agreement 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.

**13. 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 or Card may not be available to you. 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 or Card, 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 or Card 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 this Agreement but as applied to service interruptions for access to your Account, this section shall control.

**14. Section Headings and Successors.** The headings in this Agreement are only for convenience and do not in any way limit or define your or our rights or obligations under this Agreement. This Agreement will be binding on your personal representatives, executors, administrators, and successors.

**15. 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.

**16. 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.

**17. 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 the referenced address in Section III.11.

18. **Compliance with Laws and Rules.** You acknowledge that any payment order, payment instruction, or transfer requests under this Agreement may not be used in violation of the laws of any state or jurisdiction, the United States or any other country, including without limitation laws administered by the Office of Foreign Assets Control. You agree to comply with all applicable federal, state, and local laws, rules, regulations, including Protected Information and Operating Circulars and with (i) all applicable rules and operating guidelines issued by the National Automated Clearing House Association or other clearing agent and (ii) any policies and procedures, including any guide, guidelines and related procedures provided to you from time to time by us (collectively, the "Rules"). You will be responsible for knowing the requirements of the applicable Rules, and you will have the responsibility to fulfill any compliance requirement or obligation that we and/or you may have under the Rules applicable to this Agreement and of the services provided to you hereunder, including without limitation sanction laws administered by the Office of Foreign Assets Control, and other requirements relating to anti-money laundering, including but not limited to the federal Bank Secrecy Act, the USA PATRIOT Act and any regulations of the U.S. Treasury Department to implement such Acts, as amended from time to time. Each time you make a transfer request or transaction, you represent to us that each such request or transaction is bona fide and/or you conduct your business and originate payments, transactions and/or other related activity in compliance with the applicable laws and Rules. You shall be liable for the amount of any fines and/or liabilities assessed against us for any violation of the Rules that are due to the acts or omissions of you or any other third party providing services to you that in any way relate to the service under this Agreement.

19. **Bankruptcy or Insolvency.** You will immediately notify us of any bankruptcy, receivership, insolvency or similar action initiated by or against you or any of you principals and will include us on the list of creditors as filed with the Bankruptcy Court and failure to do so will be cause for immediate termination or any other action available to us under applicable Laws or Rules. As an executory contract to make a loan, or extend other debt financing or financial accommodations to or for the benefit of you, this Agreement cannot be assumed or assigned under your bankruptcy.

20. **Survival.** Termination of this Agreement 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 this Agreement will survive any such termination (including, but not limited to Sections IV (Arbitration and Waivers) and V (Miscellaneous Terms) of this Agreement).

## **VI. TAX REPORTING AND BACKUP WITHHOLDING.**

If you are subject to backup withholding, you may not access or use the Account. Internal Revenue Code requires most recipients of dividends, interest, or other payments to give Taxpayer Identification Numbers to payors who must report payments to the Internal Revenue Service. The Internal Revenue Service uses the numbers for identification purposes and to verify the accuracy of your tax return.

If you fail to furnish a correct Taxpayer Identification Number (TIN), you may be subject to a penalty of \$50 for each such failure unless such failure is due to reasonable cause and not to willful neglect. If you fail to furnish a TIN, the Bank may refuse to open your Account. The Bank may close an Account which was opened without a TIN and you fail to subsequently provide a TIN.

If you make a false statement with no reasonable basis that results in no imposition of backup withholding, you may be subject to a penalty of \$500. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment. If you disclose or use a TIN in violation of federal law, you may be subject to civil and criminal penalties.

## **VII. WIRE TRANSFERS.**

1. **General.** In the event we make available to you wire transfers of funds from your Account(s) with us for credit to an account at another financial institution or another account with us ("Wire Transfer"), whether such transfers are domestic or international, this Section VII applies, in addition to the other terms and conditions set forth in this Agreement. We will make available to you, from time to time, our policies, procedures, guidelines and other writings governing the use of the Wire Transfer Services by you, as may be amended or supplemented by Bank from time to time (the "Wire User Guide"). You will comply with and perform all of your obligations under this Agreement in compliance with the Wire User Guide and this Agreement. If there is a conflict between the Wire User Guide and this Agreement, the Wire User Guide shall control. If made available to you, you may send a Wire Transfer by submitting a request through the Service Provider Platform. When acting upon your Wire Transfer instructions, we may use any means of transmission, funds transfer system, clearing house, or intermediary bank that we reasonably select. We may make use of correspondents, agents, subagents, and funds transfer and communication systems. Such third parties shall be deemed your agents, and we shall not be liable for any errors, delay, mis-delivery, or failure of delivery by any of them unless applicable law says otherwise. The

beneficiary, frequency and dollar amount for any Wire Transfer may be limited. The limits are designed to be flexible in order to protect the security and integrity of the service and accounts, including any use by you or others of the service and your Account or any other person's account. Based on confidential fraud and essential risk criteria, they may be modified at our discretion without advance notice. We reserve the right to reject any Wire Transfer request. We have no responsibility to accept any incoming Wire Transfer(s) for your benefit, and we may reject any Wire Transfer request(s) for an outgoing Wire Transfer for reasons including, but not limited to, insufficient or uncollected funds in the account specified in the Wire Transfer request, a request that fails the security procedures outlined herein or if we are unable to verify the authenticity of the Wire Transfer request.

If you submit a Wire Transfer request to us, we will process it on the same business day (or next business day if the request is not made on a business day) so long as we receive the request no later than the Cut-Off Time, subject to verification in accordance with the security procedures described in this Section VII. If it is received after the Cut-Off Time and verified through our security procedures, the Wire Transfer request may be processed the next business day. We may treat any Wire Transfer request received at or after our cut-off time as if it was received that business day, or we may treat it as if it were received at the opening of the next business day, in our sole and absolute discretion. If we determine, in our sole discretion, not to honor, execute, or accept a Wire Transfer request, we may notify you, but are not obligated to and we shall have no liability for delay or failure to do so. We will also use commercially reasonable efforts to notify you promptly if a Wire Transfer is returned to us after its execution but shall have no liability by reason of our delay or failure to do so. We shall have no obligation to resend a Wire Transfer if we complied with the original Wire Transfer request and such Wire Transfer was returned to us.

You authorize us to debit or credit your Account immediately for an amount equal to the Wire Transfer request and any applicable fees related to such Wire Transfer request. Your Wire Transfer requests may involve the transfer of funds from your Account to another account you have with us, to an account with any other financial institution, or to a third party or account of a third party maintained with us or with any other financial institution. You shall ensure sufficient funds on deposit in the Account with us for implementation of each Transfer request. We will have no obligation to honor any Wire Transfer request which exceeds the balance of your immediately collected funds; provided, however, that you shall be liable for any amount which we elect to Wire Transfer in excess of such balance. You agree that we are authorized to debit the Account immediately for the Wire Transfer request, and you further agree that we are authorized to charge your Account a service fee for each Wire Transfer request you place.

Wire Transfers to or from your Account will be governed by the rules of the funds transfer system(s) through which the transfers are made, including Fedwire, the National Automated Clearing House Association, the Electronic Check Clearing House Organization, any regional association (each an ACH), the Clearing House Interbank Payments System (CHIPS), the Society for Worldwide Interbank Financial Telecommunication ("SWIFT") and the RTP system ("RTP System") and UCC Article 4A. We're under no obligation to honor, in whole or in part, any payment order or other instruction that could result in our contravention of applicable law, including, without limitation, requirements of the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") and the Financial Crimes Enforcement Network ("FinCEN"). We are under no obligation to follow any Wire Transfer request or initiate any Wire Transfer, nor are we obligated to follow instructions canceling or amending any transfer request that do not afford us sufficient time to verify the authenticity of the instructions.

Once we receive a Wire Transfer request, it may not be able to be canceled or amended. However, at our discretion, we may use reasonable efforts to act on any request for cancellation or amendment, provided that the method by which we are notified of a request for cancellation or amendment complies with the Security Procedures. However, we shall have no liability if such cancellation or amendment is not affected. You agree to indemnify and hold us harmless from any and all liabilities, claims, damages, costs and expenses we may incur in attempting to cancel or amend the Wire Transfer. Any cancellation or amendment of a Wire Transfer by us shall relieve us of any obligation to act on the original Wire Transfer request.

It is your responsibility to ensure that we are provided with accurate, clear, and correct Wire Transfer requests and instructions, including beneficiary name and account number, in the manner and format prescribed by us, and that such Wire Transfer requests are given only by you. Further, you acknowledge that a failure to comply strictly with such procedures may delay or prevent implementation of Wire Transfer request(s) or result in transfers from your Account to unintended beneficiaries. You are liable for any incorrect, inaccurate or unclear information. If you give us the name and account number of a beneficiary, we and other financial institutions may process the payment order based on the account number alone, even though the number may identify a person other than the beneficiary named. Any errors in the information, including misidentification of beneficiary(ies), incorrect or inconsistent account names and numbers, identifying number of intermediary bank or beneficiary bank, and misspellings, are your responsibility. We will not be liable if the beneficiary's financial institution does not accept the Wire Transfer or accepts the Wire Transfer and then places the funds in a suspense or holding account because of the discrepancy. Unless applicable law requires otherwise, we will not be liable to you or any other person for any losses resulting from the beneficiary's financial institution accepting and posting any Wire Transfer to an incorrect account, whether based on your Wire Transfer request or for other reasons unrelated directly to a material breach of this Agreement by us. Incorrect, unclear or incomplete Wire Transfer requests may delay or prevent the processing of your Wire Transfer request or may result in transfers from your Account to unintended beneficiaries. If a Wire Transfer request does not designate the beneficiary's financial

institution, we may, in our discretion (i) accept the Wire Transfer request and make payment to any financial institution at which we have reason to believe the beneficiary maintains an account, or (ii) not accept the Wire Transfer request and seek further direction from you. In either of the foregoing situations, unless applicable law requires otherwise, we will not be liable for losses resulting from your failure to properly identify the financial institution where the beneficiary maintains an account. If a Wire Transfer request does not specify routing instructions, you will be deemed to have instructed us to send the wire through such correspondents as we determine is our sole discretion. You acknowledge that any administrative messages or comments conveyed with any Wire Transfer request shall be for its own internal reference and shall not be binding on us or alter the pertinent details of the Wire Transfer request. Unless otherwise required by applicable law, we are not required to accept Wire Transfer requests from you or any person acting or purporting to act on your behalf in a representative or fiduciary capacity, and we may refuse to accept any Wire Transfer requests in our sole and absolute discretion. We may also reject any incoming wire transfer. If we determine, in our sole discretion, not to honor, execute or accept a Wire Transfer request, we are under no obligation to inform you and shall not be liable for any failure to inform you. A Wire Transfer request is considered accepted by us when we execute it.

2. **Cut-Off Times.** Wire Transfer requests for domestic and international Wire Transfers must be received and verified by 2:00 PM CST for domestic Wire Transfers and 11:00 AM CST for international Wire Transfers (collectively, the “Cut-Off Time(s)”). We may treat any transfer request received at or after our Cut-Off Time as if it were received that business day or we may treat it as if it were received at the opening of the next business day. We are not required to make a Wire Transfer on the day a transfer request is received, unless the properly completed transfer request is received within a reasonable time before any Cut-Off Time we have established. We may use any means and routes that we, in our sole discretion, consider suitable for the transmission of funds, and we may make use of correspondents, agents, subagents and funds transfer and communication systems. Such third parties shall be deemed your agents and we shall not be liable for any errors, delay, mis-delivery, or failure of delivery by any of them unless applicable law says otherwise. We are not responsible for delays or mistakes caused by other parties through whom we transmit funds.

3. **International and Domestic Wire Transfers.** Wire Transfers may be either domestic or international, provided, however, international Wire Transfers may not be sent by us through or into any country in violation of U.S. laws. All international Wire Transfers will be routed by us through one of our correspondent financial institutions. Domestic Wire Transfers will settle only in U.S. Dollars, and international Wire Transfers may be in a foreign currency if accepted at our discretion. Such international Wire Transfer may be converted to the currency of the destination country at a rate of currency exchange established by correspondent financial institution or the beneficiary financial institution. Even if you tell us that you want the Wire Transfer sent in U.S. dollars, we cannot guarantee that the beneficiary institution will receive the funds in U.S. currency or will not convert the Wire Transfer into another currency. The actual amount that the beneficiary/designated recipient receives may be reduced by fees and taxes imposed by the beneficiary bank, or a correspondent bank, including currency conversion charges.

4. **Tax Payment Wire Transfer Request.** Any Wire Transfer request which seeks to make payment of a tax obligation (the “Tax Wire Transfer”) must be submitted to us with the applicable documentation and the completed IRS taxpayer worksheet (where applicable) in compliance with our instructions and procedures and the terms of this Agreement. You acknowledge and understand that any Tax Wire Transfer may require additional time for processing and may require you to provide clarification and additional supporting documentation before the Tax Wire Transfer may be processed. You agree that you will submit any Tax Wire Transfer request in sufficient time in advance of your tax payment due date. We shall not be liable for any errors, delay or failure of delivery of your IRS payment if the Tax Wire Transfer was not submitted by you with ample time for processing of the Tax Wire Transfer request.

5. **Wire Transfers to a Beneficiary Bank.** After the funds that are transferred to the beneficiary bank, the funds become the property of the beneficiary bank. The beneficiary bank is responsible to locate, identify, and make payment to your beneficiary. If your beneficiary cannot be properly identified, the funds may be returned.

6. **Rejected, Revoked, Canceled or Returned Wire Transfer Requests.** You acknowledge that Wire Transfer requests which are not made in the precise format prescribed in procedures provided to you by us may be released for transmission to the clearing agent, even though such transfer requests may be rejected by the clearing agent due to your failure to comply with format requirements or for other reasons. We cannot revoke or cancel a transfer request once it has been transmitted by you and we will not be liable to you if we cannot recover any funds already transferred. You agree that if the transfer request is returned for any reason, you will accept as repayment in full, the dollar amount of the transfer request, less appropriate fees.

7. **Delays or Non-Execution of Wire Transfer Requests.** While we will handle your transfer requests as expeditiously as commercially reasonable, you agree that Bank will not be responsible for any delay, failure to execute, or mis-execution of your Wire Transfer request due to circumstances beyond our reasonable control, including without limitation for the insolvency, neglect, misconduct, mistake, default, any inaccuracy, interruption, delay, or failure in the means of transmission, whether caused by strikes, power failure, equipment malfunctions, or acts or omissions of any bank, entity, or person whether or not that other bank, entity or person is our agent. WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING AS TO THE FAILURE OF ANY INTERMEDIARY BANK OR



BENEFICIARY BANK TO CREDIT YOUR BENEFICIARY WITH THE AMOUNT OF THE WIRE TRANSFER AFTER RECEIPT OF SAME WITH RESPECT TO ANY MATTER. We reserve the right to delay or not to process Wire Transfer requests if we believe such Wire Transfer (a) relates to any internet gambling transactions or any illegal transactions; (b) relates to one or more beneficiaries listed on the Specially Designated National lists from the U.S. Department of Treasury; or (c) may violate any Executive Order of the President, Foreign Governmental Embargoes/Sanctions, directive of the U.S. Department of the Treasury or law.

8. We may disclose any information given to us that we, in our sole discretion, determine is necessary or desirable to disclose; except we will only disclose confidential information if required by law, a court, or legal, regulatory, or governmental authority, or as permitted by law in order to combat, prevent, or investigate issues arising under anti-money laundering laws, economic sanctions, or criminal law. Sometimes legal, regulatory, or governmental authorities require additional information, either in respect of individuals, entities, or particular transactions. You agree to promptly supply all such information, which any such authority may require, and/or which we may be required to supply, in relation to the individual, entity, or particular transaction. If you, or your authorized representative, breach any such laws or regulations, you irrevocably agree that we may retain any monies or funds transmitted to us pursuant to this Agreement and/or not fulfill any Wire Transfer request if we are required to take or refrain from such action by any legal, regulatory, or governmental authority or if we reasonably believe that such action may violate any laws or regulations described herein, and such monies shall not bear interest against us. You further agree that we may pay such monies to the appropriate legal, regulatory, or governmental authority, if and when required by law.

9. If we receive an incoming international wire transfer for payment into your Account that was remitted in a currency other than U.S. dollars, we will convert the amount of the payment into U.S. dollars using the applicable exchange rate for credit to your Account. The exchange rates we use for your transactions are not necessarily the bank-to-bank negotiated exchange rate or other potentially more favorable rate. You consent to our doing this without prior notice to you. FDIC deposit insurance does not insure against any loss due to foreign currency fluctuations. If for any reason we do not receive covering payment from the remitting or intermediary bank in respect of an incoming international Wire Transfer we have credited to your Account, you agree to allow us to debit your Account for the amount credited under such incoming international Wire Transfer. Wire Transfers sent to foreign countries may be converted to the currency of the destination country at our rate of currency exchange for remittance transfers. We cannot guarantee that the beneficiary/designated recipient will receive the funds in U.S. currency. The actual amount that the beneficiary/designated recipient receives may be reduced by fees and taxes imposed by the beneficiary bank, or a correspondent bank, including currency conversion charges.

#### **VIII. DEPOSIT AVAILABILITY.**

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.

**1. 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. We will notify you if we delay the availability of your funds if required by law, and we will tell you when you can expect your funds to be available if required by law.

**2. 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. Deposits may only be made by EFT, which includes direct deposits and ATM Transfers.

**3. Special Rules for New Accounts.** If you are a new customer, the following special rules will apply during the first 30 days your account is open. Funds from electronic direct deposits to your Account will be available on the day we receive the deposit. Funds from deposits of cash, wire transfers, and, if made available, the first \$5,000 of a day's total deposits of cashier's, certified, teller's, traveler's, and federal, state and local government checks will be available on the same business day we receive your deposit if the deposit meets certain conditions. For example, the checks must be payable to you (and you may have to use a special deposit slip). The excess over \$5,000 will be available on the ninth business day after the day of your deposit. If your deposit of these checks (other than a U.S. Treasury check) is not made in person to one of our associates, the first \$5,000 may not be available until the second business day after the day of your deposit. Funds from all other check deposits may not be available until the second business day after the day of your deposit.

**4. 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 or EFT 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 and processed 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.

**Exhibit 1**  
**FEE SCHEDULE**

Card Purchase Fee	\$0.00
Account Registration Fee	\$0.00
Virtual Card Issuance Fee:	\$0.00
Monthly Fee:	\$0.00
Fees for Spending Money Per Transaction	\$0.00
Fees for Getting Cash Per Transaction	\$0.00
International Fees	3.00%
Replace Card	\$0.00
Expedite Card	\$0.00
ATM Cash Withdrawal - Domestic	\$1.50
ATM Cash Withdrawal – International	\$3.50
Cash Back at Point of Sale	\$0.00