



## EVOLVE BANK & TRUST

### CUSTOMER ACCOUNT AND CARDHOLDER AGREEMENT

Effective as of February 28, 2024

#### **I. INTRODUCTION.**

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

References to the “Bank,” “we,” “us,” or “our” means Evolve Bank & Trust, our successors, affiliates, and assignees. References to “you” and “your” means you and any person that holds, whether individually, jointly or on behalf of another person, the Account and any person or persons who have received the Card and who are authorized to use the Card. This Agreement may be supplemented or amended as set forth in Section VII (D) (Changes in Terms). Bank services and access and use of your Account may be provided to you through the website and/or smart phone application of our service provider, B9, Inc., at <https://bnine.com/> (the “Service Provider,” and its website and smart phone application, the “Service Provider Platform”). The Service Provider or its affiliates may offer you additional services through its Service Provider Platform, pursuant and subject to the terms and conditions between you and the Service Provider (the “Services” and such terms and conditions, the “Service Provider Terms”), and such Services are not governed by this Agreement and not offered by Bank. Please see Section II (The Account) for additional information.

By opening or continuing to maintain an Account with us or by accepting or using the Card, you agree to be bound by this Agreement, and all applicable agreements, disclosures, and other documents, as well as by all applicable federal or state laws, statutes and regulations. Please keep a copy of this Agreement.

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

**THIS AGREEMENT IS SUBJECT TO MANDATORY ARBITRATION PURSUANT TO THE FEDERAL ARBITRATION ACT AND A WAIVER OF CLASS ACTION AND JURY PROVISION. PLEASE CAREFULLY READ SECTION VI (ARBITRATION AND WAIVERS).**

#### **II. THE ACCOUNT.**

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

You must also agree to go paperless. This means that: (1) you must keep us supplied with your valid email address and telephone number; and (2) you must agree to accept electronic delivery of all communications that we need or decide to send you in accordance with Section VII (O) (Electronic Communications and Electronic Signatures; Electronic Storage of Data and Records).

**B. Account Type and Ownership.** The Account is a transaction account and the Card is a payment access device to your Account that allows you to make certain purchases and payments and transfers to third parties. The Account may not be opened as a joint account. You cannot give a security interest or pledge your Account to someone other than us without first getting our express written consent. We are not required to give consent to a security interest or pledge to someone else. Unless we agree in a separate writing otherwise a security interest or pledge to someone else must be satisfied or released before any right to withdraw from the account can be exercised. You must immediately report to us any changes in Account ownership information that you originally provided to us in connection with the submission of your application for an Account.

**C. Opening an Account.** To open an Account and request a Card, you must submit to us an application and all information that we may require. To help the government fight the funding of terrorism and money laundering activities, Federal law requires us to obtain, verify and record information that identifies each person who opens an Account. This means that when you open an Account, we will ask for your name, address, date of birth, social security number, and other information that will allow us to identify you. We may also ask to see other identifying documents, such as a driver’s license, taxpayer identification number; passport number and country of issuance; alien identification card number; or number and



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country of issuance of any other government-issued document evidencing nationality or residence and bearing a photograph or similar safeguard. If, for any reason, you are unable to provide the information necessary to verify your identity, the Account may be blocked or closed, which may result in additional fees assessed to the Account.

By opening an Account, you agree that we can gather your personal information from one or more consumer reporting agencies, governmental entities and/or other third parties, including, but not limited to, the Service Provider. You also agree that we have the right to access follow-up consumer reports while your Account is open for maintenance, review or collection purposes.

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

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

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

Separate and apart from its role as our servicer, the Service Provider may also offer Services to you. We are neither responsible for the provisioning of such Services nor do we make any recommendations, representations, warranties or suggestions regarding such Services or Service Provider Platform. To the fullest extent permitted by law, we will not have any liability in connection with the Services and disclaim all warranties, either express, implied, or statutory, including, but not limited to, any implied warranties of merchantability, fitness for a particular purpose and lack of viruses related to the Services or Service Provider Platform. Subject to applicable law, in no event shall we be liable for any losses or damages related to your use of Services or Service Provider Platform.

### **III. USING YOUR ACCOUNT WITH A DEBIT CARD.**

#### **A. Debit Card.**

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

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



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ii. **Card Activation.** You must activate the Card and complete the activation process, including setting a Personal Identification Number (“PIN”), before it may be used. You must maintain your PIN in confidence and not give it to anyone. You should memorize your PIN and not write down your PIN or keep your PIN with your Card. If you believe that anyone has gained unauthorized access to your PIN, you should advise the Bank and Service Provider immediately, following the procedures in Section III(A)(x) (Card Cancellation, Suspension and Limits, Lost or Stolen Card, Card Replacement). For reporting errors, please see Section IX (F) (Liability for Unauthorized Transfers) below. You may need to provide personal information in order for your identity to be verified and for completion of the activation process. You agree to sign the back of the Card immediately upon receipt.

iii. **Card Use.** Once your Card is active, subject to the limitations of this Agreement, you may use your Card, as applicable, to make purchases at any merchant that accepts payment using the Card, as long as you do not exceed the value available in your Account and as no purchase (whether individually or in aggregate) exceeds the transaction Limits set forth in Exhibit 2 (Transaction Limits) or transfer exceeds the limits set forth in Section IX (B) (Transfer Limitations). Exhibit 2 is incorporated herein by reference. Each time you use the Card, you authorize the Bank to reduce the value available in your Account (i.e., debit your Account) by the amount of the transaction and any applicable fees. We reserve the right to refuse to make any transfer or process any transaction for security, credit, legal/regulatory, or other reasons, as we determine in our sole discretion. Subject to applicable law, you are responsible for all transactions you authorize using the Card, including any losses, charges, or penalties incurred as a result. See Section IX (F) (Liability for Unauthorized Transfers) below for additional information and limitations on your liability. You may be charged for your use of the Card at ATMs. There may be Fees associated with some of your Card transactions. The Card is the property of the Bank, and if your Account is closed or your Card privileges are cancelled, you agree to stop using the Card and destroy the Card or return the Card to the Bank, upon its request.

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

You are responsible for all authorized transactions initiated and fees incurred by use of the Card. The Card is solely for your use and you may not request an additional card for another person, and you may not permit anyone else to use your Card or Account, unless approved by us or as set forth in this Agreement. Without limiting the foregoing, if you permit another person to have access to your Card or Account, this will be treated as if you authorized such use and you will be liable for all transactions and fees incurred by those persons. You are wholly responsible for the use of each Card according to the terms of this Agreement, subject to subsection x (Card Cancellation, Suspension and Limits, Lost or Stolen Card, Card Replacement) and Section IX (F) (Liability for Unauthorized Transactions) below, and applicable laws.

v. **Card Not Present Transactions.** If you initiate a transaction without presenting your Card (such as for a mail order, internet or telephone purchase), the legal effect will be the same as if you used the Card itself. For security reasons, the amount or number of such transactions you may make may be limited.

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

vii. **Authorization Holds.** When you use your Card to purchase goods or services or to make a cash back withdrawal transaction, the merchant may request a preauthorization for the transaction. If the merchant makes such a request and there are sufficient available funds in your Account, we will approve the transaction and a “hold” is placed on your Account for the amount of the preauthorization request (which may vary in some cases from the amount of the actual purchase, depending on the merchant or purchase type), until the merchant sends the final payment amount of your purchase, or for up to sixty (60) days, even if you fail to make the purchase, to the extent permitted by applicable law. The merchant controls the timing of both the Card authorization and settlement of the transaction. During the hold period, you may not have access to the preauthorized amount in your Account. We will not be responsible if any transactions are not completed because of the hold. If the preauthorization request varies from the amount of the actual transaction, the actual transaction amount will be debited from your Account, even if this results in your Account balance becoming negative. You remain responsible for any negative balances in your Account. If you use the Card at an automated fuel dispenser (“pay at the pump”), the transaction may be preauthorized for an amount up to \$100.00. If the Card is declined, but you have sufficient funds available in your Account for which the Card was issued, you should use the Card to pay for the purchase inside with the cashier. If you use the Card at a restaurant, a hotel, for a car rental purchase, or for similar purchases, the transaction may be preauthorized for the purchase amount plus up to 20% to ensure there are sufficient funds available to cover tips or incidental expenses incurred. You do not have the right to stop payment on any purchase or payment transaction originated by use of the Card once an authorization is approved.



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

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

x. Card Cancellation, Suspension and Limits, Lost or Stolen Card, Card Replacement. We reserve the right, at any time and in our sole discretion, to limit your use of the Card, including limiting or prohibiting specific types of transactions. We may refuse to issue a Card, revoke Card privileges, or cancel your Card with or without cause or notice, other than as required by applicable law. If you would like to cancel the use of your Card, you may do so by emailing us at [support@bnine.com](mailto:support@bnine.com) or calling the number on the back of your Card. You agree not to use or allow others to use an expired, revoked, cancelled, suspended or otherwise invalid Card. The cancellation of Card privileges will not otherwise affect your rights and obligations under this Agreement.

If you believe your Card or PIN has been lost, stolen or compromised, immediately contact us at [support@bnine.com](mailto:support@bnine.com) or the number on the back of your Card or contact Service Provider by email to [support@bnine.com](mailto:support@bnine.com). Please refer to Section IX (Electronic Fund Transfers Disclosure) for information on lost or stolen Cards and how to limit your liability for unauthorized transactions. If you need to replace the Card for any other reason, send an email to [support@bnine.com](mailto:support@bnine.com) to request a replacement. You will be required to provide personal information which may include the last four digits of your Card number, your full name and knowledge of the Card transaction history.

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

**B. ATMs.** With your PIN, the Card may be used to obtain cash at any Automated Teller Machine (“ATM”) in the U.S. displaying the [Mastercard/Visa] or [Insert Secondary Network (e.g., Cirrus, PULSE, MoneyPass)] acceptance marks, subject to your applicable daily cash withdrawal limit set forth in Exhibit 2 (Transaction Limits). The Card cannot be used at ATMs outside the U.S. without prior notice and approval. Fees may apply (see Exhibit 1 for details). ATM owner-operators may impose their own fees and lower limits on cash withdrawals. You may be charged a fee by the ATM operator even if you do not complete a withdrawal. This ATM fee is a third-party fee amount assessed by the individual ATM operator only and is not assessed or controlled by us. This ATM fee amount will be charged to your Account. All ATM transactions are treated as cash withdrawal transactions and subject to your daily cash withdrawal limit. You may use your PIN and Card at any Point of Sale (“POS”) device, as permitted by a merchant that bears the [Insert Secondary Network (e.g., Cirrus, PULSE, MoneyPass)] acceptance marks, and subject to your daily purchase limit.

Subject to the terms set forth in Section III (A) (Debit Card), Section IV (D) (Withdrawals) and Exhibit 2 (Transaction Limits), you may also withdraw funds from certain ATMs. Other third-party fees may also apply to out-of-network ATM transactions. Please refer to Section III (A) (Debit Card) and the Fee Schedule for additional information.

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



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and will be included in the amount charged to your Card or otherwise be debited from your Account.

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

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

We reserve the right to restrict your use of your Card within the Digital Wallet including, but not limited to (i) if your Account is not in good standing with us; (ii) if you are restricted due to limitations on your use imposed by your Digital Wallet Provider, wireless service provider or any third party associated with your Digital Wallet; (iii) if the Digital Wallet or Digital Wallet Provider is not one that we support; or (iv) for any other reason determined by us in our sole discretion.

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

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

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

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

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

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

Your authorized user may also be permitted to add your Card to a Digital Wallet supported by another financial institution or third party,



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which could be used for purchases or other transactions without presenting the Card. Any such transactions are covered by this Agreement.

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

v. Using Your Card with a Digital Wallet. By adding your Card to a Digital Wallet, you create a virtual or digital version of your Card to enable you to make payments utilizing the Card at any merchant that accepts the Digital Wallet and Card. You may also (i) make contactless payments at merchants who accept the Digital Wallet and the Card and have physical point-of-sale terminals or card readers that accept contactless payments; (ii) make in-app purchases or purchases through merchants' websites where permitted; (iii) enter into transactions where the Digital Wallet and Card are accepted; and (iv) use other services that are offered by the Digital Wallet Provider. You agree that the virtual or digital representation of your Card in a Digital Wallet may, in our sole discretion, be automatically updated or upgraded without notice to you. We reserve the right for any reason to discontinue your use of your Card in participation with any Digital Wallet at any time.

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

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

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

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

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

vii. Compromised Supported Device. In addition to the security procedures described elsewhere in this Agreement, you are solely responsible for maintaining the confidentiality of your Digital Wallet Provider credentials and any other means that you may use to securely access your Digital Wallet or your Supported Device. If another person's biometric identifier is loaded onto a Supported Device, you must take immediate steps to ensure that the biometric identifier is removed from the Supported Device, otherwise any transaction using such Supported Device by a



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person who you have granted access to will not be an unauthorized transaction for the purposes of determining liability. Similarly, if you provide your user ID, PIN or password necessary to access your Supported Device, you must take immediate steps to change such user ID, PIN or password to ensure no third party has access to or knows such user ID, PIN or password. Otherwise, any transaction using such Supported Device by a person to whom you provide your user ID, PIN or password will not be an unauthorized transaction for the purposes of determining liability. If your PIN, biometric authentication or other passcode is compromised or your Card has been used through a Digital Wallet without your permission, or you have a Supported Device and it has been lost or stolen, you must notify us immediately. If you fail to notify us without delay, you may be liable for part or all of the losses in connection with any unauthorized use of your Card in connection with that Digital Wallet. You should notify us by calling the number on the back of your Card or in the app you use to manage your Card.

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

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

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

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

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

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

xi. **DISCLAIMER OF WARRANTIES. YOU ACKNOWLEDGE AND UNDERSTAND THAT THE DIGITAL WALLET IS BEING PROVIDED TO YOU BY THE APPLICABLE DIGITAL WALLET PROVIDER AND OTHER THIRD PARTIES THAT SUPPORT SUCH DIGITAL WALLET PROVIDER. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT THE USE OF ANY CARD IN A DIGITAL WALLET IS AT YOUR SOLE RISK. YOU UNDERSTAND THAT WE NEITHER CONTROL NOR ENDORSE, AND ARE NEITHER RESPONSIBLE NOR LIABLE FOR: (A) ANY DIGITAL WALLET OR SERVICES PROVIDED BY ANY DIGITAL WALLET PROVIDER; (B) ANY ACT OR OMISSION OF A DIGITAL WALLET PROVIDER OR ANY PARTY SUPPORTING A DIGITAL WALLET OR ANY MERCHANT; (C) SUPPORTED DEVICES, INCLUDING THEIR OPERATION; OR (D) ANY ACT OR OMISSION OF ANY OTHER THIRD**



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PARTY. WE ARE NOT RESPONSIBLE FOR THE ACCURACY, COMPLETENESS, RELIABILITY, INTEGRITY, QUALITY, LEGALITY, USEFULNESS OR SAFETY OF ANY THIRD-PARTY INFORMATION OR DIGITAL WALLET. WE DO NOT WARRANT THAT THE FUNCTIONS CONTAINED IN, OR SERVICES PROVIDED OR PERFORMED BY ANY DIGITAL WALLET OR DIGITAL WALLET PROVIDER (INCLUDING ANY THIRD PARTY PROVIDING SUPPORT FOR ANY DIGITAL WALLET OR DIGITAL WALLET PROVIDER) WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OR AVAILABILITY OF DIGITAL WALLET OR SERVICES OF A DIGITAL WALLET PROVIDER WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT DEFECTS IN THE DIGITAL WALLET OR WITH THE DIGITAL WALLET PROVIDER'S SERVICES OR PRODUCTS WILL BE CORRECTED. ACCESS, USE AND MAINTENANCE OF YOUR CARD IN A DIGITAL WALLET WILL DEPEND ON THE DIGITAL WALLET AND THE PAYMENT CARD NETWORKS AND WIRELESS CARRIERS. WE DO NOT OPERATE OR CONTROL THE DIGITAL WALLET OR SUCH PAYMENT CARD NETWORKS OR WIRELESS CARRIERS. WE WILL NOT BE LIABLE FOR ANY CIRCUMSTANCES THAT INTERRUPT, PREVENT OR OTHERWISE AFFECT THE FUNCTIONING OF ANY CARD WITH A DIGITAL WALLET OR DIGITAL WALLET SERVICE OR YOUR WIRELESS SERVICE, COMMUNICATIONS, NETWORK DELAYS, LIMITATIONS ON YOUR WIRELESS COVERAGE, SYSTEM OUTAGES OR INTERRUPTIONS OF YOUR WIRELESS CONNECTION. WE DISCLAIM ANY RESPONSIBILITY FOR ANY DIGITAL WALLET OR ANY WIRELESS SERVICE USED TO ACCESS, USE OR MAINTAIN YOUR CARD IN ANY DIGITAL WALLET.

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

xii. Your Privacy When Using a Digital Wallet. You authorize us to collect, transmit, store, use or share technical, location, login or other information about you and use of a Card through a Digital Wallet with Digital Wallet Providers. Please see our Privacy Policy, as it may be amended from time to time, for your choices about information sharing, accessible at <https://www.getevolved.com/privacy-policy/>. You understand, acknowledge and agree that the use and disclosure of any information provided by you directly to a Digital Wallet provider will permit such parties to have access to certain details of your transactions made with your Digital Wallet and such use, accesses and disclosure will be governed by such party's privacy policy and not our privacy policy, and, to the greatest extent permitted by law, we are not liable for the use of your information by any such parties. You understand that the information that is provided to or held by a Digital Wallet Provider in relation to your Account, Card, or Digital Wallet is outside of our control. Any information you provide to a Digital Wallet through your use of your Card with the Digital Wallet or that is accessed or collected by your Digital Wallet Provider, is subject to the Digital Wallet Provider's separate agreement with you, including that party's privacy policy.

#### IV. USING YOUR ACCOUNT

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

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





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

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

ii. Subject to the limitations set forth herein, you may only deposit with us funds that are immediately available, which under applicable law are irreversible and are not subject to any lien, claim or encumbrance.

iii. You may make a deposit into your Account by ACH Transfers or any other method we make available to you. You may also arrange for recurring deposits, such as direct deposits, to be made electronically to your Account.

**D. Withdrawals.** Except as provided herein and subject to Exhibit 2 (Transaction Limits) and Section IX (B) (Transfer Limitations), you may make withdrawals from your Account up to the available balance in your Account by any means that we make available to you. We may refuse a withdrawal request exceeding the available funds in your Account even if you make a deposit later in the business day after we refuse your withdrawal request. We may allow withdrawals at any time, but reserve the right to require seven (7) days written notice of intention to withdraw funds from your Account if your Account is a negotiable order of withdrawal (NOW) account.

If your available balance is not enough to pay a transaction you make, we may assess an insufficient or unavailable funds fee, regardless of whether we pay the transaction.

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

All withdrawals are subject to limitations set forth in Exhibit 2 (Transaction Limits) and IX (B) (Transfer Limitations).

### V. ACCOUNT DISCLOSURES

**A. Payment Instructions.** You agree that any payment instructions received by us (such as requests to withdraw or transfer funds from your Account) through the Service Provider Platform or in connection with your username, passphrase, PIN or mobile device used to access the Service Provider Platform (collectively "Credentials") will be deemed to be authorized by you, subject to applicable law. The use of any of your Credentials by another person will be as effective as your use of the Credentials, regardless of whether the person affixing the Credential was authorized by you and regardless of the means by which the Credential was affixed, subject to applicable law. For example, if you provide your username and password used to access the Service Provider Platform to another person and that person uses that information to withdraw funds from your Account, we will deem the withdrawal to be authorized by you, subject to applicable law. Unless prohibited by applicable law, you agree to hold us harmless and indemnify us for any liability incurred for reasonably acting upon such instructions which bear any of your Credentials. You agree to keep confidential and to take all reasonable precautions and make all reasonable efforts to protect the secrecy of all Credentials issued to you, selected by you, or utilized by you. If any of your Credentials become lost or known to another person, you agree to notify us immediately so that a replacement may be issued. If you believe your Credentials are no longer secure or confidential, or that someone has used your Credentials without your permission, please contact us immediately by calling (888) 297-5504 or notifying us through the Service Provider Platform.

We may refuse to follow any of your payment instructions if we think they are illegal or potentially harmful to us or any other person. If we follow your payment instructions, we may require other security measures to protect us from any losses we may suffer. To the greatest extent



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permitted by law, you agree to pay us back for any damages or losses (including, but not limited to, the reasonable costs of an attorney) that we suffer if we take an action based on your (or what appears to be your) oral, written or electronic instructions.

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

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

We use automated systems to process transactions and then to post transactions to your Account. When we process multiple transactions for your Account on the same day, you agree that we may in our discretion determine our posting orders for the transactions and that we may credit, authorize, accept, pay, decline or return credits, debits and holds in any order at our option, subject to applicable law. We generally post common transactions as set forth herein. We group the different types of transactions into categories. We use several different categories for holds, credits, and debits. Most categories include more than one transaction type. After the end of the business day, our automated systems assign each transaction received for that day to a category. We generally post all transactions within a category, using the posting order or orders that apply to that category before we post any transactions assigned to the next category.

First, we start with the balance in your Account at the beginning of the business day, subtract holds from your balance, and make any adjustments from prior days. Next, we generally add available and settled deposits and credits to your balance and then subtract debits from your balance based on the debit category. We subtract debits in a category from your balance in order from the highest to lowest dollar amount, unless specified otherwise herein. We then subtract from your balance any other types of electronic debits in order from the highest to lowest dollar amount. These debits generally include Transfers. Finally, we subtract from your balance most fees (such as monthly maintenance fees, overdraft fees, returned item fees, and ATM fees) in order from highest to lowest dollar amount. Some fees may show as “processing” until the next day. The first category of debits to be applied against your balance are certain Card and ATM transactions (e.g., Card transactions and ATM withdrawals and transfers) and associated Card fees. The debits within this category are subtracted from your balance in date and time order our systems receive date and time information.

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

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

iv. **Overdraft Fees.** We do not permit you to overdraw your Account and we do not charge you insufficient funds fees or overdraft fees. If the available balance in your Account is not sufficient to cover any transaction you have authorized, we can refuse to process the transaction. 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. However, there may be instances where your Account can still become overdrawn. For example, if a deposit is returned or if a merchant settles a Card transaction for an amount greater than the card authorization.

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

**C. Insurance Coverage.** The Federal Deposit Insurance Corporation (“FDIC”) insures deposits according to the ownership category in which the funds are insured. Not all accounts may be insured. Unless otherwise stated by us or the FDIC, the Account is insured by the FDIC up to the



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standard maximum deposit insurance amount per depositor, per FDIC-insured bank, and per ownership category (the “Standard Insurance Amount” or “SIA”), and, with respect to Sub-Deposit Accounts, please see Section F (iii) (d) (FDIC Deposit Insurance) and Section F (vii) (Information about the FDIC). For purposes of determining the SIA applicable to your Account at Bank, you need to consider all accounts that you also hold at the Bank. To determine SIA applicable to your Account maintained at Bank and for any other FDIC insurance requirements that may apply, please visit the FDIC’s website at [www.fdic.gov/deposit/deposits](http://www.fdic.gov/deposit/deposits) or call the FDIC directly at 1-877-ASKFDIC (1-877-275-3342). You can also use the FDIC’s Electronic Deposit Insurance Estimator (EDIE) at [www.fdic.gov/edie](http://www.fdic.gov/edie). For insurance coverage on Sub-Deposit Account(s), please refer to Section F (iii) (d) (FDIC Deposit Insurance) and Section F (vii) (Information about the FDIC).

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

If we receive a claim against the funds in your Account, or if we know of or believe that there’s a dispute as to the ownership or control of funds in your Account, we may, in our discretion: (1) place a hold on your Account and refuse to pay out any funds until we’re satisfied that the dispute is settled; (2) close your Account and send the balance to the named account holder(s); (3) require a court order to act; or (4) take any other action we feel is necessary to protect us. We will not be liable to you for taking any such action.

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

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

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

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

If you request us to research and/or reproduce any of your records (statements, checks, deposits, withdrawals, etc.) we may charge a fee, and you agree to pay this fee. If the expected fee is large, you may be asked to pay the fee in advance. We reserve the right to provide you with an imaged item in lieu of the original item.

#### **F. Bank Deposit Custodial Program.**

i. **Introduction.** By accepting the terms of this Agreement or holding a deposit account with us (including, but not limited to your Account), you agree to participate in the Bank deposit custodial program, as further described in this Section F (the “Program”) and agree to be bound by the following terms and conditions (“Program Agreement”). The Program is offered by us in connection with your Account. If you have any questions about any provisions of this Program Agreement, please contact us at [support@bnine.com](mailto:support@bnine.com).

Pursuant to the terms of this Program Agreement, you agree to appoint Bank, as agent for you and as custodian, to open and maintain with one or more insured depository institutions (each, a “Program Bank” and collectively, “Program Banks”) a deposit account, transaction account, money marketing account, or omnibus custody account (individually and collectively, “Sub-Deposit Account”) in the name of Bank (for your



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benefit), and to deposit your funds into Sub-Deposit Accounts at one or more Program Banks as set forth on a list provided to you (“Bank List”). You agree to open a custodial account at Bank (“Custodial Account”), which may be used to facilitate deposits to and withdrawals from the Sub-Deposit Account.

When you deposit funds with Bank under this Agreement, your funds will be deposited into your Account and may be deposited by Bank, as your agent and custodian, into Sub-Deposit Accounts at one or more Program Banks via your Account or Custodial Account. As your custodian, Bank will maintain records of your Sub-Deposit Accounts at each Program Bank.

Your funds at Bank and at each Program Bank identified as a “Priority Bank” on the Bank List are eligible for FDIC insurance coverage up to \$250,000 for each insurable capacity in which your Sub-Deposit Account is held (*e.g.*, individual account, joint account, etc.) (the “Deposit Limit”).

**Funds in your Account or Sub-Deposit Account may exceed the Deposit Limit in any Priority Bank. Amounts in excess of the Deposit Limit but not greater than the Program Insurance Eligibility Limit (as defined herein) will be deposited at one or more Priority Banks. Any amount in excess of the Program Insurance Eligibility Limit may not be covered by FDIC insurance; such amount may be deposited at a Priority Bank acting as an “Excess Bank” (as set forth on the Bank List) for such amount.**

**Any deposits (including certificates of deposit) that you maintain in the same insurable capacity directly with Bank, a Program Bank or through an intermediary (such as a broker), regardless of the number of accounts, will be aggregated with funds in your Account, Sub-Deposit Account, Custodial Account or a Program Bank for purposes of the Deposit Limit. You are responsible for monitoring the total amount of deposits that you have with Bank and each Program Bank in order to determine the extent of FDIC insurance coverage available to you.**

The Sub-Deposit Accounts are solely the obligations of the Program Banks, and neither directly nor indirectly obligations of Bank nor Service Provider. Bank is agent and custodian for you with respect to Sub-Deposit Accounts and ownership will be evidenced by a book entry in records maintained by us. You will not have a direct relationship with the Program Banks. No evidence of ownership related to the Sub-Deposit Account will be issued to you, and you will not receive any written confirmation of the establishment of the Sub-Deposit Account or transfer of funds to or from the Sub-Deposit Account. All deposits and withdrawals will be made by Bank on your behalf, and all deposits to your Sub-Deposit Account and withdrawals from the Sub-Deposit Account necessary to satisfy any debits to or withdrawals from your Account will be made by Bank, as your agent. Information about your Sub-Deposit Accounts may be obtained from Service Provider or Bank, not the Program Banks.

All communications regarding the Program, including periodic statements and notices regarding changes to the Program, are the responsibility of Service Provider and Bank, not the Program Banks. If you have any questions regarding your Account or Sub-Deposit Accounts, please contact Service Provider at [support@bnine.com](mailto:support@bnine.com).

The terms and conditions of the Program, and any feature of the Program, may be varied at Bank’s sole discretion. Bank, in its sole discretion, may make exceptions to the terms and conditions of the Program.

ii. **Appointment of Bank as Your Agent and Custodian.** You appoint Bank, and Bank agrees to be appointed, as your agent and custodian to hold in safekeeping all Sub-Deposit Accounts at Program Banks. You authorize Bank to execute and deliver or file on your behalf all appropriate receipts, agreements, releases and other instruments, including whatever agreements may be required to establish and maintain the Sub-Deposit Accounts or to establish your ownership interest in the Sub-Deposit Account. You appoint Bank to act as your agent with respect to establishing, maintaining and administering the Sub-Deposit Account, and you authorize us to take any action necessary to establish, maintain and administer the Sub-Deposit Account and to initiate transfers to and from your Sub-Deposit Account, Custodial Account and Account as we may determine in Bank’s sole discretion.

You agree that Bank, as your agent, may place any or all of your funds on deposit with Bank at one or more Program Banks in an amount determined in Bank’s sole discretion based on available capacity at the Program Bank or other criteria, including rates or fees paid on deposits by the Program Bank to Bank. Bank may place your funds without regard to whether such funds may exceed the Deposit Limit at one or more Program Banks, even if your funds could be placed in one or more Program Banks in an amount less than the Deposit Limit.

Bank may financially benefit if it places your funds into a Program Bank in excess of the Deposit Limit when that Program Bank pays a greater amount of fees to Bank than other Program Banks that could accept your deposits in amounts under the FDIC insurance limit. Please



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carefully read the section entitled “Waiver of Conflicts” below.

You authorize Bank to collect and retain all payments of income pertaining to the Sub-Deposit Accounts (if any) and to deliver or transfer the funds on deposit in the Sub-Deposit Accounts to another account with Bank, including your Account, to process any transactions or transfers from your Account. As your agent, you authorize Bank to determine the amount of funds to deposit in and withdraw from each Sub-Deposit Account.

You agree that Bank, in its sole discretion, may divide the funds deposited into your Account into one or more separate Sub-Deposit Account to be managed by Bank.

You agree that Bank may comply with any writ of attachment, execution, garnishment, tax levy, restraining order, subpoena, warrant or other legal process that Bank believes (correctly or otherwise) to be valid. We may notify you of such process by telephone, electronically or in writing. If Bank is not fully reimbursed for its record research, photocopying and handling costs by the party that served the process, Bank may charge such costs to your Sub-Deposit Account, in addition to any minimum fee Bank may charge for complying with legal processes.

You agree that Bank may honor any legal process that is served personally, by mail, or by facsimile transmission at any of Bank’s offices or an office of Bank’s agent (including locations other than where the funds, records or property sought is held), even if the law requires personal delivery at the office where your Account or records are maintained.

We may provide your name, tax identification number and other pertinent identifying information to Program Banks, and other parties providing services in connection with the placement of your funds and the establishing and holding of the Sub-Deposit Account.

You agree that we shall have no liability to you for any action taken or omitted by us hereunder in good faith.

You agree to indemnify us and our nominees against, and to hold us and our nominees harmless from, all expenses (including counsel fees), liabilities and claims arising out of the holding, delivery or transfer of the Sub-Deposit Accounts and compliance with any legal process that we believe (correctly or otherwise) to be valid.

#### iii. **Operation of the Program.**

**a. Accounts at Bank.** You agree to establish an Account and Custodial Account with us and that we may establish a Sub-Deposit Account on your behalf at Bank. Please read the section titled “Your Relationship with Bank and the Program Banks” below.

**b. Accounts at Program Banks.** As your agent, we will open one or more Sub-Deposit Accounts on your behalf at the Program Banks on the then-current Bank List and act as your custodian for the Sub-Deposit Accounts. At some Program Banks, we may open a money market deposit account (“MMDA”) and a transaction account (“TA”); at other Program Banks, we may open a TA only. Each MMDA and TA are considered a Sub-Deposit Account. The Sub-Deposit Account may not be transferred to another institution, except by us or the Program Bank.

**c. Program Bank List.** The Bank List of available Program Banks into which your funds may be deposited is available on our website at <https://www.getevolved.com/openbanking/fdic-insured-sweep-program/> or by contacting us. The Bank List may include one or more Program Banks that constitute Excess Banks; we may deposit your funds at an Excess Bank without limit and without regard to Deposit Limit if funds sufficient to meet the Program Insurance Eligibility Limit have been placed at one or more Priority Banks. If all of your funds are withdrawn from a Program Bank, the next time your funds are available for deposit in a Program Bank, your funds may be deposited in a different Program Bank.

You may at any time, with reasonable advance notice to us at support@bnine.com, designate a Program Bank as ineligible to receive your funds. In addition, you may at any time instruct Bank to remove your funds from a Program Bank, close your Sub-Deposit Accounts with the Program Bank and designate the Program Bank as ineligible to receive future deposits. Any funds from a closed Sub-Deposit Account will be deposited into Sub-Deposit Accounts at another Program Bank set forth on the Bank List, as amended by you, or if no other Program Bank is eligible, the funds will be deposited into your Account. For example, if you maintain other accounts at a Program Bank on the list separate from the Program, you may wish to designate this Program Bank as ineligible to avoid the aggregation of funds in your account(s) held directly with funds deposited through the Program as the combination of funds may exceed the amount of available FDIC insurance coverage at that Program Bank. If you designate all Program Banks as ineligible, we will return funds to your Account and may, in our discretion and in accordance with



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law, close your Account and any Sub-Deposit Account opened specifically for you.

**d. FDIC Deposit Insurance.** We will place your funds at Priority Banks as your agent in a manner that enables up to \$250,000 of your deposits or such other greater amount as may be disclosed to you by us from time to time to be eligible for FDIC insurance through the Program (such amount, the “Program Insurance Eligibility Limit”). From time to time, we may increase the amount of available FDIC insurance through the Program, and you will be notified of such an increase. Any other deposits you have at the Priority Banks outside of the Program may reduce FDIC insurance coverage of your deposits through the Program. Moreover, if you have designated one or more Priority Banks as ineligible to receive your funds, the amount of FDIC insurance for which your funds are eligible may be limited. The depositing of your funds into the Sub-Deposit Account may not increase your FDIC deposit insurance coverage, and may in fact reduce insurance coverage depending on any other deposits you may maintain at a Program Bank.

**e. Changes to Bank List.** One or more of the Program Banks included on the Bank List may be replaced with a Program Bank not previously included on the Bank List or a Program Bank may be deleted from the Bank List. In addition, Program Banks designated as Priority Banks may be replaced with a Program Bank not previously designated as a Priority Bank or a Program Bank may be removed from the list of designated Priority Banks. We will notify you if the Bank List has changed in accordance with the section titled “Changes to the Program.” Continued use of your Account and/or the Program after receipt of the initial Bank List or notice of subsequent changes to such list will constitute your consent to such list.

An increase in the number of Priority Banks in the future may not increase the potential FDIC coverage available in the Program, and there can be no assurance that additional Priority Banks will be added or your FDIC insurance coverage will increase. A decrease in the number of Priority Banks in the future could decrease the potential FDIC coverage available in the Program.

You agree that deposits and withdrawals of your funds made after a change to the Bank List will occur as described below under “Deposit Procedures” and “Withdrawal Procedures,” respectively.

If a Program Bank at which you have funds in a Sub-Deposit Account(s) no longer makes the Sub-Deposit Account(s) available through the Program, we may move funds to another Program Bank on the Bank List on or about the day that the Program Bank leaves the Program or return funds to your Account.

**f. Deposit Procedures.** You agree that, as your agent, we may open one or more Sub-Deposit Accounts on your behalf at one or more of the Program Banks on the then current Bank List. If we open both an MMDA and a TA at a Program Bank, all deposits will be made into your MMDA and/or TA, subject to six (6) monthly withdrawal limits applicable to MMDA.

You agree that, as your agent, we may place your funds at one or more Program Banks without limit and without regard to the Deposit Limit. You agree that we will place your funds based on each Program Bank’s available capacity or other criteria, including rates paid by Program Banks on Sub-Deposit Accounts or fees paid to us. Please see the section titled “Waiver of Conflicts” for additional information. **You understand and agree that deposit amounts in excess of the Deposit Limit at a Priority Bank and deposit amounts at an Excess Bank will not be insured by the FDIC.**

Periodically, your previously deposited funds may be reallocated among the Program Banks on a revised Bank List based on each Program Bank’s available capacity or other criteria, including rates paid by Program Banks to us.

**You understand and agree that it is your obligation to monitor your funds deposited at all Program Banks. You may email Service Provider at any time at support@bnine.com to determine your Sub-Deposit Account balances at each Program Bank.**

**g. Withdrawal Procedures.** You agree that all withdrawals will be made by us as your agent. Funds may be withdrawn from Program Banks based on a Program Bank’s available capacity or other criteria, including, but not limited to, rates or fees paid to Bank. Funds may also be withdrawn from Sub-Deposit Account to fund transactions associated with your Account.

If you have an MMDA and a TA at a given Program Bank, all withdrawals will be made from the TA. If funds in the TA at a Program Bank from which funds are being withdrawn are insufficient, funds in the related MMDA at that Program Bank will be transferred to the TA, plus funds to maintain any TA minimum, or “threshold,” amount.



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At any point during a month in which transfers from an MMDA at a Program Bank have reached a total of six (6), all funds will be transferred from that MMDA to the linked TA at the Program Bank until the end of the month. Deposits for the remainder of the month into this Program Bank will be made to the TA. At the beginning of the next month, funds on deposit in the TA will be transferred to the MMDA, minus any threshold amount to be maintained in the TA. The limits on MMDA transfers will not limit the number of withdrawals you can make from funds on deposit at a Program Bank or the amount of FDIC insurance coverage for which you are eligible.

Pursuant to federal banking regulations, the Program Banks may reserve the right to require seven (7) days' prior written notice before you withdraw or transfer funds from an MMDA. The Program Banks have indicated that they have no present plans to exercise this right. TAs are not subject to this restriction.

**h. Interest Rates Paid on Deposit Balances.** You will not be paid interest on your Sub-Deposit Accounts. Your Account is not an interest-bearing account and you will not be paid interest or any other form of income on your funds held in any Account or Sub-Deposit Account.]

**i. Waiver of Conflicts.** You understand and agree that, as your agent, we may place any or all of your funds on deposit with us at one or more Program Banks in an amount determined in Bank's sole discretion based on available capacity at the Program Bank or other criteria, including rates paid on deposits by the Program Bank or fees paid to Bank.

You understand and agree that Bank has no obligation to place funds into Program Banks to maximize the amount of deposit insurance available on your funds or to maximize any interest rates that your funds may earn. Bank may place your funds without regard to whether such funds may exceed the Deposit Limit at one or more Program Banks, even if your funds could be placed in one or more Program Banks in an amount less than the Deposit Limit.

You understand and agree that the Program Banks may pay us fees to Bank and that we have no obligation to share these fees with you. You understand and agree that we may financially benefit if we place your funds into a Program Bank in excess of the Deposit Limit when that Program Bank pays a greater amount of fees to us than other Program Banks that could increase the deposit insurance available to you. You further acknowledge and agree that each Program Bank may pay us a fee in connection with the placement of funds with the Program Bank, including for each Sub-Deposit Account. The fee may vary between banks. Your Account is not an interest-bearing account and you will not be paid interest or any other form of income on your funds held in any Account or Sub-Deposit Account. Even if we receive a fee from a Program Bank, you are not entitled to interest on your Sub-Deposit Account. For the avoidance of doubt, you authorize us to collect and retain all payments of income pertaining to the placement of your deposits at other Program Banks, including the Sub-Deposit Accounts. You further acknowledge that we and Program Banks may also receive other financial benefits in connection with the funds in your Sub-Deposit Account.

Our placement of funds in the Sub-Deposit Account may reflect considerations of federal and state law, our funding needs and funding needs of Program Banks, general economic conditions or other factors determined by us in our sole discretion. We may place funds to enhance our business objectives and for balance sheet management purposes without any benefit to you. Subject to applicable law, your only rights with respect to the Sub-Deposit Account are to demand that we repay you all amounts in your Account that were deposited with Bank and those transferred to the Sub-Deposit Account from your Account.

**j. Information About Your Accounts.** Although there are two or more accounts associated with your funds (the Account and the Sub-Deposit Account), your Account is treated as a single account for our reporting deposits and withdrawals, as well as for balance requirement, service charge, and monthly statement (which will reflect the total balance in your Account and each Sub-Deposit Account, excluding any payments or amounts owed or belonging to us or any Program Bank). The funds you deposit with us in your Account (whether or not transferred to a Sub-Deposit Account) will be made available to you in accordance with this Agreement (and regardless of the performance of any of our loans or investments, subject to FDIC insurance limitations). The existence of the Sub-Deposit Account will not change the manner in which you use or obtain information about your Account. Transfers to and from your Sub-Deposit Account will not appear on your monthly statement. We are responsible for the accuracy of your Account statements, not the Program Banks.

You will receive, from time to time, periodic information which will reflect the balances of your Sub-Deposit Accounts at each Program Bank for the applicable period.

**iv. Your Relationship with Bank and the Program Banks.** We will act as your agent and custodian in establishing the Sub-Deposit Accounts at each Program Bank, depositing funds into the Sub-Deposit Accounts, withdrawing funds from the Sub-Deposit Accounts and



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transferring funds among the Sub-Deposit Accounts.

Sub-Deposit Account ownership will be evidenced by a book entry on the account records of each Program Bank (or by us on behalf of Program Bank) and by records maintained by us as your custodian. No evidence of ownership, such as a passbook or certificate will be issued to you. You may at any time obtain information about your Sub-Deposit Accounts by contacting Service Provider.

You agree that all transactions with respect to your Sub-Deposit Accounts must be directed by us and all information concerning your Sub-Deposit Accounts must be obtained from Bank through Service Provider. You agree that the Program Banks have no obligation to accept instructions from you with respect to your Sub-Deposit Accounts or to provide you with information concerning your Sub-Deposit Accounts.

If you decide to terminate your participation in the Program, your termination will result in a return of funds in accordance with law and closing of your Account and any Sub-Deposit Account opened specifically for you.

Each Sub-Deposit Account constitutes an obligation of a Program Bank and is not directly or indirectly our obligation. You can obtain publicly available financial information concerning each Program Bank at [www.ffiec.gov/nicpubweb/nicweb/nichome.aspx](http://www.ffiec.gov/nicpubweb/nicweb/nichome.aspx), by contacting the FDIC Public Information Center by mail at L. William Seidman Center, Virginia Square, 3501 North Fairfax Drive, Arlington, Virginia 22226, or by phone at 703-562-2200.

We do not guaranty in any way the financial condition of any Program Bank or the accuracy of any publicly available financial information concerning any Program Bank.

v. **Fees.** You understand and agree that each Program Bank will pay us a fee in connection with the Program. The fee may vary between banks. Even if Bank receives a fee from a Program Bank, you may not be entitled to interest on your Sub-Deposit Account. Other than applicable fees deducted by us, you will not be charged fees or commissions in connection with your participation in the Program.

In addition, other service providers may receive fees from each Program Bank or Bank and may receive a portion of the fee paid to us by the Program Banks.

vi. **Changes to the Program.** You agree that we may modify the terms and conditions of the Program, including changing, removing or adding Program Banks offered therein. All notices of material changes to the Program may be communicated by a posting on our website, letter, a separate electronic or written communication, a note on a periodic statement or other means.

vii. **Information about the FDIC.**

**Deposit Insurance: General.** Your Sub-Deposit Accounts are insured by the FDIC, an independent agency of the U.S. Government, up to \$250,000 for all deposits held in the same insurable capacity as recognized by the FDIC at any one bank. According to the FDIC, no depositor has ever lost a penny of FDIC-insured funds.

Your funds become eligible for FDIC insurance immediately upon placement into your Sub-Deposit Account at a Priority Bank. Generally, any accounts or deposits that you maintain directly with a particular bank, or through any other intermediary, in the same insurable capacity in which the accounts or deposits are maintained would be aggregated with the accounts or deposits for purposes of the \$250,000 Deposit Limit.

**You are responsible for monitoring the total amount of deposits that you hold with any one bank, directly or through an intermediary, in order to determine the extent of FDIC insurance coverage available to you on your deposits. We are not responsible for any insured or uninsured portion of any deposits.**

In the event a Priority Bank fails, your Sub-Deposit Accounts at that Priority Bank is insured, up to \$250,000, for amounts accrued to the day the Priority Bank is closed.

Under certain circumstances, if you become the owner of deposits at a Program Bank because another depositor dies, beginning six (6) months after the death of the depositor the FDIC will aggregate those deposits for purposes of the \$250,000 Deposit Limit with any other deposits that you own in the same insurable capacity at the bank. Examples of deposit accounts that may be subject to this FDIC policy include joint accounts,





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“payable on death” accounts and certain trust accounts. The FDIC provides the six-month “grace period” to permit you to restructure your deposits to obtain the maximum amount of deposit insurance for which you are eligible.

In the event that FDIC deposit insurance payments become necessary, payments of deposits will be made to us as your custodian. There is no specific time period during which the FDIC must make insurance payments available. We will not be obligated to you for amounts not covered by deposit insurance nor will we be obligated to make any payments to you in satisfaction of a loss you might incur as a result of a delay in insurance payouts. We will not be obligated to credit your account with funds in advance of payments received from the FDIC.

Furthermore, you may be required to provide certain documentation to the FDIC before insurance payments are made. For example, if you hold deposits as trustee for the benefit of trust participants, you may be required to furnish affidavits and provide indemnities regarding an insurance payment.

If your balance in your Sub-Deposit Accounts are assumed by another depository institution pursuant to a merger or consolidation, such deposits will continue to be insured separately, up to the FDIC insurance coverage limits and subject to the terms hereunder, from the deposits that you might have established with the acquiring institution until (i) the maturity date of any time deposits (including certificates of deposit) that were assumed, or (ii) with respect to deposits that are not time deposits, the expiration of a six (6) month period from the date of acquisition. Thereafter, any assumed deposits will be aggregated with your existing deposits with the acquiring institution held in the same capacity for purposes of FDIC insurance coverage. Any deposit opened at the acquiring institution after the acquisition will be aggregated with deposits established with the acquiring institution for purposes of FDIC insurance coverage.

If you have questions about basic FDIC insurance coverage, please contact us. You may wish to seek advice from your own attorney concerning FDIC insurance coverage of deposits held in more than one insurable capacity. You may also obtain information by contacting the FDIC, Deposit Insurance Outreach, Division of Depositor and Consumer Protection, by letter (550 17<sup>th</sup> Street, N.W., Washington, D.C. 20429), by phone (877-275-3342 or 800-925-4618 (TDD)), by visiting the FDIC website at: <https://www.fdic.gov/deposit/index.html>, or by email using the FDIC’s Online Customer Assistance Form available on its website.

viii. **Termination.** Your participation in the Program may be terminated without penalty at any time at the option of either you or us. You may also opt-out of the Program at any time. Following opt-out or termination of your participation in the Program, we may, if applicable, transfer your funds in the Sub-Deposit Accounts at Program Banks to your Account or, at our sole discretion, terminate your Account and return your funds in accordance with applicable laws and regulations.

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

**H. Prohibitions.** The Account and Card are/is only available for personal, family or household purposes and not for business purposes. You are not entitled to open an Account or receive or access the Card under this Agreement if you are a corporation, unincorporated business association, partnership, limited liability company, incorporated nonprofit organization, sole proprietorship or any other entity. We reserve the right to close your Account and/or Card if we determine that it is used for any impermissible purpose, as we may determine from time to time. You may not use your Account or Card for illegal gambling or any other illegal transaction or purpose. This prohibition includes any transaction that is illegal in the jurisdiction where you live, in the jurisdiction where the transaction is consummated, or in any other jurisdiction affected by the transaction. You are responsible for determining the legality of each of your transactions in all applicable jurisdictions before entering into the transaction. We have no obligation to monitor, review or evaluate the legality of any transaction. Nevertheless, we may deny transactions or authorizations if we believe the transaction is or may be illegal. We reserve the right to refuse or return any item that we believe is related to an illegal transaction, an Internet or online gambling transaction or a high-risk transaction. To the fullest extent permitted by law, you agree to pay for any transaction that you authorized, even if the transaction is determined to be illegal or associated with an illegal activity. We reserve the right to cancel, close or restrict use of the Card and Account, including by refusing the processing of any transaction, if we believe you have violated this Agreement or any applicable law.

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



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

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

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

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

We reserve the right to monitor all Account activity for inappropriate use. We may also suspend or close your Account or suspend or terminate your Card at our discretion and for any reason with or without notice. This includes if we believe you are using your Account or Card for fraudulent or illegal purposes or in violation of law or regulation, this Agreement, any other agreement you may have with us or Service Provider, or if you otherwise present undue risk to us or Service Provider. We are not responsible to you for any damages you may suffer as a result of the closure or suspension of your Account. Once we have closed your Account, you agree that we can assess any service charge otherwise applicable against any remaining balance in your Account. We are not responsible to you for any damages you may suffer as a result of your Account being closed. If you attempt to make a deposit to an Account we closed, we may collect the deposit and set-off your indebtedness to us. The closure of



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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). If we close your Account, all collected funds (less any amounts due to us or for debits in process) will be transferred to your Linked Account. Alternatively, we may, at our discretion, mail you a check for the available balance in your Account. Written notice that the Account has been closed, to the extent required by law, and a check, if any, will be sent to any email address, in the case of notice, and address, in the case of a check delivery, shown on our records for you or the email address we have on file for the Account. We reserve the right not to return funds to you if your account balance is less than \$1.00.

#### **N. Dormancy and Unclaimed Property.**

State laws (called “escheat” or unclaimed property laws) require us to close your Account and transfer your money to the state if your Account is dormant for a period of time as defined by your state of residence. State and federal law and our policy govern when your Account is considered dormant. Your Account is usually considered dormant if you have not accessed your Account, communicated to us about your Account or otherwise shown an interest in your Account within the period of time specified under applicable law. Each state has varying laws as to when an account is subject to escheatment and we may be required to send the balance in your Account to the state of your last known address or, if not in the U.S., the state in which we reside. We will make all reasonable efforts to contact you if required by applicable law before transferring the remaining balance of your Account to the applicable state. After we surrender the funds to the state, we have no further liability to you for those funds and you must apply to the appropriate state agency to reclaim your funds. You can avoid the transfer of your money to the state simply by signing into your Account, transacting periodically, or contacting us, or replying to any abandoned property correspondence. If your Account becomes dormant, you may no longer receive statements, but you can still view your accounts online.

#### **VI. ARBITRATION AND WAIVERS.**

**THIS ARBITRATION PROVISION WILL HAVE A SUBSTANTIAL IMPACT ON HOW LEGAL DISPUTES BETWEEN YOU AND US ARE RESOLVED. PLEASE READ THIS SECTION VI (ARBITRATION AND WAIVERS) CAREFULLY.** For a dispute subject to arbitration, neither you nor we will have the right to: (A) have a court or a jury decide the dispute; (B) engage in information-gathering (discovery) to the same extent as in court; (C) participate in a class action in court or in class arbitration; or (D) join or consolidate a claim with claims of any other persons. Arbitration procedures are simpler and more limited than rules applicable in court.

**A. Definitions.** If you have a dispute with us or our Service Provider, and we are not able to resolve the dispute informally, you and we agree that upon demand by either you or us, the dispute will be resolved through the arbitration process as set forth in this section. A “claim” or “dispute,” as used in this Section VI (Arbitration and Waivers), is any unresolved disagreement between you, us and/or our Service Provider, arising from or relating in any way to the Account, Card or this Agreement. The terms “claim” and “dispute” are to be given the broadest possible meaning that will be enforced and includes, by way of example and without limitation, any disagreement relating in any way to your Account or Card, or the any additional account, joint accountholder, additional Cards or cardholders; services offered in connection with an Account, Card or any other services offered pursuant to this Agreement; to your use of any of our banking products or services; to any means you may use to access your Account(s); to any advertisements, promotions or oral or written statements related to the Account or Card; to the benefits and services related to an Account or Card; or your approval, establishment or enrollment for an Account or Card. Claims also include disagreements about the meaning, application or enforceability of this arbitration agreement. As solely used in this Section VI (Arbitration and Waivers), “we” or “us” shall include the Bank, its affiliates and their successors, employees, directors, officers and agents. In addition, “we” or “us” shall include Service Provider, any third party, their respective subsidiaries, affiliates, licensees, predecessors, successors, and assigns using or providing any product, service or benefit in connection with this Agreement or any Account or Card if, and only if, such third party is named as a co-party with us (or files a claim with or against us) in connection with a claim asserted by you. The terms “you” or “yours” shall mean each Account owner or cardholder and all persons or entities approved to have, approved to use and/or given access to an Account or Card, including but not limited to all persons or entities contractually obligated under this Agreement and all joint accountholder and any additional cardholders. The term “Account,” for purposes of arbitration, includes any updated or substitute account for you related to the Account or any other account contemplated by this Agreement.

**B. Binding Arbitration and Appeals.** If either party elects arbitration, that claim shall be arbitrated on an individual basis. Arbitration applies whenever there is a claim between you and us. The arbitrator’s authority to resolve claims or make awards is limited to claims between you and us alone. If a third party is also involved in a claim between you and us, then the claim will be decided with respect to the third party in arbitration as well, and it must be named as a party in accordance with the rules of procedure governing the arbitration. No award or relief will be granted by the arbitrator except on behalf of, or against, a named party. Furthermore, claims brought by you against us or by us against you may not be joined or consolidated with claims brought by or against someone other than you, unless otherwise agreed to in writing by all parties. Claims are subject to arbitration, regardless of on what theory they are based, whether they seek legal or equitable remedies, or whether they are common law or



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statutory (Federal or state) claims. Arbitration applies to any and all such claims or disputes, whether they arose in the past, may currently exist, or may arise in the future.

Judgment upon the arbitrator's award may be entered by any court having jurisdiction. The arbitrator's decision is final and binding, except for any right of appeal provided by the Federal Arbitration Act (Title 9 of the United States Code) ("FAA"). However, if the amount of the claim exceeds \$25,000 or involves a request for injunctive or declaratory relief that could foreseeably involve a cost or benefit to either party exceeding \$25,000, any party can, within thirty (30) days after the entry of the award by the arbitrator, appeal the award to a three-arbitrator panel administered by the forum. The panel shall reconsider anew all factual and legal issues, following the same rules of procedure and decide by majority vote. Reference in this Section VI (Arbitration and Waivers) to "the arbitrator" shall mean the panel if an appeal of the arbitrator's decision has been taken.

**C. Initiation of Arbitration.** Any claim must be resolved, upon the election by you or us, by arbitration pursuant to this Section VI (Arbitration and Waivers) and the code of procedures of the national arbitration organization to which the claim is referred in effect at the time the claim is filed. Claims shall be referred to either Judicial Arbitration and Mediation Services ("JAMS") or the American Arbitration Association ("AAA"), as selected by the party electing to use arbitration. For a copy of the procedures, to file a claim or for other information about these organizations, contact them as follows: (i) JAMS at 1920 Main Street, Suite 300, Los Angeles, CA 92614; website at [www.jamsadr.com](http://www.jamsadr.com); and (ii) AAA at 335 Madison Avenue, New York, NY 10017; website at [www.adr.org](http://www.adr.org).

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

If you initiate the arbitration, you must notify us in writing at B9 Inc., 777 Brickell Avenue, Suite 500, Miami, FL 33131. If we initiate the arbitration, we will notify you in writing at your last known address in our file.

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

**E. Location of Arbitration and Cost.** Any arbitration shall take place in Memphis, Tennessee, unless the parties agree to a different location in writing. The party initiating the arbitration (or appeal of the first arbitration award) shall pay the initial filing fee. If you file the arbitration and an award is rendered in your favor, we will reimburse you for your filing fee. All fees and costs will be allocated in accordance with the rules of the arbitration forum. Each party shall bear the expense of their respective attorneys, experts, and witnesses and other expenses, regardless of who prevails, but the arbitrator will have the authority to award attorneys and expert witness fees and costs to the extent permitted by this Agreement, the forum's rules, or applicable law.

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



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in any court having jurisdiction. The arbitrator's decision will be final and binding, except for any right of appeal provided by the FAA. However, any party can appeal that award to a three-arbitrator panel administered by the same arbitration organization, as set forth in Section VI (B) (Arbitration and Waivers).

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

**H. Continuation and Severability.** This Section VI (Arbitration and Waivers) shall survive termination of your Account, Card, any voluntary payment of any debt owed to us and paid in full by you, any legal proceeding by us to collect a debt owed by you, and/or any bankruptcy by you or us. If any portion of this Section VI (Arbitration and Waivers) of this Arbitration Section is deemed invalid or unenforceable under any principle or provision of law or equity, consistent with the FAA, it shall not invalidate the remaining portions of this Section VI (Arbitration and Waivers), this Agreement or any prior agreement you may have had with us, each of which shall be enforceable regardless of such invalidity.

#### **VII. MISCELLANEOUS TERMS.**

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

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

i. All Accounts are opened at the Tennessee branch office of the Bank. All actions relating to your Account, including this Agreement and issuance of a Card, will be governed by the laws and regulations of the United States and the State of Tennessee (to the extent that laws of the State of Tennessee are not preempted by Federal law). Federal and the laws of the State of Tennessee shall be applied without giving effect to principles of conflicts of law.

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

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

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

**D. Changes in Terms.** The terms and conditions of this Agreement, including any fees, and features of your Account or Card may be amended or revised at any time by posting a revised version <https://bnine.com/wp-content/uploads/docs/ext/customer-account-and-cardholder-agreement.pdf> and any such revisions or changes shall be effective upon posting. We will give you advance notice if we are required by applicable law. We may provide such notice to you with your statement, electronically, or by mail. Any notice we provide to you will be binding and sent to the last (postal or electronic) address in our records. We may change your address if we receive an address change notice from the U.S. Postal Service. We may change or terminate this Agreement without notice at our discretion or to comply with any appropriate federal or state law or regulation. Subject to the terms of this Agreement, you may determine to cease use of or close your Account or Card if you do not agree with any change or revision to



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this Agreement prior to the effective date of such revision. Any continued use of your Account or Card is presumed your acceptance of and agreement to be bound by revisions to this Agreement.

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

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

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

The Bank may transfer or assign its rights under this Agreement, including transferring or assigning your Account without your consent and without notice, unless required by applicable law.

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

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

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

We periodically collect and use technical data and related information (for example, we may collect technical information about any device used by you in connection with the services and products provided to you under this Agreement and do so to facilitate the updates to our services).

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

**J. Severability.** In the event that any court or tribunal of competent jurisdiction determines that any provision of this Agreement is illegal, invalid, or unenforceable, the remainder of this Agreement shall not be affected thereby. To the extent permitted by applicable law, the parties hereto



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waive any provision of law which prohibits or renders unenforceable any provision hereof, and to the extent that such waiver is not permitted by applicable law, the parties intend that such provision be interpreted as modified to the minimum extent necessary to render such provision enforceable.

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

i. **Limitation of Liability.** EXCEPT AS REQUIRED BY LAW, WE ARE NOT LIABLE FOR ANY CLAIMS, COSTS, LOSSES, OR DAMAGES RESULTING DIRECTLY OR INDIRECTLY FROM OUR FAILURE TO ACT, OR ANY DELAY BEYOND TIME LIMITS PRESCRIBED BY LAW OR PERMITTED BY THIS AGREEMENT IF SUCH FAILURE OR DELAY IS CAUSED BY MAINTENANCE OR INTERRUPTION OR MALFUNCTION OF EQUIPMENT OR COMMUNICATION FACILITIES, UNUSUAL TRANSACTION VOLUME, SUSPENSION OF PAYMENTS BY ANOTHER FINANCIAL INSTITUTION, FIRE, NATURAL DISASTERS, ELEMENTS OF NATURE, GOVERNMENT ACTION, ACTS OF WAR, TERRORISM OR CIVIL STRIFE, EMERGENCY CONDITIONS, OR OTHER CIRCUMSTANCES BEYOND THE REASONABLE CONTROL OF BANK. EXCEPT AS REQUIRED BY LAW, OUR LIABILITY TO YOU FOR A CLAIM IS LIMITED TO THE FACE VALUE OF THE ITEM OR TRANSACTION, OR THE ACTUAL VALUE OF ANY FUNDS NOT PROPERLY CREDITED OR DEBITED. IN NO EVENT WILL WE BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE DAMAGES OR DAMAGES OF ANY KIND EVEN IF YOU ADVISE US OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT AS REQUIRED BY LAW AND NOTWITHSTANDING ANYTHING TO THE CONTRARY, WE SHALL ONLY BE RESPONSIBLE AND LIABLE FOR OUR OWN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT IN PERFORMING OUR OBLIGATIONS UNDER THIS AGREEMENT. WE SHALL NOT BE LIABLE TO ANY THIRD PARTY OR FOR ANY ACT OR OMISSION OF YOURS OR ANY THIRD PARTY, INCLUDING, BUT NOT LIMITED TO, THIRD PARTIES USED BY US IN EXECUTING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT OR PERFORMING A RELATED ACT AND NO SUCH THIRD PARTY SHALL BE DEEMED TO BE OUR AGENT. ALL BANK SERVICES AND ACCOUNT OR CARD FEATURES ARE PROVIDED “AS IS” AND “AS AVAILABLE” WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE. WE DO NOT WARRANT THE BANK’S SERVICES OR ACCOUNT OR CARD FEATURES WILL MEET YOUR REQUIREMENTS, BE CONTINUOUS, UNINTERRUPTED, SECURE, TIMELY, OR ERROR-FREE, OR THAT DEFECTS WILL BE CORRECTED. IN ADDITION, EXCEPT AS REQUIRED BY LAW, WE ARE NOT LIABLE OR RESPONSIBLE FOR ANY SERVICES OR FEATURES OF THE SERVICE PROVIDER PLATFORM OR SERVICES ANY OTHER PRODUCTS PROVIDED TO YOU BY SERVICE PROVIDER. WE ARE ALSO NOT LIABLE FOR ANY UNAUTHORIZED ACCESS OF YOUR INFORMATION OR DATA BY A THIRD PARTY DUE TO YOUR USE OF THIRD-PARTY COMMUNICATION CHANNELS NOT OFFERED BY US. TO THE FULLEST EXTENT PERMITTED BY LAW, WE DISCLAIM ALL WARRANTIES, EITHER EXPRESS OR IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND LACK OF VIRUSES RELATED TO THE SERVICES AND/OR PRODUCTS OF SERVICE PROVIDER AND/OR THE SERVICE PROVIDER PLATFORM.

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

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

ii. **Indemnification.** To the greatest extent permitted by law, you agree to indemnify and hold us and our officers, directors, shareholders, employees, successors, predecessors, representatives, principals, agents, assigns, parents, subsidiaries and/or insurers harmless from any losses, damages, suits and expenses, including reasonable attorneys’ fees, that we may incur, without regard to the merit or lack thereof, arising out of, or related in any way to: (i) taking any action or not taking any action that we are entitled to take pursuant to this Agreement; (ii) any action or omission by you; (iii) the matters set forth herein; or (iv) our action or inaction in reliance upon oral, written or electronic instructions or information from you.



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iii. Reimbursement for Losses. If we take any action to collect debt incurred by you or other amounts you owe us under this Agreement or defend ourselves in a lawsuit brought by you where we are the prevailing party, you agree to reimburse us for our losses, including, without limitation, reasonable attorneys' fees, to the extent permitted by applicable law. We may charge your Account for our losses without prior notice to you. This section does not, in any case, reduce our liability to you as described in Section IX (Electronic Fund Transfers Disclosure).

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

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

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

#### **O. Electronic Communications and Electronic Signatures; Electronic Storage of Data and Records.**

i. Electronic Communications. When you applied you agreed and each time you use your Account, Card or any other service or product that we provide to you under this Agreement you agree, to the terms and conditions of our Electronic Communications Consent Agreement accessible at <https://bnine.com>.

ii. Electronic Signatures. You understand, acknowledge and agree that we may use your electronic signature in lieu of or in addition to your handwritten signature and that your electronic signature will have the same legal and binding effect as your handwritten signature.

iii. Electronic Storage of Data and Records. You agree and consent that we may record or otherwise document and store information electronically transmitted, entered or received by us or through any mobile application or website provided to you to access and/or use your Account or Card for our record-keeping purposes. You further acknowledge and agree that such records, documents and other stored information shall be presumed to be accurate representation of your requests, communications and instructions to us.

**P. Calls and Messages.** You agree that we or our agents or service providers may contact you regarding any matter for any non- telemarketing reason using any kind of telecommunications technology at any email and telephone number you provide to us, including the phone number for your mobile device. You agree to receive these calls and messages, including pre-recorded or auto-dialed calls. You also agree that we may send text messages to any phone number for your mobile device you provide to us. You understand and accept that your service provider may charge you for these calls and messages consistent with applicable law. For quality control purposes and for other reasons, you permit us to record and monitor your telephone conversations and electronic communications with us (including email). Unless the law requires otherwise, you consent in advance to such recording and monitoring and we do not need to remind you of these activities at the time of the call or communication. To revoke the consent provided pursuant to this subsection, you must send ten (10) days' prior written notice of such revocation to B9 Inc., 777 Brickell Avenue, Suite 500, Miami, FL 33131.

**Q. Survival.** Termination of this Agreement shall not impact any right or obligation arising prior to termination, and in any event, the parties agree that any right or obligation which, by its nature, should survive termination of this Agreement will survive any such termination (including,





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but not limited to Sections VI (Arbitration and Waivers) and V (Miscellaneous Terms) of this Agreement.

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

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

#### **IX. ELECTRONIC FUND TRANSFERS DISCLOSURE.**

Your Account and Card allow 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. This Section IX (Electronic Fund Transfers Disclosure) provides you with information and important disclosures and terms about the EFTs that are permitted on your Account or in connection with your Card. You may also receive additional services from Service Provider through the Service Provider Platform 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 from Service Provider.

##### **A. Supported EFTs.** The EFTs that we may support are listed below:

- i. Direct deposits of federal government payroll, disability, veteran's benefits, Social Security, and other federal government payments that you may receive and that may be deposited to your Account and of your paycheck to your Account, provided that your employer offers direct deposit and you complete any forms required by your employer.
- ii. Any deposit or withdrawal to your Account that is handled electronically as an ACH Transfer.
- iii. Card transactions at ATMs to withdraw cash, transfer funds and find out balances; however, it is suggested to check your Account balance on the B9 mobile app for a more accurate balance.
- iv. Card transactions at participating merchants to purchase goods and services. Some merchants may also allow you to withdraw cash from your Account while making a purchase.
- v. Online fund transfers using your Card or the Account routing and account number, if available.

We do not charge for EFTs, but we may add charges at any time by providing you with prior notice if required by law. Transfer limitations under Section B, include limits on ATM withdrawals, cash advances and PIN or signature-based purchases. ACH Transfers to external accounts are also subject to limits on the dollar amount of electronic transfers between your Account and external accounts at other financial institutions, including Linked Accounts. When you use an ATM not owned by us, you may be charged a fee by the ATM operator or any network used (and you may be charged a fee for a balance inquiry even if you do not complete a fund transfer).

**B. Transfer Limitations.** All EFTs are subject to limits. The transfer limit depends on the EFT type. The frequency and dollar amount of Account and/or Card transactions or transfers may be limited based on fraud risk and security of the Account and/or Card. All limits described here are designed to be flexible in order to protect the security and integrity of the service and accounts, including the Account and/or Card, as well as you and all other users of the service. These limitations may be based on confidential fraud and risk criteria that are essential to our management of risk and the protection of you and the integrity of the service and all Accounts and may be modified at our sole discretion without advance notice. For a description of certain limits, please see Section IX (B) (Transfer Limitations) and Exhibit 2 (Transaction Limits), which is incorporated herein by reference. These limits are examples and subject to change based on fraud risk and security of the Account and/or Card.

**C. Preauthorized Credits.** If you have arranged to have direct deposits made to your Account at least once every 60 days from the same person or company including your employer, you can contact us at [support@bnine.com](mailto:support@bnine.com) to find out whether or not the deposit has been made or you can check if the deposit has been made by reviewing your transaction history in the Service Provider Platform.



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Terminal Transfers. You can get a receipt at the time you make any transfer to or from your Account using one of our automated teller machines or point-of-sale terminals.

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

**E. Liability for Unauthorized Transfers.**

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

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

**F. Business Days.** For purposes of these disclosures, our business days are Monday through Friday. Federal holidays are not included.

**G. Confidentiality.** We will disclose information to third parties about your Account, Card, and the transfers you make: (1) where it is necessary for completing transfers or transactions; (2) in order to verify the existence and condition of your Account or Card for a third party, such as a credit bureau or merchant; (3) in order to comply with government agency or court orders; (4) if you give us your written permission; (5) to our and the Bank's employees, auditors, affiliates, service providers, or attorneys as need; (6) in order to collect Fees or funds you may owe us; (7) as otherwise provided by the Privacy Policy; and (8) to verify your identity and determine if we should open an Account for you or issue you a Card using services provided to us by third parties.

Please refer to Section V(I) (Privacy Policy) for more information about our commitment to you, your privacy rights and who we share data and information with. Services offered by Service Provider, including the Service Provider Platform, are also subject to Service Provider's privacy policy <https://bnine.com/privacy-policy>. Please carefully review Service Provider's privacy policy for more information about Service Provider's commitment to you, your privacy rights and who Service Provider shares data and information with.

**H. Preauthorized Payments.**

i. Right to stop payment and procedure for doing so. If you have told us in advance to make regular payments out of your account, you can stop any of these payments. Here's how: write to us at [support@bnine.com](mailto:support@bnine.com), in time for us to receive your request 3 business days or more before the payment is scheduled to be made. If you call, we may also require you to put your request in writing and get it to us within 14 days after you call. We may charge you for each stop-payment order you give, in accordance with our Fee Schedule.

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



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iii. Liability for failure to stop payment of preauthorized transfer. If you order us to stop one of these payments three (3) Business Days or more before the transfer is scheduled, and we do not do so, we will be liable for your losses or damages. To the extent permitted by law, our liability for losses or damages may be limited to actual damages that you have sustained if the failure to stop payment was due to a bona fide error.

**I. Error Resolution.** In Case of Errors or Questions About Your Electronic Transfers write us at B9 Inc., 777 Brickell Avenue, Suite 500, Miami, FL 33131; or email us at [support@bnine.com](mailto:support@bnine.com) as soon as you can, if you think your statement or receipt is wrong or if you need more information about a transfer listed on the statement or receipt. We must hear from you no later than sixty (60) days after we sent the FIRST statement on which the problem or error appeared.

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

If you tell us orally, we may require that you send us your complaint or question in writing within ten (10) business days. We will determine whether an error occurred within ten (10) business days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to forty-five (45) days to investigate your complaint or question. If we decide to do this, we will credit your 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 errors involving new Accounts, point-of-sale, or foreign-initiated transactions, we may take up to ninety (90) days to investigate your complaint or question. For new Accounts, we may take up to twenty (20) business days to credit your Account for the amount you think is in error.

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

#### **X. DEPOSIT AVAILABILITY DISCLOSURE.**

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

**A. Delays.** We may delay the availability of funds from certain types of deposits to your Account. There are exceptions that may apply in certain circumstances (e.g., if you have overdrawn your Account repeatedly in the last six (6) months or there is an emergency). During the delay, you may not withdraw funds and may not use the funds. We will notify you if we delay the availability of your funds if required by law, and we will tell you when you can expect your funds to be available if required by law.

**B. Deposits.** Any transaction that you conduct on Saturday, Sunday, a federal holiday, or other days on which we are closed will be handled the following business day. If we receive a deposit before 6:00 PM PT on a Business Day, we will consider that business day to be the day of your deposit. However, if we receive a deposit after 6:00 PM PT or on a non-Business Day, we will consider the deposit as having been made the next business day. Deposits may only be made by EFT, which includes direct deposits and ATM Transfers.

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



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#### Exhibit 1 FEE SCHEDULE

Transaction Type	Amount
Physical Card Delivery	No
Regular ACH transaction (up to 3 days)	No Fee
ACH transfer to account	No Fee
Account statement	No Fee
Card Based transfer to account (instant) – “pull from card” (% of the amount and a fixed fee)	1% of transaction amount with a minimum of \$1
Card Based transfer from account (instant)	3% of transaction amount with a minimum of \$2.50 and a maximum cap of \$40.00
Add Money from Card to External wallet (CashApp, Venmo, Coinbase Wallet, Apple Cash etc.)	3% of transaction amount with a minimum of \$2.50 and a maximum cap of \$40.00
Wire Transfer Fee	\$10.00
Minimum balance	\$0.00
Same day ACH transaction	\$1.50
ATM Fee (domestic) in network	\$3.00
ATM Fee (international)	\$5.00
Foreign transaction fee	3%
Stop payment request	\$30.00
Premium Support Fee (Optional)	\$3.00

Fees charged by B9, Inc. are subject to change at any time without notice to you, unless required by law.



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### Exhibit 2

### TRANSACTION LIMITS

Transaction Type	Frequency/ Limits
Card Transactions	Total Debit Card purchases (including cash back amounts), whether using your PIN or not, are limited to \$2,500 per day; \$5,000 per week and \$10,000 per month.
Virtual transactions	<p>The use of a computer generated number used to settle a specific vendor payment transaction issued for a specific dollar amount. The daily limit for virtual transactions is \$1,500.</p> <p>Virtual transaction limits are separate from POS transaction limits</p>
Point of Sale (“POS”) transactions	<p>The location where a customer executes the payment for goods or services and where sales taxes may become payable. The daily limit for POS transactions with the physical card is \$2,500.</p> <p>POS transaction limits are separate from virtual transaction limits</p>
ATM Transactions	<p>ATM withdrawals using your physical Debit Card are limited to the following:</p> <ul style="list-style-type: none"> <li>• \$500 per transaction</li> <li>• \$1,000 or 6 ATM withdrawals per day</li> <li>• \$5,000 per week</li> <li>• \$10,000 or 30 ATM withdrawals per month</li> </ul>
<p><b>Add Money from Another Card</b> (transfers to your B9 Account):</p>	<p>New clients (0 - 5 days from account opening):</p> <ul style="list-style-type: none"> <li>• \$100 or 3 transfer per week</li> </ul> <p>Existing clients (6 - 30 days from account opening):</p> <ul style="list-style-type: none"> <li>• \$400 or 4 transfers per week</li> <li>• \$500 or 8 transfers per month</li> </ul> <p>Existing clients (31 - 60 days from account opening):</p> <ul style="list-style-type: none"> <li>• \$600 or 4 transfers per week</li> <li>• \$2,400 or 8 transfer per month</li> </ul> <p>Existing clients (61 - 90 days from account opening):</p> <ul style="list-style-type: none"> <li>• \$1,000 or 6 transfers per week</li> <li>• \$4,000 or 8 transfer per month</li> </ul> <p>Existing clients (over 90 days from account opening):</p> <ul style="list-style-type: none"> <li>• \$1,000 or 4 times per day</li> <li>• \$3,000 or 10 times per week</li> <li>• \$4,000 or 12 times per month</li> </ul>

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Account Maximum Value (that may be maintained in your Account)	\$10,000.00	
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