

# Terms and Conditions of Your Account

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**PLEASE READ CAREFULLY THE RESOLUTION OF DISPUTES BY ARBITRATION LOCATED IN SECTION 41.**

**(1) 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 that identifies each person who opens an account.

What this means for you: When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

**(2) Agreement.** This document, along with any other documents we give you pertaining to your account(s), is a contract that establishes rules which control your account(s) with us. Please read this carefully and retain it for future reference. If you sign the signature card or open or continue to use

the account, you agree to these rules. You will receive a separate schedule of rates, qualifying balances, and fees if they are not included in this document. If you have any questions, please call us.

This agreement is subject to applicable federal laws, the laws of the state of North Dakota and other applicable rules such as the operating letters of the Federal Reserve Banks and payment processing system rules (except to the extent that this agreement can and does vary such rules or laws). The body of state and federal law that governs our relationship with you, however, is too large and complex to be reproduced here. The purpose of this document is to:

1. summarize some laws that apply to common transactions;
2. establish rules to cover transactions or events which the law does not regulate;
3. establish rules for certain transactions or events which the law regulates but permits variation by agreement; and
4. give you disclosures of some of our policies to which you may be entitled or in which you may be interested.

If any provision of this document is found to be unenforceable according to its terms, all remaining provisions will continue in full force and effect. We may permit some variations from our standard agreement, but we must agree to any variation in writing either on the signature card for your account or in some other document. Nothing in this document is intended to vary our duty to act in good faith and with ordinary care when required by law.

As used in this document the words "we," "our," and "us" mean the financial institution and the words "you" and "your" mean the account holder(s) and anyone else with the authority to deposit, withdraw, or exercise control over the funds in the account. However, this agreement does not intend, and the terms "you" and "your" should not be interpreted, to expand an individual's responsibility for an organization's liability. If this account is owned by a corporation, partnership or other organization, individual liability is determined by the laws generally applicable to that type of organization. The headings in this document are for convenience or reference only and will not govern the interpretation of the provisions. Unless it would be inconsistent to do so, words and phrases used in this document

should be construed so the singular includes the plural and the plural includes the singular.

"Party" means a person who, by the terms of an account, has a present right, subject to request, to payment from the account other than as a beneficiary or agent.

**(3) Liability.** You agree, for yourself (and the person or entity you represent if you sign as a representative of another) to the terms of this account and the schedule of fees. You authorize us to deduct these charges, without notice to you, directly from the account balance as accrued. You will pay any additional reasonable charges for services you request which are not covered by this agreement.

Each of you also agrees to be jointly and severally (individually) liable for any account shortage resulting from charges or overdrafts, whether caused by you or another with access to this account. This liability is due immediately, and can be deducted directly from the account balance whenever sufficient funds are available. You have no right to defer payment of this liability, and you are liable regardless of whether you signed the item or benefited from the charge or overdraft.

You will be liable for our costs as well as for our reasonable attorneys' fees, to the extent permitted by law, whether incurred as a result of collection or in any other dispute involving your account. This includes, but is not limited to, disputes between you and another joint owner; you and an authorized signer or similar party; or a third party claiming an interest in your account. This also includes any action that you or a third party takes regarding the account that causes us, in good faith, to seek the advice of an attorney, whether or not we become involved in the dispute. All costs and attorneys' fees can be deducted from your account when they are incurred, without notice to you.

**(4) Deposits.** We will give only provisional credit until collection is final for any items, other than cash, we accept for deposit (including items drawn "on us"). Before settlement of any item becomes final, we act only as your agent, regardless of the form of endorsement or lack of endorsement on the item and even though we provide you provisional credit for the item. We may reverse any provisional credit for items that are lost, stolen, or returned. Unless prohibited by law, we also reserve the right to charge back to your account the amount of any item deposited to your account or cashed for you

which was initially paid by the payor bank and which is later returned to us due to an allegedly forged, unauthorized or missing endorsement, claim of alteration, encoding error or other problem which in our judgment justifies reversal of credit. You authorize us to attempt to collect previously returned items without giving you notice, and in attempting to collect we may permit the payor bank to hold an item beyond the midnight deadline. Actual credit for deposits of, or payable in, foreign currency will be at the exchange rate in effect on final collection in U.S. dollars. We are not responsible for transactions by mail or outside depository until we actually record them. We will treat and record all transactions received after our "daily cutoff time" on a business day we are open, or received on a day we are not open for business, as if initiated on the next business day that we are open. At our option, we may take an item for collection rather than for deposit. If we accept a third-party check for deposit, we may require any third-party endorsers to verify or guarantee their endorsements, or endorse in our presence.

**(5) Withdrawals.** You may withdraw money from your Account in any manner permitted by us for the type of account you have opened. Withdrawals and transfers from your account may be restricted as provided in this agreement or by applicable law.

**Checks and Items.** If you make withdrawals by check, the check must be properly completed and signed by you or your representative whose authority is on file with us. If your account is a joint account, we may honor a check that is signed by any joint account owner. We may refuse to accept any check other than standard checks provided by us, or approved by us in advance. We may refuse any withdrawal or transfer request which is greater in number than the frequency permitted, or which is for an amount greater or less than any withdrawal limitations. We will use the date the transaction is completed by us (as opposed to the date you initiate it) to apply the frequency limitations.

Even if we honor a nonconforming request, we are not required to do so later. If you violate the stated transaction limitations (if any), in our discretion we may close your account or reclassify it as a transaction account. If we reclassify your account, your account will be subject to the fees and earnings rules of the new account classification.

If we are presented with an item drawn against your account that would be a "substitute check," as

defined by law, but for an error or defect in the item introduced in the substitute check creation process, you agree that we may pay such item.

If we are presented with an item drawn against your account bearing a date in the future (commonly known as "postdating"), you agree that we may properly pay and charge your account for such postdated check on the day it is presented to us, unless we have received written notice of the postdating in time to have a reasonable opportunity to act. Because we process checks mechanically, your notice will not be effective and we will not be liable for failing to honor your notice unless it precisely identifies the number, date, amount and payee of the item.

See the funds availability policy disclosure for information about when you can withdraw funds you deposit. For those accounts to which our funds availability policy disclosure does not apply, when you make a deposit, we may, upon request, provide you with information about when those funds will be available for withdrawal. An item may be returned after the funds from the deposit of that item are made available for withdrawal. In that case, we will reverse the credit of the item. We may check the amount of your ledger balance, minus any management holds, to determine the amount of available funds in your account for the purpose of deciding whether to return an item for insufficient funds at any time between the time we receive the item for settlement and when we return the item or send a notice in lieu of return. We need only make one determination, but if we choose to make a subsequent determination, the amount of your ledger balance, minus any management holds, at the subsequent time will determine whether there are insufficient available funds.

#### **Determining the Ledger Balance and Available Balance in Your Account.**

**Ledger Balance.** Your ledger balance, which we sometimes call your current balance, is the amount of money that is actually in your account at any given time. The ledger balance reflects only transactions that have posted to your account. Your ledger balance does not include transactions that have been authorized and are pending. While it may seem that the ledger balance is the most up-to-date display of the funds that you can spend, this is not always the case. Your account may have purchases, authorization holds, fees, other charges, or deposits made on your account that have not yet posted and,

therefore, will not appear in your ledger balance. Your ledger balance does not reflect “management holds” placed on your account, which include, but are not limited to, holds placed due to suspected fraudulent activity or as the result of the legal process, such as garnishments, levies, or liens. We will notify you when a management hold is placed on your account.

It is very important to understand that the amount of your ledger balance, minus any management holds, is used to determine whether you have sufficient funds to cover a transaction when it is presented for payment (see the Overdrafts and Returned Transactions section below). In addition, the amount of your ledger balance, minus any management holds, is used to determine whether we will authorize debit card transactions at the point of sale.

**Available Balance in Your Account.** Your available balance is a tool to help you keep track of spending in your account. Although your available balance represents the amount of money that is available for you to use or withdraw at any given time, unlike your ledger balance, it does not reflect the actual amount of money in your account.

Your available balance is the ledger balance, minus any preauthorized funds transfers, holds for authorized debit card transactions, deposited check holds, or management holds. Pending automated clearing house (“ACH”) or checks you have written that have not yet posted are not reflected in your available balance. Funds from any line of credit or savings account linked are not reflected in your available balance, but such funds are accessible to you.

Like your ledger balance, your available balance is updated throughout the day. It is very important to understand that you may still overdraw your account even though the available balance appears to show there are sufficient funds to cover a transaction at the time it is made. This is because the amount of your ledger balance, minus any management holds, not your available balance, is used to determine whether you have sufficient funds to cover a transaction when it is presented for payment.

**Posting Transactions to Your Account.** We post transactions, including credits and debits, to your account throughout the day as they are received for processing or settlement, which means your ledger

balance changes throughout the day as items post. Transactions made at a retail office are received for processing on any day the retail office is open and receiving transactions. Internal bank transfers are received for processing every day except holidays and Sundays. All other transactions are received for processing and settlement each day, except holidays. Currently, when we process transactions to determine your ledger balance, the most common kinds of transactions are generally posted as follows:

- We add deposits as they are received and processed throughout the day.
- We subtract debit transactions as they are received and processed throughout the day. Categories of debit transactions may be received and processed throughout the day, generally as follows:
  - ATM transactions (including withdrawals and transfers), telephone transfers, online and mobile banking transfers, PIN-based debit card transactions, and checks or other items processed through a Gate City Bank retail office teller are generally received and processed when the transaction occurs;
  - Signature-based debit card transactions are generally received for settlement (which may be days after the transaction was authorized) from merchant processors in batches throughout the day, seven days a week, and are posted in the order the merchant processor provides them to us within each batch, which may not be the order in which the transactions were made;
  - Checks not processed through a Gate City Bank retail office teller are generally received for payment in batches throughout the day, with checks within the same batch posted in check number order;
  - ACH debits are generally received for settlement in batches throughout the day and are posted on the settlement date in the order in which they were provided to us in each batch, which may be different from the order in which the ACH was initiated.

This general posting order and timeline description does not cover every kind of transaction we may process, and there can be exceptions to the posting order or timeline described above. You acknowledge and agree that we are allowed to determine, in our sole discretion, at any time without notice to you, the categories of transactions, the transactions within a category, the order or timeline among categories, and the posting orders or timelines within a category.

**Multiple Signatures, Electronic Check Conversion, and Similar Transactions.** An electronic check conversion transaction is a transaction where a check or similar item is converted into an electronic fund transfer as defined in the Electronic Fund Transfers regulation. In these types of transactions the check or similar item is either removed from circulation (truncated) or given back to you. As a result, we have no opportunity to review the check to examine the signatures on the item. You agree that, as to these or any items as to which we have no opportunity to examine the signatures, you waive any requirement of multiple signatures.

**Notice of Withdrawal.** We reserve the right to require not less than 7 days' notice in writing before each withdrawal from an interest-bearing account other than a time deposit or demand deposit, or from any other savings account as defined by Regulation D. (The law requires us to reserve this right, but it is not our general policy to use it.) Withdrawals from a time account prior to maturity or prior to any notice period may be restricted and may be subject to penalty. See your notice of penalty for early withdrawal.

#### **(6) Overdrafts and Returned Transactions.**

**Overdrafts.** An overdraft occurs on your account if, the amount of your ledger balance, minus any management holds, is less than the amount we need to pay your transaction presented for payment, but we pay the transaction anyway, causing the amount of your ledger balance, minus any management holds, to be negative. The amount of your ledger balance, minus any management holds, may be positive when a transaction is authorized, but may be negative when the transaction is later presented for payment, which may result in an overdraft.

If we determine at the time a transaction(s) is presented for payment that paying the transaction(s) will result in an overdraft, we may, in our sole discretion, pay the transaction instead of returning

it unpaid, which will result in the amount of your ledger balance, minus any management holds, being negative. Alternatively, as described below, we may, at our option and in our sole discretion, return any of the transactions presented for payment as unpaid, or otherwise refuse to pay the transaction. In the event that the amount of your ledger balance, minus any management holds, is not sufficient to cover a transaction(s) (including any type of debit, withdrawal, or transfer from your account) when it is presented for payment, you agree that we are allowed to authorize or decline some or all of those transactions, or pay or return some or all of those transactions at our sole discretion. You agree that, if we pay an overdraft transaction when it is presented for payment, we may charge you a fee, as allowed by applicable law and as set forth in the Schedule of Fees applicable to your account, which can be obtained from us and is available at our offices, and which can change from time to time.

You further agree that you will pay promptly the amount of the overdraft and any fees relating to the overdraft without further notice or demand. After the fifth (5<sup>th</sup>) consecutive day the amount of your ledger balance is negative, you will be charged a negative balance fee each consecutive day the amount of your ledger balance remains negative. Further, your failure to pay these amounts promptly may result in additional charges to your account or other fees. We may use subsequent deposits and other credits to your account to cover any overdraft and any related fees charged to your account.

If you want us to consider authorizing ATM and one-time debit card transactions when the amount of your ledger balance, minus any management holds, is insufficient to cover the transaction at the time of authorization, you must provide affirmative consent, or opt-in, for us to pay ATM and one-time debit card transactions that would result in an overdraft when the transaction is presented for payment and charge you a fee (as described in this section), as allowed by applicable law and set forth in the Schedule of Fees.

If you do not opt-in to allow us to pay ATM and one-time debit card transactions that result in an overdraft or if you have a BankOn checking account type, we may still pay those transactions, in our sole discretion, and you are still required to promptly repay us the amount of the overdraft, but we will not charge you a fee. You acknowledge and agree that the classification of a debit card transaction (except ATM transactions) as recurring

or non-recurring is determined by merchants, other institutions or other third parties before it is presented to us for authorization or payment and we will treat and process such debit card transactions in the manner they are presented to us, which may result in one-time debit card transactions presented as recurring preauthorized transactions and vice versa.

**Returned Transactions.** If the amount of your ledger balance, minus any management holds, is less than the amount we need to pay a transaction presented for payment, we may, at our option and in our sole discretion, return any of the transactions presented for payment as unpaid, or otherwise refuse to pay the transaction instead of allowing the transaction to overdraw your account. We may return or refuse to pay any transaction at any time if the amount of your ledger balance, minus any management holds, is insufficient to pay that item at the time it is presented for payment, even if we previously have permitted overdrafts. You are not entitled to rely on any prior act by us with respect to your account, and our election to pay overdrafts does not establish a course of dealing between you and us or modify the terms of this Agreement. If we return a transaction that would have resulted in an overdraft as unpaid, we may charge you a fee, as allowed by applicable law and as set forth in the Schedule of Fees applicable to your account, which can be obtained from us and is available at our offices, and which can change from time to time. Transactions that would have overdrawn your account that we return as unpaid may be re-presented for payment multiple times. We will determine whether to pay or return the transaction each time it is presented to us for payment, which may result in your account being charged multiple fees for returning the item or other fees.

You are solely responsible for managing your account and the amount of your ledger balance, minus any management fees, to avoid overdrafts or returned transactions. We encourage you to manage your funds responsibly by keeping track of all transactions of any kind using the tools that suit you, such as a check register to assist you in avoiding overdrawing your account.

**(7) Ownership of Account and Beneficiary Designation.** These rules apply to this account depending on the form of ownership and beneficiary designation, if any, specified on the account records. We make no representations as to the appropriateness or effect of the ownership and

beneficiary designations, except as they determine to whom we pay the account funds.

**Single-Party Account.** Such an account is owned by one party.

**Multiple-Party Account.** Parties own account in proportion to net contributions unless there is clear and convincing evidence of a different intent.

**(8) Rights at Death.**

**Single-Party Account.** At the death of a party, ownership passes as part of the party's estate.

**Multiple-Party Account With Right of Survivorship.** At death of party, ownership passes to surviving parties. If two or more parties survive and one is the surviving spouse of the deceased party, the amount to which the deceased party, immediately before death, was beneficially entitled by law belongs to the surviving spouse. If two or more parties survive and none is the spouse of the decedent, the amount to which the deceased party, immediately before death, was beneficially entitled by law belongs to the surviving parties in equal shares, and augments the proportion to which each surviving party, immediately before the deceased party's death, was beneficially entitled under law, and the right of survivorship continues between the surviving parties.

**Multiple-Party Account Without Right of Survivorship.** At death of party, deceased party's ownership passes as part of deceased party's estate.

**Single-Party Account With Pay-on-Death Designation.** At death of the party, ownership passes to the designated pay-on-death beneficiaries and is not part of the party's estate.

**Multiple-Party Account With Right of Survivorship and Pay-on-Death Designation.** At death of last surviving party, ownership passes to the designated pay-on-death beneficiaries and is not part of the last surviving party's estate.

**(9) Business, Organization, and Association Accounts.** Earnings in the form of interest, dividends, or credits will be paid only on collected funds, unless otherwise provided by law or our policy. You represent that you have the authority to open and conduct business on this account on behalf of the entity. We may require the governing body of the entity opening the account to give us a separate authorization telling us who is authorized to act on its behalf. We will honor the authorization until we

actually receive written notice of a change from the governing body of the entity.

**(10) Stop Payments.** Unless otherwise provided, the rules in this section cover stopping payment of items such as checks and drafts. Rules for stopping payment of other types of transfers of funds, such as consumer electronic fund transfers, may be established by law or our policy. If we have not disclosed these rules to you elsewhere, you may ask us about those rules.

We may accept an order to stop payment on any item from any one of you. You must make any stop-payment order in the manner required by law and we must receive it in time to give us a reasonable opportunity to act on it before our stop-payment cutoff time. Because stop-payment orders are handled by computers, to be effective, your stop-payment order must precisely identify the number, date, and amount of the item, and the payee.

You may stop payment on any item drawn on your account whether you sign the item or not. Your stop payment order is effective for six months if it is given to us in writing or by another type of record (Generally, a "record" is information that is stored in such a way that it can be retrieved and can be heard or read and understood - you can ask us what type of stop payment records you can give us). Your order will lapse after that time if you do not renew the order in writing before the end of the six-month period. If the original stop-payment order was oral your stop-payment order will lapse after 14 calendar days if it is not confirmed in writing or by another type of record within that time period. We are not obligated to notify you when a stop-payment order expires. A release of the stop-payment request may be made only by the person who initiated the stop-payment order.

If you stop payment on an item and we incur any damages or expenses because of the stop payment, you agree to indemnify us for those damages or expenses, including attorneys' fees. You assign to us all rights against the payee or any other holder of the item. You agree to cooperate with us in any legal actions that we may take against such persons. You should be aware that anyone holding the item may be entitled to enforce payment against you despite the stop-payment order.

Our stop-payment cutoff time is one hour after the opening of the next banking day after the banking day on which we receive the item. Additional limitations on our obligation to stop payment are

provided by law (e.g., we paid the item in cash or we certified the item).

**(11) Telephone Transfers.** A telephone transfer of funds from this account to another account with us, if otherwise arranged for or permitted, may be made by the same persons and under the same conditions generally applicable to withdrawals made in writing.

**(12) Amendments and Termination.** We may change this agreement at any time. For example, we may add, delete, or modify terms. These terms include, but are not limited to, fees and charges for our services. Rules governing changes in interest rates are provided separately in the Truth-in-Savings disclosure or in another document. For other changes, we will give you reasonable notice in writing or by any other method permitted by law. We may also close this account at any time upon reasonable notice to you and tender of the account balance personally or by mail. Items presented for payment after the account is closed may be dishonored. When you close your account, you are responsible for leaving enough money in the account to cover any outstanding items to be paid from the account. Reasonable notice depends on the circumstances, and in some cases such as when we cannot verify your identity or we suspect fraud, it might be reasonable for us to give you notice after the change or account closure becomes effective. For instance, if we suspect fraudulent activity with respect to your account, we might immediately freeze or close your account and then give you notice. If we have notified you of a change in any term of your account and you continue to have your account after the effective date of the change, you have agreed to the new term(s).

**(13) Notices.** Any written notice you give us is effective when we actually receive it, and it must be given to us according to the specific delivery instructions provided elsewhere, if any. We must receive it in time to have a reasonable opportunity to act on it. If the notice is regarding a check or other item, you must give us sufficient information to be able to identify the check or item, including the precise check or item number, amount, date and payee. Written notice we give you is effective when it is deposited in the United States Mail with proper postage and addressed to your mailing address we have on file. Notice to one owner of your account is notice to all of you.

**(14) Statements.**

**Your Duty to Report Unauthorized Signatures, Alterations, and Forgeries.** You must examine your statement of account with "reasonable promptness." If you discover (or reasonably should have discovered) any unauthorized signatures or alterations, you must promptly notify us of the relevant facts. As between you and us, if you fail to do either of these duties, you will have to either share the loss with us, or bear the loss entirely yourself (depending on whether we used ordinary care and, if not, whether we substantially contributed to the loss). The loss could be not only with respect to items on the statement but other items with unauthorized signatures or alterations by the same wrongdoer.

You agree that the time you have to examine your statement and report to us will depend on the circumstances, but will not, in any circumstance, exceed a total of 30 days from when the statement is first sent or made available to you.

You further agree that if you fail to report any unauthorized signatures, alterations or forgeries in your account within 60 days of when we first send or make the statement available, you cannot assert a claim against us on any items in that statement, and as between you and us the loss will be entirely yours. This 60-day limitation is without regard to whether we used ordinary care. The limitation in this paragraph is in addition to that contained in the first paragraph of this section.

**Your Duty to Report Other Errors.** In addition to your duty to review your statements for unauthorized signatures, alterations and forgeries, you agree to examine your statement with reasonable promptness for any other error - such as an encoding error. In addition, if you receive or we make available either your items or images of your items, you must examine them for any unauthorized or missing endorsements or any other problems. You agree that the time you have to examine your statement and items and report to us will depend on the circumstances. However, this time period shall not exceed 60 days. Failure to examine your statement and items and report any errors to us within 60 days of when we first send or make the statement available precludes you from asserting a claim against us for any errors on items identified in that statement and as between you and us the loss will be entirely yours.

**Errors Relating to Electronic Fund Transfers or Substitute Checks** *(For consumer accounts only).*

For information on errors relating to electronic fund transfers (e.g., computer, debit card or ATM transactions) refer to your Electronic Fund Transfers disclosure and the sections on consumer liability and error resolution. For information on errors relating to a substitute check you received, refer to your disclosure entitled Substitute Checks and Your Rights.

**(15) Direct Deposits.** If we are required for any reason to reimburse the federal government for all or any portion of a benefit payment that was directly deposited into your account, you authorize us to deduct the amount of our liability to the federal government from the account or from any other account you have with us, without prior notice and at any time, except as prohibited by law. We may also use any other legal remedy to recover the amount of our liability.

**(16) Temporary Account Agreement.** If the account documentation indicates that this is a temporary account agreement, each person who signs to open the account or has authority to make withdrawals (except as indicated to the contrary) may transact business on this account. However, we may at some time in the future restrict or prohibit further use of this account if you fail to comply with the requirements we have imposed within a reasonable time.

**(17) Setoff.** We may (without prior notice and when permitted by law) set off the funds in this account against any due and payable debt any of you owe us now or in the future. If this account is owned by one or more of you as individuals, we may set off any funds in the account against a due and payable debt a partnership owes us now or in the future, to the extent of your liability as a partner for the partnership debt. If your debt arises from a promissory note, then the amount of the due and payable debt will be the full amount we have demanded, as entitled under the terms of the note, and this amount may include any portion of the balance for which we have properly accelerated the due date.

This right of setoff does not apply to this account if prohibited by law. For example, the right of setoff does not apply to this account if: (a) it is an Individual Retirement Account or similar tax-deferred account, or (b) the debt is created by a consumer credit transaction under a credit card plan (but this does not affect our rights under any consensual security interest), or (c) the debtor's right



of withdrawal only arises in a representative capacity, or (d) setoff is prohibited by the Military Lending Act or its implementing regulations. We will not be liable for the dishonor of any check when the dishonor occurs because we set off a debt against this account. You agree to hold us harmless from any claim arising as a result of our exercise of our right of setoff.

**(18) Check Processing.** We process items mechanically by relying solely on the information encoded in magnetic ink along the bottom of the items. This means that we do not individually examine all of your items to determine if the item is properly completed, signed and endorsed or to determine if it contains any information other than what is encoded in magnetic ink. You agree that we have exercised ordinary care if our automated processing is consistent with general banking practice, even though we do not inspect each item. Because we do not inspect each item, if you write a check to multiple payees, we can properly pay the check regardless of the number of endorsements unless you notify us in writing that the check requires multiple endorsements. We must receive the notice in time for us to have a reasonable opportunity to act on it, and you must tell us the precise date of the check, amount, check number and payee. We are not responsible for any unauthorized signature or alteration that would not be identified by a reasonable inspection of the item. Using an automated process helps us keep costs down for you and all account holders.

**(19) Check Cashing.** We may charge a fee for anyone that does not have an account with us who is cashing a check, draft or other instrument written on your account. We may also require reasonable identification to cash such a check, draft or other instrument. We can decide what identification is reasonable under the circumstances and such identification may be documentary or physical and may include collecting a thumbprint or fingerprint.

**(20) Truncation, Substitute Checks, and Other Check Images.** If you truncate an original check and create a substitute check, or other paper or electronic image of the original check, you warrant that no one will be asked to make payment on the original check, a substitute check or any other electronic or paper image, if the payment obligation relating to the original check has already been paid. You also warrant that any substitute check you create conforms to the legal requirements and generally accepted specifications for substitute

checks. You agree to retain the original check in conformance with our internal policy for retaining original checks. You agree to indemnify us for any loss we may incur as a result of any truncated check transaction you initiate. We can refuse to accept substitute checks that have not previously been warranted by a bank or other financial institution in conformance with the Check 21 Act. Unless specifically stated in a separate agreement between you and us, we do not have to accept any other electronic or paper image of an original check.

**(21) Remotely Created Checks.** Like any standard check or draft, a remotely created check (sometimes called a telecheck, preauthorized draft or demand draft) is a check or draft that can be used to withdraw money from an account.

Unlike a typical check or draft, however, a remotely created check is not issued by the paying bank and does not contain the signature of the account owner (or a signature purported to be the signature of the account owner). In place of a signature, the check usually has a statement that the owner authorized the check or has the owner's name typed or printed on the signature line.

You warrant and agree to the following for every remotely created check we receive from you for deposit or collection: (1) you have received express and verifiable authorization to create the check in the amount and to the payee that appears on the check; (2) you will maintain proof of the authorization for at least 2 years from the date of the authorization, and supply us the proof if we ask; and (3) if a check is returned you owe us the amount of the check, regardless of when the check is returned. We may take funds from your account to pay the amount you owe us, and if there are insufficient funds in your account, you still owe us the remaining balance.

**(22) Unlawful Internet Gambling Notice.** Restricted transactions as defined in Federal Reserve Regulation GG are prohibited from being processed through this account or relationship. Restricted transactions generally include, but are not limited to, those in which credit, electronic fund transfers, checks, or drafts are knowingly accepted by gambling businesses in connection with the participation by others in unlawful Internet gambling.

**(23) ACH and Wire Transfers.** This agreement is subject to Article 4A of the Uniform Commercial Code - Fund Transfers as adopted in the state in

which you have your account with us. If you originate a fund transfer and you identify by name and number a beneficiary financial institution, an intermediary financial institution or a beneficiary, we and every receiving or beneficiary financial institution may rely on the identifying number to make payment. We may rely on the number even if it identifies a financial institution, person or account other than the one named. You agree to be bound by automated clearing house association rules. These rules provide, among other things, that payments made to you, or originated by you, are provisional until final settlement is made through a Federal Reserve Bank or payment is otherwise made as provided in Article 4A-403(a) of the Uniform Commercial Code. If we do not receive such payment, we are entitled to a refund from you in the amount credited to your account and the party originating such payment will not be considered to have paid the amount so credited. Credit entries may be made by ACH. If we receive a payment order to credit an account you have with us by wire or ACH, we are not required to give you any notice of the payment order or credit.

**(24) Facsimile Signatures.** Unless you make advance arrangements with us, we have no obligation to honor facsimile signatures on your checks or other orders. If we do agree to honor items containing facsimile signatures, you authorize us, at any time, to charge you for all checks, drafts, or other orders, for the payment of money, that are drawn on us. You give us this authority regardless of by whom or by what means the facsimile signature(s) may have been affixed so long as they resemble the facsimile signature specimen filed with us, and contain the required number of signatures for this purpose. You must notify us at once if you suspect that your facsimile signature is being or has been misused.

**(25) Agency (Power of Attorney) Designation (Single-Party Accounts only).** A single individual is the owner. The agent is merely designated to conduct transactions on the owner's behalf. The owner does not give up any rights to act on the account, and the agent may not in any manner affect the rights of the owner or beneficiaries, if any, other than by withdrawing funds from the account. The owner is responsible for any transactions of the agent. We undertake no obligation to monitor transactions to determine that they are on the owner's behalf. The owner may terminate the agency at any time, and the agency is automatically

terminated by the death of the owner. However, we may continue to honor the transactions of the agent until: (a) we have received written notice or have actual knowledge of the termination of the agency, and (b) we have a reasonable opportunity to act on that notice or knowledge. We may refuse to accept an agent.

**(26) Restrictive Legends or Endorsements.** The automated processing of the large volume of checks we receive prevents us from inspecting or looking for restrictive legends, restrictive endorsements or other special instructions on every check. Examples of restrictive legends placed on checks are "must be presented within 90 days" or "not valid for more than \$1,000.00." The payee's signature accompanied by the words "for deposit only" is an example of a restrictive endorsement. For this reason, we are not required to honor any restrictive legend or endorsement or other special instruction placed on checks you write unless we have agreed in writing to the restriction or instruction. Unless we have agreed in writing, we are not responsible for any losses, claims, damages, or expenses that result from your placement of these restrictions or instructions on your checks.

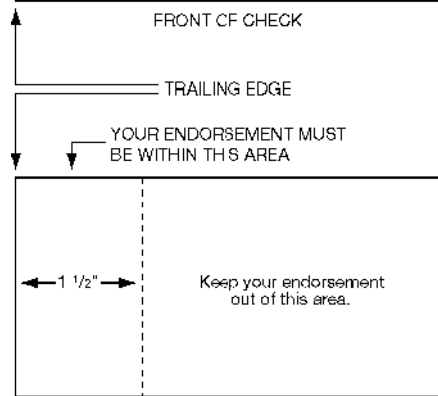
**(27) Account Transfer.** This account may not be transferred or assigned without our prior written consent.

**(28) Endorsements.** We may accept for deposit any item payable to you or your order, even if they are not endorsed by you. We may give cash back to any one of you. We may supply any missing endorsement(s) for any item we accept for deposit or collection, and you warrant that all endorsements are genuine.

To ensure that your check or share draft is processed without delay, you must endorse it (sign it on the back) in a specific area. Your entire endorsement (whether a signature or a stamp) along with any other endorsement information (e.g., additional endorsements, ID information, driver's license number, etc.) must fall within 1 1/2" of the "trailing edge" of a check. Endorsements must be made in blue or black ink, so that they are readable by automated check processing equipment.

As you look at the front of a check, the "trailing edge" is the left edge. When you flip the check over, be sure to keep all endorsement information within 1 1/2" of that edge.

Name	7654
Address, City, State	_____20_____
Pay to the order of	_____ \$ _____
	_____ dollars
Bank Name and Location	
Memo	_____
⑆ ⑆ 2 3 4 5 6 7 8 9 ⑆	7654



It is important that you confine the endorsement information to this area since the remaining blank space will be used by others in the processing of the check to place additional needed endorsements and information. You agree that you will indemnify, defend, and hold us harmless for any loss, liability, damage or expense that occurs because your endorsement, another endorsement, or information you have printed on the back of the check obscures our endorsement. These endorsement guidelines apply to both personal and business checks.

**(29) Death or Incompetence.** You agree to notify us promptly if any person with a right to withdraw funds from your account(s) dies or is adjudicated (determined by the appropriate official) incompetent. We may continue to honor your checks, items, and instructions until: (a) we know of your death or adjudication of incompetence, and (b) we have had a reasonable opportunity to act on that knowledge. You agree that we may pay or certify checks drawn on or before the date of death or adjudication of incompetence for up to ten (10) days after your death or adjudication of incompetence unless ordered to stop payment by someone claiming an interest in the account.

**(30) Fiduciary Accounts.** Accounts may be opened by a person acting in a fiduciary capacity. A fiduciary is someone who is appointed to act on behalf of and for the benefit of another. We are not responsible for the actions of a fiduciary, including the misuse of funds. This account may be opened and maintained by a person or persons named as a trustee under a written trust agreement, or as

executors, administrators, or conservators under court orders. You understand that by merely opening such an account, we are not acting in the capacity of a trustee in connection with the trust nor do we undertake any obligation to monitor or enforce the terms of the trust or letters.

**(31) Credit Verification.** You agree that we may verify credit and employment history by any necessary means, including preparation of a credit report by a credit reporting agency.

**(32) Legal Actions Affecting Your Account.** If we are served with a subpoena, restraining order, writ of attachment or execution, levy, garnishment, search warrant, or similar order relating to your account (termed "legal action" in this section), we will comply with that legal action. Or, in our discretion, we may freeze the assets in the account and not allow any payments out of the account until a final court determination regarding the legal action. We may do these things even if the legal action involves less than all of you. In these cases, we will not have any liability to you if there are insufficient funds to pay your items because we have withdrawn funds from your account or in any way restricted access to your funds in accordance with the legal action. Any fees or expenses we incur in responding to any legal action (including, without limitation, attorneys' fees and our internal expenses) may be charged against your account. The list of fees applicable to your account(s) provided elsewhere may specify additional fees that we may charge for certain legal actions.

**(33) Security.** It is your responsibility to protect the account numbers and electronic access devices (e.g., a Debit card) we provide you for your account(s). Do not discuss, compare, or share information about your account number(s) with anyone unless you are willing to give them full use of your money. An account number can be used by thieves to issue an electronic debit or to encode your number on a false demand draft which looks like and functions like an authorized check. If you furnish your access device and grant actual authority to make transfers to another person (a family member or coworker, for example) who then exceeds that authority, you are liable for the transfers unless we have been notified that transfers by that person are no longer authorized. Your account number can also be used to electronically remove money from your account, and payment can be made from your account even though you did not contact us directly and order the payment. You must

also take precaution in safeguarding your blank checks.

Notify us at once if you believe your checks have been lost or stolen. As between you and us, if you are negligent in safeguarding your checks, you must bear the loss entirely yourself or share the loss with us (we may have to share some of the loss if we failed to use ordinary care and if we substantially contributed to the loss).

Except for consumer electronic funds transfers subject to Regulation E, you agree that if we offer you services appropriate for your account to help identify and limit fraud or other unauthorized transactions against your account, such as positive pay or commercially reasonable security procedures, and you reject those services, you will be responsible for any fraudulent or unauthorized transactions which could have been prevented by the services we offered, unless we acted in bad faith or to the extent our negligence contributed to the loss. If we offered you a commercially reasonable security procedure which you reject, you agree that you are responsible for any payment order, whether authorized or not, that we accept in compliance with an alternative security procedure that you have selected.

**(34) Telephonic Instructions.** Unless required by law or we have agreed otherwise in writing, we are not required to act upon instructions you give us via facsimile transmission or leave by voice mail or on a telephone answering machine.

**(35) Monitoring and Recording Telephone Calls and Consent to Receive Communications.** Subject to federal and state law, we may monitor or record phone calls for security reasons, to maintain a record and to ensure that you receive courteous and efficient service. You consent in advance to any such recording.

To provide you with the best possible service in our ongoing business relationship for your account we may need to contact you about your account from time to time by telephone, text messaging or email. However, we must first obtain your consent to contact you about your account because we must comply with the consumer protection provisions in the federal Telephone Consumer Protection Act of 1991 (TCPA), CAN-SPAM Act and their related federal regulations and orders issued by the Federal Communications Commission (FCC).

- Your consent is limited to your account, and as authorized by applicable law and regulations.
- Your consent does not authorize us to contact you for telemarketing purposes (unless you otherwise agreed elsewhere).

With the above understandings, you authorize us to contact you regarding your account throughout its existence using any telephone numbers or email addresses that you have previously provided to us or that you may subsequently provide to us.

This consent is regardless of whether the number we use to contact you is assigned to a landline, a paging service, a cellular wireless service, a specialized mobile radio service, other radio common carrier service or any other service for which you may be charged for the call. You further authorize us to contact you through the use of voice, voice mail and text messaging, including the use of pre-recorded or artificial voice messages and an automated dialing device.

If necessary, you may change or remove any of the telephone numbers or email addresses at any time using any reasonable means to notify us.

**(36) Claim of Loss.** If you claim a credit or refund because of a forgery, alteration, or any other unauthorized withdrawal, you agree to cooperate with us in the investigation of the loss, including giving us an affidavit containing whatever reasonable information we require concerning your account, the transaction, and the circumstances surrounding the loss. You will notify law enforcement authorities of any criminal act related to the claim of lost, missing, or stolen checks or unauthorized withdrawals. We will have a reasonable period of time to investigate the facts and circumstances surrounding any claim of loss. Unless we have acted in bad faith, we will not be liable for special or consequential damages, including loss of profits or opportunity, or for attorneys' fees incurred by you. You agree that you will not waive any rights you have to recover your loss against anyone who is obligated to repay, insure, or otherwise reimburse you for your loss.

You will pursue your rights or, at our option, assign them to us so that we may pursue them. Our liability will be reduced by the amount you recover or are entitled to recover from these other sources.

**(37) Early Withdrawal Penalties** *(and involuntary withdrawals)*. We may impose early

withdrawal penalties on a withdrawal from a time account even if you don't initiate the withdrawal. For instance, the early withdrawal penalty may be imposed if the withdrawal is caused by our setoff against funds in the account or as a result of an attachment or other legal process. We may close your account and impose the early withdrawal penalty on the entire account balance in the event of a partial early withdrawal. See your notice of penalty for early withdrawals for additional information.

**(38) Address or Name Changes.** You are responsible for notifying us of any change in your address or your name. Unless we agree otherwise, change of address or name must be made in writing by at least one of the account holders. Informing us of your address or name change on a check reorder form is not sufficient. We will attempt to communicate with you only by use of the most recent address you have provided to us. If provided elsewhere, we may impose a service fee if we attempt to locate you.

**(39) Resolving Account Disputes.** We may place an administrative hold on the funds in your account (refuse payment or withdrawal of the funds) if it becomes subject to a claim adverse to (1) your own interest; (2) others claiming an interest as survivors or beneficiaries of your account; or (3) a claim arising by operation of law. The hold may be placed for such period of time as we believe reasonably necessary to allow a legal proceeding to determine the merits of the claim or until we receive evidence satisfactory to us that the dispute has been resolved. We will not be liable for any items that are dishonored as a consequence of placing a hold on funds in your account for these reasons.

**(40) Waiver of Notices.** To the extent permitted by law, you waive any notice of non-payment, dishonor or protest regarding any items credited to or charged against your account. For example, if you deposit a check and it is returned unpaid or we receive a notice of nonpayment, we do not have to notify you unless required by federal Regulation CC or other law.

**(41) Resolution of Disputes by Arbitration**

PLEASE READ THIS PROVISION OF THE AGREEMENT (“Arbitration Agreement”) CAREFULLY. IT REQUIRES ALL CLAIMS BETWEEN YOU AND US TO BE RESOLVED BY BINDING ARBITRATION WHENEVER YOU OR WE CHOOSE TO SUBMIT A CLAIM

TO ARBITRATION. BY ACCEPTING THIS ARBITRATION AGREEMENT, YOU WAIVE YOUR RIGHTS TO TRY ANY CLAIM IN COURT BEFORE A JUDGE OR JURY (EXCEPT FOR MATTERS THAT MAY BE TAKEN TO A SMALL CLAIMS COURT) AND TO BRING OR PARTICIPATE IN ANY CLASS OR OTHER REPRESENTATIVE ACTION.

**Agreement to Arbitrate.** Either you or we may elect, without the consent of the other, to arbitrate any Claim (as defined below) through the binding arbitration process set forth in this Arbitration Agreement. For purposes of this Arbitration Agreement, “we,” “our,” and “us” include Gate City Bank and its employees, officers, directors, parents, agents, controlling persons, subsidiaries, affiliates, predecessors, acquired entities, successors, and assigns.

**Claims Covered By Arbitration.** “Claims” subject to this Arbitration Agreement include all of the following: (1) claims related to or arising out of this Terms and Conditions of Your Account (the “Agreement”) or any prior or later versions of the Agreement, as well as any changes to the terms of the Agreement; (2) claims related to or arising out of any aspect of any relationship between you and us that is governed by the Agreement; (3) claims related to or arising out of your account or any services provided to you under the Agreement; and (4) claims related to the interpretation, scope, applicability, or enforceability of the Agreement or Arbitration Agreement. Claims are subject to arbitration whether they are based in contract, tort, federal or state statute, constitution, regulation, or any other legal theory, or whether they seek legal or equitable remedies (except as provided in the “**Public Injunctive Relief Waiver**” section below). All claims are subject to arbitration whether they arose in the past, may currently exist, or may arise in the future. Claims include claims or disputes that arose before the parties entered into the Agreement (such as claims related to advertising) or after termination of the Agreement or your account is closed.

**Claims Not Covered By Arbitration.** Claims filed by you or by us in a small claims court are not subject to arbitration, so long as the dispute remains in such court and advances only an individual claim for relief. The “**Class and Representative Action Waiver**” and “**Public Injunctive Relief Waiver**”

sections below set forth additional claims not subject to arbitration.

**Commencing an Arbitration.** Unless the parties agree to select a different arbitration administrator, the arbitration shall be administered by the American Arbitration Association (“AAA”) under AAA’s Consumer Arbitration Rules, except as modified by this Arbitration Agreement. AAA’s rules may be obtained from [www.adr.org](http://www.adr.org) or 1-800-778-7879 (toll-free).

If AAA is for any reason unable to serve and the parties are unable to agree on an alternative arbitration administrator, then a court of competent jurisdiction shall appoint an arbitration administrator.

Either you or we may start an arbitration by giving written notice to the other party. This notice may be given before or after a lawsuit has been filed concerning the Claim and it may be given by papers filed in the lawsuit such as a motion to compel arbitration. The party asking for arbitration must file a notice with the arbitration administrator pursuant to its rules.

**Arbitration Procedure.** Unless you and we agree otherwise in writing, the arbitration shall be decided by a single, neutral arbitrator, who shall be a retired judge or a lawyer with at least ten years of experience, selected in accordance with the chosen arbitration administrator’s rules.

The arbitrator will decide the Claim or Claims in accordance with the terms of the Agreement and applicable substantive law, including the Federal Arbitration Act, 9 U.S.C. § 1 et seq. (the “FAA”), and applicable statutes of limitation. The arbitrator shall honor claims of privilege recognized at law. Except as provided in the “**Public Injunctive Relief Waiver**” section below, the arbitrator may award damages or other relief (including injunctive relief) available to the individual claimant under applicable law.

The arbitrator will not have the authority to award relief to, or against, any person or entity who is not a party to the arbitration. An award in arbitration shall determine the rights and obligations between the named parties only, and only in respect to the Claim(s) in arbitration and shall not have any

bearing on the rights and obligations of any other persons, or on the resolution of any other dispute.

The arbitrator will take reasonable steps to protect customer account information and other proprietary or confidential information.

Any arbitration hearing shall take place in the county in which you reside, unless the parties agree in writing to a different location or the arbitrator so orders.

If all Claims are for \$10,000 or less, you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing in accordance with the arbitration administrator’s rules.

At your or our request, the arbitrator will issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. The arbitrator’s award shall be final and binding except that any party may appeal any award relating to a Claim for more than \$100,000 or for injunctive relief to a three-arbitrator panel appointed by the arbitration administrator, which will reconsider de novo any aspect of the appealed award. The panel’s decision will be final and binding. In either event, you or we may seek to have the award vacated or confirmed and entered as a judgment in any court having jurisdiction.

**Arbitration Costs.** If permitted by the rules of the selected arbitration administrator, you agree to pay any initial filing fee charged to you by the arbitration administrator for any arbitration you commence. We will pay all other fees charged by the arbitration administrator or arbitrator, including any filing, administration, and/or arbitrator fees. We will pay the entire initial filing fee if: (1) you claim to be unable to afford it; and (2) you seek but cannot obtain a waiver of that fee from the arbitration administrator. To the extent allowed by applicable law and our agreements, the arbitrator may award arbitration costs and attorneys’ fees to the prevailing party.

**Jury Waiver and Limitation of Rights. You and we agree that, by entering into this Arbitration Agreement, the parties are each waiving the right to a trial by jury or a trial before a judge in court (except for matters that may be taken to a small claims court). You and we acknowledge that arbitration will limit our legal rights,**

**including the right to participate in a class action, the right to a jury trial, the right to conduct full discovery, and the right to appeal.**

**Class Action and Representative Action Waiver. You and we agree that each may bring claims against the other only in an individual capacity, and not as a plaintiff or class member in any purported class or representative proceeding.**

Further, unless mutually agreed to by you and us, claims of two or more persons may not be joined, consolidated, or otherwise brought together in the same arbitration (unless those persons are joint account holders or beneficiaries on your account and/or related accounts, or parties to a single transaction or related transaction). The arbitrator shall have no authority to conduct any class, private attorney general or other representative proceeding. This section does not apply to requests for public injunctive relief, which are addressed in the section below entitled **“Public Injunctive Relief Waiver.”**

**Public Injunctive Relief Waiver.** Neither you nor we will have the right to seek public injunctive relief as a remedy for any Claim against one another (a “Public Injunctive Relief Request”) in arbitration, if such a waiver is permitted by the FAA. If such a waiver is deemed unenforceable, you and we agree that the Public Injunctive Relief Request shall be severed from any other Claims and/or remedies you have. The Public Injunctive Relief Request must be adjudicated by a court after all your other Claims to be decided in arbitration under this Arbitration Agreement are resolved in arbitration. The validity, enforceability, and effect of this section shall be determined exclusively by a court, and not by any arbitration administrator or arbitrator.

**Governing Law.** You and we agree that you and we are participating in transactions that involve interstate commerce and that this Arbitration Agreement and any resulting arbitration are governed by the FAA. Notwithstanding any section in the Agreement to the contrary, to the extent state law applies, the laws of the state governing your account relationship apply. No state statute pertaining to arbitration shall apply.

**Severability.** Notwithstanding any section in the Agreement to the contrary, if any section of this Arbitration Agreement (except for the **“Class Action and Representative Action Waiver”** above) is deemed invalid or unenforceable for any reason, it shall not invalidate the remaining portions

of this Arbitration Agreement. However, if the **“Class Action and Representative Action Waiver”** section is deemed invalid or unenforceable in whole or in part, then this entire Arbitration Agreement shall be deemed invalid and unenforceable.

**Changes.** The **“Amendments and Termination”** section of the Agreement does not apply to this Arbitration Agreement. Instead, you and we agree that we have the right to change the terms of this Arbitration Agreement. We will notify you in writing at least thirty calendar days before the change (other than a change to any address, telephone number, or website link provided herein) will take effect. Any change shall not apply to any Claim against us that accrued prior to the effective date of the change. Instead, the change shall apply to all other Claims governed by this Arbitration Agreement that have arisen or may arise between you and us.