

**1.4 CLASS ACTION WAIVER.** If permitted by applicable law, each party waives the right to litigate any Dispute as a class action (either as a member of a class or as a representative) or to act as a private attorney general. The waiver in this paragraph applies whether the proceeding is in a court, in an arbitration, or in a judicial reference proceeding.

**1.5 SURVIVAL.** This Dispute Resolution Provision shall survive any termination, amendment, or expiration of this Agreement, or any other relationship between the parties.

**1.6 LIMITATIONS ON LIABILITY.** UNLESS OTHERWISE MANDATED BY LAW, IN NO EVENT WILL WE, OUR AFFILIATES, SERVICE PROVIDERS, EMPLOYEES, AGENTS OR CONTRACTORS BE LIABLE TO YOU, ON ANY GROUNDS (INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT OR WARRANTY, TORT, NEGLIGENCE, STATUTE OR REGULATION, OR OTHER CAUSE OF ACTION) FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES OR LOSSES RESULTING FROM OR CAUSED BY USE OR INABILITY TO USE YOUR CARD, OR OUR BREACH OF THIS AGREEMENT, EVEN IF WE ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**SECTION 2. AGREEMENT TO SUBMIT TO BINDING ARBITRATION (EXCEPT CALIFORNIA).** This Section 2 is an agreement to submit to binding arbitration of any Dispute between the parties. This Section 2 shall not, however, apply to any Dispute pending in a state or federal court located in the State of California, except to the extent such Dispute may also be pending in a state or federal court located outside of California.

Each party agrees that it, he or she shall have the right, but no obligation, to require any Dispute between the parties be resolved by arbitration. An arbitrator shall have no authority to determine matters (i) regarding the validity, enforceability, meaning, or scope of this Dispute Resolution Provision, or (ii) class action claims brought by either party as a class representative on behalf of others and claims by a class representative on either party's behalf as a class member, which matters may be determined only by a court without a jury. **BY AGREEING TO RESOLVE FUTURE DISPUTES IN ARBITRATION, THE PARTIES ARE WAIVING THEIR RIGHT TO LITIGATE IN COURT.**

Arbitration under this provision shall be conducted before a single arbitrator through either the National Arbitration Forum ("NAF") or Judicial Arbitration and Mediation Service, Inc. ("JAMS"), as selected by the initiating party, in accordance with the rules of NAF or JAMS (the "Administrator"). However, if the parties agree, a licensed attorney may be selected by the parties to conduct the arbitration without an Administrator. If NAF and JAMS both decline to administer arbitration of the Dispute, and if the parties are unable to mutually agree upon a licensed attorney to act as arbitrator without an Administrator, then either party may file a Lawsuit and move for an Arbitration Order. The arbitrator, howsoever appointed, shall have expertise in the subject matter of the Dispute. Venue for the arbitration proceeding shall be as stated elsewhere in this Agreement with respect to any judicial proceedings between the parties. Absent such a provision, the arbitration shall be conducted at a location determined by mutual agreement of the parties or by the Administrator if no agreement can be reached. The arbitrator shall apply the law of the state specified in the agreement giving rise to the Dispute.

In any arbitration commenced by a consumer regarding a consumer Dispute, Lender or Bank shall pay one half of the Administrator's initial filing fee, up to \$500. If Lender or Bank commences arbitration or is the moving party obtaining an Arbitration Order, Lender or Bank shall pay all Administrator and arbitrator fees, regardless of whether or not the consumer is the prevailing party in such arbitration, unless

such Dispute involves a claim for damages by a consumer and is found by the arbitrator to be frivolous. For this paragraph, "consumer Dispute" shall mean a Dispute involving credit or services provided by Lender or Bank, primarily for personal, family or household purposes, in which the claim for damages is less than \$75,000.

The Administrator and the arbitrator shall have the authority, to the extent practicable, to take any reasonable action to require the arbitration proceeding to be completed within 180 days of commencing the arbitration. The arbitrator: (i) will render a decision and any award applying applicable law; (ii) will hear and rule on appropriate dispositive motions for judgment on the pleadings, for failure to state a claim, or for full or partial summary judgment; (iii) will give effect to any statutory or contractual limitations period (e.g., any statute of limitations) in determining any Dispute or defense; (iv) shall have the authority to impose sanctions on any party that fails to comply with time periods imposed by the Administrator or the arbitrator, including, without limitation, the sanction of entering a final award against the party that fails to comply; (v) shall have authority to award costs and fees (including attorneys' fees and costs, arbitration administration fees and costs, and arbitrator(s)' fees) to the extent permitted by law; (vi) shall recognize and honor claims of privilege recognized at law; and (vii) with regard to motions and the arbitration hearing, shall apply the Federal Rules of Evidence. The doctrines of compulsory counterclaim, res judicata, and collateral estoppel shall apply to any arbitration proceeding hereunder.

Commencement of an arbitration by any party shall not prevent any party from at any time (i) seeking and obtaining from a court of competent jurisdiction (notwithstanding ongoing arbitration) provisional or ancillary remedies including but not limited to injunctive relief, temporary restraining orders, property preservation orders, foreclosure, sequestration, eviction, attachment, replevin, garnishment, and/or the appointment of a receiver; or (ii) availing itself of any self-help remedies such as setoff and repossession rights or non-judicial foreclosure of collateral. The exercise of such rights shall not constitute a waiver of the right to submit any Dispute to arbitration.

Judgment upon an arbitration award may be entered in any court having jurisdiction except that, if the arbitration award exceeds \$200,000, any party shall be entitled to a de novo appeal of the award before a panel of three arbitrators. To allow for such appeal, if the award (including Administrator, arbitrator, and attorney's fees and costs) exceeds \$200,000, the arbitrator will issue a written, reasoned decision supporting the award, including a statement of authority and its application to the Dispute. A request for de novo appeal must be filed with the arbitrator within 30 days following the date of the arbitration award; if such a request is not made within that time period, the arbitration award shall become final and binding. On appeal, the arbitrators shall review the award de novo, meaning that they shall reach their own findings of fact and conclusions of law rather than deferring in any manner to the original arbitrator. Appeal of an arbitration award shall be pursuant to the rules of the Administrator; if the Administrator has no such rules, then the JAMS arbitration appellate rules shall apply.

To request information on how to submit an arbitration claim, or to request a copy of an Administrator's rules or fee schedule, please contact the Administrators as follows: JAMS: 1920 Main St., Suite 300, Irvine, CA 92614, Phone: (949) 224-1810, Fax: (949) 224-1818, E-mail: info@jamsadr.com, Website: www.jamsadr.com; NAF: National Arbitration Forum, P.O. Box 50191, Minneapolis, MN 55405-0191, Phone (800) 474-2371, E-Mail: info@adrforum.com, Website: www.adrforum.com.

Arbitration under this provision concerns a transaction involving interstate commerce and shall be governed by the Federal Arbitration Act, 9 U.S.C. § 1 et seq. If the terms of this Section 2 vary from the Administrator's rules, this Section 2 shall control.

**SECTION 3. JUDICIAL REFERENCE (CALIFORNIA ONLY).** If a Dis-

pute between the parties hereto is filed in a state or federal court located in the State of California, each party shall have the right, but not the obligation, to require that it be resolved by judicial reference in accordance with California Code of Civil Procedure, Sections 638, **et seq. BY AGREEING TO RESOLVE DISPUTES BY JUDICIAL REFERENCE, EACH PARTY IS GIVING UP ANY RIGHT THAT PARTY MAY HAVE TO A JURY TRIAL.** The referee shall be a retired judge, agreed upon by the parties, from either the American Arbitration Association (AAA) or Judicial Arbitration and Mediation Service, Inc. (JAMS). If the parties cannot agree on the referee, the party who initially selected the reference procedure shall request a panel of ten retired judges from either AAA or JAMS, and the court shall select the referee from that panel. If AAA and JAMS are unavailable to provide this service, the court may select a referee by such other procedures as are used by that court. The referee shall be appointed to sit with all of the powers provided by law, including the power to hear and determine any or all of the issues in the proceeding, whether of fact or of law, and to report a statement of decision. Only for this Section 3, "Dispute" includes matters regarding the validity, enforceability, meaning, or scope of this Section, and (ii) class action claims brought by either party as a class representative on behalf of others and claims by a class representative on either party's behalf as a class member. The parties agree that time is of the essence in conducting the judicial reference proceeding set forth herein. Except as otherwise provided in this paragraph, the costs of the judicial reference proceeding, including the fee for the court reporter, shall be borne equally by the parties as the costs are incurred, unless otherwise awarded by the referee. If Lender or Bank commences a judicial reference proceeding regarding a consumer Dispute, Lender or Bank shall pay all referee fees, regardless of whether or not the consumer is the prevailing party in such proceeding, unless such Dispute involves a claim for damages by a consumer and is found by the referee to be frivolous. For purposes of this paragraph, "consumer Dispute" shall mean a Dispute involving credit or services provided by Lender or Bank, primarily for personal, family or household purposes, in which the claim for damages is less than \$75,000. The referee shall hear all pre-trial and post-trial matters (including without limitation requests for equitable relief), prepare a statement of decision with written findings of fact and conclusions of law and apportion costs as appropriate. The referee shall be empowered to enter equitable relief as well as legal relief, provide all temporary or provisional remedies, enter equitable orders that are binding on the parties and rule on any motion that would be authorized in a trial, including without limitation motions for summary adjudication. Judgment upon the award shall be entered in the court in which such proceeding was commenced and all parties shall have full rights of appeal. This provision will not be deemed to limit or constrain Lender's or Bank's right of offset, to obtain provisional or ancillary remedies, to interplead funds in the event of a dispute, to exercise any security interest or lien Bank or Lender may hold in property, or to comply with legal process involving accounts or other property held by Bank or Lender.

This Section 3 may be invoked only with regard to Disputes filed in state or federal courts located in the State of California. In no event shall the provisions in this Section 3 diminish the force or effect of any venue selection or jurisdiction provision in this Agreement or any Related Document.

**SECTION 4. RELIANCE.** Each party (i) certifies that no one has represented to such party that the other party would not seek to enforce a jury waiver, class action waiver, arbitration provision or judicial reference provision in the event of suit, and (ii) acknowledges that it and the other party have been induced to enter into this Agreement by, among other things, material reliance upon the mutual waivers, agreements, and certifications in the four Sections of this DISPUTE RESOLUTION PROVISION

**Please read this document carefully and keep it for your records**

**1.0: INTRODUCTORY PROVISIONS AND GENERAL INFORMATION:** These Terms and Conditions ("Agreement") govern the issuance and use of the California Bank & Trust ("CB&T") Visa Gift Card (the "Card"). In this Agreement the words "**you**" or "**your**" mean the purchaser or recipient of the Card and/or any authorized user who has possession of, signed or used the Card; and the words "**Bank**", "**we**", "**our**" or "**us**" mean California Bank & Trust, the owner and issuer of the Card. You are agreeing to the terms and conditions of this Agreement by purchasing, possessing, activating, signing, retaining, using the Card or by authorizing another person to use the Card. Please sign the Card immediately. If you reject the terms of this Agreement, call Customer Service at the number on the Card for a refund.

The Card is not a credit card or an ATM card. The Card is a non-reloadable pre-paid payment card that has a maximum balance ("value"), which is the U.S. Dollar amount loaded on the Card at the time of purchase. The Card is a bearer Card, which means that it may be used by anyone having possession of it. Each time the Card is used to make an eligible purchase the Card value is reduced by the amount of the purchase until the value is zero. The Card's prepaid value cannot be increased after the Card is issued or replaced after the value is used. The Card is valid through its expiration date or until the Card value is zero, whichever occurs first. Purchases requested after the expiration date will be declined. We do not pay interest on the balance on the card. The Card is our property and we reserve the right to cancel, repossess, or revoke its use at any time without prior notice. Purchase of a Card is final, and any resale of a Card for profit is strictly prohibited.

Purchasing or use of the Card as a Payroll Card is strictly prohibited.

**2.0: CHANGING THESE TERMS AND CONDITIONS:** You agree that we may change the terms of, or add a new term to this Agreement, or change any feature of, or add a new feature to, the Card, and we will give you notice of such change in term or feature, as required by law, by sending a notice to you at your last address as shown on our records, if any, and/or by posting the notice on our Internet website.

**3.0: CARD PURCHASE FEE:** We may change the Card Purchase Fee and card limits at any time without prior notice:

Card Purchase Fee	\$3.95 Per Card	Up to 10 cards can be purchased at one time.
Bulk Card Purchase Fees (See restrictions and limits below)	\$3.95 Per Card*	For 1 to 250 Cards.
	\$3.45 Per Card*	For 251 to 500 Cards.
	\$2.95 Per Card*	For 501 to 750 Cards.
	\$1.95 Per Card*	For 751 to 1,000 Cards.
	* Plus Shipping Costs	

**Bulk Card Restrictions:** Bulk sales are restricted to business customers with an established business relationship "in good standing" with the Bank. Acceptance of a purchase request and card delivery is subject to review and acceptance of the Bank. The Bank reserves the right to decline a request to purchase Gift Cards in bulk for any reason.

<b>Bulk Card Limits:</b> If approved, purchases within any given 7 day period are limited to a maximum of 1,000 cards with the combined dollar value for individual cards not to exceed \$250,000. Also subject to the preceding, individual cards ordered in a single bulk purchase will be of the same dollar value being no less than \$25 and no more than \$500.
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**4.0: SCHEDULE OF OTHER FEES:** The Card is subject to the following fees, as applicable. We may change an existing fee, add a new fee or delete a fee at any time without notice to you (subject to applicable law):

Fee Type	Fee	Additional Fee Details
<b>Check Issuance or Unload Fee</b>	\$20.00	Fee is assessed on a per card basis even if a single check is issued for multiple cards.
<b>Paper Transaction Summary Fee</b>	\$5.00	No charge for summaries accessed via the Internet.
<b>Online or Mail Order Shipping Fee</b>	\$1.00	Fee will be assessed per card.
<b>Expedited Card Delivery Fee</b>	\$21.00	Fee will be assessed per card.
<b>Expedited Card Delivery Fee for Bulk Purchases</b>	Please Inquire. We will advise you of the fee amount at time of purchase	The fee will be at least \$21.00 for small quantities and based on a sliding scale up to \$175.00 for larger quantities.  We reserve the right to change delivery fees based on price changes of the service provider.
<b>Inactive Card Fee</b>	\$2.00	Fee is assessed per month starting in the 13th month of no activity from the date of the last transaction. The fee will apply each month thereafter if there is no activity until the Card balance is zero or the inactive balance becomes subject to statutory State escheatment laws (“Abandoned Property”), whichever occurs first.

**5.0: TRANSFERABILITY OF CARD AND LIABILITY OF TRANSFEROR:** The Card may be used by any bearer and is transferable. The purchaser may make a gift of this Card or may otherwise transfer the Card to any person, and such person may likewise further give or transfer the Card to any other person. If you give the Card to another person to use, you are authorizing such other person to act on your behalf, and you acknowledge and agree that you are fully responsible for any use of the Card by such other person even if the other person’s use exceeds the limit you authorized or intended.

**6.0: TO REGISTER THE CARD:** You do not have to register the Card in order to make purchases in person with merchants accepting Visa debit cards. However, registering the Card will identify you as the Card user. Information you provide may be used to authorize online, mail and phone purchases and is required to process requests to replace a lost or stolen Card. You can register the Card online at [www.calbanktrust.com](http://www.calbanktrust.com) (click the Gift Card link) or by calling the number on the Card. We may require you, at the time of registering your Card, to agree to receive disclosures and notices electronically.

**7.0: USING THE CARD:** The Card may be used to make SIGNATURE BASED purchases of goods and services up to the available value of the Card at merchants that accept Visa debit cards. Each time you use your Card, we will deduct the amount of the transaction from the remaining value of the Card. The Card is not re-loadable and cannot be used after its value reaches zero. If you use your Card for more than its available value, you agree to pay us the difference upon demand. You cannot “stop payment” on any Card transaction after it has been completed. You will not receive periodic statements or purchase summaries for the Card. (See “Tracking Card Balance and Activity” section of this Agreement).

**8.0: INTERNET, PHONE AND MAIL ORDER PURCHASES:** In order to make these types of purchases merchants will require that we have the correct name and home address of the Card user on file. If you will be making these types of purchases, prior to making such purchases you will need to register the Card either online at [www.calbanktrust.com](http://www.calbanktrust.com) (click the Gift Card link) or by calling the number on the Card.

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

**10.0: SPECIAL CARD USAGE SITUATIONS:**

**10.1: Gasoline Purchases:** When purchasing gasoline, to avoid a decline of, or hold on the Card, we recommend that you prepay for your gasoline inside with the cashier not at the pump. Gasoline pump terminals may be programmed with a pre-authorization amount to confirm that the Card has sufficient available funds to pay for an average purchase of gas. If you have insufficient available funds on your Card to cover the authorization request, your transaction will be declined.

**10.2: Restaurants, Hotels, Rental Companies and Similar Merchants:** Merchants such as restaurants, hotels, spas, hair salons and other similar merchants usually add a percentage to the amount of a purchase at the time of authorization to cover any anticipated tip, gratuity or other miscellaneous charges. If the amount of authorization is greater than the Card balance, the purchase will be declined. To avoid a possible problem or decline, you are responsible to make sure the amount of the bill does not exceed the available balance on the Card.

**10.3: Merchant Hold Periods:** Some merchant locations may obtain a preauthorization for a purchase with the preauthorization amount being more than the final transaction amount. When preauthorization occurs, a 3-day hold will be placed on the Card and those preauthorized funds will not be available for other Card uses during the hold period. Any excess will be placed back on the Card after the purchase is settled through the system. We are not liable for charges against the Card during the hold period.

**10.4: Our Rights to Decline or Refuse Transaction Authorizations:** We may refuse to authorize a Card transaction if (a) the Transaction would exceed the remaining balance available on the Card; (b) the Card has been reported lost or stolen; (c) there is a dispute over the Card’s ownership; (d) we believe the Card may be counterfeit; or (e) we are uncertain whether the transaction is authorized by you. We may temporarily “freeze” the Card and attempt to contact you (based on the information in our records, if any) if we note transactions that are unusual or appear suspicious, or if your Card has been inactive for a long period of time. If this occurs, you must call Customer Service at the number on the Card to release the “freeze” on the Card.

**11.0: PURCHASES IN EXCESS OF CARD VALUE AND “SPLIT TRANSACTIONS”:** If the Card has insufficient value to complete a transaction you may request a split transaction from the merchant and de-

pending on the merchant’s policy, use your remaining Card value and another form of payment to complete the purchase. Some merchants may not honor such a request. We are not responsible if a merchant does not accept a split transaction and you are not able to complete the purchase.

**12.0: YOUR LIABILITY FOR EXCEEDING CARD VALUE:** You agree not to make any transaction or combination of transactions that will exceed the Card value (“overdraft” or “overdrawn”). If an overdrawn balance should occur you agree that you or the user that initiated the overdraft will be liable to us for such overdrawn balance and any associated fees or expenses incurred by us. We have no obligation to allow an overdraft on the Card. However, if an overdraft is inadvertently permitted by us, you agree to promptly repay us, on demand, the full amount of the overdrawn balance plus, if applicable, all costs of collection, including reasonable attorney fees, to the extent permitted by law. If you are a customer with a deposit account with us, you hereby agree that we may deduct any amount overdrawn on your Card (and any associated fees or expenses incurred by us) from any such deposit account.

**13.0: TRACKING CARD BALANCE AND ACTIVITY:** After you have activated and registered your Card you will be able to track the Card balance and activity by visiting us online at [www.calbanktrust.com](http://www.calbanktrust.com) or you can call our Customer Service Center at 1-866-798-2112. You must have the Card information available when you call or visit our Internet Banking website.

**14.0: CUSTOMER SERVICE:** If you have questions about the Card you can visit our website at [www.calbanktrust.com](http://www.calbanktrust.com) (click on the Gift Card FAQ link), or call us at 1-866-798-2112 or write to BankCard Products and Services, P.O. Box 25787, Salt Lake City, UT. 84125.

**15.0: FOREIGN TRANSACTIONS:** If you use the Card to make a purchase outside of the United States and the transaction was in a foreign currency the network that handles the transaction will convert the foreign currency into U.S. Dollars. If the network converts the currency, it will use either a rate selected by the network from a range of rates available in the wholesale currency markets for the applicable processing date, which may vary from the rate the network itself receives, or the government-mandated rate in effect for the central processing date. We do not control the rate or the selection of rate, and we do not receive any portion of the conversion rate. The conversion rate in effect on the date of your transaction may differ from the rate on the date the transactions is posted to your Card, and may differ from the rate in effect on the date any transaction is reversed.

**16.0: USAGE RESTRICTIONS:** You agree not to use the Card for any illegal purpose or for gambling on the Internet, and we may decline any transaction we think is suspicious regardless of our reason. The Card cannot be used to access cash at an ATM or merchant. You cannot link the Card to any deposit or credit account you may have with us or at any other financial institution. You may not make preauthorized regular payments through the use of the Card. You agree that any attempts to use the Card for any of the above usage restrictions will be declined and could result in suspension of the Card.

**17.0: MERCHANT DISPUTES AND RETURNS:** By use of the Card you agree that we are not liable for any consequential, incidental or special damages, direct or indirect, arising from or in connection with the use or attempted use of the Card. We have no liability for goods or services you obtained or ordered with your Card. You agree to settle any problems you may have with goods or services purchased with the Card with the merchant that provided such goods and services. If you think an error has occurred involving a transaction, the error needs to be resolved or adjusted with the merchant where the Card was used. Returned or exchanged merchandise purchased with the Card will be governed by the merchant’s procedures and policies and you agree to

provide the merchant with the Card and transaction receipt if requested.

**18.0: CARD EXPIRATION OR EARLY CLOSURE:** The Card is valid through its expiration date if an expiration date is indicated on the card or until the remaining Card value is zero, whichever occurs first. We encourage you to use the Card’s full value before an expiration date. Any transactions attempted after an expiration date will be declined. If a balance remains on the Card after it has expired, you can call our Customer Service Center and request a refund check. If you choose a refund, a check will be mailed to you for the remaining value less an Unload Check Issuance Fee as stated in the Schedule of Other Fees section of this Agreement.

**19.0: LOST OR STOLEN CARD:** To process a lost or stolen Card request the Card must be registered with us. For more details see the Registering Your Card section of this Agreement. You agree to safeguard the Card and treat it like cash. If you believe the Card has been lost, stolen, or subject to unauthorized use, you agree to notify us immediately by calling 1-866-798-2112. We are not responsible for amounts spent on the Card prior to you notifying us of the Card’s loss or theft. You may request a replacement card or check to be issued. If we issue a replacement Card or check we will first deduct from the remaining Card value the applicable Card Replacement Fee, Check Issuance Fee and Shipping Fee as stated in the Schedule of Other Fees section of this Agreement. We will not issue a replacement Card or check if the Card value is less than the applicable fee.

**20.0: DISCLOSURE OF INFORMATION TO THIRD PARTIES:** We may disclose information to third parties about your Card or the transaction that you make if it is necessary to complete the transaction, to verify the existence or condition of your Card, to protect against possible fraud or other criminal activities, to resolve an error or inquiry as to an alleged error, to affiliated entities that assist in providing Card Services, to comply with government agency or court orders or other mandatory disclosure requirements, or when we reasonably believe you have given us your permission.

**21.0: ABANDONED PROPERTY/UNCLAIMED FUNDS:** As shown by our records, the Card balance may become Abandoned Property or Unclaimed Funds escheatable to the State if within the statutory period you have not: (1) caused any activity or received any payments with regards to the Card; (2) corresponded with us concerning the Card; (3) indicated any interest in the Card; (4) indicated an interest in the Card as evidenced by a writing on file with us; or (5) transacted any business with us in connection with the Card.

**22.0: LIMITATION OF LIABILITY AND FORCE MAJEURE:** We have no liability for any performance failures or delays caused, completely or partially, by power failures, computer malfunction, labor disputes, fire, severe weather, act of civil authority, civil disturbances, terrorism, or any other acts of God or event beyond our control. In our performance of this Agreement, we will not be liable for any consequential, incidental, indirect or special damages.

**23.0: INTEGRATED AGREEMENT:** You agree that this Agreement is a final written expression of the Agreement between you and the Bank and that this Agreement may not be contradicted by evidence of any alleged oral agreement.

**24.0: SEVERABILITY:** The provisions of this Agreement are severable to the extent that any provision hereof held to be prohibited or unenforceable in an applicable jurisdiction shall not invalidate the remainder of this Agreement in that jurisdiction and shall be fully enforceable in any other jurisdiction not expressly prohibiting such provision.

**25.0: DELAY IN ENFORCEMENT:** The Bank may exercise its rights under this Agreement immediately or, at the Bank’s sole discretion, may decline to enforce or delay in enforcing any such rights without losing,

waiving, or impairing them.

**26.0: GOVERNING LAW:** This Agreement is made in the state of California and shall be governed by and construed in accordance with the laws of the United States and the state of California regardless of where you may reside or use the Card.

**27.0: DISPUTE RESOLUTION PROVISION.** This Dispute Resolution Provision contains a jury waiver, a class action waiver, and an arbitration agreement (or judicial reference agreement, as applicable), set out in four Sections. READ IT CAREFULLY.

**SECTION 1. GENERAL PROVISIONS GOVERNING ALL DISPUTES.**

**1.1 PRIOR DISPUTE RESOLUTION AGREEMENTS SUPERSEDED.** This Dispute Resolution Provision shall supersede and replace any prior “Jury Waiver,” “Judicial Reference,” “Class Action Waiver,” “Arbitration,” “Dispute Resolution,” or similar alternative dispute agreement or provision between or among the parties.

**1.2 “DISPUTE” DEFINED.** As used herein, the word “Dispute” includes, without limitation, any claim by either party against the other party related to this Agreement, your Card or Account or other subject matter of this Agreement. “Dispute” includes, but is not limited to, matters arising from or relating to a deposit account, an application for or denial of credit, warranties and representations made by a party, the adequacy of a party’s disclosures, enforcement of any and all of the obligations a party hereto may have to another party, compliance with applicable laws and/or regulations, performance or services provided under any agreement by a party, including without limitation disputes based on or arising from any alleged tort or matters involving the employees, officers, agents, affiliates, or assigns of a party hereto.

If a third party is a party to a Dispute (such as a credit reporting agency, merchant accepting a credit card, junior lienholder or title company), each party hereto agrees to consent to including that third party in any arbitration or judicial reference proceeding for resolving the Dispute with that third party.

**1.3 JURY WAIVER.** Each party waives its, his or her respective rights to a trial before a jury in connection with any Dispute. All Disputes shall be decided by a judge sitting without a jury, unless submitted to binding arbitration pursuant to Section 2 or judicial reference pursuant to Section 3.

In any lawsuit regarding a Dispute (a “Lawsuit”), following the service of a complaint, third-party complaint, cross-claim or counterclaim or any answer thereto, any amendment to any of the above, or a ruling or entry of an order that has the effect of invalidating jury trial waiver (any of the foregoing, an “ADR Event”), then **at any time prior to trial of the Dispute, but not later than 30 days after the ADR Event**, any party shall be entitled to move the court for an order, as applicable: (A) compelling arbitration and staying or dismissing the Lawsuit pending arbitration (“Arbitration Order”) under Section 2 hereof, or (B) staying the Lawsuit and compelling judicial reference under Section 3 hereof. Each party agrees that a party that commenced or participated in the Lawsuit may demand arbitration of a Dispute after an ADR Event, and that the commencement or participation in the Lawsuit shall not operate as a waiver of the right to compel arbitration. After entry of an Arbitration Order, the non-moving party shall commence arbitration. The moving party shall, at its discretion, also be entitled to commence arbitration but is under no obligation to do so, and the moving party shall not in any way be adversely prejudiced by electing not to commence arbitration.