

<b>INTEREST RATE AND INTEREST CHARGES</b>	
<b>Annual Percentage Rate (APR) for Purchases</b>	<b>18.74%</b> Standard APR based on your credit worthiness. This APR will vary with the market based on the Prime Rate.
<b>APR for Balance Transfers</b>	<b>18.74%</b> Standard APR based on your credit worthiness. This APR will vary with the market based on the Prime Rate. <b>2.90%</b> Introductory rate for 6 months from the date your account is opened.
<b>APR for Cash Advances</b>	<b>21.74%</b> Standard APR based on your credit worthiness. This APR will vary with the market based on the Prime Rate.
<b>Paying Interest</b>	Your due date is at least 25 days after the close of each billing cycle. We will not charge you interest on purchases and balance transfers if you pay your entire balance by the due date each month. We will begin charging interest on cash advances on the transaction date.
<b>Minimum Interest Charge</b>	If you are charged periodic interest, the charge will be no less than \$1.
<b>For Credit Card Tips from the Consumer Financial Protection Bureau</b>	<b>To learn more about factors to consider when applying for or using a credit card, visit the website of the Consumer Financial Protection Bureau at <a href="https://www.consumerfinance.gov/learnmore">https://www.consumerfinance.gov/learnmore</a></b>
<b>FEES</b>	
<b>Annual Fees</b>	Up to \$95
<b>Transaction Fees</b>	
• <b>Balance Transfer</b>	Either \$5 or 3% of the amount of each balance transfer, whichever is greater
• <b>Cash Advance</b>	Either \$5 or 3% of the amount of each cash advance, whichever is greater
• <b>Foreign Transaction Fees</b>	Up to 1% of each foreign transaction in U.S. dollars
<b>Penalty Fees</b>	
• <b>Late Payment</b>	Up to \$35
• <b>Over-the-Limit</b>	\$0
• <b>Returned Payment</b>	Up to \$25

**How We Will Calculate Your Balance:** For Purchases and Balance Transfers we use the "average daily balance," EXCLUDING new transactions (Method E) as described on the monthly Account billing statement. For Cash Advances we use the "average daily balance," INCLUDING new transactions (Method A) as described on the monthly Account billing statement. See your Cardholder Agreement for further details.

**Billing Rights:** Information on your rights to dispute transactions and how to exercise those rights is provided in your Billing Rights and Cardholder Agreement.

**OTHER FEES:**

Same Day Payment: Up to \$10

Express Order Fee: Up to \$35

Research Fee: Up to \$15/hour plus \$.25/copy

Replacement Card Fee: Up to \$5 for each lost or damaged card

**Inactive Accounts:** We reserve the right to close inactive accounts after 12 months of inactivity. Please refer to the Cardholder Agreement for additional details.

**How We Will Calculate Your Variable APRs:** We calculate variable APRs by adding a margin to the highest U.S. Prime Rate published in the Money Rates section of The Wall Street Journal two business days (not weekends or federal holidays) before the first calendar day of the month prior to the closing date shown on your billing statement. The APR may increase or decrease each month if the Prime Rate changes. Any new rate will be applied as of the first day of your billing cycle during which the Prime Rate has changed. If the APR increases, you will pay a higher interest charge and may pay a higher minimum payment. The Prime Rate is simply a reference index and is not the lowest interest rate available. If The Wall Street Journal stops publishing the Prime Rate, we will select a similar reference rate.

**Prime Rate:** Variable APRs are based on the 8.50% Prime Rate as of September 1, 2023.

**Purchase APR:** For Purchase transactions, we add a Margin of 10.24% to the Prime Rate of 8.50%. The monthly periodic rate of FINANCE CHARGES is 1/12th of APR or 1.56%.

**Balance Transfer APR:** For Balance Transfer transactions, we add a Margin of 10.24% to the Prime Rate of 8.50%. The monthly periodic rate of FINANCE CHARGES is 1/12th of the APR or 0.24% per month for 6 months, after that 1.56%.

**Cash APR:** For Cash Advance transactions, we add a Margin of 13.24% to the Prime Rate of 8.50%. The daily periodic rate of FINANCE CHARGES is 1/365th of APR or 0.06%.

**Military Lending APR:** Effective October 1, 2017, Federal law provides important protections to members of the Armed Forces and their dependents relating to extensions of consumer credit. In general, the cost of consumer credit to a member of the Armed Forces and his or her dependent may not exceed an annual percentage rate of 36 percent. This rate must include, as applicable to the credit transaction or account: The costs associated with credit insurance premiums; fees for ancillary products sold in connection with the credit transaction; any application fee charged (other than certain application fees for specified credit transactions or accounts); and any participation fee charged (other than certain participation fees for a credit card account). MEMBER FDIC (Last Revised March 1, 2024 BLC11)

## First International Bank & Trust - Billing Rights & Cardholder/Account Agreement

### YOUR BILLING RIGHTS: KEEP THIS DOCUMENT FOR FUTURE USE

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

#### What To Do If You Find A Mistake on Your Statement

If you think there is an error on your statement, write to us at:

Customer Service

PO Box 30495

Tampa, FL 33630

In your letter, give us the following information:

1. Account Information: Your name and account number.
2. Dollar amount: The dollar amount of the suspected error.
3. Description of the problem: If you think there is an error on your bill, describe what you believe is wrong and why you believe it is a mistake.

#### You must contact us:

A. Within 60 days after the error appeared on your statement.

B. At least 3 business days before an automated payment is scheduled, if you want to stop payment on the amount you think is wrong.

You must notify us of any potential errors in writing. You may call us, but if you do we are not required to investigate any potential errors until you provide written notice, and you may have to pay the amount in question.

#### What Will Happen After We Receive your Letter:

When we receive your letter, we must do two things:

1. Within 30 days of receiving your letter, we must tell you that we received your letter. We will also tell you if we have already corrected the error.
2. Within 90 days of receiving your letter, we must either correct the error or explain to you why we believe the bill is correct.

While we investigate whether or not there has been an error:

-We cannot try to collect the amount in question or report you as delinquent on that amount.

-The charge in question may remain on your statement, and we may continue to charge you interest on that amount.

-While you do not have to pay the amount in question, you are responsible for the remainder of your balance.

-We can apply any unpaid amount against your credit limit.

After we finish our investigation, one of two things will happen:

**1. If we made a mistake:** You will not have to pay the amount in question, or any interest or other fees related to that amount.

**2. If we do not believe we made a mistake:** You will have to pay the amount in question, along with the applicable interest and fees. We will send you a statement of the amount you owe, and the date payment is due. We may then report you as delinquent if you do not pay the amount, we think you owe.

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

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

#### YOUR RIGHTS IF YOU ARE DISSATISFIED WITH YOUR CREDIT CARD PURCHASES

If you are dissatisfied with the goods or services that you have purchased with your credit card, and you have tried in good faith to correct the problem with the merchant, you may have the right not to pay the remaining amount due on the purchase. To exercise this right, all of the following must be true:

1. The purchase must have been made in your home state or within 100 miles of your current mailing address, and the purchase price must have been more than \$50. (Note: Neither of these are necessary if your purchase was based on an advertisement we mailed to you, or if we own the company that sold you the goods or services.)

2. You must have used your credit card for the purchase. Purchases made with cash advances from an ATM using your credit card do not qualify.

3. You must not yet have fully paid for the purchase.

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

Customer Service

PO Box 30495

Tampa, FL 33630

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

### CARDHOLDER/ACCOUNT AGREEMENT

1. The terms of this agreement govern the possession and use of credit cards ("card") issued by First International Bank & Trust ("Issuer"). Each person who applies for a credit card and in whose name the card is issued ("Holder"), consents and agrees to these terms and to the terms contained on the credit cards, sales drafts, credit adjustment memos and cash advance drafts, signed by or given to Holder or any authorized user of Holder's cards. Holder will be issued an Issuer assigned account number ("Account"). When credit cards are issued upon the application of two or more persons, all such persons shall be jointly and severally liable as Holders. The provisions of these terms, as amended from time to time, govern Holder's obligations, notwithstanding any additional or different terms contained in sales drafts, credit adjustment memos, cash advance drafts or other forms signed by or given to Holder or any user of Holder's cards to evidence a credit card transaction. Holder authorizes an investigation of Holder's credit standing prior to the issuance of a credit card to Holder and at any time thereafter and authorizes disclosure of information to third parties relating to Holder's credit standing. If you believe we inaccurately reported credit history information about you or your Account to a Credit Bureau, write to Customer Service, PO Box 30495, Tampa, FL 33630 describing the nature of the information whose accuracy if being disputed. These terms apply to all credit cards issued to Holder or to others on Holder's authorization and to any user of Holder's cards.

2. As a participant in the consumer reporting system, we furnish information about our experience with you to consumer reporting agencies. These consumer reports allow us to make credit and other opportunities available to you. If you believe that we have furnished information to a consumer reporting agency that is inaccurate, please notify us at the following address and identify the specific information that is inaccurate. First International Bank & Trust, PO Box 30495 Tampa, FL 33630.

3. Annual Fee. As a condition of participation in the Issuer's credit plan and the issuance of a card, Holder agrees to pay the annual fee. Your payment in advance of an annual fee INTEREST CHARGE which will compensate us for maintaining and servicing the Account for the following year. This fee will be charged to the purchase balance of your Account, if applicable to the card issued to Holder. Please see Interest Rate and Interest Charges Disclosure for fees charged.

4. Uses of Card and/or Account. Credit for purchases from a merchant or cash advances from a participating financial institution may be obtained by Holder or an authorized user of Holder's card by presenting one of Holder's cards to the merchant or participating financial institution and, if requested, by providing the proper identifying information and signing the appropriate drafts. Failure to sign a draft does not relieve the Holder of liability for purchases made or cash received on the Account. The use of this card for illegal transactions is prohibited. The card may also be used to obtain cash advances from compatible ATM terminals provided it is used with Holder's correct Personal Identification Number ("PIN") issued to Holder. Holder may make only two cash advance withdrawals totaling not more than \$510 each day. Terminals or terminal operators may have other limits on the amounts or frequency of cash withdrawals.

5. Credit Line. Holder will from time to time be informed of the amount of the credit line approved by Issuer for Holder, and Holder covenants not to make credit purchases or withdrawals in excess of that amount. Holder is liable for all purchases and withdrawals made with Holder's cards by Holder or by anyone authorized to use Holder's cards. No Over the Limit fees apply. Issuer shall have discretion in how payments are applied to Holder's Account. Issuer may accept checks marked 'Payment in Full' without losing any of Issuer's rights to collect the full balance of Holder's Account.

6. Minimum Payment / Payments Received. Holder will be furnished a monthly Account statement for each billing period at the end of which there is an undisputed debit or credit balance of \$1 or more. Holder shall pay Issuer within 25 days after each statement closing date either (a) the full amount billed ("New Balance"), or (b) at Holder's option, a minimum payment of either (i) 3% of the New Balance or (ii) \$15, whichever is greater. Payments may be mailed to First International Bank & Trust, P.O. Box 30495, Tampa, FL, 33630. Payments may be made, in person, at a First International Bank & Trust office. Payments received after 5:00 p.m. on any processing day or at any time on any non processing day will be considered as payments made on the following processing day. Upon receipt of payment, Issuer shall apply amounts in excess of the minimum payment amount first to the Account balance category (as defined in section 7, below) bearing the highest rate of interest, and then to each successive balance category bearing the next highest rate of interest, until the payment is exhausted. Within each balance category, Payments must be made to the Issuer in U.S. dollars drawn on a U.S. Financial Institution. If a payment you make on your Account is returned for any reason, a returned payment fee of up to \$25 may be imposed. We may add a Late Payment Fee of up to \$35 to the purchase balance of the Account if your minimum payment is not received by the payment due date shown on the monthly Account statement.

7. Payment of Interest. Transactions occurring on Holder's Account will be tracked in three balance categories; purchase balance, balance transfer balance, and cash advance balance. Holder shall pay interest charges as shown on Holder's monthly statements, for each billing period in which there is a cash advance or the previous statement balance is not paid in full prior to the closing date of the billing statement. For balance transfers and cash advances obtained over the counter or at an Automatic Teller Machine, equal to or greater than \$1, an INTEREST CHARGE equal to the greater of \$5 or 3% of the cash advance or balance transfer will be imposed. We calculate the interest charges on your Account by applying the monthly periodic rate for purchases and balance transfers to the purchases and balance transfers "Balance Subject to Interest Rate" and applying the daily periodic rate to the cash advance "Balance Subject to Interest Rate" and multiplying the result by the number of days in the statement cycle. For purchases and balance transfers, the "Balance Subject to Interest Rate" is the purchases and balance transfer "Average Daily Balance" of the Account (**excluding** new transactions) or **Method E** as displayed on the monthly Account statement. To get the purchases and balance transfer "Average Daily Balance", we take the beginning purchases and balance transfer balances of the Account each day, subtract any billed and unpaid fees and interest charges, and subtract any purchases and balance transfer principal payments made during the Account statement cycle (as of the date of payment posting). This gives us the purchases and balance transfer daily balance subject to interest rate. Then, we add up all the purchases and balance transfer daily balances subject to interest rate for the billing cycle and divide the total by the number of days in the billing cycle. This gives us the purchases and balance transfer "AVERAGE DAILY BALANCE" and is the purchases and balance transfer Balances Subject to Interest Rate as displayed on the Account statement. For cash advances, the "Balance Subject to Interest Rate" is the cash advance "Average Daily Balance" of the Account (**including** new transactions) or **Method A** as displayed on the monthly Account statement. The interest charges for cash advances begin on the transaction date the advance. To get the cash advance "Average Daily Balance", we take the beginning balance of the cash advance balance of the Account each day, add any new cash advances, add any new cash advance fees and subtract any cash advance balance payments. This gives us the cash advance daily balance. Then, we add up all the cash advance daily balances for the billing cycle and divide the total by the number of days in the billing cycle. This gives us the cash advance "AVERAGE DAILY BALANCE" and is the cash advance "Balance Subject to Interest Rate" as displayed on the Account statement. Interest charges for credit purchases and balance transfers begin on the first day of the Account billing cycle following the date the purchase or balance transfer is posted to the Account unless the previous balance shown on the statement was paid in full prior to the closing date of the statement. Credit purchases made during the statement period and the previous balance will be excluded from the calculation of the "average daily balance" if the previous balance shown on the front of the statement was paid in full prior to the closing date of the statement. Holder has up to a 30 day interest-free period for purchases and balance transfers, provided Holder has paid the previous balance in full by the payment due date shown on the previous monthly statement. In order to avoid additional interest charges on new purchases and balance transfers, Holder must pay the current monthly statement new balance by the current statement payment due date. There is no interest-free period for transactions that post to the Account as cash advances. If you are charged interest, the charge will be no less than \$1.

8. Variable Interest Rate. The current monthly Periodic Rate and corresponding ANNUAL PERCENTAGE RATE (APR) for new Accounts are disclosed on the accompanying Interest Rate and Interest Charges Disclosure. These rates may vary monthly and shall be adjusted on the Change Date as described in section 9. For more information on interest rate calculation see section 9, below. For more information on current margin(s), please refer to the Interest Rate and Interest Charges Disclosure. The monthly Periodic Rate is 1/12th of the ANNUAL PERCENTAGE RATE. Beginning on the date an adjustment in the rate is effective and until the next Change Date, the monthly Periodic Rate then in effect will be applied as described in section 7 to the balance(s) in the Account to determine the interest charges. An adjustment in the monthly Periodic Rate and corresponding ANNUAL PERCENTAGE RATE will apply both to the outstanding balances in the Account and to new cash advances (including any balance transfers from other credit card accounts), credit purchases, and other charges. An increase or decrease in the Prime Rate (as described in section 9, below) will cause an increase or decrease in the monthly Periodic Rate and corresponding ANNUAL PERCENTAGE RATE and may increase the amount and number of minimum payments.

9. Calculation of Interest Rate. How We Will Calculate Your Variable APRs: We calculate variable APRs by adding a margin to the highest U.S. Prime Rate published in the Money Rates section of The Wall Street Journal two business days (not weekends or federal holidays) before the first calendar day of the month prior to the closing date shown on your billing statement ("Rate Date"). The APR may increase or decrease each month if the Prime Rate changes. Any new rate will be applied beginning the first day of your first billing cycle that is at least 30 days after the latest Rate Date ("Change Date"). If the APR increases, you will pay a higher interest charge and may pay a higher minimum payment. The Prime Rate is simply a reference index and is not the lowest interest rate available. If The Wall Street Journal stops publishing the Prime Rate, we will select a similar reference rate.

10. Other Fees. For a listing of fees charged in association with this card, please see the Interest Rate and Interest Charges Disclosure accompanying this Cardholder/Account Agreement. Additional charges, plus applicable taxes, may also be assessed if you pay with a check not honored by your financial institution, request a copy of a document, or use your card for a transaction at an automated teller machine, if such charges are not prohibited by law or regulation. No Interest Charge will be assessed on such additional charges. Document service charges will not be imposed if Holder's document request is in connection with or delivery of the documents is in response to an alleged billing error under Regulations E or Z issued by the Bureau of Consumer Financial Protection. Any fees assessed will be itemized on the Holder's monthly Account statement.

11. Security Interest. All credit advanced to Holder for credit purchases or cash advances constitutes loans made by Issuer to Holder in the State of North Dakota. Issuer disclaims as security for loans made to Holder under these terms any security interest it may at any time have in household goods or real property. Except as disclaimed above, loans made to Holder after the effective date of these terms may be secured by collateral given by any Holder to secure other loans from Issuer.

12. Foreign Transactions. If a Holder's card is used to effect a transaction in a foreign currency, the transaction amount will be converted to U.S. dollars by VISA International. VISA converts currency to U.S. dollars using either the government mandated exchange rate or the wholesale exchange rate, in effect one day before the date of the conversion, as applicable. The exchange rate is increased by 1% by Visa if the conversion is made in connection with a charge to an Account and decreased by 1% by Visa if the conversion is made in connection with a credit to an Account. The date of conversion by VISA may differ from the purchase date and the posting date identified in the monthly statement for the Account. Holder agrees to pay charges and accept credits for the converted transaction amounts in accordance with the terms of this paragraph.

13. Merchant Responsibilities in Disputed Transactions. Issuer is not responsible for refusal by any merchant, financial institution or automated equipment to honor or accept a card. Except as provided in the Federal Truth-in-Lending laws (as indicated in the Summary of Billing Rights as shown on page 1), Issuer has no responsibility for merchandise or services obtained by Holder with a card and any dispute concerning merchandise or services will be settled between Holder and the merchant concerned.

14. Holder Default. Holder covenants to observe and comply with these terms and not to permit an event of default to occur. Upon the occurrence of any one or more of the following events of default: (a) Holder fails to pay at least the Minimum Payment when due on two occasions within any 12-month period; or (b) Holder dies, ceases to exist, changes residency to another state and does not inform Issuer, becomes insolvent or the subject of bankruptcy or insolvency proceedings or fails to observe any covenant or duty contained in these terms, if such event or breach materially impairs Holder's ability to pay amounts due; the full amount of Holder's Account for which the default occurred (including unpaid interest charges) shall, at Issuer's option become immediately due and payable if Holder does not cure the default within 15 calendar days after notice is mailed to the address of Holder, or given as otherwise provided by law. Issuer has this right, without notice and opportunity to cure, if the default is the Holder's third default within 12 months and the Holder is notified of the prior two defaults and the Holder cured those defaults.

15. Account Termination. Holder's consent to these terms may be terminated at any time by surrendering all cards issued to Holder or at Holder's written request, but such termination shall not affect Holder's obligations as to any balances or charges outstanding at the time of termination. Termination by any Holder shall be binding on each person in whose name the card is issued. If Holder's spouse terminates this credit plan, the full amount of Holder's Account (including unpaid interest charges) may be declared immediately due and payable. Issuer may terminate Holder's privilege to use the cards if Holder moves out of the service area of Issuer, as defined by Issuer from time to time. Unless sooner terminated, the privilege to use the cards shall expire on the date shown on the cards. At any time, without liability to Holder and without affecting Holder's liability for credit previously extended, Holder's privilege to use the cards may be revoked or limited to the extent not prohibited by law. The cards are and shall remain the property of Issuer and Holder agrees to surrender them to Issuer upon demand.

16. Amending Agreement. Issuer may amend these terms from time to time by sending Holder advance written notice not less than 45 days prior to the effective date for any change that is either adverse to Holder's outstanding balance or increases certain fees, or not less than 15 days prior to the effective date for any other changes, or as may otherwise be required or permitted by law. To the extent that Issuer indicates in the notice and that the law permits, amendments will apply to Holder's existing Account balance as well as to future transactions. Notices are deemed given when mailed by Issuer to any Holder to the current address for mailing monthly statements or Holder's last known address. Invalidity of any provision of these terms shall not affect the validity of any other provisions unless otherwise provided by applicable law.

17. Governing Law. Holder understands and agrees this Agreement is made in North Dakota and shall be governed by North Dakota law to the extent North Dakota law is not inconsistent with controlling federal law.

18. Cellular Phone Contact. By providing a telephone number for a cellular or other wireless device, Holder is expressly consenting to receiving communications, including but not limited to prerecorded or artificial voice message calls, text messages, and calls made by an automatic telephone dialing system, from Issuer and our affiliates and agents, at that number. This express consent applies to each such telephone number that you provide to us now or in the future and permits such calls for non-marketing purposes. Calls and messages may incur access fees from your cellular provider.

19. Monitoring Credit Extension. Issuer can re-investigate and reevaluate any information Holder provided on Holders credit application at any time, and in the course of doing so, Issuer may ask Holder for additional information, request credit bureau reports and/or otherwise verify Holder's current credit standing.

20. Visa Rules and Regulations. Holder agrees that Account shall be subject to all applicable rules and regulations of Visa, as applicable, as well as all applicable laws. If there is any conflict between the provisions of this Agreement and the rules and regulations of Visa, the rules and regulations of Visa shall control.

21. Lost or Stolen Card or PIN. If it is believed that the card or PIN has been lost or stolen or used in an unauthorized manner, the Holder shall contact the Issuer at once. Notification can be made orally or in writing at:

Customer Service  
PO Box 30495  
Tampa, FL 33630  
(800)359-8092

22. Effective Date. The information about the cost of the card described in these terms was last revised March 1, 2024 and is accurate as of that date. Information is subject to change after that date and you should call us at 1-888-848-3428 or write us at First International Bank & Trust, PO Box 30495 Tampa, FL 33630, for current information. MEMBER FDIC.

#### 23. Resolution of Disputes by Arbitration

PLEASE READ THIS PROVISION OF THE AGREEMENT ("Arbitration Agreement") CAREFULLY. IT REQUIRES ALL CLAIMS BETWEEN YOU AND US TO BE RESOLVED BY BINDING ARBITRATION WHENEVER YOU OR WE CHOOSE TO SUBMIT A CLAIM TO ARBITRATION. BY ACCEPTING THIS ARBITRATION AGREEMENT, YOU WAIVE YOUR RIGHTS TO TRY ANY CLAIM IN COURT BEFORE A JUDGE OR JURY (EXCEPT FOR MATTERS THAT MAY BE TAKEN TO A SMALL CLAIMS COURT) AND TO BRING OR PARTICIPATE IN ANY CLASS OR OTHER REPRESENTATIVE ACTION IN A COURT PROCEEDING.

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

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

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

**Commencing an Arbitration.** Unless the parties agree to select a different arbitration administrator, the arbitration shall be administered by the American Arbitration Association ("AAA") under AAA's Consumer Arbitration Rules, except as modified by this Arbitration Agreement. AAA's rules may be obtained from [www.adr.org](http://www.adr.org) or 1-800-778-7879 (toll-free). If AAA is for any reason unable to serve and the parties are unable to agree on an alternative arbitration administrator, then a court of competent jurisdiction shall appoint an arbitration administrator. Either you or we may start an arbitration by giving written notice to the other party. This notice may be given before or after a lawsuit has been filed concerning the Claim and it may be given by papers filed in the lawsuit such as a motion to compel arbitration. The party asking for arbitration must file a notice with the arbitration administrator pursuant to its rules.

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

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

The arbitrator will not have the authority to award relief to, or against, any person or entity who is not a party to the arbitration. An award in arbitration shall determine the rights and obligations between the named parties only, and only in respect to the Claim(s) in arbitration and shall not have any bearing on the rights and obligations of any other persons, or on the resolution of any other dispute. The arbitrator will take reasonable steps to protect customer account information and other proprietary or confidential information. Any arbitration hearing shall take place in the county in which you reside, unless the parties agree in writing to a different location or the arbitrator so orders.

If all Claims are for \$15,000 or less, you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing in accordance with the arbitration administrator's rules. At your or our request, the arbitrator will issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based. The arbitrator's award shall be final and binding except that any party may appeal any award relating to a Claim for more than \$100,000 or for injunctive relief to a three-arbitrator panel appointed by the arbitration administrator, which will reconsider de novo any aspect of the appealed award. The panel's decision will be final and binding. In either event, you or we may seek to have the award vacated or confirmed and entered as a judgment in any court having jurisdiction.

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

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

**Class Action and Representative Action Waiver.** You and we agree that each may bring claims against the other only in an individual capacity, and not as a plaintiff or class member in any purported class or representative proceeding. Further, unless mutually agreed to by you and us, claims of two or more persons may not be joined, consolidated, or otherwise brought together in the same arbitration (unless those persons are joint Account holders or beneficiaries on your Account and/or related Accounts, or parties to a single transaction or related transaction). The arbitrator shall have no authority to conduct any class, private attorney general or other representative proceeding. This section does not apply to requests for public injunctive relief, which are addressed in the section below entitled "Public Injunctive Relief Waiver."

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

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

**Enforceability.** If you challenge or dispute the enforceability of this Arbitration Agreement, the threshold issue of the validity of this Arbitration Agreement shall be decided by an arbitrator.

**24. Third Party Offerings.** From time to time, third parties may provide you with benefits not related to the extension of Account credit. We are not liable for these features, services and enhancements, as they are the sole responsibility of the third party provider. We and/or a third party may add, change or delete entirely these benefits without notice or liability to you, to the extent permitted by applicable law. You agree to hold us harmless from any claims, actions or damages resulting from your use of any of these features, services or enhancements, where permitted by applicable law.