

# FinFit Consumer Spending Account Deposit Agreement

Please read this FinFit Spending Account Deposit Agreement (the “Agreement”) carefully and retain it for your future reference. This Agreement contains the general terms, conditions and disclosures related to the demand deposit account (the “Account”) made available to eligible consumers by FinFit Ops, LLC (“Program Partner”), the program partner responsible for managing the Account program, in partnership with Choice Financial Group (the “Bank”).

When you see the words “we,” “us,” or “our” in this Agreement, it refers to the Bank, the Program Partner acting as agent for the Bank, and any of the Bank’s affiliates, successors, assignees, agents or service providers. When you see the words “you” or “your,” it refers to you, the owner of the Account, as well as your personal representatives, executors, administrators, and successors.

By opening or continuing to hold an account with us, you agree to be bound by this Agreement as well as any other agreement or document we may provide to you from time to time in connection with the Account.

**IMPORTANT NOTE: THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION AND A WAIVER OF CLASS ACTIONS AND YOUR RIGHT TO A JURY. THE TERMS OF ARBITRATION AND THE WAIVER APPEAR IN SECTION 7 OF THIS AGREEMENT.**

## 1 Account Overview

### 1.1 How to Contact Us

You may contact us with any questions or concerns regarding your Account. All communication between you and us will be handled by the Program Partner. The best way to contact us is through email at [ffcustomerservice@finfit.com](mailto:ffcustomerservice@finfit.com). You may also contact us by telephone at 1-888-928-7248 or chat in the FinFit platform. We are available Monday through Friday from 8:00 AM-9:00 PM ET.

### 1.2 Type of Account and Eligibility

The Account is a non-interest-bearing demand deposit account used to hold your deposits and make certain types of payments and transfers. The Account is available to United States citizens or lawful permanent residents of the fifty (50) United States and the District of Columbia, who are at least 18 years of age, have a U.S. physical address or with military addresses (APO or FPO), and have a valid Social Security Number or Tax Identification Number. The Account is only available to individuals for personal, family or household purposes and may not be opened by a business in any form or used for business purposes.

We may decline to open an Account for any reason at the sole discretion of the Bank or Program Partner. We are not liable for any damages or liabilities resulting from refusal of an Account relationship.

### 1.3 Online or Mobile Access To Your Account

When you open an Account, you will also be enrolled in an online banking service or mobile application (collectively, “Online Banking Services”) offered by the Program Partner that you can use to access your Account, view information about your Account and conduct certain transactions. You may also be given access to various features through the Online Banking Services separate from your Account. If you cancel your enrollment in the Online Banking Services at any time, we may close your Account (see Section 3.10 below).

Unless otherwise specified in this Agreement, the Online Banking Services and any of its features are governed by the Program Partner’s Terms and Conditions, available at <https://www.finfit.com/wp-content/uploads/2021/04/FF-Website-Terms-Conditions.pdf> and Web Privacy Policy available at <https://www.finfit.com/wp-content/uploads/2019/06/FF-Privacy-Policy-EN.pdf>. Please review these documents carefully because by using the Online Banking Services, you agree to be bound by them. These services are not provided or controlled by the Bank or this Agreement, and you agree not to hold the Bank liable for issues that may arise from your use of the services or features.

## 1.4 Paperless Account

To open an Account, you must agree to go “paperless.” This means that you must (1) provide us with and continue to maintain a valid email address and (2) accept electronic delivery of all communications that we need or decide to send you in connection with your Account by agreeing to our Consent for Use of Electronic Records and Signature <https://www.myfinfit.com/WebForms/Resources/Documents/ConsentForUseOfElectronicRecordsAndSignatures.pdf>.

## 1.5 Titling and Ownership of Accounts

The Account may only be owned in the name of one person who may make deposits and transfer or withdraw funds. The Account cannot be owned or titled as a joint account, trust account, a Uniform Transfers to Minors (UTMA) account or a Payable-On-Death (POD) account.

## 1.6 How To Open an Account

You may open an Account by going to the Program Partner’s website, <https://www.finfit.com/employee/>, and following the application instructions or by downloading the FinFit mobile application from the Google Play Store or Apple App Store and following the instructions within the application.

**Important information about procedures for opening a new Account:** To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify and record information identifying each person who opens an Account. This means that when you open an Account, we will ask for your name, street address, Social Security Number or Tax Identification Number, date of birth and other information that will allow us to identify you. We may also ask to see identifying documents, such as a driver’s license.

## 1.7 Minimum Deposits and Balances

There is no minimum deposit required to open an Account and no minimum balance you need to maintain in your Account.

## 1.8 Interest Disclosures

This Account is not interest-bearing. No interest will be paid on this Account.

## 1.9 Power of Attorney and Attorneys-In-Fact

We may allow you to give another person (known as an “attorney-in-fact”) power of attorney to act on your behalf for your Account. You must obtain written approval from us before we will honor any power of attorney. Email us at [ffcustomerservice@finfit.com](mailto:ffcustomerservice@finfit.com) for approval if you plan to create a power of attorney. Please be aware that it may take up to two weeks for us to review your request. If approved, we will honor orders and instructions from your attorney-in-fact until (1) we receive a written revocation from you; (2) we are notified that you or your attorney-in-fact have died or become incapacitated; or (3) we terminate our acceptance of the power of attorney. We may terminate our acceptance at any time, for any reason and without notice to you, and you agree not to hold us liable for any damages that may result from such action. You also agree to hold us harmless for any actions we take based on the instructions of your attorney-in-fact, including if it is later determined that your power of attorney was invalid or improperly executed.

## 1.10 Death or Incapacitation

You agree that if we receive notification or if we have reason to believe that you have died or become legally incapacitated, we may place a hold on your Account and refuse all transactions until we know and have verified the identify of your successor. Until we receive notice and any required proof of death or incapacitation, we may continue to accept deposits and process transactions to your Account. Your estate will be responsible for repaying us for any tax liability resulting from payment of your account balance to your estate. You agree to hold us harmless for any actions we take based on our belief that you have died or become incapacitated. If certain payments originating from government entities are deposited into your Account after your death, we may be required to return those payments to the originator upon notice.

## 1.11 Our Relationship With You

By opening an Account, we are establishing an Account relationship with you and committing to act in good faith and to the exercise of ordinary care in our dealings with you as defined by the Uniform Commercial Code as adopted by the State of North Dakota. This Agreement and the Account relationship do not create a fiduciary relationship or any other special relationship between you and us.

## 1.12 Third-Party Service Providers

We work with one or more third-party service providers, including Unit Finance Inc. (“Unit”), in connection with your Account. In particular, Unit may assist us in processing transactions, handing account operations, and providing technological connection to the Program Partner and the Bank. By using your Account, you license and authorize us to access information maintained by Unit and/or other third parties, on your behalf as your agent, and you expressly authorize such third parties to disclose your information to us. In particular, you agree that Unit may perform any functions on your Account that we are otherwise authorized to perform and that Unit’s access and use of your information will be governed by the terms of Unit’s Privacy Policy, available at <https://www.unit.co/clients-privacy-policy>.

### 1.13 Confidentiality and Our Privacy Policy

Your privacy is very important to us. Under this Agreement, we will generally only disclose information to third parties about your Account or the transactions you make:

- To verify your identity and determine if we should open an Account for you using services provided to us by third parties.
- Where it is necessary for completing a transaction.
- To verify the existence and condition of your Account for a third party such as a credit bureau or merchant.
- To comply with government agency or court orders.
- As disclosed in our Privacy Policy.
- If you give us your written permission to share your information.
- Please refer to our Privacy Policy at [https://bankwithchoice.com/wp-content/uploads/2021/05/2021.05\\_PrivacyPolicy\\_ChoiceFinancialGroup\\_8.5x11in\\_FINAL kt.pdf](https://bankwithchoice.com/wp-content/uploads/2021/05/2021.05_PrivacyPolicy_ChoiceFinancialGroup_8.5x11in_FINAL kt.pdf) for more information about our commitment to you, your privacy rights and who we share data and information with.

In addition, we disclose your information to Unit in order to facilitate the Account and for other ancillary purposes. You agree to Unit's use of your information in accordance with the terms of Unit's Privacy Policy <https://www.unit.co/clients-privacy-policy>.

### 1.14 Cell Phone Communications

By providing us with your telephone number for a cellular phone or other wireless device, you are expressly consenting to receiving non-marketing communications at that number—including but not limited to prerecorded or artificial voice message calls, text messages, and calls made by an auto-dialer—from us and our affiliates and agents. This consent applies to all telephone numbers you provide to us now or in the future. Your telephone or mobile service provider may charge you for these calls or messages. You also agree that we may record or monitor any communications for quality control and training purposes.

### 1.15 Our Business Days

Our business days are Monday through Friday, excluding federal holidays.

## 2 Your Account Responsibilities

We strive to keep your Account secure and provide you with tools and services to help you manage your Account. However, there are certain things you should do to protect your Account and your funds.

## 2.1 Notify Us If Your Information Changes

You must notify us immediately if there is a change to your name, telephone number, mailing address, email address or any other information you have provided us so that we can continue to provide you with statements and important notices concerning your Account.

## 2.2 Keep Track of Your Transactions and Available Balance

It is very important that you keep track of your transactions and the funds in your Account that are available for you to use (“Available Balance”) by reviewing your transaction history. It is also important to understand that your Available Balance may not reflect transactions you have authorized that have not yet been presented to us for payment.

You are also responsible for reviewing your Account statements as they are made available to you for errors or unauthorized activity. If you identify an error or unauthorized activity, you must notify us promptly to avoid losing your money. Please refer to Sections 4.7 and 5.10 for information concerning errors and unauthorized activity.

## 2.3 Protect Your Account Information

It is very important that you protect your Account information to prevent unauthorized transactions and fraud. Keep your Account number, debit card, ATM card and statements secure at all times, and be careful about who you share this information with. If the Program Partner provides you with access to Online Banking Services, make sure to also keep your computer or mobile device secure at all times and avoid accessing the Online Banking Services when others can see your screen.

If your Account number, debit card, ATM card, mobile device or Online Banking Services login credentials are lost or stolen, notify us immediately to limit your liability for unauthorized transactions that may occur. Please refer to Section 4.6 for information and applicable deadlines for notifying us of losses or theft.

# 3 General Rules Governing Your Account

You understand that any payment instruction or activity performed using any Online Banking Services provided to you by the Program Partner shall be deemed authorized by you and valid and we are under no obligation to investigate the instruction or activity.

## 3.1 Deposits Into Your Account

You may make deposits into your Account using any of these methods described below. We do not charge you any fees for making deposits.

Deposit Method	Limitations for Your Account
Direct Deposit*	No limits

Internal transfers between eligible accounts managed by the Program Partner	No limits
Domestic wire	No limits
Cash deposit at in-network ATM	<p>\$1,000/transaction</p> <p>\$2,000/day</p> <p>You can use your debit card to make deposits at in-network ATMs. You can identify an in-network ATM by looking for the Allpoint logo on or near the ATM. You cannot make cash deposits at out-of-network ATMs.</p>
* The recipient's name on any direct deposit or ACH transfer must match the name on the Account or the deposit may be returned to the originator.	

**We do not accept cash deposits by mail, or paper check or foreign currency deposits:** We are not liable for 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.

- **Cash:** We do not accept cash deposits made by mail. If you mail us a cash deposit, we will send the cash back to you.
- **Paper Checks:** If you mail a paper check to us, including personal checks, money orders or cashier's checks, we may apply the check to any negative balance you may have on your Account or send the check back to you.
- **Foreign Currency:** 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 items.

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.

For more information about deposits and when funds from a deposit will be made available to you, please refer to Section 3.2.

### 3.2 Our Funds Availability Policy

It is our policy to make deposits made to your Account each business day available for withdrawal according to the table below. The end of the business day is referred to as the "deposit cut-off time". If you make a deposit before our cut-off time on a business day that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit after our cut-off time or on a day we are not open, we will consider the deposit to be made on the next business day that we are open.

If you make a deposit via...	The cut-off time is...	And those funds are available...
Internal transfer between two Accounts you have with us	N/A	Immediately
Direct deposit	3:00 PM ET	Same business day
Domestic wire	1:00 PM ET	Same business day
Cash deposit at in-network ATM	3:00 PM ET	Next business day

### 3.3 Problems that Could Occur With Deposits

If a deposit or transfer to your Account is returned or rejected by the paying financial institution for any reason, or if there is an error or mistake involving a deposit or transfer, we may deduct the amount of the deposit, transfer, or error without prior notice to you. If there are insufficient funds in your Account at the time, your Account may become overdrawn. Please refer to Section 3.9 concerning overdrafts for more information.

### 3.4 Transfers To or From Two Accounts You Have With Us

You may transfer funds from one Account in your name to another account in your name held by us that is managed by the Program Partner (an “internal transfer”). There are no limits on the number of internal transfers you may make, and internal transfers are immediately available.

### 3.5 Withdrawals From Your Account

You may withdraw funds up to the amount of your Available Balance in your Account using any of the following methods.

Withdrawal Method	Limitations for Your Account
Internal transfers between eligible accounts managed by the Program Partner	None
Purchases or other POS transactions using your debit card at merchants that have agreed to accept that card	\$2,500/day
ATM withdrawals using your debit card or ATM card <i>(domestic use only)</i>	\$500/day

If you have been issued a debit card or ATM card for your Account, there may also be limitations that apply to your use of the card. Please refer to the applicable cardholder agreement provided to you with your card for information on any applicable limitations and other terms.

You cannot withdraw funds by check, and we do not permit you to create checks drawn on your Account.

Before permitting a withdrawal or other transaction, we may request that you provide us with additional information or documentation that we deem necessary to confirm your identity or to prevent illegal activity. We may refuse the transaction if you do not comply with our request.

### 3.6 No Illegal Activity, Internet Gambling and Right to Refuse Transactions

You must not use your Account for any illegal purposes or, regardless of whether it is legal or illegal, for internet gambling. We may deny any transaction or refuse to accept any deposit that we believe is related to illegal activity, online gambling or for any other reason at our discretion.

### 3.7 How We Post Transactions To Your Account and Determine Your Available Balance

#### 3.7.1 Posting Overview

To understand how we post transactions to your Account, it is important to first understand the difference between your Available Balance and your ledger balance. Your Available Balance is the amount of money you have in your Account at any given time that is available for you to use. Your ledger balance is the balance in your Account at the beginning of the day after we have posted all transactions to your Account from the day before. We use your Available Balance to authorize your transactions throughout the day and determine whether you have sufficient funds to pay your transactions. Here are some additional terms that are helpful to understand:

- Credit and debit – A credit increases your balance and a debit decreases your balance.
- Post or posted – Transactions that are paid from or deposited to your Account. Posted transactions will either increase or decrease both your Available Balance and your ledger balance.
- Pending – Transactions that we receive notice of and are scheduled to post to your Account. Pending transactions affect your Available Balance, but not your ledger balance.
- Card authorization and settlement – When you use a debit card to make a purchase, the transaction occurs in two steps: card authorization and settlement. Card authorizations reduce your Available Balance, but not your ledger balance. Settlement reduces both your Available Balance and your ledger balance. Card authorizations are removed when settlement occurs or after a certain number of days have passed, whichever is sooner. Please see Section 3.7.4 for more information about card authorizations and settlement.



### 3.7.2 Posting Order

We receive transactions throughout the day and post them to your Account as they are received and in the order that they are received. Note that for debit card transactions, we consider the transaction received when the merchant requests settlement, which may occur several days after you authorize the transaction. See Section 3.7.4 for additional information concerning how debit card transactions are processed.

We may change the order in which we post transactions to your Account at our discretion and without notice to you. It is therefore important for you to keep track of the deposits you make and the transactions you authorize to make sure there are sufficient funds in your Account to cover all transactions and any applicable fees.

### 3.7.3 Determining Your Available Balance

To determine your Available Balance, we start with your ledger balance at the beginning of the business day, add any pending credits or deposits that we make available to you, and subtract any card authorizations and pending debits. All transactions are debited or credited from your Available Balance in the order received.

You may check your available balance through the Online Banking Services. Keep in mind that your Available Balance may not reflect every transaction you have initiated or previously authorized. For example, your Available Balance may not include transactions you have authorized that we have not received.

### 3.7.4 Debit Card Authorizations

If you are issued a debit card with your Account, you will be able to use your card to pay for goods or services or conduct other transactions with a merchant. When you engage in a transaction with a merchant using your debit card, the merchant will request preauthorization (“card authorization”) for the transaction. If there are sufficient available funds in your Account, we will approve the request and reduce your Available Balance for as long as the card authorization remains on your Account.

Your Available Balance will generally be reduced by the amount of the card authorization.

The card authorization will remain on your Account until the merchant sends us the final amount of the transaction and requests payment (“settlement”). In most cases, if the merchant does not request settlement, or the merchant is delayed in requesting settlement, the card authorization will automatically be removed after 3 days. However, certain merchants such as hotels may hold for a period of up to 7 days.

It is important to understand that the merchant controls the timing of card authorizations or settlement. A merchant may request settlement after the card authorization has been removed from your Account. This means that if you use the funds in your Account after the card authorization has been removed and the merchant later requests settlement, your Account may become overdrawn. A merchant may also request settlement for an amount that is different than the card authorization. Therefore, it is important that you keep track of your transactions and your balance. Once we have approved a card authorization, we cannot stop the transaction and you will be responsible for repaying any negative balance that may occur.

### 3.8 Statements

Statements will periodically be provided to you through Online Banking Services as long as your Account is not inactive. You will receive a statement monthly as long as you have transactions on your Account during the statement period. If there were no transactions on your Account, we will provide you statements at least quarterly. You will not receive paper statements.

### 3.9 Overdrafts, Nonsufficient Funds and Negative Balances

We do not permit you to overdraw your Account. If the Available Balance in your Account is not sufficient to cover any transaction you have authorized, we may return the transaction or refuse to process the transaction. However, there may be instances where your Account can still go into the negative, such as if a deposit you make is returned. You must make a deposit immediately to cover any negative balance. If your Account has a negative balance for sixty (60) calendar days or more, we may close your Account.

### 3.10 Closing Your Account and Account Suspensions

You can close your Account at any time and for any reason by email at [ffcustomerservice@finfit.com](mailto:ffcustomerservice@finfit.com). We reserve the right to refuse your request if you have a negative balance on your Account. We recommend that you transfer or withdraw any funds you may have in the Account prior to submitting a request to close the Account to avoid delays in receiving your funds.

We may also suspend or close your account at our discretion with or without notice. This includes if we believe you are using your Account for fraudulent or illegal purposes or in violation of law or regulation, this Agreement, any other agreement you may have with us or Unit, or if you otherwise present undue risk to us or Unit. We may also close your Account if you have not made any deposits or withdrawals from your Account in over twelve (12) months. In addition, cancelling your enrollment in the Online Banking Services with the Program Partner will result in our closure of the Account and our return of your funds. We are not responsible to you for any damages you may suffer as a result of the closure or suspension of your Account.

If your Account is closed with a balance greater than \$1.00, we will return any funds you may have in the Account to you by ACH transfer to another bank account or by paper check. We reserve the right not to return the funds to you if the balance in your Account is \$1.00 or less. The closure of your Account or termination of this Agreement does not impact any right or obligation that arose prior to closure or termination, or any right or obligation that, by its nature, should survive termination (including, but not limited to, any indemnification obligation by you, our limitations of liability, and any terms governing arbitration).

### 3.11 Dormancy, Inactivity and Unclaimed Property

State law and our policy govern when your Account is considered dormant. Your Account is usually considered dormant if you have not accessed your Account, communicated to us about your Account or otherwise shown an interest in your Account within the period of time specified under applicable law. Each state has varying laws as to when an account becomes dormant, and we may be required to send the balance in your Account if it becomes dormant to the state of your last known address. We will make reasonable efforts to contact you if required by applicable law before transferring the remaining

balance of your Account to the applicable state. After we surrender the funds to the state, you must apply to the appropriate state agency to reclaim your funds. You can avoid the surrender of your funds by simply conducting transactions, contacting us about your Account or replying to any abandoned property notices we may provide to you.

We may also place your Account in an inactive status if you have not had any transaction for at least six (6) months. If your Account becomes inactive, you may not receive statements or be able to conduct certain transactions. Inactive Accounts must be reactivated. Contact us by email at [ffcustomerservice@finfit.com](mailto:ffcustomerservice@finfit.com) to reactivate your Account.

### 3.12 Account Fees and Fee Schedule

You agree to pay all fees and charges applicable to your Account. All fee amounts will be withdrawn from your Account and will be assessed regardless of whether you have sufficient funds in your Account, except where prohibited by law. Fees are subject to change at any time. We will provide you advance notice of any changes where required by law.

Fee Description	Fee Amount and Frequency	Additional Details
Out-of-network ATM transaction fee	\$0	You may also be charged a fee, including for balance inquiries, by the ATM operator or other third party.  You can avoid fees by using an in-network ATM. You can identify an in-network ATM by looking for the Allpoint logo on or near the ATM.
International transaction fee	1% of the transaction	You will be charged this fee for any ATM or POS transactions conducted outside the United States.

## 4 Electronic Fund Transfers

Your Account allows you to withdraw funds up to the Available Balance or make deposits through Electronic Fund Transfers (“EFTs”). EFTs are transactions that are processed by electronic means and include, among others, ACH transfers, debit or ATM card transactions and direct deposits. This Section provides you with information and important disclosures and terms about the EFTs that are permitted on your Account. You may also receive additional services through Online Banking Services provided by the Program Partner, that allow you to initiate EFTs to and from your Account that are not described in this Agreement. You will be provided separate agreements and disclosures applicable to those services by the Program Partner.

### 4.1 Types of EFTs Supported by Your Account

Your Account allows the following types of EFTs:

- Direct deposits from your employer or other source of income.

- Transfers to or from your Account to a merchant or other third party by providing the third party with your Account routing number and account number.
- Purchases or other transactions using your debit card.
- ATM deposits or withdrawals using your debit card or ATM card.

## 4.2 Limitations on EFTs

There are limitations on the frequency and amount of transactions you can make to or from your Account. These limits are different for each type of transaction. For limits that apply to transactions that credit or deposit funds into your Account, please refer to Section 3.1 concerning deposits. For limits that apply to transactions that debit or withdraw from your Account, please refer to Section 3.5 concerning withdrawals. These security-related limits may change from time to time.

If you have been issued a debit card or ATM card for your Account, there may also be transaction limitations that apply to your use of the card. Please refer to the applicable cardholder agreement provided to you with your card for information on any limitations and other terms.

## 4.3 Your Right to Receive Information and Documentation of Your Transactions

You will receive information and documentation concerning any EFTs that debit or credit your Account in the following ways:

- **Statements:** We will provide you information about each transaction that debits or credits your Account on your statements. Please refer to Section 3.8 for information about statements. You may also check your transaction history through Online Banking Services.
- **Direct Deposits:** If you receive a direct deposit into your Account at least once every sixty (60) days from your employer or other person or company, you can check if the deposit has been made through Online Banking Services.
- **Receipts:** You can get a receipt at the time you make a withdrawal at an ATM or a purchase at a point-of-sale terminal using your debit card or ATM card.

## 4.4 Preauthorized Transfers, Your Right to Stop Payment and Notices of Varying Amounts

If you authorize us or another company or person to withdraw from your Account on a regular basis (such as when you sign up for “autopay” to pay a monthly bill), it is called a Preauthorized Transfer. You have the right to place a stop payment on Preauthorized Transfers, as well as get notification when the amount of a particular withdrawal will be different from the amount of the last withdrawal.

#### 4.4.1 Your Right to Stop Payment

If you authorize a company or person to take payments from your Account on a regular basis through a Preauthorized Transfer, you can stop any of these payments by contacting us by email at [ffcustomerservice@finfit.com](mailto:ffcustomerservice@finfit.com) at least three (3) business days before the next payment is scheduled to be made.

Make sure to provide us with (1) your name, (2) your Account number, (3) the company or person taking the payments, and (4) the date and amount of the scheduled payment you wish to stop. If you want all future payments from that company or person stopped, be sure to tell us that as well. If you do not provide us with the correct information, such as the correct payee or the correct amount of the payment you wish to stop, we may not be able to stop the payment.

#### 4.4.2 Our Liability if We Fail To Stop a Preauthorized Transfer

If you order us to stop one of these payments three (3) business days or more before the payment is scheduled and provide us with all information requested, and we do not do so, we will be liable for your losses or damages proximately caused by the failure. However, we will not be liable if the company or person initiating the payments changes the dollar amount of the payment or makes other changes that cause us not to recognize it as the payment you requested be stopped.

#### 4.4.3 Notices of Varying Amounts

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

### 4.5 Our Liability for a Failure To Complete A Transaction

If we fail to complete a transaction on time or in the correct amount when properly instructed by you in accordance with this Agreement, we will be liable for damages proximately caused by the failure or error. However, there are some exceptions. We are not liable, for instance:

- If the Available Balance in your Account is not sufficient to complete the transaction through no fault of ours.
- If the ATM you use does not have enough cash.
- If the failure is due to an equipment or system breakdown, such as a problem with the Online Banking Services provided by the Program Partner, that you knew about before you began a transaction.
- The failure was caused by an Act of God, fire or other catastrophe, or any other cause beyond our control despite reasonable precautions we have taken.
- If your funds are not available due to a hold or if your funds are subject to legal process.

- If we do not complete a transaction because we or Unit has reason to believe the transaction is unauthorized or illegal.
- If your Account is closed or inactive.
- There may be additional exceptions stated in our or Unit's agreements with you or permitted by law.

## 4.6 Your Liability for Unauthorized EFTs

Contact us immediately if you believe that an unauthorized EFT has occurred or may occur concerning your Account, or if your debit card, ATM card, or Online Banking Services login credentials have been lost, stolen or compromised. Contacting us is the best way of keeping your losses to a minimum. For unauthorized debit card activity, call 1-833-333-0417. For all other unauthorized activity, call 1-888-928-7248.

You could lose all the money in your Account (and any bank accounts with other institutions you have linked to your Account) if you take no action to notify us of the unauthorized EFT or the loss or theft of your debit card, ATM card or Online Banking Services login credentials.

For unauthorized EFTs, your liability will be as follows if you notify us of the loss:

- If you tell us within two (2) business days after learning of the loss, theft or compromise of your Online Banking Services login credentials, you can lose no more than \$50.
- If you do NOT tell us within two (2) business days and we can prove that we could have prevented the loss had you contacted us, you could lose as much as \$500.00.
- If your statement shows EFTs that you did not make and you do NOT contact us within sixty (60) days after the statement was made available to you, you may not get back any money lost after the sixty (60) days if we can prove that your contacting us would have prevent those losses.

We can extend these time periods if extenuating circumstances (such as a long trip or hospital stay) kept you from notifying us.

## 4.7 In Case of Errors or Questions About Your EFTs

Contact us at 1-888-928-7248 or email at [ffcustomerservice@finfit.com](mailto:ffcustomerservice@finfit.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 a 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:

- Tell us your name and Account number.

- Describe the error or the EFT you are unsure about and explain as clearly as you can why you believe it is an error or why you need more information.
- 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 by email within ten (10) business days.

We will determine whether an error occurred within ten (10) business days after we hear from you and will tell you the results and correct any error promptly. If we need more time, we may take up to forty-five (45) days—or ninety (90) days for Accounts open less than thirty (30) days or foreign-initiated transactions — to investigate your complaint or question. If we decide to do this, we will credit your 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 account. For Accounts open less than thirty (30) days, we may take up to twenty (20) business days to credit your Account for the amount you think is in error.

We will tell you the results within three (3) business days after completing our investigation. If we decide that there was no error, we will send you a written explanation by email. You may ask for copies of the documents that we used in our investigation.

## **5 Wire Transfers**

The Account may permit domestic wire transfers through Online Banking Services provided to you by the Program Partner.

### **5.1 Types of Wire Transfers Supported by Your Account**

Your Account may support domestic wire transfers. If wire services are made available to you, your Account will be able to both receive and initiate wire transfers.

We may select any means for the transmission of funds that we consider suitable. We may make use of correspondents, agents, subagents, and funds transfer and communication systems. Such third parties shall be deemed your agents, and we shall not be liable for any errors, delay, misdelivery, or failure of delivery by any of them unless applicable law says otherwise.

We will not be liable for our inability to perform our obligations under this Agreement when such inability arises out of causes beyond our control, including but not limited to, any act of God, accident, labor disputes, power failures, system failure, equipment malfunction, suspension of payment by another bank, refusal or delay by another bank to accept the wire transfer, war, emergency conditions, fire, earthquake, or the failure of any third party to provide any electronic or telecommunication service used in connection with the execution or cancellation of a wire transfer.

### **5.2 Limitations on Wire Transfers**

There are limitations on the frequency and amount of transactions you can make to or from your Account. These limits are different for each type of transaction. For limits that apply to transactions that credit or deposit funds into your Account, please refer to Section 3.1 concerning deposits. For limits that apply to transactions that debit or withdraw from your Account, please refer to Section 3.5 concerning withdrawals. There may be limits on the beneficiaries who can receive a wire transfer you initiate from your Account. These security-related limits may change from time to time.

### 5.3 Cut-Off Times for Wire Transfers

We have cut-off hours for processing wire transfers. If a wire request is received by 1:00 PM ET on a Business Day and verified through our security procedures outlined in the section below titled "Security Procedures," funds will be processed the same business day. If it is received after 1:00 PM ET or on a non-Business Day and verified through our security procedures, funds may be processed the next business day.

We may treat any wire transfer request received at or after our cut-off time as if it was received that business day, or we may treat it as if it were received at the opening of the next business day.

### 5.4 Security Procedures

You agree and consent to the use of certain security procedures by us to confirm the validity of the wire transfer request made pursuant to this Agreement. You understand the security procedures are not designed to detect errors in the content of the wire transfer request or to prevent duplicate transfers. Some elements of the procedures will vary, depending upon the method used to initiate a wire transfer. You hereby agree that your utilization of any security procedure established hereunder shall constitute your agreement to its use and affirmative acknowledgment of its commercial reasonableness.

You further agree that any wire transfer request that is acted upon in good faith by us in compliance with these security procedures, whether or not in fact authorized by you, shall constitute an authorized wire transfer.

### 5.5 Liability for Incorrect Wire Transfers

You are responsible for providing us with the accurate name and account number for wire transfers, and we are responsible for transmitting money to the account number you provided.

When you provide us with a name and account number in order for us to process a wire transfer, we may make payment solely on the basis of the account number, even if the account number identifies a person different from the beneficiary so named. We or an intermediary bank may send a wire transfer to an intermediary bank or beneficiary's/designated recipient's bank based solely on the bank identifying number, even if the payment order indicates a different name. You should be very careful when providing the account number for a wire transfer.

If you have provided us with the wrong account number, there may be no way to correct the error or retrieve the funds. You agree that you will pay the amount of a wire transfer even in such circumstances. You are responsible for any losses resulting from an incorrect account number or your misidentification of the beneficiary/designated recipient.



If you think a wire transfer is wrong or if you need more information about a wire transfer, you must contact us by email at [ffcustomerservice@finfit.com](mailto:ffcustomerservice@finfit.com) as soon as possible and no later than fourteen (14) days after you receive your monthly statement. If you don't tell us about an error, we will not have any obligation to pay interest on the amount of an unauthorized or erroneous wire transfer for which we are liable, and you will also be liable to us for any damages or losses we may incur.

## 5.6 Payment

You must pay us the amount of the wire transfer, plus any applicable fees, before we will execute the wire transfer request. Please see Section 3.12 of this Agreement for fees applicable to wire transfers.

## 5.7 Execution of Wire Transfers

A wire transfer request is considered accepted by us when we execute it. Please refer to Section 5.3 concerning cut-off times for more details. You can verify whether your wire transfer request has been executed by emailing us at [ffcustomerservice@finfit.com](mailto:ffcustomerservice@finfit.com).

We have no responsibility to accept any incoming wire transfer(s) for your benefit. Likewise, we have a right to reject any wire transfer request(s) for an outgoing wire transfer for reasons including, but not limited to, insufficient or uncollected funds in the account specified in the wire transfer request, a request that fails any requires security procedures, our inability to execute the wire transfer for the reasons set out in the section of this agreement entitled method used to make the wire transfer above, or if we are unable to verify the authenticity of the wire transfer request. If we stop a domestic outgoing wire transfer, we will refund the fee.

If we determine, in our sole discretion, not to honor, execute, or accept a wire transfer request, we will make reasonable efforts to notify you. We will also make reasonable efforts to notify you promptly if a wire transfer is returned to us after its execution. In either case, we shall have no liability by reason of our delay or failure to provide you with notice, and we shall have no obligation to resend a wire transfer if we complied with the original wire transfer request and such wire transfer was returned to us.

## 5.8 Cancellation or Amendment of Wire Transfer

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

## 5.9 Our Liability for Failure to Complete a Wire Transfer

We shall be responsible only for performing the wire transfer service expressly provided for in this Agreement; provided however, we shall be liable only for our own gross negligence or willful misconduct in performing such service. We shall not be liable to any third party or for any act or omission of yours or any third party, including, but not limited to, third parties used by us in executing a

wire transfer or performing a related act and no such third party shall be deemed to be our agent. IN NO EVENT SHALL WE BE LIABLE FOR ANY DAMAGES OF ANY KIND INCLUDING WITHOUT LIMITATION DIRECT, INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOST PROFITS, LOSSES OR EXPENSES ARISING OUT OF OR IN CONNECTION WITH THE WIRE TRANSFER SERVICE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SAME. Except as otherwise provided by applicable law, the maximum period for which we shall be liable for interest on any amount to be refunded or paid to you with respect to an unauthorized, erroneous, or other wire transfer request is thirty days.

## 5.10 Your Liability for Unauthorized Wire Transfers

Except as otherwise provided by law, you shall be liable for any loss or damage to which your negligence contributed or which resulted in unauthorized, fraudulent, or dishonest acts by your current and/or former authorized representatives. Such liability includes instances when a current or former authorized representative effects one or more wire transfers or improper use of telephone security procedures to effect a wire transfer to your detriment.

## 5.11 Compliance with Anti-Money Laundering and Exchange Control Regulations and OFAC Enforced Sanctions

You agree to observe all Anti-Money Laundering and Exchange Control laws and regulations including economic and trade sanctions promulgated by the Office of Foreign Assets Control of the U.S. Department of Treasury in relation to any wire transfer, and you will use all reasonable endeavors to assist us to do likewise. In particular, you agree that the information given to us by you is accurate. We may disclose any information given to us that we in our sole discretion think necessary or desirable to disclose; except we will only disclose confidential information if required by law, a court, or legal, regulatory, or governmental authority, or as permitted by law in order to combat, prevent, or investigate issues arising under anti-money laundering laws, economic sanctions, or criminal law.

Sometimes legal, regulatory, or governmental authorities require additional information, either in respect of individuals, entities, or particular transactions. You agree to promptly supply all such information, which any such authority may require, and/or which we may be required to supply, in relation to the individual, entity, or particular transaction.

If you, or your authorized representative, breach any such laws or regulations, you irrevocably agree that we may retain any monies or funds transmitted to us pursuant to this Agreement and/or not fulfill any wire transfer request if we are required to take or refrain from such action by any legal, regulatory, or governmental authority or if we reasonably believe that such action may violate any laws or regulations described herein, and such monies shall not bear interest against us. You further agree that we may pay such monies to the appropriate legal, regulatory, or governmental authority, if and when required by law.

# 6 Other Legal Terms and Conditions

## 6.1 No Assignments

Your Account and your obligations under this Agreement are not transferable and not assignable as collateral for a loan or for any other purpose. We may transfer our rights under this Agreement.

## 6.2 Legal Processes and Claims Affecting Your Account

If we receive a levy, attachment, or other legal process against you (collectively, “Legal Process”), we may refuse to permit withdrawals or transfers from your Account until the Legal Process is dismissed or satisfied. Any Legal Process will be subject to our right of set-off and security interest. You are responsible for any losses, costs or expenses we incur as a result of any dispute or legal proceeding involving your Account. If we receive a claim against the funds in your Account, or if we know of or believe that there is a dispute as to the ownership or control of funds in your Account, we may, in our discretion: (1) place a hold on your Account and refuse to pay out any funds until we are satisfied that the dispute is settled; (2) close your Account and send the balance to the named account holder; (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.

## 6.3 Limitation of Liability and Disclaimer of Warranty

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 THE 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 OR UNIT BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES 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.

IN ADDITION, EXCEPT AS REQUIRED BY LAW, CHOICE FINANCIAL GROUP ARE NOT LIABLE OR RESPONSIBLE FOR ANY SERVICES OR FEATURES OF ANY ONLINE BANKING SERVICES PROVIDED TO YOU BY FINFIT, OPS, LLC. 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.

ALL BANK SERVICES AND 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, FITNESS FOR A PARTICULAR PURPOSE. WE DO NOT WARRANT THE BANK’S SERVICES OR ACCOUNT FEATURES WILL MEET YOUR REQUIREMENTS, BE CONTINUOUS, UNINTERRUPTED, SECURE, TIMELY, OR ERROR-FREE, OR THAT DEFECTS WILL BE CORRECTED.

## 6.4 Indemnification

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 for 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 (1) the matters set forth herein; (2) our taking any action or not taking any action that we are entitled to take pursuant to this Agreement; (3) any action or omission by you; or (4) our action or inaction in reliance upon oral, written or electronic instructions or information from you.

Equally, you agree to indemnify and hold Unit and its officers, directors, shareholders, employees, successors, predecessors, representatives, principals, agents, assigns, parents, subsidiaries and/or insurers harmless for 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 (1) the matters set forth herein; (2) our taking any action or not taking any action that we are entitled to take pursuant to this Agreement; (3) any action or omission by you; or (4) our action or inaction in reliance upon oral, written or electronic instructions or information from you.

## 6.5 Our Right of Set-Off and Security Interest

We have the right to set-off any liability, direct or contingent, past, present or future that you owe against any account you have with us. This means that we can take any funds in your Account or any other account you have with us to pay any debt or liability you owe us. You also agree to grant us a security interest in your Account to secure payment of any money that you owe to us or will owe us arising under this Agreement or any other agreements with us. You acknowledge that this security interest is consensual and in addition to any right of set-off. We may exercise our security interest or right of set-off without regard to the source of the funds in your Account or prior recourse to other sources of repayment or collateral, even if it causes you to incur penalties or suffer any other consequence. You waive any conditions or limits to our right of set-off to the maximum extent permitted by law. We will notify you if we exercise our right to set-off if required by law.

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 Account for our losses without prior notice to you.

## 6.6 Changes in Terms and Additional Services

We may change this Agreement, or any fees and features of your Account, at any time by posting an amended Agreement on FinFit's website, <https://www.myfinfit.com/WebForms/Resources/Documents/BankingConsumerSpendingAccountDepositAgreement.pdf> and any such amendment shall be effective upon posting. We will give you advance notice of any change where required by 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. We may change or terminate this Agreement without notice at our discretion or to comply with any appropriate federal or state law or regulation.

If we make any of our other banking services available to you in connection with your Account, we may provide certain terms and conditions for those additional services to you in a separate agreement or disclosure.

## 6.7 No Waiver of Rights

We may waive or decline to enforce any of our rights under this Agreement without obligating ourselves to waive such rights in the future or on any other occasion. We may release any other person obligated under this Agreement without affecting your responsibilities under this Agreement.

## 6.8 Conflicts and Section Headings

If there is a conflict between this Agreement and any other document or statement made to you concerning the Account, this Agreement will govern. If there is a conflict between this Agreement and any other document or statement made to you concerning any services or products other than the Account, the separate terms and conditions applicable to that service or product will govern. Section headings that appear in this Agreement are for convenience purposes only and are intended to help you find information. They should not be construed as affecting the meaning of the Agreement.

## 6.9 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. To the extent permitted by law, the parties waive any provision of law which prohibits or renders unenforceable any provisions of this Agreement, and to the extent that such waiver is not permitted by law, you and us agree that such provision will be interpreted as modified to the minimum extent necessary to render the provisions enforceable.

## 6.10 Governing Law, Forum and Time Limits

All actions relating to your Account and this Agreement will be governed by the laws and regulations of the United States and the State of North Dakota where your Account will be opened, irrespective of conflict of law principles. You agree that any dispute arising under this Agreement or relating in any way to your relationship with us that is not arbitrated will be resolved in a federal or state court located in North Dakota and that you will be subject to such court's jurisdiction.

Except where prohibited by law, you agree that you must file any lawsuit or arbitration against us within two (2) years after the claim arises unless federal or North Dakota law, or another agreement you have with us, provides for a shorter time. If federal or North Dakota law requires a longer time period than the time periods in this Agreement, you agree to the shortest time period permitted under the law.

# 7 Arbitration and Waivers

BE SURE THAT YOU HAVE READ THIS PROVISION CAREFULLY AND UNDERSTAND THAT IT LIMITS YOUR RIGHTS IN THE EVENT OF A DISPUTE BETWEEN YOU AND US.

## 7.1 Election to Arbitrate

You, FinFit and the Bank agree that the sole and exclusive forum and remedy for resolution of a Claim be final and binding arbitration pursuant to this Section 7 (the “Arbitration Provision”). As used in this Arbitration Provision, “Claim” shall include any past, present, or future claim, dispute, or controversy involving you (or persons claiming through or connected with you), on the one hand, and us on the other hand, relating to or arising out of this Agreement, and/or the activities or relationships that involve, lead to, or result from this Agreement, including the validity or enforceability of this Arbitration Provision, any part thereof, or the entire Agreement. Claims are subject to arbitration regardless of whether they arise from contract; tort (intentional or otherwise); a constitution, statute, common law, or principles of equity; or otherwise. Claims include matters arising as initial claims, counter-claims, cross-claims, third-party claims, or otherwise. Please note that you may continue to assert Claims in small claims court, if your Claims qualify and so long as the matter remains in such court and advances only on an individual (non-class, non-representative) basis. The scope of this Arbitration Provision is to be given the broadest possible interpretation that is enforceable.

## 7.2 Applicability of the Federal Arbitration Act; Arbitrator’s Powers

This Arbitration Provision is made pursuant to a transaction involving interstate commerce and shall be governed by and enforceable under the Federal Arbitration Act (the “FAA”). The arbitrator will apply substantive law consistent with the FAA and applicable statutes of limitations. The arbitrator may award damages or other types of relief permitted by applicable substantive law, subject to the limitations set forth in this Arbitration Provision. The arbitrator will not be bound by judicial rules of procedure and evidence that would apply in a court. The arbitrator shall take steps to reasonably protect confidential information.

## 7.3 Informal Dispute Resolution

If a Claim arises, our goal is to address your concerns and, if we are unable to do so, to provide you with a neutral and cost effective means of resolving the dispute quickly. You agree that before filing any claim in arbitration, you will first submit your Claim to us by email at [ffcustomerservice@finfit.com](mailto:ffcustomerservice@finfit.com) and provide us with the opportunity to resolve your concern prior to initiating arbitration.

## 7.4 Arbitration Procedures

The party initiating arbitration shall do so with the American Arbitration Association (the “AAA”) or Judicial Alternatives and Mediation Services (“JAMS”). The arbitration shall be conducted according to, and the location of the arbitration shall be determined in accordance with, the rules and policies of the administrator selected, except to the extent the rules conflict with this Arbitration Provision or any countervailing law. If you have any questions concerning the AAA or would like to obtain a copy of the AAA arbitration rules, you may call 1-800-778-7879 or visit the AAA's web site at: [www.adr.org](http://www.adr.org). If you have any questions concerning JAMS or would like to obtain a copy of the JAMS arbitration rules, you may call 1-800-352-5267 or visit their web site at: [www.jamsadr.com](http://www.jamsadr.com). In the case of a conflict between the rules and policies of the administrator and this Arbitration Provision, this Arbitration Provision shall control, subject to countervailing law, unless all parties to the arbitration consent to have the rules and policies of the administrator apply. The arbitration will be held in the United States county where you live or work, or any other location we agree to.

## 7.5 Arbitration Fees

If we initiate arbitration, we shall pay all the administrator's filing costs and administrative fees (other than hearing fees). If you initiate arbitration, filing costs and administrative fees (other than hearing fees) shall be paid in accordance with the rules of the administrator selected, or in accordance with countervailing law if contrary to the administrator's rules. We shall pay the administrator's hearing fees for one full day of arbitration hearings. Fees for hearings that exceed one day will be paid by the party requesting the hearing, unless the administrator's rules or applicable law require otherwise, or you request that we pay them and we agree to do so. Each party shall bear the expense of its own attorneys' fees, except as otherwise provided by law. If a statute gives you the right to recover any of these fees, these statutory rights shall apply in the arbitration notwithstanding anything to the contrary herein.

## 7.6 Appeals

Within 30 days of a final award by the arbitrator, any party may appeal the award for reconsideration by a three-arbitrator panel selected according to the rules of the arbitrator administrator. In the event of such an appeal, any opposing party may cross-appeal within 30 days after notice of the appeal. The panel will reconsider de novo all aspects of the initial award that are appealed. Costs and conduct of any appeal shall be governed by this Arbitration Provision and the administrator's rules, in the same way as the initial arbitration proceeding. Any award by the individual arbitrator that is not subject to appeal, and any panel award on appeal, shall be final and binding, except for any appeal right under the Federal Arbitration Act ("FAA"), and may be entered as a judgment in any court of competent jurisdiction.

## 7.7 No Class Actions

NO ARBITRATION SHALL PROCEED ON A CLASS, REPRESENTATIVE, OR COLLECTIVE BASIS (INCLUDING AS PRIVATE ATTORNEY GENERAL ON BEHALF OF OTHERS), EVEN IF THE CLAIM OR CLAIMS THAT ARE THE SUBJECT OF THE ARBITRATION HAD PREVIOUSLY BEEN ASSERTED (OR COULD HAVE BEEN ASSERTED) IN A COURT AS CLASS REPRESENTATIVE, OR COLLECTIVE ACTIONS IN A COURT. Unless consented to in writing by all parties to the arbitration, no party to the arbitration may join, consolidate, or otherwise bring claims for or on behalf of two or more individuals or unrelated corporate entities in the same arbitration unless those persons are parties to a single transaction. Unless consented to in writing by all parties to the arbitration, an award in arbitration shall determine the rights and obligations of the named parties only, and only with respect to the claims in arbitration, and shall not (a) determine the rights, obligations, or interests of anyone other than a named party, or resolve any Claim of anyone other than a named party; nor (b) make an award for the benefit of, or against, anyone other than a named party. No administrator or arbitrator shall have the power or authority to waive, modify, or fail to enforce this Section 7.7, and any attempt to do so, whether by rule, policy, arbitration decision or otherwise, shall be invalid and unenforceable. Any challenge to the validity of this Section 7.7 shall be determined exclusively by a court and not by the administrator or any arbitrator.

## 7.8 Survival and Severability of Arbitration Provision

This Arbitration Provision shall survive the termination of this Agreement. If any portion of this Arbitration Provision other than Section 7.7 is deemed invalid or unenforceable, the remaining portions of this Arbitration Provision shall nevertheless remain valid and in force. If there is a final judicial determination that applicable law precludes enforcement of this Arbitration Provision's limitations as to a particular claim for relief or particular term, then that claim (and only that claim) or that term (and only that term) must be severed from the Arbitration Provision and may be brought in court. If an arbitration is brought on a class, representative, or collective basis, and the limitations on such

proceedings in Section 7.7 are finally adjudicated pursuant to the last sentence of Section 7.7 to be unenforceable, then no arbitration shall be had. In no event shall any invalidation be deemed to authorize an arbitrator to determine Claims or make awards beyond those authorized in this Arbitration Provision.

## 7.9 Judicial Forum for Claims

Except as otherwise required by applicable law, in the event that this Arbitration Provision is found not to apply to you or your Claim, you and the Bank agree that any judicial proceeding (other than small claims actions) will be brought in the federal or state courts of North Dakota. Both you and the Bank consent to venue and personal jurisdiction there. We both agree to waive our right to a jury trial.

## 7.10 WAIVER OF RIGHT TO LITIGATE

THE PARTIES ACKNOWLEDGE THAT THEY HAVE A RIGHT TO LITIGATE CLAIMS THROUGH A COURT BEFORE A JUDGE OR JURY, BUT ARE HEREBY KNOWINGLY AND VOLUNTARILY WAIVING THAT RIGHT BY AGREEING TO THIS AGREEMENT AND ARBITRATION PROVISION.