

**EVOLVE BANK & TRUST****SECURED ACCOUNT AND CHARGE CARD ACCOUNT DISCLOSURES AND AGREEMENT**

This document, as amended or supplemented by any associated disclosures (collectively, this “Agreement”), contains the general terms, conditions and disclosures for the Evolve Bank & Trust secured account (the “Secured Account”) and the charge card (the “Charge Card Account”), as well as an associated security agreement securitizing the Secured Account as collateral for the Charge Card Account, and constitutes an agreement between the Bank (as defined below) and you. For purpose of this Agreement, the term “Secured Account” may also collectively include Sub-Deposit Secured Accounts of such Secured Account.

**Charge Card Account Disclosures**

| <b>Interest Rates and Interest Charges</b>                |                                                                               |
|-----------------------------------------------------------|-------------------------------------------------------------------------------|
| <b>Annual Percentage Rate (APR) for Purchases</b>         | <b>0%</b>                                                                     |
| <b>Annual Percentage Rate (APR) for Balance Transfers</b> | Not applicable                                                                |
| <b>Annual Percentage Rate (APR) for Cash Advances</b>     | <b>0%</b>                                                                     |
| <b>Penalty APR and When it Applies</b>                    | There is no penalty APR. Interest is not charged on this account.             |
| <b>Paying Interest</b>                                    | There are no grace periods. Interest is not charged on this account.          |
| <b>Minimum Interest Charge</b>                            | There is no minimum interest charge. Interest is not charged on this account. |

| <b>Fees</b>                                                                      |               |
|----------------------------------------------------------------------------------|---------------|
| <b>Annual Fee</b>                                                                | None          |
| <b>Transaction Fees</b>                                                          |               |
| <ul style="list-style-type: none"> <li>● <b>Balance Transfer</b></li> </ul>      | None          |
| <ul style="list-style-type: none"> <li>● <b>Cash Advance</b></li> </ul>          | Not Available |
| <ul style="list-style-type: none"> <li>● <b>Foreign Transaction</b></li> </ul>   | Not Available |
| <b>Penalty Fees</b>                                                              |               |
| <ul style="list-style-type: none"> <li>● <b>Late Payment</b></li> </ul>          | None          |
| <ul style="list-style-type: none"> <li>● <b>Over-the-Credit Limit</b></li> </ul> | None          |
| <ul style="list-style-type: none"> <li>● <b>Returned Payment</b></li> </ul>      | None          |

**How We Will Calculate Balances:** This is a Charge Card Account, which means the Account Balance must be paid in full every Billing Cycle. To calculate your Account Balance, we add the transactions on your Charge Card Account in the Billing Cycle to any outstanding balance from the previous Billing Cycle, and subtract any payments and credits received during the Billing Cycle. See the “Your Payment Due Each Billing Cycle” section of the Charge Card Account terms for more details.

**Billing Rights:** Information on your rights to dispute transactions and how to exercise those rights are included in this Agreement. See the “Your Billing Rights” section of the Charge Card Account terms for full details.

**Can You Change My Account Terms?** We can change the terms of your Charge Card Account as permitted by law. When required by law, we will send you notice before doing so.

**Military Lending Act Notice:** Federal law provides important protections to members of the Armed Forces and their dependents relating to extensions of consumer credit. In general, the cost of consumer credit to a member of the Armed Forces and his or her dependent may not exceed an annual percentage rate of 36 percent. This rate must include, as applicable to the credit transaction or account: the costs associated with credit insurance premiums; fees for ancillary products sold in connection with the credit transaction; any application fee charged (other than certain application fees for specified credit transactions or accounts); and any participation fee charged (other than certain participation fees for a charge card account). To receive this information and a description of your payment obligation, please call 1-888-557-0936.

## Secured Account and Charge Card Account Agreement

### **I. INTRODUCTION**

**General.** References to the “Bank,” “we,” “us,” or “our” mean Evolve Bank & Trust, our successors, affiliates, and assignees. Reference to “you” and “your” mean you and any person that holds, whether individually, jointly, or on behalf of another person, the Secured Account or the Charge Card Account. This Agreement may be supplemented or amended as set forth in Section VI.D (Changes in Terms). Bank services and access and use of your Secured Account and Charge Card Account may be provided to you through the website and/or smart phone application of our service provider, TheTenn Inc, at thetenn.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 III (Secured Account Terms) for additional information.

By opening or continuing to maintain a Secured Account and Charge Card Account with us, 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.

We may decline to open a Secured Account or Charge Card Account for any reason, or for no reason. Where we decline to open either a Secured Account or Charge Card Account, you will not be able to open, or keep open, either a Secured Account or Charge Card Account. We are not liable for any damages or liabilities resulting from refusal of a Secured Account or Charge Card Account relationship.

**Security Interest and Collateral.** This is a secured Charge Card Account. As a condition for the issuance of this Charge Card Account, you authorize us to open a Secured Account to hold your deposits that will be used to secure all of your obligations related to the Charge Card Account. The Secured Account will be governed by this Agreement and all funds deposited to the Secured Account will be subject to our security interest as set forth in Section III(T)(2). You acknowledge that, by applying for and accepting a Charge Card Account, you are affirmatively and consensually granting us this security interest in the funds you deposit.

**UNLESS YOU ARE A COVERED BORROWER UNDER THE MILITARY LENDING ACT AS DISCUSSED IN MORE DETAIL IN THIS AGREEMENT, 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 V.B (ARBITRATION AND WAIVERS).**

### **Secured Account and Charge Card Account Documents**

The following Secured Account and Charge Card Account Documents govern your Secured Account and Charge Card Account with us:

- (1) this Agreement;
  - (2) all Statements;
  - (3) any rewards program terms, conditions, and disclosures;
  - (4) any privacy notices;
  - (5) any Charge Card Account benefits brochure which describes benefits provided by the credit card network for your Charge Card Account. The credit card network may be Visa Inc., MasterCard International Incorporated, or any other network provider;
  - (6) all disclosures and materials provided to you before or when you opened your Secured Account and Charge Card Account;
  - (7) any other documents and disclosures relating to your Secured Account and Charge Card Account, including those provided online;
- and

(8) any future changes we make to any of the above.

Please read these documents carefully and keep them for future reference.

## New Offers

In the future, we may provide you with new offers that we think may interest you. The terms of these offers may differ from the standard terms on your Secured Account and Charge Card Account. This Agreement will still apply.

## Account Information

We need information about you to manage your Secured Account and Charge Card Account. This includes, but is not limited to:

- (1) your legal name;
- (2) a valid U.S. mailing address and residential address (if different);
- (3) your date of birth;
- (4) your Social Security number or other government identification number;
- (5) your telephone number(s); and
- (6) your employment and income information.

You must tell us when this information changes. We may ask you for additional documents and to verify any changes to information you have provided us. We may restrict or close your Secured Account and/or Charge Card Account if we cannot verify your information, or if you do not provide it as requested.

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## II. **OPENING A SECURED ACCOUNT AND CHARGE CARD ACCOUNT**

**Availability.** The Secured Account and Charge Card Account are available to United States citizens or lawful permanent residents with a U.S. physical address or with military addresses (APO or FPO) who are at least 18 years old with a valid Social Security Number or Tax Identification Number. To open a Secured Account and Charge Card Account, you must provide any information we may request from time to time. Each owner of a Secured Account and Charge Card Account shall have a continuing obligation to provide any other documentation we may request from time to time, including any information required under our customer identification program to establish your identity. You must also agree to go paperless. This means that: (1) you must keep us supplied with your valid email address and telephone number; and (2) you must agree to accept electronic delivery of all communications that we need or decide to send you. Please see the [Evolve Bank & Trust Electronic Communication Consent](#) for additional details.

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

By opening a Secured Account and Charge Card Account, you agree that we can gather your personal information from one or more consumer reporting agencies, governmental entities, and/or other third parties, including, but not limited to, the Service Provider. We or our Service Provider may obtain and use credit, income, and other information about you from credit bureaus and others as the law allows. We may reevaluate your financial condition and investigate any information you provided on your Secured Account and Charge Card Account applications at any time. In the course of doing so, we may obtain a current credit report and ask you for additional information about your financial condition. You give us permission to obtain any information about you that we believe would be beneficial to facilitate our determination of your eligibility for a Secured Account and/or Charge Card Account. You also agree that we have the right to access follow-up consumer reports while your Secured Account and Charge Card Account are open for maintenance, review, or collection purposes.

By applying for a Secured Account and Charge Card Account, you certify that all information you have provided to us, including, but not limited to, your name, mailing address and residential address (if different), social security number (or passport number and country of issuance) or other identification documentation, date of birth, telephone number, and other information provided at our request, is true, accurate, and complete. If you falsify, misrepresent, or fail to provide requested information, we may cancel your Secured Account and Charge Card Account. In addition, funds tied to suspected illicit or illegal activity may be subject to internal holds and investigation and potentially federal investigation. We reserve the right to restrict or delay your access to any such funds, subject to applicable law. We may share any of the information collected and any results of any investigation with the Service Provider. Please see our [Privacy Policy](#) for additional details.

Your Secured Account and Charge Card Account will not be considered “opened” until the Secured Account is funded with at least the minimum initial deposit disclosed in Exhibit 3 (Deposit, Credit, and Additional Limits Schedule) and any additional requirements set forth therein have been satisfied. Once your Secured Account and Charge Card Account are considered “opened,” we may require a minimum balance in the Secured Account, set a maximum balance limit for the Secured Account, and impose additional requirements to maintain your Secured Account and Charge Card Account, each as disclosed in Exhibit 3 (Deposit, Credit, and Additional Limits Schedule).

**Prohibitions.** The Secured Account and Charge Card Account are only available for personal, family, or household purposes and not for business purposes. You are not entitled to open a Secured Account or Charge Card Account under this Agreement if you are a corporation, unincorporated business association, partnership, limited liability company, incorporated nonprofit organization, sole proprietorship, or any other entity. We reserve the right to close your Secured Account and Charge Card Account if we determine that it is used for any impermissible purpose, as we may determine from time to time. You may not use your Secured Account or Charge Card Account 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. 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 Secured Account and Charge Card Account, including by refusing the processing of any transaction, if we believe you have violated this Agreement or any applicable law.

**Fees; Fee Schedule.** You agree to pay all fees and charges applicable to your Secured Account and Charge Card Account. The amounts of these fees and charges are listed in our Fee Schedule, attached as Exhibit 1 (“Fee Schedule”). Fees and our Fee Schedule are subject to change at any time and without notice to you, unless required by law. Fees set forth in the Fee Schedule are charged by Bank for its services. Service Provider (see below) may charge you fees separate and apart from the fees set forth in the Fee Schedule for its Services, pursuant to the Service Provider Terms. Bank is not responsible for any fees charged by Service Provider for its Services. If you request a service that is not included in the Fee Schedule 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 Secured Account or charged to your Charge Card Account, as applicable.

**Service Providers.** You understand that we have engaged the Service Provider to perform several services for you under this Agreement, including, but not limited to, identity verification, compliance monitoring, risk mitigation, managing your Secured Account and Charge Card

Account, and other services we may require. The Service Provider, along with its partners and agents, is the servicer of your Secured Account and Charge Card Account. 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 Secured Account and Charge Card Account through the Service Provider. You may provide us with payment instructions and view certain Secured Account and Charge Card Account information by using the Service Provider Platform. Subject to applicable law, 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 and disclaim all warranties, either express or implied or statutory, including, but not limited to, any implied warranties of merchantability, fitness for a particular purpose, and lack of viruses related to the Services. Subject to applicable law, in no event shall we be liable for any losses or damages related to your use of Services.

**Instructions You Provide Us.** You agree that any instructions received by us (e.g., payment instructions, like requests to withdraw or transfer funds from your Secured Account or make a purchase on your Charge Card Account) through the Service Provider Platform or in connection with your username, password, PIN, or mobile device used to access the Service Provider Platform (collectively “Credentials”) will be deemed to be 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 how 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 Secured Account or make a purchase with your Charge Card Account, we will deem the withdrawal or the purchase to be authorized by you. Unless prohibited by applicable law, you agree to hold us harmless and indemnify us for any liability incurred for reasonably acting upon such instructions which bear any of your Credentials. You agree to keep confidential and to take all reasonable precautions and make all reasonable efforts to protect the secrecy of all Credentials issued to you, selected by you, or utilized by you. If any of your Credentials become lost or known to another person, you agree to notify us immediately so that a replacement may be issued. If you believe your Credentials are no longer secure or confidential, or that someone has used your Credentials without your permission, please contact us immediately by calling 1-888-557-0936 or notifying us through the Service Provider Platform.

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

### III. SECURED ACCOUNT TERMS

**Secured Account Type and Ownership.** The Secured Account is a transaction account that allows you to make certain purchases and 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 Secured 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 Secured Account ownership information that you originally provided to us in connection with the submission of your application for a Secured Account.

**Linking Secured Accounts.** You may link your bank account at another financial institution (“Linked Account”) to your Secured Account in order to transfer funds between your Linked Account and your Secured Account. You represent and warrant: (1) that you have the right to authorize any and all charges and debits to the Linked Account; (2) the Linked Account is held at a depository institution located in the U.S.; and (3) you are individually or jointly the owner of the Linked Account. You will indemnify and hold us harmless from any claims by any person related to the Linked Account, including any other owner of the Linked Account. You are not permitted to link your Secured Account

with a credit, debit, gift, or other type of card issued by a third party or another bank. You may deposit funds into your Secured Account by using the Service Provider Platform to initiate an Automated Clearing House transfer ("ACH Transfer") from the Linked Account into your Secured Account. You may withdraw funds from your Secured Account by using the Service Provider Platform to initiate an ACH Transfer from your Secured Account into your Linked Account. The external account that you are depositing funds into or withdrawing funds from must be at an external bank located in the U.S. We do not accept requests made otherwise to initiate ACH Transfers. Requests for ACH Transfers to debit the Linked Account that are made before 4:00 PM CST on a business day shall be considered received on the business day the request is made. Requests for ACH Transfers to debit the Linked Account that are made after 4:00 PM CST on a business day or on a non-business day, shall be considered received the next business day.

**Internal Transfer Between Accounts at the Bank.** You may initiate transfers from your Secured Account to make payments on your Charge Card Account as described in Section IV.P (Making Payments). We may (but are not obligated to) permit you to initiate other transfers of funds between your accounts at the Bank, or from amounts in your Secured Account that do not secure an obligation you have under the Charge Card Account to other accounts at Bank owned by third parties, through a Service Provider Platform. We do not accept requests made otherwise to initiate internal transfers.

**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 Secured 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 Secured Account, without prior written notice to you.

1. You may make a deposit into your Secured 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 Secured Account.
2. We do not accept deposits by mail, cash, paper check or foreign currency deposits. We are not liable for wire transfers that you may attempt into your Secured 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 will send the cash back to you. 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 Secured 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.
3. Subject to the limitations 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.

**Withdrawals.** Except as provided herein and subject to Exhibit 2 (Transaction Limits) and Section III.R.2 (Transfer Limitations), you may make withdrawals from your Secured Account up to the Available Balance in your Secured Account by any means that we make available to you. Your "Available Balance" includes the total amount of funds deposited in your Secured Account less any portion of those funds designated to settle pending transactions or to secure balances on your Charge Card Account. See Section III.T (Security Agreement) for further detail about the designation of Secured Account funds to secure Charge Card Account balances.

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

You are not permitted to make withdrawals from your Secured Account by creating a check drawn on your Secured Account. If you attempt

to make any transactions with your Secured 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 Secured 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.

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

1. **Posting Orders.** This section summarizes how we generally post some common transactions to your Secured Account. Posting transactions to your Secured Account impacts your Secured Account balance and Available 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, authorizations, and holds related to withdrawals and EFTs (as defined below). Debits include withdrawals, transfers, payments from your Secured Account, transactions, and fees.

We use automated systems to process transactions and then to post transactions to your Secured Account. When we process multiple transactions for your Secured 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 Secured 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. If we make checks available to you, this category is applied first against your balance. Check posting will be in sequential order based on the check number, and for any check for which the number cannot be read, from highest to lowest amount following the posting of number-legible checks. We then subtract from your balance any other types of electronic debits in order from the highest to lowest dollar amount. These debits generally include Transfers. Finally, we subtract from your balance most fees in order from highest to lowest dollar amount. Some fees may show as "processing" until the next day.

Note that your Secured Account balance and your Available Balance may differ depending on the amount of funds in your Secured Account designated to secure balances on your Charge Card Account, as well as the posting order described above.

2. **Changing Posting Orders.** You agree that we may determine in our discretion the orders in which we post transactions to your Secured Account. You agree that we may determine in our discretion the categories, the transactions within a category, the order among categories, and the posting orders within a category. We sometimes add or delete categories, change posting orders within categories and move transaction types among categories. You agree that we may in our discretion make these changes at any time without notice to you.
3. **Posting Orders Determined at End of Day.** We receive credits, debits, and holds throughout the day. Regardless of when during the day we receive transactions for your Secured 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 Secured Account, and report them on your statement, in a different order than the order in which you conduct them or we receive them.

4. **Overdrafts.** We generally determine at the time we post a debit to your Secured Account, based on the posting order above, whether it creates an overdraft. You should note that sometimes we authorize a transaction at a time when you have enough available funds to cover it, but because other transactions post before it and reduce your balance, the transaction creates an overdraft when we post it to your Secured Account. When your Secured Account balance includes some funds that are subject to a hold, dispute, or Legal Process, or designated to secure a balance on your Charge Card Account, you should note that those funds are not available to cover your transactions. We do not show holds or distinguish between available and unavailable funds in your Secured Account balance on your statement.

We authorize or pay overdrafts at our discretion, which means we do not guarantee that we will always authorize or pay any overdraft in the future, even if we have authorized or paid such transactions previously. If we authorize or pay any overdrafts, you must immediately pay us the amount of that overdraft. You authorize us to use the money from any subsequent deposits to your Secured Account (including, but not limited to, a direct deposit of Social Security or any other state or federal benefit payment, each as permitted by law) to pay any overdraft in the Secured Account. For deposits you have authorized, you understand and agree that if you do not want your benefits applied in this way, you may change your direct deposit instructions at any time with the person or organization paying the benefits. You agree to pay all costs and expenses we incur in collecting any overdraft. We may still pursue collection of the amount you owe after it is charged off.

5. **Certain Transactions Made After Business Day Ends.** During processing, we may include in your Secured 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 III.Q (Funds Availability Disclosure). We generally subtract from your Secured Account balance the following debits, when the transaction occurs after the cutoff time for the business day, but during the same calendar day: any credit-push ACH Transfers or EFTs.

**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 Secured 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 Secured Account, you need to consider all accounts that you hold at the Bank. To determine SIA applicable to your Secured 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).

**Statements.** We will deliver or make available to you periodic statements for your Secured Account as required by law. You will receive a statement if you have a transaction on your Secured Account during the statement period, and if there were no transactions on your Secured Account, we will provide you a statement at least quarterly. The Secured Account statement will describe payments or transfers made in connection with your Secured Account. You agree to notify us promptly if you do not receive your statement by the date you normally would expect to receive it. You will receive an electronic statement (not paper), and you agree that the statement has been delivered or made available to you in a reasonable manner. Note that your Secured Account statement will be sent in combination with any statement covering your Charge Card Account during the same statement period.

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

**Negative Balance.** Each time you initiate a transaction using your Secured Account, you authorize the Bank to reduce the funds available in your Secured Account by the amount of the transaction and all associated fees. You are not allowed to exceed the available amount in your Secured Account through an individual transaction or a series of transactions (creating a “negative balance”). Nevertheless, if any transaction

causes the balance in your Secured 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 (Fee Schedule). We reserve the right to bill you for any negative balance or to recoup such negative balance from your Secured 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 Secured Account if you create one or more negative balances. If you fail to pay us amounts owed under this Agreement, we may refer your Secured Account, and collection of amounts owed, to a collection agency.

**Power of Attorney/Agents.** Subject to applicable law, we may allow you to give another person (known as an “attorney-in-fact”) power of attorney to act on your behalf for your Secured Account; provided, we are not obligated to honor such power of attorney until you first obtain our written approval. Email us at [contact@thetenn.com](mailto:contact@thetenn.com) for approval if you plan to create a power of attorney. Unless we approve of your power of attorney in writing, we are not required to honor orders and instructions concerning your Secured Account by an attorney-in-fact for any Secured Account owner, or by a personal representative, guardian, conservator, or custodian of an account owner. If we approve your appointment of an attorney-in-fact, we will honor orders and instructions from your attorney-in-fact until the earlier of (1) our receipt from you revoking such power of attorney and our written acknowledgement; (2) our receipt of notice that you or your attorney-in-fact have died or become incapacitated; or (3) our termination of the acceptance of the power of attorney. We have no duty to monitor or ensure that the acts of your attorney-in-fact are for your use or benefit or are otherwise permissible under applicable law. We will not be liable if your attorney-in-fact exceeds his or her powers or does not comply with your instructions or applicable law. We may terminate acceptance of a power of attorney at any time and for any reason and without notice to you. You agree to hold us harmless from and against any actions we take based upon the instructions of your attorney-in-fact or that your attorney-in-fact takes regarding your Secured Account.

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

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

We reserve the right to monitor all Secured Account activity for inappropriate use. We may also suspend or close your Secured Account at our discretion and for any reason with or without notice. This includes upon the termination of your Charge Card Account for any reason or if we believe you are using your Secured Account 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 Secured Account. If we close your Secured Account, all collected funds (less any amounts due to us or for debits in process) will be transferred to your Linked Account. Alternatively, we may, at our discretion, mail you a check for the available balance in your Secured Account. Written notice that the Secured 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 Secured Account is jointly owned, to any account owner to whom we elect to send it, or the email address we have on file for the Secured Account. Once we have closed your Secured Account, you agree that we can assess any service charge otherwise applicable against any remaining balance in your Secured Account. We are not responsible to you for any damages you may suffer as a result of your Secured Account being closed. If you attempt to make a deposit to a Secured 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 \$5.00. The closure of your Secured 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).

**Dormancy and Unclaimed Property.** State laws (called “escheat” or unclaimed property laws) require us to close your Secured Account and transfer your money to the state if your Secured 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 Secured Account is considered dormant. Your Secured Account is usually considered dormant if you have not accessed your Secured Account, communicated to us about your Secured Account, or otherwise shown an interest in your Secured 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 Secured 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 Secured 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 Secured Account, transacting periodically, or contacting us, or replying to any abandoned property correspondence. If your Secured Account becomes dormant, you may no longer receive statements, but you can still view your accounts online.

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

**Funds Availability Disclosure.** When a deposit is made to your Secured Account, the funds may not be available immediately. This section describes when funds will be made available to you.

1. **Delayed Availability:** We may delay the availability of funds from deposits and certain other types of deposits for any deposit account you have with us. There are exceptions that may apply in certain circumstances and special rules that apply to New Customers (as defined below). During the delay, you may not withdraw funds and may not use the funds.
2. **Day of Deposit:** If we receive a deposit before 6:00 PM ET on a business day, we will consider that business day to be the day of your deposit. However, if we receive a deposit after 6:00 PM ET or on a non-business day, we will consider that the deposit was made on the next business day.
3. **Deposits on a Holiday:** Any transaction that you conduct on a federal holiday, or other days on which we are closed will be handled the following business day.

4. **Availability of Wire Transfer Deposits:** Funds from wire transfers to your Secured Account that you initiate through another bank will be available not later than the business day after we receive the deposit.
5. **Availability of ACH Transfer Deposits:**
  - a. Funds from ACH Transfers that you initiate through another bank will generally be available on the next business day after the day the ACH Transfer is deemed to be received by us, but may be available earlier in our discretion, depending on the type of ACH Transfer.
  - b. Funds from ACH Transfers that you initiate through the Bank from a linked external account will generally be available on the third (3rd) business day after the day the ACH Transfer is deemed to be received by us but may be available earlier in our discretion.
6. **Availability of Internal Transfers Between Accounts at the Bank:** When you transfer funds from one of your accounts at the Bank to another of your accounts at the Bank on a business day, the funds will be available immediately.
7. **Availability of Check Deposits:** To the extent that we accept check deposits, the following funds availability rules will apply.
  - a. **Special Checks**—For U.S. Treasury checks or other government checks and certified, teller, and cashier’s checks (“Special Checks”), up to \$5,525 will be available the next business day after the day of your deposit and the remainder will be available on the sixth (6th) business day after the day of your deposit, unless an exception applies.
  - b. **Other Check Deposits**—For all types of checks other than Special Checks, up to \$225 will be available the next business day after the day of your deposit and the remainder, up to \$5,525, will be available the second (2nd) business day after the day of your deposit, unless an exception applies or you are a New Customer (see below).
  - c. **Exceptions**—Funds you deposit by check may be delayed for a longer period under the following circumstances:
    - i. You deposit a single or multiple checks totaling more than \$5,525 on any one day;
    - ii. You redeposit a check that has been returned unpaid;
    - iii. We believe a check you deposit will not be paid; or
    - iv. There is an emergency, such as failure of computer or communications equipment.

We will notify you if we delay your ability to withdraw funds for any of the above reasons and will tell you when the funds will be available. Funds will generally be available no later than the sixth (6th) business day after the day of your deposit.

- d. **Special Rules for New Customers**—You are generally considered a “New Customer” during the first thirty (30) days after you open your first account with us. For New Customers depositing all types of checks other than Special Checks, up to \$225 will be available the next business day after the day of deposit and the remainder will be available on the sixth (6th) business day after the day of your deposit, unless an exception applies.

**Electronic Fund Transfers Disclosure.** Your Secured Account allows you to withdraw or transfer funds up to the Available Balance or make deposits or transfers through electronic fund transfers (“EFTs”). EFTs are transactions that are processed by electronic means and include, among others, ACH transfers and transactions. This section provides you with information and important disclosures and terms about the EFTs that are permitted on your Secured Account. You may also receive additional services from Service Provider through the Service

Provider Platform that allow you to initiate EFTs to and from your Secured Account that are not described in this Agreement. You will be provided separate agreements and disclosures applicable to those services from Service Provider.

1. **Supported EFTs.** The EFTs that we may support are listed below. However, the EFTs available to you will depend on the EFTs supported by the Service Provider Platform and all the below-listed EFT services may not be available to you.
  - a. Direct deposits of federal government payroll, disability, veteran's benefits, Social Security, and other federal government payments that you may receive and that may be deposited to your Secured Account and of your paycheck to your Secured Account, provided that your employer offers direct deposit and you complete any forms required by your employer.
  - b. Any deposit, transfer, or withdrawal to or from your Secured Account that is handled electronically as an ACH Transfer.
  - c. Transactions at participating merchants to purchase goods and services. Some merchants may also allow you to withdraw cash from your Account while making a purchase.
  - d. Transactions at ATMs to withdraw cash, transfer funds and find out balances.
  - e. Online fund transfers using your Secured Account routing and account number, if available.
  - f. Intrabank funds transfers between two accounts both held by us.

Except as set forth in the Fee Schedule, we do not charge for EFTs, but we may add charges at any time by providing you with prior notice if required by law.

2. **Transfer Limitations.** All EFTs are subject to limits. The transfer limit depends on the EFT type. ACH Transfers to external accounts are subject to limits on the dollar amount of electronic transfers between your Secured Account and external accounts at other financial institutions, including Linked Accounts. The Secured Account may be limited based on fraud risk and security of the Secured Account. All limits described here are designed to be flexible in order to protect the security and integrity of the service and accounts, including the Secured Account, as well as you and all other users of the service. These limitations may be based on confidential fraud and risk criteria that are essential to our management of risk and the protection of you and the integrity of the service and all Secured Accounts and may be modified at our sole discretion without advance notice. For a description of certain limits, please see Exhibit 2 (Transaction Limits), which is incorporated herein by reference. These limits are examples and subject to change based on fraud risk and security of the Secured Account.
3. **Preauthorized Credits.** If you have arranged to have direct deposits made to your Secured Account at least once every sixty (60) days from the same person or company including your employer, you can call us at 1-888-557-0936 to find out whether the deposit has been made or you can check if the deposit has been made by reviewing your transaction history in the Service Provider Platform.
4. **Periodic Statements.** You will get a monthly Secured Account statement whenever there are transfers for that particular month. In any case, however, you will receive a statement at least quarterly.
5. **Liability for Failure to Make EFTs.** If we do not complete a transfer to or from your Secured Account on time or in the correct Amount according to our agreement with you, we will be liable for damages or losses proximately caused by our failure. All such damages and losses for a failure to make a transfer will have to be actual proven damages. However, there are some exceptions, and we will not be liable for any damages or losses if, for example: (1) there are insufficient funds in your Secured Account to complete the transaction through no fault of ours; (2) the funds in your Secured Account are not yet available for use or withdrawal;

(3) the funds in your Secured Account are subject to a Legal Process or other encumbrance restricting the transfer; (4) the circumstances preventing the transfer or the failure of the transfer is beyond our control (e.g., power outage, an Act of God, fire, natural disaster) even after we have taken reasonable precautions; or (5) the Secured Account is inactive or dormant or has been revoked due to inactivity or at our discretion. There may be additional exceptions stated in our agreement with you or permitted by law.

6. **Liability for Unauthorized Transfers.** Tell us AT ONCE if you believe your Credentials have been lost or stolen, or if you believe that an electronic fund transfer has been made without your permission using information from your Secured Account. You could lose all the money in your Secured Account. If you tell us within two (2) business days after you learn of the loss or theft of your Credentials, you can lose no more than \$50 if someone used your Credentials without your permission. If you do NOT tell us within two (2) business days after you learn of the loss or theft of your Credentials, and we can prove we could have stopped someone from using your Credentials without your permission if you had told us, you could lose as much as \$500.

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

7. **Business Days.** For purposes of these disclosures, our business days are Monday through Friday. Holidays are not included.
8. **Confidentiality.** We will disclose information to third parties about your Secured Account, including the transfers you make: (1) where it is necessary for completing transfers or transactions; (2) in order to verify the existence and condition of your Secured Account for a third party, such as a credit bureau or merchant; (3) in order to comply with government agency or court orders; (4) if you give us your written permission; (5) to our and the Bank's employees, auditors, affiliates, service providers, or attorneys as needed; (6) in order to collect fees or funds you may owe us; (7) as otherwise provided by the Privacy Policy; and (8) to verify your identity and determine if we should open or keep open a Secured Account for you, utilizing identity verification services provided to us by third parties.

Please refer to our [Privacy Policy](#) for more information about our commitment to you, your privacy rights and who we share data and information with. Services offered by Service Provider, including the Service Provider Platform, are also subject to [Service Provider's Privacy Policy](#). Please carefully review Service Provider's Privacy Policy for more information about Service Provider's commitment to you, your privacy rights, and who Service Provider shares data and information with.

9. **Preauthorized Payments.**
- Right to stop payment and procedure for doing so. If you have told us in advance to make regular payments out of your account, you can stop any of these payments. Here's how: Call us at 1-888-557-0936 in time for us to receive your request three (3) business days or more before the payment is scheduled to be made. If you call, we may also require you to put your request in writing and get it to us within fourteen (14) days after you call. (We may charge you for each stop-payment order you give, in accordance with our Fee Schedule.)
  - Notice of varying amounts. If these regular payments may vary in amount, the person you are going to pay will tell you, ten (10) days before each payment, when it will be made and how much it will be. (You may choose instead to get this notice only when the payment would differ by more than a certain amount from the previous payment, or when the amount would fall outside certain limits that you set.)
  - Liability for failure to stop payment of preauthorized transfer. If you order us to stop one of these payments three (3) business days or more before the transfer is scheduled, and we do not do so, we will be liable for your losses or damages. To the extent permitted by law, our liability for losses or damages may be limited to actual damages that you have

sustained if the failure to stop payment was due to a bona fide error.

**Error Resolution.** In case of errors or questions about your electronic transfers telephone us at 1-888-557-0936; write us at 823 Congress Ave., Ste 300, Austin, TX, 78701; or email us at [contact@thetenn.com](mailto:contact@thetenn.com) as soon as you can, if you think your statement or receipt is wrong or if you need more information about a transfer listed on the statement or receipt. We must hear from you no later than sixty (60) days after we sent the FIRST statement on which the problem or error appeared.

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

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

We will tell you the results within three (3) business days after completing our investigation. If we decide that there was no error, we will send you a written explanation. You may ask for copies of the documents that we used in our investigation. If we credit your Secured Account with funds while investigating an error, you must repay those funds to us if we conclude that no error has occurred.

See also the "Error Resolution Notice" section of your periodic statement.

#### **Security Agreement.**

1. **Right of Set-Off.** You grant us a security interest in your Secured 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 Secured 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 Secured 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 of 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 Secured 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 Secured Account beneficiary. These rights exist no matter who contributed the funds to the Secured 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 Secured Account require your consent.
2. **Secured Account as Security for Charge Card Account.** The funds you maintain in your Secured Account will secure the obligations to us that you incur in connection with your Charge Card Account. You grant to us, as of the date you deliver funds to the Secured Account, a security interest in such funds and any additions or proceeds of such funds (collectively, the "Collateral") to secure your obligations under your Charge Card Account terms and to pay your Charge Card Account Balance. You irrevocably and unconditionally relinquish possession and control over the Collateral, and you pledge and assign as security to us all of your right, title, and interest in it. You must take any action we request to perfect or protect our first lien position security interest in the Collateral. You waive the benefit of any exemptions on the Collateral.

If (1) you are in default of any obligation under this Agreement; or (2) your Charge Card Account is closed for any reason, you authorize us to withdraw Collateral from the Secured Account and apply such amounts to the Charge Card Account without sending you notice or demand for payment. We may do this in addition to any other rights we have under the law or this Agreement. You are responsible for the repayment of any Charge Card Account obligation that is not satisfied by the application of Collateral. We may take up to sixty (60) days to return any excess Collateral to you.

### 3. Legal Proceedings.

- a. You represent that (a) there are no current lawsuits or bankruptcy proceedings that might affect our interest in the Collateral; and (b) you have not and will not attempt to transfer any interest in the Collateral to any other person or offer the Collateral as security for any other obligation.
- b. If any other person seeks to attach the Collateral, for example by legal garnishment, you agree that we may deem the balance of the Charge Card Account immediately payable and apply the Collateral as payment of the obligations.

If we must hire an attorney to defend or enforce our security rights under this Agreement or to perform any legal services in connection with our security rights under this Agreement, you will pay our reasonable attorneys' fees and court costs, unless the law does not allow us to collect these amounts.

## IV. CHARGE CARD ACCOUNT TERMS

**Definitions.** All capitalized terms used in this Section IV (Charge Card Account Terms) and not otherwise defined have the meanings set forth below.

1. **"Charge Card Account"** means your Charge Card Account as designated and maintained by the Bank in relation to the credit provided under or in connection with this Agreement. Charge Card Account includes the account to which any credit transaction or charge by you may be posted.
2. **"Billing Cycle"** means the time period between Statements and is used to manage your Charge Card Account. Each Statement shows the closing date, which is the last day of the Billing Cycle.
3. **"Card"** means one or more cards or other access devices, including your Charge Card Account number or virtual card, that we may issue to you to receive credit under this Agreement. This includes all renewals and substitutions.
4. **"Cash Advance"** means a loan in cash or cash equivalents, including, but not limited to, wire transfers, travelers' checks, money orders, and foreign currency.
5. **"Fees"** means charges imposed on your Charge Card Account, and as further outlined in the Fee Schedule to this Agreement.
6. **"Interest Charges"** means any charges to your Secured Account based on the application of Annual Percentage Rates.
7. **"Item"** means a check, draft, money order, or other negotiable instrument you use to pay your Charge Card Account. This includes any image of these instruments.
8. **"Purchase"** means the use of your Charge Card Account or Card to buy or lease goods or services. Tax payments and any other associated fees are considered Purchases, but Cash Advances are not considered Purchases.
9. **"Statement"** means the periodic statement we make available to you in connection with your Charge Card Account. Your

Statement will include all transactions billed to your Charge Card Account during a Billing Cycle and information about payment owed to us.

**Credit Limit.** Your credit limit is equal to the balance in your Secured Account, up to the maximum credit limit set forth in Exhibit 3 (Deposit, Credit, and Additional Limits Schedule) and subject to any transaction limits set forth in Exhibit 2 (Transaction Limits). You must keep your Charge Card Account balance below this credit limit. We may honor transactions above your credit limit, but if we do, these transactions will not increase your credit limit. You are responsible for paying for any transaction you make above your credit limit. We may increase, decrease, restrict, or cancel your credit limit for any and all transaction types at any time, without notice. This will not affect your obligation to pay us. Your available credit may not be restored for up to ten (10) business days after we receive your payment.

Deposits of funds to your Secured Account will increase your credit limit, up to the maximum credit limit set forth in Exhibit 3 (Deposit and Credit Limit Schedule), within seven (7) business days after the deposit is settled. At our discretion, we may elect to increase your credit limit between the time a deposit is initiated to your Secured Account and the time that the deposit settles. If we increase your credit limit prior to settlement, that does not obligate us to do so again at any time in the future.

#### **A. Using your Charge Card Account.**

1. A Secured Account is required in order to maintain and use a Charge Card Account. Any closure of your Secured Account will result in the closure of your Charge Card Account.
2. We may decline to authorize a transaction for any reason. This may occur even if the transaction would not cause you to go over your credit limit or your Charge Card Account is not in default.
3. We will bill each transaction to the applicable transaction type of your Charge Card Account. We will apply it against your available credit for that transaction type category.
4. You must not use, or try to use, the Card for any illegal activity. You are responsible for any charges if you do.
5. We are not liable for any losses that may result when our services are unavailable due to reasons beyond our control.
6. You may use the Card for Cash Advances and to make Purchases only for personal, family, or household purposes from any person or establishment accepting the Card.

**Rewards.** Our Service Provider and any of its third-party providers may, through the Service Provider Platform, provide you with the opportunity to participate in a rewards program to earn rewards when you use your Card ("Rewards Program"). If you are offered the opportunity to participate in Rewards Program, Service Provider will separately provide you with information about the Rewards Program and the terms and conditions governing such Rewards Program. Rewards Program(s) that may be offered to you through the Service Provider Platform are not offered by us and are offered by Service Provider (or, where applicable, Service Provider's third-party provider). For questions regarding the Rewards Program, please contact the Service Provider at 1-888-557-0936.

**Cash Advances.** You may obtain Cash Advances as permitted for your Charge Card Account. You may not use Cash Advances to pay any amount you owe us or Service Provider.

**Using a PIN.** We may give you a personal identification number ("PIN"). For security reasons, you may have to provide the PIN before you are able to use your Card. Keep your PIN secure. Do not write it down, give it to anyone, or keep it with your Card. If you lose your Card or believe the confidentiality of your PIN has been compromised for any reason, you must contact us immediately at the number provided on the back of your Card.

**Your Promise to Pay.** By using your Card or your Charge Card Account, you promise to pay us for all transactions made on your Charge Card

Account, as well as any fees. If this is a joint Charge Card Account, each of you, together and individually, are responsible for all amounts owed, even if only one of you uses the Charge Card Account.

**Statements.** You agree to be a paperless Charge Card Account holder and accept all statements and other communications, electronically. A Statement is the electronic billing statement that we will send you at the end of each Billing Cycle, unless not required by law or the law prohibits us from doing so. Unless you make other arrangements with us, your Statement will be delivered to you electronically, as further described in the Evolve Bank & Trust Electronic Communication Consent. We will not send you a Statement if: (1) we deem your Charge Card Account uncollectable; (2) delinquency collection proceedings have been instituted; or (3) for any other reason permitted by applicable law. You may request a paper copy of your Statement by calling 1-888-557-0936. There may be a fee assessed for each requested paper copy of your Statement. Such fee (if any) is set forth in the Fee Schedule. We will mail any requested paper Statement to you by regular mail to your address as it appears in our records.

**Disputed Transactions.** You must inspect each Statement you receive and must immediately contact us about any errors or questions you have, as described in Section IV.U (Your Billing Rights) of this Agreement and the “Your Rights” section on your Statement. If you do not notify us of an error, we will assume that all information on the Statement is correct. If we credit your Charge Card Account for all or part of a disputed transaction, you give us all of your rights against others regarding that transaction and will also: (1) give us any information about the disputed transaction, if we ask; (2) not pursue any claim or reimbursement of the transaction amount from the merchant or any other person; and (3) help us get reimbursement from others.

**Security and Lost or Stolen Card.** You must take reasonable steps to prevent the unauthorized use of your Card and/or Charge Card Account. For security reasons, you must, upon receipt of any physical Card, sign it in ink in the space provided and comply with any card activation procedures as may be prescribed by the Bank. You must notify us immediately and assist us in our investigation if your Card is lost or stolen or you believe someone is using your Charge Card Account or Card without your permission. You will not be responsible for transactions on your Charge Card Account that we find are unauthorized. If we reimburse you for unauthorized transactions, you will help us investigate, pursue, and get reimbursement from the wrongdoer. Your help includes giving us documents in a form that we request. You should contact us by calling us at 1-888-557-0936.

**Fees.** We will generally treat fees as Purchase transactions unless otherwise specified below. We may increase your fees pursuant to Section VI.D (Changes in Terms) of this Agreement. A list of fees applicable to your Charge Card Account may be found in the Fee Schedule of this Agreement.

**Transactions Made in Foreign Currencies.** If you make a transaction in a foreign currency, the card network provider will convert it into a U.S. dollar amount. The card network provider will use its own currency conversion procedures. The conversion rate in effect on the processing date may differ from the rate in effect on the transaction date that appears on your Statement. We do not adjust the currency exchange rate. We may charge a currency conversion fee as set forth in the Fee Schedule.

**Account Balance.** At any point the outstanding balance on your Charge Card Account is the amount that you have spent on your Charge Card Account that has not yet been paid off (“Account Balance”). To calculate your Account Balance, we add the transactions on your Charge Card Account in the Billing Cycle to any outstanding balance from a previous Billing Cycle, and subtract any payments or credits received during the Billing Cycle. You may pay down the Account Balance at any time during a Billing Cycle.

**Your Payment Due Each Billing Cycle.** Payments are due on the payment due date shown on your Statement. In order for your payment not to be treated as late, we must receive your payment by the “Please Pay By Date” shown on your Statement. The Statement also explains when the payment must reach us in order to be considered received as of that date. Payments received after the required time will be credited on the next business day. We will transfer funds from your Secured Account to your Charge Card Account in the amount of the Account Balance, without sending you notice or demand for payment, if we do not receive your payment in full for the Account Balance prior to the payment due date.

**Making Payments.** Your payment must be made in U.S. dollars from a U.S. deposit account in a form acceptable to us. We do not accept

cash payments. You may not make payments with funds from your Charge Card Account or any other credit account with us or any other company in the Bank organization. You must send payments to us as instructed on your Statement, unless we tell you otherwise. If you send payment to an address other than the payment address shown on your Statement, there may be a delay in crediting the payment to your Charge Card Account. We can accept late payments, partial payments or payments marked "payment in full," or any other restrictive endorsement, without losing any of our rights under this Agreement. We may refuse to accept payments made to your Charge Card Account by someone else on your behalf. If we do accept it, you will be responsible for the payment and any cost if a financial institution rejects it.

Payment may be made through intrabank transfer from your Secured Account, by ACH, or by telephone, all per the instructions provided on your Statement or the Service Provider Platform. We will describe the terms for using these services and any applicable fee before you use them. We are not responsible if your financial institution rejects a payment made using our payment services.

**Payment Processing.** We may accept and process payments without losing any of our rights. We may delay the availability of credit until we confirm that your payment has cleared. This may happen even if we credit your payment to your Charge Card Account. We may resubmit and collect returned payments electronically. If necessary, we may adjust your Charge Card Account to correct errors, process returned and reversed payments, and handle similar issues.

To the extent we accept payment by mailed Item, you authorize us to make a one-time electronic fund transfer from your deposit account. You also authorize us to process the payment as an Item. We may withdraw the funds from your deposit account as early as the same day we receive your payment. You will not receive your Item back from your bank. We may use the information from an Item to create an electronic image. We may collect and return the image electronically. This electronic image may also be converted to a substitute check and may be processed in the same way we would process an Item. We will not be responsible if an Item you provide has physical features that when imaged result in it not being processed as you intended. We may provide additional information about this process on your Statement where we accept payment by mailed Items.

**Credit Balances.** We may reject and/or transfer to your Secured Account any credit balance resulting from a payment in excess of the amount owed on your Charge Card Account. Any credit balance we allow will not be transferred to and made available in your Secured Account until we confirm that your payment has cleared. We may without notice restrict your ability to make payments that result in a credit balance in our sole and absolute discretion. Prior to transferring any credit balance to your Secured Account, we may reduce the amount of any credit balance by any new charges. You may write to the address provided on your Statement or call the number on the back of your Card to request a refund of any available credit balance.

**Account Default.** You will be in default if:

1. you do not make any payment when it is due;
2. any payment you make is rejected, not paid, or cannot be processed;
3. you exceed a credit limit;
4. you file or become the subject of a bankruptcy or insolvency proceeding;
5. you are unable or unwilling to repay your obligations, including upon death or legally declared incapacity;
6. we determine that you made a false, incomplete, or misleading statement to us, or you otherwise tried to defraud us;
7. you do not comply with any term of this Agreement or any other agreement with us or the Service Provider; or
8. you permanently reside outside the United States.

If you are in default, we may take certain actions with respect to your Charge Card Account. For example, depending on the default, we may take the following actions, without notifying you, unless the law says that we must give you notice:

1. charge you fees;
2. close or suspend your Charge Card Account;
3. demand that you immediately pay the total balance owing on your Charge Card Account;
4. continue to charge you fees as long as your balance remains outstanding;
5. file a lawsuit against you or pursue another action that is not prohibited by law. If we file a lawsuit, you agree to pay our court costs, expenses, and attorneys' fees, unless the law does not allow us to collect these amounts; and/or
6. transfer funds from your Secured Account and apply such amounts to the Account Balance.

**No Authorized Users.** We will not issue an additional Card to allow any other person to access the Charge Card Account. You understand that only you are permitted to use the Card or Charge Card Account. If, however, any person you authorize initiates a transaction using the Card or Charge Card Account or if such person incurs a Fee in connection with the Card or Charge Card Account, you are responsible and liable for the transaction and any Fees incurred. If you permit another person to have access to the Card or Charge Card 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 and conditions of this Agreement.

#### **Your Billing Rights – Keep For Future Use.**

This notice tells you about your rights and our responsibilities under the Fair Credit Billing Act.

**What To Do If You Find a Mistake on Your Statement:** If you think there is an error on your statement, write to us at:

Cardholder Services  
100 Redwood Shores Parkway, Suite 100  
Redwood City, CA 94065

In your letter, give us the following information: (1) account information: your name and Charge Card Account number; (2) dollar amount: the dollar amount of the suspected error; and (3) description of the problem: if you think there is an error on your bill, describe what you believe is wrong and why you believe it is a mistake. You must contact us within sixty (60) days after the error appeared on your statement, and at least three (3) business days before an automated payment is scheduled, if you want to stop payment on the amount you think is wrong.

You may notify us of any potential errors in writing. You may still be required to pay the amount(s) in question if the Bank determines the transaction is not an error. If you believe fraud has occurred on your Charge Card Account, please call us as soon as possible at 1-888-557-0936.

**What Will Happen After We Receive Your Letter:** When we receive your letter, within thirty (30) days of receiving your letter, we will tell you that we received your letter. We will also tell you if we have already corrected the error. While we investigate whether or not there has been an error, the following are true: (1) we cannot try to collect the amount in question or report you as delinquent on that amount; (2) the charge in question may remain on your statement; (3) while you do not have to pay the amount in question until we send you a notice

about the outcome of our investigation, you are responsible for the remainder of your balance; and (4) we can apply any unpaid amount against your credit limit. Within ninety (90) days of receipt of your letter, we will send you a written notice explaining either that we corrected the error (to appear on your next Statement) or the reasons we believe the bill is correct. If we determine that we made a mistake, you will not have to pay the amount in question or any fees related to that amount. If we do not believe there was a mistake, you will have to pay the amount in question, along with applicable fees. We will send you a Statement of the amount you owe and the date payment is due. We may then report you as delinquent if you do not pay the amount we think you owe.

If you receive our explanation but still believe your bill is wrong, you must write to us within ten (10) days telling us that you still refuse to pay. If you do so, we cannot report you as delinquent without also reporting that you are questioning your bill. We must tell you the name of anyone to whom we reported you as delinquent, and we must let those organizations know when the matter has been settled between us.

If we do not follow all of the rules above, you do not have to pay the first \$50 of the amount you question, even if your bill is correct.

**Your Rights If You Are Dissatisfied With Your Card Purchase:** If you are dissatisfied with the goods or services that you have purchased with your Card and you have tried in good faith to correct the problem with the merchant, you may have the right not to pay the remaining amount due on the purchase. To use this right, all of the following must be true: (1) The purchase must have been made in your home state or within 100 miles of your current mailing address, and the purchase price must have been more than \$50 (Note: Neither of these are necessary if your purchase was based on an advertisement we mailed to you, or if we own the company that sold you the goods or services); (2) you must have used your Card for the purchase (Purchases made with cash advances from an ATM or with a check that accesses your credit card account do not qualify); and (3) you must not yet have fully paid for the purchase.

If all of the criteria above are met and you are still dissatisfied with the purchase, contact us in writing at:

Cardholder Services  
100 Redwood Shores Parkway, Suite 100  
Redwood City, CA 94065

While we investigate, the same rules apply to the disputed amount as discussed above. After we finish our investigation, we will tell you our decision. At that point, if we think you owe us an amount and you do not pay, we may report you as delinquent.

#### State Notices.

1. *All Accounts, including California and Utah Residents:* As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.
2. *Wisconsin Residents:* Your signature confirms that this loan obligation is being incurred in the interest of your marriage or family. No provision of any marital property agreement, unilateral statement or court decree adversely affects a creditor's interest unless, prior to the time the credit is granted, the creditor is furnished a copy of the agreement, statement, or decree or has actual knowledge of the adverse provision.
3. *New York and Vermont Residents:* We may obtain at any time your credit reports, for any legitimate purpose associated with the Charge Card Account or the application or request for a Charge Card Account, including, but not limited to, reviewing, modifying, renewing, and collecting on your Charge Card Account. On your request, you will be informed if such a report was ordered. If so, you will be given the name and address of the consumer reporting agency furnishing the report. New York residents may contact the New York State Department of Financial Services to obtain a comparative listing of credit card rates, fees, and grace periods. New York State Department of Financial Services – (800) 342-3736 or <https://www.dfs.ny.gov/>.

4. *New Jersey Residents*: Because certain provisions of this Agreement are subject to applicable laws, they may be void, unenforceable, or inapplicable in some jurisdictions. None of these provisions, however, is void, unenforceable, or inapplicable in New Jersey.
5. *Missouri, Nebraska, and Washington Residents*: Oral agreements or commitments to loan money, extend credit, or to forbear from enforcing repayment of a debt, including promises to extend or renew such debt, are not enforceable. To protect you (borrower) and us (creditor) from misunderstanding or disappointment, any agreements we reach covering such matters are contained in this writing, which is the complete and exclusive statement of the agreement between us, except as we may later agree in writing to modify it.
6. *Massachusetts Residents*: Massachusetts law prohibits discrimination based upon marital status or sexual orientation.
7. *Ohio Residents*: The Ohio laws against discrimination require that all creditors make credit equally available to all credit-worthy customers and that credit reporting agencies maintain separate credit histories on each individual upon request. The Ohio Civil Rights Commission administers compliance with the law.

## V. LEGAL PROCESSES, DISPUTE RIGHTS, AND ARBITRATION AGREEMENT

**Legal Processes and Claims Against you or your Secured Account or Charge Card 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 Secured Account or Charge Card Account, or against your Secured Account or Charge Card 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 Secured Account or Charge Card 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 Secured Account, or purchases or other transfers from your Charge Card 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 Secured Account or Charge Card Account, or your Secured Account or your Charge Card Account.

If we receive a claim against the funds in your Secured Account or Charge Card Account, or if we know of or believe that there is a dispute as to the ownership or control of funds in your Secured Account or Charge Card Account, we may, in our discretion: (1) place a hold on your Secured Account or Charge Card Account and refuse to process any transactions or deposits until we are satisfied that the dispute is settled; (2) close your Secured Account and Charge Card Account and send any balance(s) 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 Secured Account or Charge Card Account a fee for each Legal Process or claim involving you, any party to your Secured Account or Charge Card Account, or your Secured Account or Charge Card 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 Secured Account or Charge Card 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 Secured Account or Charge Card 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.

## Arbitration and Waivers.

**THIS SECTION ON ARBITRATION AND WAIVER OF CLASS ACTION DOES NOT APPLY TO YOU IF YOU ARE COVERED BY THE MILITARY LENDING ACT NOR DO ANY OF THE PROVISIONS IN THIS AGREEMENT THAT WAIVE ANY RIGHT TO LEGAL RECOURSE UNDER ANY STATE OR FEDERAL LAW TO THE EXTENT REQUIRED BY THE MILITARY LENDING ACT.**

THIS ARBITRATION PROVISION WILL HAVE A SUBSTANTIAL IMPACT ON HOW LEGAL DISPUTES BETWEEN YOU AND US ARE RESOLVED. PLEASE READ THIS SECTION V.B (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 V.B (Arbitration and Waivers), is any unresolved disagreement between you, us and/or our Service Provider, arising from or relating in any way to the Secured Account, the Charge Card Account, or this Agreement. The terms “claim” and “dispute” are to be given the broadest possible meaning that will be enforced and include, by way of example and without limitation, any disagreement relating in any way to your Secured Account, Charge Card Account, or any additional account; to services offered in connection with a Secured Account or Charge Card Account, 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 Secured Account(s) or Charge Card Account(s); to any advertisements, promotions, or oral or written statements related to the Secured Account or Charge Card Account; to the benefits and services related to a Secured Account or Charge Card Account; or to your approval, establishment, or enrollment for a Secured Account or Charge Card Account. Claims also include disagreements about the meaning, application, or enforceability of this arbitration agreement. As solely used in this Section V.B (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 Secured Account or Charge Card Account 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 Secured Account or Charge Card Account owner or cardholder and all persons or entities approved to have, approved to use, and/or given access to a Secured Account or Charge Card Account, including, but not limited to, all persons or entities contractually obligated under this Agreement and all joint accountholders and any additional accountholder(s). The term “Secured Account,” for purposes of arbitration, includes any updated or substitute account for you related to the Secured Account or any other account contemplated by this Agreement. The term “Charge Card Account,” for purposes of arbitration, includes any updated or substitute account for you related to the Charge Card 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 V.B (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 V.B (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 V.B (Arbitration and Waivers), this Section V.B (Arbitration and Waivers) shall control.

If you initiate the arbitration, you must notify us in writing at 823 Congress Ave., Ste 300, Austin, TX, 78701. 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 SECURED ACCOUNT OR CHARGE CARD 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 V.B (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 this Section V.B (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 V.B (Arbitration and Waivers) shall survive termination of your Secured Account or Charge Card Account, 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 V.B (Arbitration and Waivers) is deemed invalid or unenforceable under any principle or provision of law or equity, consistent with the FAA, it shall not invalidate the remaining portions of this Section V.B (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.

## VI. MISCELLANEOUS TERMS APPLICABLE TO THE SECURED CARD ACCOUNT AND CHARGE CARD ACCOUNT

**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 do not assume any responsibility for your Secured Account or Charge Card Account beyond reasonable care.

**Governing Law, Forum, and Time Limits.** All Secured Accounts and Charge Card Accounts are opened at the Tennessee branch office of the Bank and all Secured Accounts and Charge Card Accounts and all property in such accounts are subject to Tennessee law. All actions relating to your Secured Account or Charge Card Account, including this Agreement, 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 law and the laws of the State of Tennessee shall be applied without giving effect to principles of conflicts of law.

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

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.

**Reporting Information.** We may report information about your Secured Account or Charge Card Account to consumer reporting agencies, governmental agencies, and/or third-party data services. Defaults on your Secured Account or Charge Card Account may be reflected in your consumer report. Late payments, missed payments, or other defaults on your Charge Card Account may be reflected in your credit

report. If you believe that we have reported inaccurate information about your Secured Account or Charge Card Account to a credit bureau or other consumer reporting agency, notify us in writing at TheTenn Disputes Department, c/o Bond Financial Technologies, 584 Castro St #2155, San Francisco, CA 94114-2512. When you write, tell us the specific information that you believe is incorrect and why you believe it is incorrect.

**Changes in Terms.** The terms and conditions of this Agreement, including any fees, and features of your Secured Account or Charge Card Account may be amended or revised at any time by posting a revised version to the Service Provider Platform or otherwise providing you with a copy of such revised version, 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 provide such notice 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 if a company in the business of providing correct addresses informs us that the address in our records no longer matches your address. We may change or terminate this Agreement without notice at our discretion or to comply with any appropriate federal or state law or regulation. Subject to the terms of this Agreement, you may determine to cease use of or close your Secured Account and Charge Card Account 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 Secured Account and Charge Card Account is presumed your acceptance of and agreement to be bound by revisions to this Agreement.

**No Waiver of Rights.** If we fail to exercise or waive a right with respect to your Secured Account or Charge Card Account on one or more occasions, it does not mean we have waived, or are obligated to waive, the same right on any other occasion. We may release any other person obligated under 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.

**Assignment.** Your Secured Account and Charge Card Account are not transferable and are not assignable 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 Secured Account or Charge Card Account without your consent and without notice, unless required by applicable law.

**Other Services and Conflicts.** If you and Bank have entered into any other agreement related to additional bank services offered in connection with your Secured Account or Charge Card 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.

**Privacy Policy.** You authorize us to share information about you and your Secured Account and Charge Card Account with our affiliates, the Service Provider, 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.

**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.

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

1. **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. EXCEPT AS REQUIRED BY LAW, OUR LIABILITY TO YOU FOR A CLAIM IS LIMITED TO THE FACE VALUE OF THE ITEM OR TRANSACTION, OR THE ACTUAL VALUE OF ANY FUNDS NOT PROPERLY CREDITED OR DEBITED. IN NO EVENT WILL WE BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, OR PUNITIVE DAMAGES, OR DAMAGES OF ANY KIND EVEN IF YOU ADVISE US OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT AS REQUIRED BY LAW AND 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. 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 SECURED ACCOUNT AND CHARGE CARD ACCOUNT 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 OR FITNESS FOR A PARTICULAR PURPOSE. WE DO NOT WARRANT THE BANK'S SERVICES OR SECURED ACCOUNT AND CHARGE CARD ACCOUNT 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 OR 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 AGREE THAT THE AMOUNT OF ANY CLAIM YOU HAVE AGAINST US IN CONNECTION WITH ANY SECURED ACCOUNT OR CHARGE CARD 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 PART 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.

2. **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) the matters set forth herein; or (iv) our action or inaction in reliance upon oral, written, or electronic instructions or information from you.
3. **Reimbursement for Losses.** If we take any action to collect debt incurred by you or other amounts you owe us under this 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 Secured Account or Charge Card Account for our losses without prior notice to you. This section does not, in any case, reduce our liability to you as described in Section III.R (Electronic Fund Transfers Disclosure).

**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 Secured Account or Charge Card Account may not be available to you. Access to your Secured Account or Charge Card 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 Secured Account or Charge Card Account, regardless of whether it could be shown that we could have prevented or reduced the duration of such unavailability by taking any action within our reasonable control. We shall also not be responsible for any loss, damages, costs, or expenses which you may suffer or incur, directly or indirectly, as a result of your inability to access your Secured Account or Charge Card Account caused directly or indirectly, in whole or in part, by your computer or mobile device, your inability to establish a connection to or to access the Internet, or other limitations or constraints of the Internet. The provisions set forth in this section shall apply in addition to any other provisions in this Agreement but, as applied to service interruptions for access to your Secured Account or Charge Card Account, this section shall control.

**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.

**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 a Secured Account or Charge Card 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.

**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.

**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 823 Congress Ave., Ste 300, Austin, TX, 78701.

**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 V.B (Arbitration and Waivers) and VI (Miscellaneous Terms Applicable to the Secured Card Account and Charge Card Account) of this Agreement).

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

| Fee Description   | Fee Amount and Frequency | Additional Details                                                        |
|-------------------|--------------------------|---------------------------------------------------------------------------|
| Replacement Cards | \$5.00                   | We charge this fee if you order a replacement Card (physical Cards only). |

Additional fees and charges may apply as described in the Charge Card Account Disclosures at the beginning of this document.

**Exhibit 2**  
**TRANSACTION LIMITS**

| Secured Account   |                                                |                                                |
|-------------------|------------------------------------------------|------------------------------------------------|
| Withdrawal Method | Limitations for New Accounts                   | Limitations for Your Account                   |
| ACH               | \$5000.00 per day<br><br>\$20,000.00 per month | \$5000.00 per day<br><br>\$20,000.00 per month |

| Charge Card Account |                                                                                                         |                                                                                                         |
|---------------------|---------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| Transaction Type    | Limitations for New Accounts                                                                            | Limitations for Your Account                                                                            |
| Cash Advance        | Maximum of 7 cash advances per day<br><br>The total of all cash advances may not exceed \$1,050 per day | Maximum of 7 cash advances per day<br><br>The total of all cash advances may not exceed \$1,050 per day |

**Exhibit 3**  
**DEPOSIT, CREDIT, AND ADDITIONAL LIMITS SCHEDULE**

| <b>Account Opening</b>                              |            |
|-----------------------------------------------------|------------|
| Minimum Initial Deposit to open Secured Account     | \$0        |
| Additional Requirements to open Secured Account     | NA         |
| <b>Account Maintenance</b>                          |            |
| Minimum Balance for Secured Account                 | \$0        |
| Maximum Balance permitted in Secured Account        | No maximum |
| Additional Requirements to maintain Secured Account | NA         |
| <b>Credit Limit</b>                                 |            |
| Credit Limit on Secured Charge Card                 | \$3,500    |