



FNBO Direct

## Online Deposit Accounts Terms & Conditions

The words "you" and "your" refer to all persons named on the application for an FNBO Direct Account. The words "we" and "us" refer to FNBO Direct, a division of First National Bank of Omaha.

Please note: FNBO Direct and First National Bank of Omaha are the same FDIC-insured institution. Deposits held under each tradename are not separately insured, but are combined to determine whether the depositor has exceeded the \$100,000 federal deposit insurance limit. FNBO Direct deposits will not, however, qualify as "related deposit accounts" for purposes of satisfying minimum balance requirements for other First National Bank of Omaha product offerings.

These "Terms & Conditions" have four parts:

**Terms of Use:** The Terms of Use contain general provisions that govern your use of and access to our web site. The Terms of Use apply to all persons accessing our web site, even if they do not complete the application process or accept the Terms & Conditions. In the Terms of Use "you" and "your" refer to all persons that use or access this web site.

**Electronic Consent:** The Electronic Consent sets forth your agreement to receive various disclosures and other materials electronically (instead of in a paper form). The Electronic Consent applies if you accept these Term & Conditions.\*

**Services Agreement:** The Services Agreement sets forth the terms on which various FNBO Direct services are made available to you through logging on to our web site. The Services Agreement applies if you accept these Terms & Conditions.\*

**Deposit Agreement:** The Deposit Agreement sets forth the terms which apply to your FNBO Direct accounts and the services made available to you through logging on to our web site. The Deposit Agreement applies if you accept these Terms & Conditions.\*

**\*You accept these Terms & Conditions: (i) if you check a box indicating that you accept them and then click "next step"; (ii) each time you log-on to this web site using an ID or password; or (iii) if you take any other action after having been notified that it will constitute your consent or agreement to, or acceptance of these Terms & Conditions.**

## **Terms of Use:**

These Terms of Use are in addition to the other parts of the Terms & Conditions. In the event of conflict between these Terms of Use and any other part of the Terms & Conditions, the other part of the Terms & Conditions will control.

PLEASE READ THE FOLLOWING TERMS OF USE CAREFULLY. BY ACCESSING OR USING THIS WEB SITE, YOU ACKNOWLEDGE THAT YOU HAVE READ THE FOLLOWING TERMS OF USE AND THAT YOU ACCEPT AND WILL BE BOUND BY THEM, AS THEY MAY BE MODIFIED BY US FROM TIME TO TIME. IF YOU DO NOT AGREE TO THESE TERMS OF USE, DO NOT USE THIS WEB SITE. ANY USE OF THE WEB SITE IS AT YOUR SOLE RISK. "WE", "US" AND "OUR" REFER TO FIRST NATIONAL BANK OF OMAHA.

- 1. General Restrictions Concerning Use of Our Web Site.** As a condition to the use of our web site, you agree not to use our site for any purpose or transaction that is unlawful or prohibited by these terms or any other agreement you have with us. You also agree not to use our web site in any manner which could: (1) damage, disable, overburden, or impair our web site or anyone else's site; or (2) interfere with any other party's access to or use of our web site or anyone else's site. You agree not to obtain or attempt to obtain access to or use of any aspect of our web site through any means we do not intentionally make available on the site. You agree not to frame our web site or to mirror our web site on any other site and agree not to link to any portion of our site other than our home page. Unauthorized use of this web site and systems, including but not limited to, unauthorized use of our systems, misuse of passwords, or misuse of any information posted to this web site, is strictly prohibited.
- 2. Copyright and Trademark Notices.** The works of authorship contained at [www.firstnational.com](http://www.firstnational.com) or [www.fnbdirect.com](http://www.fnbdirect.com), including but not limited to all design, text, sound recordings and images, are owned, except as otherwise expressly stated, by us or one of our affiliates. Except as otherwise expressly stated herein, they may not be copied, transmitted, displayed, performed, distributed (for compensation or otherwise), licensed, altered, framed, stored for subsequent use or

otherwise used in whole or in part in any manner without our prior written consent, except to the extent permitted by the Copyright Act of 1976 (17 U.S.C. § 107), as amended, and then, only with notices of our proprietary rights. You may download information and print out hard copies for your personal use, so long as you do not remove any copyright or other notice as may be contained in information, as downloaded. Trademarks or service marks referenced on our web site are our property or property of their respective owners. You may not copy or display or use the trademarks or service mark (except as strictly necessary for you to view these materials on your own computer), for any commercial or public purpose without our prior written consent. We retain title, all intellectual and proprietary rights (including, without limitation, patent, copyright, trademark and trade secret rights), and all other rights in and to our web site, all information, resources, content, tools, services and other features accessible thereon, all our business methods and processes, and all modifications, improvements, enhancements and new functionalities added to any of the foregoing. Except for the access and usage privileges that we specifically grant to you in and subject to these terms, nothing shall be deemed to grant you any right, title, interest or license in or to any of the foregoing. All privileges granted to you are limited, non-exclusive, non-transferable, and revocable.

3. **Notification of Claimed Infringement.** This notice is issued pursuant to the Online Copyright Infringement Liability Limitation Act. If you believe that any material or content posted on this site constitutes copyright infringement, please forward the following information in writing to the e-mail address listed below (a "Notice"): (i) your address, telephone number, and email address; (ii) a description of the copyrighted work that you claim has been infringed; (iii) a description of where the alleged infringing material is located; (iv) a statement by you that you have a good faith belief that the dispute use is not authorized by you, the copyright owner, its agent, or the law; (v) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; and (vi) a statement by you, made under penalty of perjury, that the above information in your Notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf. Anyone who knowingly misrepresents that material is infringing in such a notice will be liable for any damages and any associated costs incurred by us, any alleged infringer, or any copyright owner or its authorized agent or licensee. Notice must be e-mailed to: [FNBOCopyrightOffice@fnni.com](mailto:FNBOCopyrightOffice@fnni.com).
4. **Patent Notice.** First National Bank of Omaha is licensed under the

following, and related Ronald A. Katz Technology Licensing, L.P. United States Patents: 5,561,707; 5,828,734; 5,684,863; 5,815,551; 5,974,120; 5,917,893; 5,898,762; and others.

5. **Limitation or Termination of Web Site Access.** We reserve the right to terminate access to our web site and any or all services in whole or in part at any time, with or without cause and without prior written notice. We also reserve the right to temporarily suspend access to our web site and any or all services in situations we deem appropriate, in our sole and absolute discretion, including, without limitation, when we believe a system security breach has occurred or is being attempted.
6. **Information Accuracy.** This information on this web site is for information purposes only. It is believed to be reliable, but we do not warrant its completeness, timeliness, or accuracy. Although we strive for accuracy, some information and resources provided to you using the services may contain technical or other errors, inaccuracies or omissions, typographical errors, and may become outdated. Information on our web site including without limitation, product descriptions, definitions, explanations of uses, frequently asked questions, glossary of terms, and helpful hints are provided for your convenience only. We may change our products, services, terms, conditions, and pricing at any time without notice and without first updating our web site. Nothing on our web site is intended to provide legal, accounting, tax, or financial advice; you should consult your own professional advisor on such matters. Tools that you may access through our site (such as loan or investment calculators) are provided for your convenience, but are not guaranteed to be error-free.
7. **Limitation of Liability and Disclaimer.** THE INFORMATION CONTAINED IN OR ACCESSED VIA THIS WEB SITE IS PROVIDED "AS IS" AND "AS AVAILABLE". NEITHER WE NOR ANY THIRD PARTY DATA PROVIDER IS PROVIDING ANY WARRANTIES AND REPRESENTATIONS REGARDING THE WEB SITE. WE AND ALL THIRD PARTY DATA PROVIDERS DISCLAIM ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND WITH REGARD TO THE WEB SITE, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, FREEDOM FROM VIRUSES OR OTHER HARMFUL CODE, OR FITNESS FOR ANY PARTICULAR PURPOSE. FURTHER, WE WILL NOT BE LIABLE FOR ANY DELAY, DIFFICULTY IN USE, INACCURACY OF INFORMATION, COMPUTER VIRUSES, MALICIOUS CODE OR OTHER DEFECT IN THIS WEB SITE, OR FOR THE INCOMPATIBILITY BETWEEN THIS WEB SITE AND FILES AND THE USER'S BROWSER OR OTHER SITE ACCESSING PROGRAM. NOR WILL WE BE LIABLE FOR ANY OTHER PROBLEMS EXPERIENCED BY THE USER DUE TO CAUSES BEYOND OUR

CONTROL. NO LICENSE TO THE USER IS IMPLIED IN THESE DISCLAIMERS. NEITHER WE NOR ANY THIRD PARTY DATA PROVIDERS WARRANT THE ACCURACY, ADEQUACY, OR COMPLETENESS OF THE INFORMATION AND MATERIALS CONTAINED ON THE WEB SITE AND EACH EXPRESSLY DISCLAIMS LIABILITY FOR ERRORS OR OMISSIONS IN ALL MATERIALS AND INFORMATION. FURTHERMORE, WE AND OUR AFFILIATES WILL NOT BE LIABLE FOR ANY DELAY, DIFFICULTY IN USE, COMPUTER VIRUSES, MALICIOUS CODE, OR OTHER DEFECT IN WEB SITE, ANY INCOMPATIBILITY BETWEEN THE WEB SITE AND THE USER'S FILES AND THE USER'S BROWSER OR OTHER SITE ACCESSING PROGRAM, OR ANY OTHER PROBLEMS EXPERIENCED BY THE USER DUE TO CAUSES BEYOND OUR AND OUR AFFILIATES' CONTROL. NO LICENSE TO THE USER IS IMPLIED IN THESE DISCLAIMERS. NOTHING HEREIN SHALL BE CONSTRUED AS LIMITING OR REDUCING OUR RESPONSIBILITIES AND OBLIGATIONS TO CLIENTS IN ACCORDANCE WITH APPLICABLE LAWS AND REGULATIONS. UNDER NO CIRCUMSTANCES WILL WE BE LIABLE FOR ANY LOST PROFITS, LOST OPPORTUNITY, OR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES ARISING OUT OF ANY USE OF OR INABILITY TO USE THE WEB SITE OR ANY PORTION THEREOF, REGARDLESS OF WHETHER WE HAVE BEEN APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE. IF YOU ARE DISSATISFIED WITH ANY ASPECT OF OUR WEB SITE OR THE SERVICES AVAILABLE VIA OUR WEB SITE, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE ACCESS.

8. **Links to Other Web Sites.** This web site contains links to other web sites. We are not responsible for the content, accuracy, or opinions expressed in such web sites, and such web sites are not investigated, monitored, or checked for accuracy or completeness by us. Inclusion of any linked web site does not imply approval or endorsement of the linked web site by us.
9. **Additional Terms.** These terms do not supersede the agreements, terms, and disclosures applicable to other products or services that you may have previously acquired from us or that you may acquire from us in the future including, without limitation, the terms applicable to your deposit accounts, credit cards, debit cards, or other line of credit or loan products. Where appropriate, please review those specific terms and conditions.
10. **Information Submissions.** All information submitted via this web site by a visitor to this web site shall be deemed and remain our property and by

sending us such information you: (1) grant us an unrestricted, royalty-free, perpetual, irrevocable license to use, reproduce, display, perform, modify, transmit and distribute that information; and (2) agree that we are free to use any ideas, expressions of ideas, concepts, know-how, designs, techniques for any purpose whatsoever including, but not limited to developing, manufacturing and marketing products incorporating such information that you send us. We shall not be subject to any obligations of confidentiality regarding such submitted information except as agreed by our entity having the direct customer relationship or as otherwise specifically agreed or required by law. Nothing contained herein shall be construed as limiting or reducing our responsibilities and obligations to customers in accordance with our Privacy Policy posted on our web site.

11. **Violations of Terms; Indemnity.** We reserve the right to seek all remedies available at law and in equity for violations of these terms, including the right to block access from a particular Internet address to the web site. YOU AGREE TO INDEMNIFY, DEFEND AND HOLD US HARMLESS FROM ANY LIABILITY, LOSS, CLAIM AND EXPENSE, INCLUDING ATTORNEY'S FEES, IF YOUR VIOLATION OF THESE TERMS AND CONDITIONS OR YOUR USE OF THE SERVICES AND INFORMATION PROVIDED AT THE WEB SITE CAUSES A LOSS TO US.
12. **Governing Law; Venue.** Unless we otherwise agree in writing, Nebraska law governs these terms and all aspects of our relationship with you. If any part of these terms is invalid or unenforceable, the remainder will stay in effect. Litigation arising out of or relating to these terms, our web site, the services we provide or any aspect of our relationship with you shall be commenced and maintained solely and exclusively in the state and federal courts sitting in Douglas County, Nebraska, United States.
13. **Area of Service.** Our services are not necessarily available everywhere, and may or may not be available to non-residents or non-citizens of the United States. Accessing our web site from outside the United States is not permitted, except for access by our existing customers. Information about products and services is provided for informational purposes only and should not be considered an offer to make those products and services available to you. We have no obligation to provide a product or service until: (i) we have received and approved an application in the form we require; and (ii) you have signed a separate written agreement in the form we require (if any). We may require in-person closings for certain products.
14. **Waiver.** We will not be deemed to have waived any of our rights or

remedies unless such waiver is in writing and signed by us. No delay or omission on our part in exercising any rights or remedies shall operate as a waiver of such rights or remedies or any other rights or remedies. A waiver on any one occasion shall not be construed as a bar or waiver of any rights or remedies on future occasions.

## Electronic Consent

**BY ACCEPTING THE TERMS & CONDITIONS,\* YOU ARE AGREEING TO BE LEGALLY BOUND BY THEM. TAKING ANY ACTION TO ACCEPT THE TERMS & CONDITIONS IS EQUIVALENT TO YOUR LEGALLY BINDING SIGNATURE AND SHALL HAVE THE SAME LEGAL EFFECT AS IF YOU HAD MADE YOUR HANDWRITTEN SIGNATURE ON A PAPER COPY OF THE TERMS & CONDITIONS. WE ARE RELYING UPON YOUR AGREEMENT IN MAKING AVAILABLE THIS WEB SITE AND THE PRODUCTS AND SERVICES THAT ARE ACCESSIBLE HERE. YOU SHOULD EXIT NOW IF YOU DISAGREE WITH ANY OF THE TERMS & CONDITIONS.**

(1) YOU ARE CONSENTING TO RECEIVE YOUR DOCUMENTS ELECTRONICALLY. "YOUR DOCUMENTS" MEANS: ALL FOUR PARTS OF THE TERMS & CONDITIONS, THE [DISCLOSURES](#), THE [PRIVACY POLICY](#), YOUR ACCOUNT STATEMENTS, NOTICES OF CHANGE IN TERMS RELATING TO THE TERMS & CONDITIONS, THE DISCLOSURES AND THE PRIVACY POLICY, ADMINISTRATIVE FEE AND OTHER ACCOUNT NOTIFICATIONS, AND ANY OTHER DISCLOSURES REQUIRED NOW OR IN THE FUTURE BY A REGULATION WHICH APPLIES TO THE PRODUCTS AND SERVICES COVERED BY THESE TERMS & CONDITIONS. "YOUR DOCUMENTS" ALSO INCLUDES YOUR "FNBO TAX DOCUMENTS" WHICH INCLUDE ANY AND ALL FEDERAL, STATE, LOCAL AND OTHER TAX-RELATED DOCUMENTS THAT FIRST NATIONAL BANK OF OMAHA MAY PROVIDE YOU AT ANY TIME IN THE FUTURE (INCLUDING, BUT NOT LIMITED TO, IRS FORMS 1099, 1098 AND 5498). THIS INCLUDES ALL ACCOUNTS OF ANY KIND THAT YOU HAVE WITH FIRST NATIONAL BANK OF OMAHA, REGARDLESS OF THE BRANCH, DIVISION, DEPARTMENT, OR FNBO TRADE NAME THAT IS ASSOCIATED WITH THE ACCOUNT.

(2) FNBO DIRECT IS AVAILABLE ONLY ONLINE. IF YOU DO NOT CONSENT TO RECEIVING "YOUR DOCUMENTS" ELECTRONICALLY, YOU SHOULD NOT COMPLETE AN APPLICATION AND YOU SHOULD NOT USE OUR WEB SITE. IF YOU WISH TO WITHDRAW CONSENT TO RECEIVING "YOUR DOCUMENTS" ELECTRONICALLY, YOU SHOULD CALL 877-370-3707 (SEE 7 BELOW FOR THE SPECIAL RULES ABOUT WITHDRAWING CONSENT ON YOUR FNBO TAX DOCUMENTS). IF YOU DO SO, YOUR ACCOUNT WILL BE CLOSED AND YOU WILL BE UNABLE TO ACCESS OUR SERVICES ELECTRONICALLY. WITHDRAWAL OF YOUR PREVIOUSLY GIVEN CONSENT WILL NOT AFFECT TRANSACTIONS WHICH OCCUR BEFORE WE RECEIVE

NOTICE FROM YOU AND HAVE REASONABLE OPPORTUNITY TO ACT.

(3) [CLICK HERE FOR SYSTEM REQUIREMENTS](#). IN ADDITION, YOU WILL NEED A PRINTER BECAUSE YOUR FNBO TAX DOCUMENTS MAY BE REQUIRED TO BE PRINTED AND ATTACHED TO A FEDERAL, STATE OR LOCAL TAX RETURN. [Click here](#) to print a test page. BY ACCEPTING THE TERMS & CONDITIONS YOU ARE CONFIRMING THAT YOU HAVE SUCCESSFULLY ACCESSED, RECEIVED, AND PRINTED THESE TERMS & CONDITIONS, THE DISCLOSURES AND THE PRIVACY POLICY.<sup>[1]</sup>

(4) YOU SHOULD PRINT YOUR DOCUMENTS AND RETAIN A COPY FOR YOUR RECORDS. IF YOU NEED A PAPER COPY OF YOUR DOCUMENTS FROM US PLEASE WRITE TO US AT P.O. BOX 3707, OMAHA, NE 68103-0707 AND TELL US WHICH DOCUMENTS YOU NEED COPIES OF. WE MAY ASSESS A FEE OF \$5.00 FOR EACH REQUEST.

(5) YOU MAY USE THE "CONTACT US" FEATURE TO UPDATE INFORMATION NEEDED TO CONTACT YOU ELECTRONICALLY.

(6) YOUR FNBO TAX DOCUMENTS WILL BE POSTED ON OUR SECURE WEB SITE AND WILL BE AVAILABLE UNTIL AT LEAST OCTOBER 15<sup>th</sup> OF THE YEAR POSTED, OR LATER IF REQUIRED BY LAW. TO OBTAIN A PAPER COPY OF ANY FNBO TAX DOCUMENT PROVIDED TO YOU ELECTRONICALLY, CALL US AT 1-877-370-3707 AND WE WILL MAIL YOU A PAPER COPY. REQUESTING A PAPER COPY WILL NOT BE TREATED AS WITHDRAWAL OF YOUR CONSENT ABOVE. REQUESTING A PAPER COPY WILL NOT BE TREATED AS A WITHDRAWAL OF YOUR ABOVE CONSENT REGARDING FNBO TAX DOCUMENTS.

(7) YOU MAY WITHDRAW YOUR CONSENT WITH RESPECT TO YOUR FNBO TAX DOCUMENTS BY WRITING (ELECTRONICALLY OR ON PAPER) TO FNBO DIRECT AT P.O. 3707, OMAHA, NEBRASKA 68103-0707, OR BY CALLING 1-877-370-0707, OR YOU MAY USE THE CONTACT US FEATURE OF THE WEB SITE. WE WILL CONFIRM THE WITHDRAWAL AND THE DATE IT TAKES EFFECT IN WRITING (ELECTRONICALLY OR ON PAPER). WITHDRAWAL OF CONSENT DOES NOT APPLY TO AN FNBO TAX DOCUMENT THAT WAS FURNISHED BEFORE THE DATE ON WHICH THE WITHDRAWAL OF CONSENT TOOK EFFECT. WITHDRAWAL OF YOUR CONSENT TO RECEIVE FNBO TAX DOCUMENTS. WE MAY CEASE FURNISHING ANY OR ALL FNBO TAX DOCUMENTS ELECTRONICALLY AT ANY TIME AT OUR DISCRETION (IF WE DO SO, YOU WILL RECEIVE THEM ON PAPER).

(8) YOU CONSENT TO THE DISCLOSURE, TO US AND OUR REPRESENTATIVES, OF ANY INFORMATION THAT WE REQUEST ABOUT YOU OR ANY EXTERNAL ACCOUNT. YOU AUTHORIZE AND DIRECT ANY INSTITUTION THAT HOLDS AN EXTERNAL LINKED ACCOUNT TO COMPLY WITH OUR REQUESTS FOR

## INFORMATION

**\*You accept these Terms & Conditions: (i) if you check a box indicating that you accept them and then click "next step"; (ii) each time you log-on to this web site using an ID or password; or (iii) if you take any other action after having been notified that it will constitute your consent or agreement to, or acceptance of these Terms & Conditions.**

### Services Agreement

- 1. PINS and Passwords; Security. IMPORTANT:** We may permit access to your account information and may accept as authentic any instructions given to us using your User ID or password. You agree to keep your User ID and password secret, to maintain control over your computer system and to prevent unauthorized access thereto. You agree to notify us immediately if your User ID or password is lost or stolen or if you believe someone else has discovered your User ID or password or if you believe a breach of your computer system has occurred. If you give your User ID or password to someone else, you are authorizing that person to act on your behalf. We may permit such a third party to access your account information, to make transfers and to otherwise use our services. Our services enable you to change your password; we recommend that you do so regularly. Don't use something that's easy to guess for your password (for example, your name, address or birth date) - a combination of letters and numbers is required. We may be liable for certain security breaches to the extent required by applicable law and regulation (see Liability for Unauthorized Use). We do not assume any other liability or otherwise guarantee the security of information in transit to or from our facilities. We reserve the right to monitor and/or record all communications and activity related to our services and your FNBO Direct accounts. Please also see the "Important Note about Security for Deposits and Transfers" above. Our records will be final and conclusive in all questions concerning whether or not your User ID or password was used in connection with a particular transaction. If any unauthorized use of your User ID or password occurs, you agree to: (1) cooperate with us and appropriate law enforcement authorities in identifying and prosecuting the perpetrator; and (2) provide reasonable assistance that we request in recovering any unauthorized transfer.

**PLEASE NOTE: IF YOU GIVE YOUR USER ID OR PASSWORD TO SOMEONE ELSE, YOU ARE AUTHORIZING THAT PERSON TO DO ANYTHING YOU COULD DO WITH YOUR USER ID AND PASSWORD. FOR EXAMPLE, IF YOU**

ARE THE SOLE OWNER OF AN EXTERNAL ACCOUNT BUT YOU SHARE YOUR FNBO DIRECT USER ID OR PASSWORD WITH ANOTHER PERSON (SUCH AS A FAMILY MEMBER OR A JOINT ACCOUNT OWNER ON YOUR FNBO DIRECT SAVINGS ACCOUNT), THAT OTHER PERSON WILL BE ABLE TO INITIATE TRANSFERS FROM YOUR SOLELY-OWNED EXTERNAL ACCOUNT AND FROM YOUR FNBO DIRECT SAVINGS ACCOUNT. THAT OTHER PERSON WILL ALSO BE ABLE TO INITIATE TRANSFERS AND PAYMENTS FROM YOUR FNBO DIRECT BILLPAY ACCOUNT. YOU AGREE THAT WE MAY TREAT TRANSFER REQUESTS USING YOUR USER ID AND PASSWORD AS THOUGH YOU INITIATED THEM, EVEN IF THEY WERE ACTUALLY INITIATED BY SOMEONE ELSE THAT YOU GAVE YOUR USER ID OR PASSWORD TO.

2. **Account Information.** Balance information available on our web site may not reflect unposted transactions (such as deposits or credits) or recent transfers (as used in these Terms & Conditions, “transfers” refers to transfers, withdrawals and payments). Balances in your accounts may also be subject to a hold (which will not necessarily be evident from your online statement). When applicable, the funds availability policy for an account is contained in the relevant [Disclosures](#) for that account. Balance information is generally provided as of the end of the prior business day and may not reflect pending transactions. Online transaction history for accounts is limited. You may want to print and save your statements on a monthly basis to make sure that you have records for transactions prior to the first day covered by your online statements.
3. **E-mail.** You may use the e-mail feature in the Contact Us feature of our web site for general, non-urgent communications with us. You should not rely on e-mail for important or time-sensitive notices to us such as reporting a lost or stolen User ID, password, or credit, debit or ATM card. In any event, we will not take action based on an e-mail request until we actually receive your message and have a reasonable opportunity to react. We would also caution you against using e-mail for transmitting sensitive personal information. We reserve the right to terminate services if e-mail is used for threatening, abusive, obscene, libelous, defamatory or offensive material. Offensive material includes, among other things, sexually explicit messages or other messages that can be construed to be harassment or disparagement of others based on their race, color, religion, disability, age, sex or national origin. You may use the Contact Us feature of our web site to notify us of errors on your statements (for further information, see the Error Resolution Procedures

below). You should not consider that we have received your notification unless and until you receive a response from us. If you do not receive a response to your dispute within two days, you should resend your message (and await a response from us) or follow the other notification procedures in the applicable provisions referenced above. **DO NOT NOTIFY US VIA E-MAIL OF LOST OR STOLEN USER IDs, PASSWORDS, OR CREDIT, DEBIT OR ATM CARDS. DO NOT SEND TRANSFER OR WITHDRAWAL REQUESTS VIA E-MAIL.**

4. **Service Availability.** We make reasonable commercial efforts to make our services available, but we are not responsible for any scheduled downtime or other interruptions. We reserve the right to change service hours at any time.
5. **Termination of Services.** If you want to terminate your access to our services, you can call us at the number in the Contact Us section of our web site. Services may be discontinued immediately if we receive a call from you or someone claiming to be you. Alternatively, we may require that you follow another procedure so that we may verify your identity and your authorization to terminate. Recurring transfers will not necessarily be discontinued because you terminate access to our services. If you want to make sure that online recurring transfers are stopped, you must follow the procedures in the Discontinuing Transfers paragraph. We reserve the right to terminate access to any or all services in whole or in part at any time, with or without cause and without prior written notice. In that event or in the event that you give us a termination notice, we may (but are not obligated to) immediately discontinue making previously authorized transfers, including recurring transfers that you previously authorized but have not yet made. We also reserve the right to temporarily suspend access to our web site and any or all services in situations we deem appropriate, in our sole and absolute discretion, including when we believe a system security breach has occurred or is being attempted. We may consider repeated incorrect attempts to enter your User ID or password as an indication of an attempted security breach. Terminating the services does not affect your or our rights or obligations under the Terms & Conditions with respect to occurrences before termination.
6. **Authorization.** Each time you request us to make a transfer using our services, you authorize:
  1. us to complete that transfer without any further instructions or your signature; and

2. if relevant, the account-holding institution (which may or may not be us) to deduct the transfer amount from the deposit account you identify (subject to restrictions our system imposes).

You may revoke your authorization only by following the procedures (and subject to the limitations) in the paragraph on Discontinuing Transfers. Certain authorizations may not be revoked because we begin to process the request immediately. We are entitled to treat transfer requests as if they were in writing and signed by you if initiated by your User ID and password.

## 7. Transfers between Accounts.

### **IMPORTANT NOTE ABOUT SECURITY FOR DEPOSITS AND TRANSFERS:**

The security of your FNBO Direct Account(s) is important to us. We have various policies and procedures that are designed with security in mind. As a result, we may at any time: (1) change the ways in which you are permitted to make deposits to your account or transfers from your accounts; (2) temporarily restrict any or all deposits to your accounts and any or all transfers from your accounts, if we determine a security risk exists; (3) refuse to enroll any External Account and suspend or terminate the enrollment of any previously approved External Account (Please note, you will not be able to enroll an External Account with your FNBO Direct CD Account.); and (4) refuse to complete any transfer based on the existence of a security risk. When you request to enroll any External Account on your FNBO Direct Savings Account, we may temporarily restrict all deposits to and/or transfers from your FNBO Direct accounts while we verify your ownership of all External Accounts. Except for notices required by applicable law, we may do these things without further notice. In some cases, our security policies may delay transactions that you wish to complete. If any Additional Verification (as referenced below) has not been completed to our satisfaction, we may consider a security risk to exist.

### **A. Transfers between your FNBO Direct Account and External**

**Accounts.** You may request to enroll up to three (3) other deposit accounts as your "External Accounts." Enrollment of such accounts is subject to our approval, which may be withheld in our sole discretion. Once an External Account is enrolled, you may request us to initiate transfers between that External Account and your FNBO Direct Account. A NOTE ABOUT LINKED ACCOUNTS: You agree: (1) not to enroll an

External Account that anyone else owns or has an interest in (the title on any External Accounts must match the title on your FNBO Direct Account); and (2) not to deposit funds other than your own funds into your FNBO Direct Account.\* We may require additional verification of your ownership of any External Account at any time (before or after enrollment and before or after allowing any transfer activity with respect to that account (this is referred to as "Additional Verification"). By requesting to enroll an External Account, you: (1) authorize us to tell the account-holding institution that you consent to their disclosure, to us and our representatives, of any information that we request about you or the External Account; and (2) agree to cooperate in Additional Verification, including by promptly providing any identification and/or other account documentation that we may request.

*\* Among other things, this means that you may not establish an account for another person in a representative capacity. For example, you may not establish an account as an agent, trustee or broker for another person.*

- Your FNBO Direct Savings Account is intended to provide you with a competitive savings account with limited transfer and withdrawal activity. Your FNBO Direct Savings Account is not intended as a transaction account to simply transfer money from one External Account to another. If we believe you are using the service in this way, we may suspend or terminate your account or your right to make further transfers.
- Generally, you may make no more than six transfers and withdrawals from your FNBO Direct Savings Account during any statement cycle. See Section 6 of the Deposit Agreement for further information. For security reasons, there may be other limits on the transfers and withdrawals that you can make.

*\*See the Important Note about Security for Deposits and Transfers above for additional information about other potential limitations on the availability of funds.*

- You may not transfer or withdraw more than: (i) \$100,000 from your FNBO Direct Account in any one transaction; (ii) \$100,000 from your FNBO Direct Account on any one business day; or (iii) \$500,000 from your FNBO Direct Account in any one month. Additional limitations apply to withdrawals with an FNBO Direct

debit or ATM Card (those limitations will be provided with your card).

- You may not deposit or transfer more than: (i) \$250,000 into your FNBO Direct Account in any one transaction; or (ii) \$250,000 into your FNBO Direct Account on any one business day.\* You may not make a deposit or transfer that would bring your total principal balance on any account with us to more than \$1,000,000. We also reserve the right to refuse or return additional deposits at any time and for any reason (see Section 11 of the Deposit Agreement for further details).

*\*This is not a guarantee that all deposits will be accepted or that you will be able to make consecutive daily deposits at the maximum level. Processing limitations may prevent or restrict deposits that you attempt to initiate before a prior deposit has been credited to your account.*

- There may be other limitations on transfers to or from an External Account that are established by the bank or financial institution holding that account.
- Transfers may be one-time or recurring. A one-time transfer is a transfer that is made on a one-time basis that is: (1) scheduled to pay on the same business day you request such transfer; or (2) scheduled with a future send day. A recurring transfer is one for the same amount that is made on a regular periodic basis. Once started, recurring transfers will be made automatically for the duration you establish with us or until you tell us to cancel the recurring transfer and we have a reasonable opportunity to act. Transfer dates will be automatically moved to the next business day if you request a send date that is not a business day or you request the send date to be on the same day as your request and you make your request after the cut-off time we establish or on a day that is not a business day. You agree that we may initiate transfers by automated clearinghouse transaction or by such other means as we deem appropriate. If any third party makes a claim against us as a result of transfers you request from an External Account, you shall reimburse for all losses we sustain in connection with that claim and you shall fully indemnify, defend and hold us harmless against that claim. In such an event, we may also reverse any credit given on your FNBO Direct Account. DO

NOT SEND TRANSFER REQUESTS VIA EMAIL.

**B. Transfers between your FNBO Direct Accounts.** You may transfer money between your FNBO Direct Savings Account and your FNBO Direct BillPay Account. Please note that only a limited number of transfers may be made from your FNBO Direct Savings Account to your FNBO Direct BillPay Account (generally, you may make no more than six transfers and withdrawals from your savings account during any statement cycle - see above). Transfers may be one-time or recurring. A one-time transfer is a transfer that is made on a one-time basis that is: (1) scheduled to pay on the same business day you request such transfer; or (2) scheduled with a future send day. A recurring transfer is one for the same amount that is made on a regular periodic basis. Once started, recurring transfers will be made automatically for the duration you establish with us or until you tell us to cancel the recurring transfer and we have a reasonable opportunity to act. Transfer dates will be automatically moved to the next business day if you request a send date that is not a business day or you request the send date to be on the same day as your request and you make your request after the cut-off time we establish or on a day that is not a business day.

8. **BillPay Services.** You may make "variable" or "recurring" transfers (i.e., payments) to the third parties you put on your merchant list. A variable payment is a payment made on a one-time basis. A recurring payment is one for the same amount that is made on a weekly, bi-weekly, bi-monthly, monthly, quarterly, semi-annual, or annual basis. Once started, recurring payments will be made automatically until you tell us to cancel the recurring payment and we have a reasonable opportunity to act or until the recurring payment end date that you establish with us. We reserve the right to decline to make payments to certain persons and entities. You are solely responsible for assuring the accuracy of the information about the merchants that you have added to your merchant list. You should review your list from time to time to verify its accuracy. You can change your list from time to time. Any change should be requested sufficiently in advance of the next payment to give us time to make the change for any pending payments. BillPay payments will be made in the amounts and on the "payment dates" you specify, but may not be less than \$5 or more than \$10,000. You may not schedule more than one payment per payment date to the same merchant. Payments will be mailed or otherwise sent within two business days after the payment date (please note that payment dates will be automatically

moved to the next business day if you request a payment date that is not a business day or you request the payment date to be on the same day as your request and you make such request after 10:00 p.m. Central Standard Time or on a day that is not a business day). In order for your payment to be on time, you should allow: (i) two full business days from the payment date you specify for us to mail the payment; and (ii) whatever additional time is needed for the mail to be delivered to the party you are paying. You must make your payment request and select a payment date with enough time in advance so that your payment will be delivered by its initial due date (not the end of any applicable grace period). *We are not responsible for late payments unless we fail to mail payment within two business days of the selected payment date and that delay causes you a loss* (our liability is subject to Section 12 below and the other applicable provisions of these Terms & Conditions). BillPay payments will be made from your FNBO Direct BillPay Account. Payments will be deducted from your account on the payment date. You agree that we may send payments by composite check drawn on us or on our affiliate, by check drawn on your account but without your signature (or with a signature substitute that we apply), by automated clearinghouse transaction, or by such other means as we deem appropriate.

For security reasons, there may be limitations in addition to those referenced above on the frequency and dollar amount of the transfers you may make using our services.

## 9. Discontinuing Transfers.

**For transfers between your FNBO Direct Account and External Accounts:** If you wish to discontinue a transfer, find the transfer you wish to cancel on the Transfer Details/View Transfers screen on our web site, then click on the “Cancel” icon for that transfer. This will cancel the pending transfer (and delete the future transfers in that transfer cycle, if it is a recurring transfer). In addition, you can call us at 877-370-3707 or the number indicated on your statement, or write to us at: FNBO Direct, P.O. Box 3707, Omaha, Nebraska 68103-0707. We must receive your request at least three business days before the transfer is scheduled to be made. If you request us to cancel a recurring transfer three business days or more before the transfer date and we fail to do so, we are liable for your losses or damages. You may not discontinue transfers that we have already sent. Although we may attempt to honor

cancellation requests for one-time transfers that are scheduled to pay on a future date, we are not obligated for failing to do so. DO NOT SEND REQUESTS TO DISCONTINUE TRANSFERS VIA EMAIL.

**For recurring transfers between FNBO Direct accounts:** If you wish to cancel a recurring transfer, select the transfer you wish to cancel on your pending transfers list on our web site. After you select the transfer you wish to cancel, you can choose the delete transfer cycle option. This will cancel the pending transfer and delete the future transfers in that transfer cycle. In addition, you can call us at the number in the Contact Us section of our web site, or write to us at: FNBO Direct, P.O. Box 3707, Omaha, NE 68103-0707. We must receive your request at least three business days before the transfer date. If you request us to cancel a recurring transfer three business days or more before the transfer date and we fail to do so, we are liable for your losses or damages (applicable to consumer accounts only). You may not discontinue transfers that are no longer on your pending transfers list.

**For variable transfers between FNBO Direct accounts:** If you wish to cancel a future variable transfer, you can select the transfer you wish to cancel on your pending transfers list on our web site. After you select the transfer you wish to cancel, you can choose the cancel transfer option. In addition, you can call us at the number in the Contact Us section of our web site, or write to us at: FNBO Direct, P.O. Box 3707, Omaha, NE 68103-0707. We must receive your request at least three business days before the transfer date. Although we may attempt to honor cancel requests for variable transfers, we are not obligated for failing to do so. You may not discontinue transfers that are no longer on your pending transfers list.

**For BillPay recurring payments:** If you wish to cancel a recurring payment, you can select the payment you wish to cancel on your pending payments list on our web site. After you select the payment you wish to cancel, you can choose the delete payment cycle option. This will cancel the pending payment and delete the future payments in that payment cycle. In addition, you can call us at the number in the Contact Us section of our web site, or write to us at: FNBO Direct, P.O. Box 3707, Omaha, NE 68103-0707. We must receive your request at least three business days before the payment date. If you request us to cancel the recurring payment three business days or more before the payment date, and we fail to do so, we are liable for your losses or damages (applicable

to consumer accounts only). You may not discontinue payments that are no longer on your pending payments list.

**For BillPay variable payments:** If you wish to cancel a variable payment, you can select the payment you wish to cancel on your pending payments list on our web site. After you select the payment you wish to cancel, you can choose the cancel payment option. In addition, you can call us at the number in the Contact Us section of our web site, or write to us at: FNBO Direct, P.O. Box 3707, Omaha, NE 68103-0707. We must receive your request at least three business days before the payment date. Although we may attempt to honor cancel requests for variable payments, we are not obligated for failing to do so. You may not discontinue payments that are no longer on your pending payments list.

10. **Statements.** Transfers from your accounts with us will be reflected on the online statement we make available to you (see also the Statements paragraph of the Deposit Agreement). Transfers from deposit accounts with other institutions should be reflected on the statements you receive from those institutions. If any of your statements show an incorrect or unauthorized transaction, you agree to notify us immediately. If you do not follow the Error Resolution Procedures, your statement will be considered correct for all purposes and we will not be liable for any transfers reflected thereon.
11. **Preauthorized Credits.** If you have arranged to have direct deposits or transfers made into an FNBO Direct account at least once every 60 days from the same person or company, you can check online or telephone us at 877-370-3707 or the number indicated on your statement, to find out whether or not the deposit or transfer has been made.
12. **Our Liability.** If we fail to complete an electronic funds transfer in time or in the correct amount, *in accordance with these Terms and Conditions and when you properly instruct us*, we are liable for your losses or damages. However, there are some exceptions. For instance, we are not liable: (1) if, through no fault of ours, you don't have sufficient funds in your account to make the transfer; (2) if the funds are subject to legal process or other encumbrance restricting a transfer; (3) if the transfer exceeds your credit limit; (4) if there is a technical malfunction which is known to you at the time you attempt to initiate the transfer or, in the case of a recurring transfer, at the time the transfer should have occurred; (5) if circumstances beyond our control (such as a fire, flood, power outage or communications or computer system failure) prevent the transfer, despite reasonable precautions that we take. In no event

are we liable for more than actual damages proved if any failure of ours was unintentional, and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adopted to avoid such an error. This does not mean that we accept liability for other circumstances resulting in transfers not being made or completed on time. For example, we are not responsible for delayed or failed transfers if: (1) you fail to use the services properly in accordance with these Terms & Conditions and any online or other instructions supplied in connection with the services; (2) you don't request the transfer and schedule it sufficiently in advance of the date it should be made; (3) you exceed applicable restrictions on the number, amount or frequency of transfers; (4) you fail to supply accurate information with regard to the transfer destination or the account from which you wish to have the transfer made; (5) the transferee or its bank mishandles or delays posting the transfer (or, in the case of transfers from your account with another institution to your deposit account with us, your account-holding institution refuses to honor or mishandles or delays the transfer); (6) your computer or software fails to operate correctly, or your instructions are lost or delayed in transmission to us; (7) a bona fide security consideration causes us not to make the transfer (e.g., your User ID or password has been reported lost or stolen, we have reason to believe a transfer is unauthorized, or the transfer would violate other security restrictions in our system); or (8) your relevant deposit account is closed or services hereunder have been terminated or suspended. We are not liable for transfers that are delayed or not made as a result of us taking any action permitted under the Important Note about Security for Deposits and Transfers or under any other section of these Terms & Conditions.

- 13. Liability for Unauthorized Use.** Tell us AT ONCE if you believe your User ID or password has been lost or stolen. Telephoning is the best way of keeping your possible losses down. You could lose all the money in your deposit account. If you tell us within two business days, you can lose no more than \$50. If you do NOT tell us within two business days after you learn of the loss or theft of your User ID or password, and we can prove we could have stopped someone from using your User ID or password without your permission if you had told us, you could lose as much as \$500. Also, if your deposit account statement shows transfers that you did not make, tell us at once. If you do not tell us within 60 days after the statement was mailed to you, you may not get back any money you lost after the 60 days if we can prove that we could have prevented someone from taking the money if you had told us in time. If a good

reason (such as a long trip or hospital stay) kept you from telling us, we will extend the time periods. If you believe your User ID or password has been lost or stolen or that someone has transferred, or may transfer money from your account without your permission, you can call us at the number in the Contact Us section of our web site, or write to us at: FNBO Direct, P.O. Box 3707, Omaha, NE 68103-0707. DO NOT SEND NOTIFICATION OF LOST OR STOLEN USER IDs OR PASSWORDS OR UNAUTHORIZED TRANSFERS VIA EMAIL.

**14. Error Resolution Procedures.** In case of errors or questions about transfers from your accounts with us, telephone us at the number in the Contact Us section of our web site, or write to us at: FNBO Direct, P.O. Box 3707, Omaha, NE 68103-0707. Contact us as soon as you can if you think a statement you receive is wrong, or if you need more information about a transfer listed on your statement. We must hear from you no later than 60 days after we sent you the FIRST statement on which the problem or error appeared.

1. Tell us your name and account number.
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.
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 10 business days. We will determine whether an error occurred within 10 days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 days to investigate your complaint or question. If we decide to do this, we will provisionally credit your account within 10 business days for the amount you think is in error, so that you 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 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 90 days to investigate your complaint or question. For new accounts, we may take up to 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.

**Information Concerning Errors in External Accounts.** ALL QUESTIONS ABOUT TRANSACTIONS MADE USING FNBO DIRECT TRANSFER SERVICES MUST BE DIRECTED TO US (FNBO DIRECT), AND NOT TO THE BANK OR OTHER FINANCIAL INSTITUTION WHERE YOU HAVE YOUR EXTERNAL ACCOUNTS. We are responsible for the FNBO Direct transfer services and for resolving any errors in transactions made through FNBO Direct. Although we will the periodic statement on your FNBO Direct accounts which reflect the transfers that you make using FNBO Direct transfer services and your FNBO Direct debit or ATM Card, our statements will not reflect other activity in your External Accounts. Other activity in an External Account will appear only on the statements issued by the bank or other financial institution that maintains your External Account. If you have any questions about an FNBO Direct transfer from an External Account, telephone us at 877-370-3707 or the number indicated on your statement, or write to us at: FNBO Direct, P.O. Box 3707, Omaha, NE 68103-0707. In the case of errors or unauthorized transfers involving FNBO Direct transfer services and External Accounts, the timeframes set forth in sections 13 and 14 may be extended if and to the extent required by law.

15. **Business Days.** For purposes of this Services Agreement, our business days are Monday through Friday, excluding holidays.
16. **Confidentiality.** We will disclose information to third parties about your accounts or the transfers you make: (i) Where it is necessary for completing transfers, or (ii) In order to verify the existence and condition of your accounts for a third party, such as a credit bureau or merchant, or (iii) In order to comply with government agency or court orders, or (iv) If you give us your written permission. Please also see our Privacy Policy (Privacy).
17. **FNBO Direct ATM Card.** Separate disclosures will be provided with your FNBO Direct ATM Card; those disclosures will be relevant to the transfers made with your Card.
18. **Outgoing Wire Transfers.** Although we are not obligated to do so, we may from time to time receive and accept your requests that we transfer funds from via wire transfer. Transfer requests received after 2:30 p.m. C.S.T. may be processed on our next business day. We may discontinue the practice of allowing wire transfers from your account(s) at any time and we may refuse to make wire transfers to any account other than the funding account that we approved when your FNBO Direct Savings

Account was opened. Please be aware that you will need to provide all the information we require before we will consider your request complete (see [FAQs](#) for more information). We are not obligated to accept or honor such requests and we shall have no liability for refusing a wire transfer request. We agree to use the following “Security Procedure” to verify the authenticity of a wire transfer request. The Security Procedure is intended to verify that a request received by us has been authorized by you and is not intended to detect errors in the transmission or content of wire transfer requests. You agree that any wire transfer request that we accept in compliance with the Security Procedure shall be effective as your order to us, and you agree to be bound by that order, whether or not it was actually authorized by you. This is the Security Procedure: our computer will determine that your User ID and Password were used in the online session in which the initial wire transfer request was sent to us. If they were, then we may treat the transfer request as authorized. You are solely responsible for the security of your computer system. Certain transfers made via wire transfer are not subject to the federal Electronic Fund Transfer Act (“Exempt Transfers”). Exempt Transfers are not entitled to the protections of Sections 12, 13 of 14 above.

19. **POPmoney Service Agreement.** These terms and conditions apply to certain POPmoney services that you may obtain from FNBO Direct. POPmoney is a service that allows customers to "Pay Other People" (POP) anywhere, at any time, requiring only a recipients email address, cell phone number or bank account information. This is an important document which you must carefully consider when choosing whether to use the POPmoney services.

**Privacy.** Protecting our customers' privacy and the information they provide is a high priority to us. Please review our Privacy Policy posted on our website for detailed information regarding our privacy policy.

**Privacy of Others.** If you receive information about another party for the POPmoney services, you must keep the information confidential and only use it in connection with the service. You may not disclose or distribute that party's information to a third party or use the information for any purpose unless you receive that party's express consent to do so.

#### **Definitions:**

**Third Party Account:** Account that belongs to another person.

**Contacts:** The user sets up contacts for the purpose of sending money. A contact can be setup using a bank account or an email address or a mobile phone. The user may add multiple bank accounts, email addresses, or mobile phones to a contact. The user chooses where to direct payments when making a payment.

**Account Types.** POPmoney supports the following account types:

- Savings
- Checking
- Money Market Savings
- Money Market Checking

Please note, Account Terms and Conditions of the specific account(s) used for this service will apply. This includes, but not limited to, the number of transfers that may be made from your FNBO Direct Savings Account (generally, you may make no more than six transfers and withdrawals from your savings account during any statement cycle). Again, please see your specific Account Terms and Conditions for more details.

**Prohibited Activities:**

You may not use the POPmoney services for activities that:

1. violate any law, statute, ordinance or regulation
2. relate to sales of (a) narcotics, steroids, certain controlled substances or other products that present a risk to consumer safety, (b) drug paraphernalia, (c) items that encourage, promote, facilitate or instruct others to engage in illegal activity, (d) items that promote hate, violence, racial intolerance, or the financial exploitation of a crime, (e) items that are considered obscene, (f) items that infringe or violate any copyright, trademark, right of publicity or privacy or any other proprietary right under the laws of any jurisdiction, (g) certain sexually oriented materials or services, or (h) ammunition, firearms, or certain firearm parts or accessories, or (i) certain weapons or knives regulated under applicable law
3. relate to transactions that (a) show the personal information of third parties in violation of applicable law, (b) support pyramid or ponzi schemes, matrix programs, other "get rich quick" schemes or certain multi-level marketing programs, (c) are associated with purchases of real property, annuities or lottery contracts, lay-away systems, off-shore banking or transactions to finance or refinance debts funded by a credit card, (d) are for the sale of certain items before the seller has control or possession of the item, (e) are by

payment processors to collect payments on behalf of merchants, (f), are associated with the following Money Service Business activities: the sale of traveler's checks or money orders, currency exchanges or check cashing, or (g) provide certain credit repair or debt settlement services

4. involve the sales of products or services identified by government agencies to have a high likelihood of being fraudulent

5. violate applicable laws or industry regulations regarding the sale of (a) tobacco products, or (b) prescription drugs and devices

6. involve gambling, gaming and/or any other activity with an entry fee and a prize, including, but not limited to casino games, sports betting, horse or greyhound racing, lottery tickets, other ventures that facilitate gambling, games of skill (whether or not it is legally defined as a lottery) and sweepstakes unless the operator has obtained prior approval from POPmoney and the operator and customers are located exclusively in jurisdictions where such activities are permitted by law.

### **POPmoney Services.**

The POPmoney product comprises different services. The services are:

**Standard Delivery:** This service allows customers to send money to their contacts with bank account information using standard transfers. The funds are directly deposited into contact bank account. Delivery speeds for domestic (U.S.) transfers are generally three (3) business days. Some limitations apply.

**Next Day Delivery:** This service allows customers to send money to their contacts with bank account information using next day transfers. The funds are directly deposited into contact bank account.

**POPmoney:** This service allows customers to send money to the email address or mobile phone number of their contacts using standard transfers. Contact must deposit payment by providing their bank account information. In some cases, if the recipient set up automatic deposit, then the funds are directly deposited into the recipient specified account.

**Sending Money.** We may, at our discretion, impose limits on the amount of money you can send through the service.

### **Transfers outside FNBO Direct.**

- You must be enrolled in FNBO Direct to use the POPmoney services.

- Within FNBO Direct you have the option of participating in POPmoney which allows you to transfer funds between your personal deposit accounts at FNBO Direct and certain deposit accounts owned by someone else at other financial institutions.
- You will need to provide certain identifying information about each non-FNBO Direct account in order to register that account for this service.
- Transactions will be initiated for the business day on which they are requested, provided the request is made prior to 11:59 PM CST. Transactions on a weekend, holiday, or other non-business day will be initiated on the business day following the request.

The minimum amount that you may transfer in any one transaction is \$10.00. In addition, you may not transfer more than: (i) \$1,000 from your account in any one transaction; (ii) 10 transactions on any one business day; or, (iii) \$5,000 from your account in any one month.

**Refused and Refunded Transactions.** When you send money, the recipient is not required to accept it. You agree that you will not hold FNBO Direct liable for any damages resulting from a recipient's decision not to accept a payment made through the service. We will return any unclaimed, refunded or denied payment within 30 days of the date you initiate payment. If a payment is unclaimed, denied or refunded for any reason, we will return the money to your account.

Further, FNBO Direct is not responsible for any failure of another financial institution to act in a timely manner. As a result, we cannot guarantee the timely delivery or return of funds as a result of the failure of another institution to act in a timely manner.

**Special Note:**

**Program:** Users of the POPmoney service may receive Short Message Service (SMS) messages relating to their payments, such as notice of payment, alerts for validation and receipt of a transfer. POPmoney will verify your access to the mobile phone number. To enable this verification, POPmoney will send you an SMS message with a verification code that you will need to enter to direct your payment to your designated bank account. You may receive SMS messages related to your transactions from time to time. Data and messaging charges may apply.

**Questions:** You can contact us at 1-877-370-3707, or at any time from your mobile by sending a text message with the word "HELP" to this number:

POPMON.

**To opt out of the Program:** To stop receiving messages you can initiate the opt-out process by sending a SMS message. Just text "STOP" to this number: POPMON.

## Deposit Agreement

### IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT

To help the government fight the funding of terrorism and money laundering activities, the USA Patriot Act requires all financial institutions to obtain, verify, and record information that identifies each person (including business entities) who opens an account.

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

These terms are applicable to your FNBO Direct deposit accounts:

- 1. Interest Rate and Other Important Terms.** The separate document entitled [Disclosures](#) contains important information about the interest rate, fees, balance requirements and other important information about your accounts. You agree to the terms, conditions, limitations and restrictions set forth in the Disclosures. To the extent that the Disclosures set forth obligations for you, you agree to comply with those obligations.
- 2. Account Titles.** An account may be titled as either a single-party or a multiple-party account. Although multiple-party accounts are generally owned by the parties in proportion to their net contributions, we may pay any or all of the account to any party at any time. If a party to a multiple-party account desires to order us to alter the form of the account or to stop or vary payment under the terms of the account, that order must be in writing and signed by the relevant party (P.O.D. beneficiaries are not "parties") and otherwise comply with applicable law. Any such order must be sent to First National Bank of Omaha, Customer Service Center, 1620 Dodge Street, Stop 8160, Omaha, Nebraska, 68197-8160 and you agree that we must have a reasonable

opportunity to react to the order before being bound by it. Unless we are required by law to accept such orders, we may reject them. Account titles may affect parties' rights on death. Nebraska law provides as follows: Single Party Account: at death of the party, ownership passes as part of the party's estate. Single Party Account with P.O.D. (Pay on Death) designation: at death of the party, ownership passes to P.O.D. beneficiaries and is not part of the party's estate. Multiple Party Account with Right of Survivorship: at death of a party, ownership passes to the surviving parties. Multiple Party Account with Right of Survivorship and P.O.D. (Pay on Death) designation: at death of the last surviving party, ownership passes to P.O.D. beneficiaries and is not part of the last surviving party's estate. Multiple Party Account without Right of Survivorship: at death of a party, deceased party's ownership passes as part of the deceased party's estate. You should consult your own legal advisor for your own estate planning purposes. Unless applicable law provides otherwise, we shall be entitled to make the determination of which category your account falls in for all purposes pertaining to our responsibilities with respect to the account.

3. **Joint Accounts.** If your account is a joint account, we may permit any one of you to: (i) deposit checks payable to any or all of you, with or without endorsement; (ii) withdraw all funds from the account; (iii) close the account; and (iv) issue or cancel stop payment orders on the account. We may also permit any one of you to take such actions by signing on behalf of the others and may accordingly treat the signature of any one of you as the signature of all of you. Although we may permit the foregoing things, we are not required to do so. We may require actual joint action and signature by all of you in any of the preceding situations. By signing up for or using a multiple-party account, you each appoint each other as your lawful attorney-in-fact with full power to take the foregoing actions. Each of you shall be fully responsible for and shall pay to us the amount of any and all overdrafts whatsoever on your accounts. You are each responsible regardless of: (i) which of you benefited from the proceeds of the overdraft; or (ii) which of you took the action that created the overdraft (i.e., it does not matter which of you caused the overdraft by withdrawing or transferring funds, by using a banking card, or by depositing an item that is returned unpaid). You are jointly and severally responsible for all obligations under the Terms & Conditions.
4. **Deposits.** You understand and agree that we are not obligated to

accept deposits to your FNBO Direct BillPay Account. If we do accept deposits on one or more occasions, we are not obligated to continue doing so. You may not make additional deposits to an FNBO Direct CD Account after it is opened. We are not responsible for deposits (such as deposits by mail) until they are actually received and verified by us and we issue a receipt. Our counts of money deposited shall be conclusive. All deposits (including checks and electronic deposits) are received and credited by us provisionally and subject to final payment. We reserve, to the extent permitted by law, the right to reverse all credits and to make corrections and adjustments to your accounts (including corrections and adjustments for errors that are reflected on deposit tickets or receipts). We reserve the right to refuse to accept and to return deposits (including deposits made via transfers from your FNBO Direct Savings Account) for any reason (see Section 11 below for further information). If you do not endorse a deposited item, we may supply your endorsement, but we are not required to do so and we may require your specific endorsement. We act only as your agent in receiving and handling items for deposit or collection and are not responsible for the actions of other banks or for the loss or destruction of items in transit. We may select the methods used for collection of items, including the use of other banks and clearinghouses, and we may agree to vary collection policies, procedures and deadlines with such other banks and clearinghouses. We may also convert the checks that you deposit into substitute checks (as defined below) or otherwise collect them electronically. We may charge back to your account(s) the amount of any: (i) item which is returned unpaid or which is not paid within a reasonable time; or (ii) any electronic deposit for which we do not receive settlement within a reasonable period of time. You waive notice of dishonor, nonpayment or protest of any such item or deposit and authorize us to attempt to reclear that item if we wish (but we are not required to do so). You agree to assume responsibility for any loss resulting from endorsing or otherwise marking the back of any deposited item outside of the designated payee endorsement area. You agree that we are not responsible for delayed or inaccurate chargebacks to your account(s) if your endorsement on a deposited item does not enable us to clearly identify the account into which it was deposited. You may not deposit "substitute checks" (as defined in the federal Check Clearing for the 21st Century Act) unless we have otherwise agreed in writing. If a check you deposit is returned to us and you request it to be returned to you, we may return it to you in the form of a substitute check (or a paper or electronic representation thereof). If items are lost while in our possession, you agree to use

reasonable efforts to obtain replacements. If you deposit an item drawn on a non-U.S. bank or payable in a foreign currency, and we agree to collect it, we may convert the item to U.S. Dollars using our exchange rate in effect on the date we select and may charge your account(s) for the amount of any third party fees we are required to pay in connection with such item. You understand that we may credit incoming funds transfers based solely on the account number provided to us, regardless of whether that number matches the other information provided with the transfer. We are authorized, but not obligated, to accept deposits into your account(s) regardless of who we receive such deposits from, regardless of who they are made payable to, and regardless of whether they are endorsed on your behalf.

5. **Transfers from your Account.** You understand and agree that we are not obligated to honor transfer requests of any kind from an FNBO Direct CD Account. We are not, for example, obligated to honor checks drawn against any of your FNBO Direct accounts. We may honor transfer requests in any order we choose (for example, we may pay the largest transfers first), even if the order we choose results in there being insufficient funds to honor other transfer requests that might have otherwise been honored. You acknowledge and agree that, although we are not obligated to honor them, we will not be liable for honoring non-BillPay drafts, automated clearing house transactions and other transfers from your account(s) that purport to have been authorized by you or that we otherwise receive ("Incoming Items"). These Incoming Items may include, but are not limited to: (i) transfers that appear to have been authorized by you, such as a preauthorized electronic funds transfer or transfer initiated over the Internet or the telephone; or (ii) transfers that a third party may be permitted to initiate under applicable rules, such as a transfer that represents a permitted reversal or reclamation of an earlier transfer. None of this, however, is intended to excuse us from reimbursing you as required by applicable law for the amount of any such transfers that are in fact unauthorized. Please exercise caution when deciding to give your account number to a third party - if a third party has your account number, we will ordinarily presume that you authorized the third party to use it to initiate a transfer from your account. We are not required to inquire into the circumstances under which: (i) items were issued, endorsed or negotiated; (ii) transfers were authorized; or (iii) proceeds will be disposed of (even if an item is payable to cash, bearer, the order of an authorized signer or a lender of an authorized signer). If any item or transfer paid on your account gives rise to a claim

against a third party (for example, third party liability for breach of a presentment or transfer warranty), you may request us to take reasonable action to enforce against prior parties whatever rights you or we may have against such prior parties. If we take such action, you agree to reimburse us for our costs and expenses (including reasonable attorneys' fees) in doing so. If we pay an item which has been transferred or negotiated outside the United States, you will be deemed to make all U.S. Uniform Commercial Code presentment and transfer warranties to us with respect to that item.

6. **Limitations on Transfers.** In addition to the limitations on transfers and withdrawals set forth in the "Transfers" provision of the Services Agreement and/or in the relevant [Disclosures](#) for your account, we reserve the right, at any time, to require at least seven days advance written notice prior to any transfer or withdrawal from your accounts. In some cases, we may also place a hold on transfers and withdrawals for security reasons (see the Important Note about Security for Deposits and Transfers above). If we authorize a withdrawal or transfer from your account (for example, through the use of a banking or check card) we may, at that time, debit or place a hold on your account for the amount authorized. You may make no more than six transfers and withdrawals from your FNBO Direct Savings Account during any statement cycle. Transfers do not include (i) loan payments to us; (ii) transfers to another of your accounts with us that you make if made by mail, automated teller machine or in person at a branch; or (iii) withdrawals that you make if made by automated teller machine or in person at a branch. Transfers include, but are not limited to, preauthorized withdrawals with third parties and transfers made by phone or online banking. We will count transfers in the statement cycle in which they are paid. If these limitations are exceeded, we may close the savings account and move your balance to another account (which could be a non-interest-bearing account).
7. **Overdrafts.** You agree to maintain a sufficient balance in your accounts to cover the transfers that you make or authorize. If available funds are not on deposit at the time we review your balance after any transfer request is presented, we may, without prior notice, refuse payment or we may (but need not) pay the transfer. We need not review your account more than once in making this determination. In either case, an overdraft fee may be assessed. If we pay an overdraft, you agree to immediately deposit sufficient funds to cover the overdraft and related

fee.

8. **Stop Payment Orders.** You understand that we may not be able to stop payment on items that you have enabled third parties to create and send to us. If you have authorized a third party to initiate recurring deductions from your account, you should order the third party to stop them, and agree that we are not responsible therefor except to the extent required by law.
  
9. **Statements.** We will make statements reflecting the activity on your accounts available to you by making account information available online and alerting you their availability by sending a notice to the email address provided on your application (or such changed email address as we may receive notice of from you). You agree to promptly notify us of any change in your email address. Your receipt of e-mails may be delayed or prevented by factor(s) affecting your internet service provider(s) and other factors outside our control. We do not guarantee the delivery or the accuracy of the contents of e-mails as received by you. We are not responsible for (a) inaccurate or incomplete content in an e-mail (except that we use reasonable care to achieve accuracy and completeness at the time we send it); (b) non-delivery, delayed delivery, or misdirected delivery of an e-mail; (c) your dependence on or use of the information provided in an e-mail; or (d) security relating to the delivery of an e-mail. You agree to promptly examine your statements and to verify that the Incoming Items (as defined in Section 5) identified thereon were authorized. If you need more information to do this, you agree to request that information promptly. If unauthorized use of your account occurs (e.g., an improper payment, deduction or transfer from your account), if any items deposited into your account are alleged to be forged or altered, or if there is any other discrepancy in your account, you agree to: (i) promptly provide such information as we may request to investigate the problem; (ii) promptly provide such documentation as we may request concerning the problem (including relevant affidavits); and (iii) if relevant, cooperate with us and appropriate law enforcement authorities in recovering any unauthorized payments, deductions or transfers and in prosecuting the perpetrator. If you do not notify us reasonably promptly, you may be precluded from making a claim against us based on the error; if more than 30 days pass, you will be precluded from making a claim based on losses caused by the same wrongdoer. Unless we receive written notice within 60 days after the date of the statement, the statement shall be deemed correct for all purposes and

we shall not be liable for any errors shown thereon. Such written notices may be given to us via email, but you should verify our receipt by requesting a confirmation of receipt from us. No legal proceeding or action may be brought against us to recover payment in respect of an error unless: (i) we receive written notice as provided above; and (ii) you commence the action or proceeding within one year after the date of the statement on which the error was reflected. You must let us know if you do not receive or cannot access your statement. Nothing in these Terms & Conditions: (i) is intended to limit rights you are granted by law, which cannot be waived (for example, your right to notify us of errors in respect of electronic funds transfers); and (ii) applies to preclude you from asserting a claim on which a third party is liable (for example, third party liability for breach of a presentment or transfer warranty). To the extent that we are requested or required to be involved in the assertion of such claim, however, you agree to reimburse our costs and expenses (including reasonable attorneys' fees) in connection therewith.

10. **Change in Terms.** IMPORTANT NOTICE: We may unilaterally change these Terms & Conditions at any time. This includes modifications, deletions and the addition of new provisions, including nonfinancial provisions (for example, we may add provisions relating to our enforcement rights or the resolution of claims and disputes). If we make changes, we will send you notice, if required by law. Changes will be automatically effective on the date we specify and without the necessity of any further assent on your part. Unless we specify otherwise, changed terms will apply to the then outstanding balance of your account as well as to future transactions and balances. Each time you use your account(s) or our services, you are confirming your assent to these Terms & Conditions, including all announced changes. Use of your account(s) or our services is not, however, necessary for a change in terms to be effective. If you disagree with a change, you should close your account(s) and stop using our services. Closed accounts remain subject to this provision.
11. **Dormant Accounts.** If two consecutive statements are returned to us due to an invalid e-mail address and/or an invalid mailing address, and there is no activity by you on your account, we may consider your account dormant. If your account becomes dormant, we may cease sending statements, and may assess dormant account fees, as outlined in the fee schedule of the Disclosures.
12. **Closing Accounts.** You may close your account(s) at any time and for

any reason after we have received final settlement on all items deposited by you (and subject to any applicable limitations on transfers or withdrawals from your account). We may close your account(s) at any time and for any reason. We also reserve the right, in our discretion, to refuse or return additional deposits and/or to discontinue or limit the practice of allowing transfers. If we elect to take one of the preceding actions, we will notify you, if required by law. We will not be liable for dishonoring items or transfers after notifying you that we have taken one of these actions. If we refuse or return a deposit, we may return the entire amount of that deposit or just the portion that we determine exceeds a limit we have established (and we may do this regardless of whether the deposit was temporarily credited to your account). We need not pay interest on funds temporarily credited to your account pending return to you if those funds are in excess of a deposit limit we have established for your account. If your account is closed or a deposit is refused or returned, we may return your funds: (i) in any manner we choose (for example, by mailing a check made payable to you to the address contained in our records or by transferring funds via wire or ACH transfer to the account from which an incoming transfer to us was originated); (ii) subject to the same daily and other limits that apply to transfers and withdrawals, or, in our discretion, in one lump sum in excess of those limits; and (iii) via a payment that is made payable to either or both of you, if there is more than one of you. You must pay unpaid fees and charges, if any, when your account is closed. In addition to the foregoing, although we are not obligated to do so, if we determine that an unauthorized transaction has occurred or been attempted with respect to your account, we may close the account, re-open a new account on the same terms, and so note the same on our records. After your account is closed, you remain obligated to comply with all provisions of the Terms & Conditions relevant to anything that relates to or arises out of an occurrence prior to account closure. You specifically agree to reimburse us for the amount of all subsequent claims concerning items deposited prior to account closure (including subsequent warranty claims and returns of those items).

- 13. Set Off.** To the fullest extent permitted by law, we shall have a lien and right of set off against any funds you have in your FNBO Direct accounts or in any other accounts which you may have with us for purposes of satisfying any liability, indebtedness or obligation you owe to us, (including overdrafts and fees) and you grant us a security interest in such funds and in any items in the process of collection to secure

payment and performance of, all liabilities, indebtedness and obligations that you may now or hereafter owe to us (whether sole, several, joint, joint and several, absolute or contingent, due or to become due, liquidated or unliquidated, secured or unsecured). We are authorized to exercise against the entire amount of the account(s) whatever setoff or other rights we may have with respect to any one of you, regardless of which of you is in default and irrespective of your contributions to the account(s).

**14. Claims concerning Deposits.** You understand that we are required to make certain warranties and have certain indemnity and other responsibilities to third parties with respect to deposits made to your accounts (for example, we may have responsibility to third parties for items that you deposit with forged, unauthorized or missing endorsements, and items that have been altered or improperly encoded) and that other claims may be made against us by third parties arising out of handling your deposits (all such claims referenced in this sentence are referred to collectively as "Warranty Claims"). Warranty Claims include claims: (i) that are made after the drawee's midnight deadline; and (ii) asserted by electronic, paper or other means. If we receive notice of a Warranty Claim, we may place a hold on your account(s) for the amount of the claim. If you request us to, or if we are otherwise required to, dispute or defend against any Warranty Claim (for example, by asserting that the paying bank is required to assert its defenses against its customer), and if we agree to do so, you are responsible for reimbursing our costs and expenses (including reasonable attorneys' fees). We may deduct from your account(s) the amount of any Warranty Claim that we pay in good faith. We may exercise the rights set forth in this paragraph, even if doing so may create in an overdraft in your account(s). If sufficient funds are not available in your account(s), you agree to reimburse us for the amount of such claim. Our rights of deduction and reimbursement are absolute and unconditional, shall survive any termination of our relationship with you, and shall not, for any reason whatsoever, be subject to any reduction, setoff, defense, counterclaim, deferment or right of recoupment. We are not required to give you notice prior to exercising our rights under this section. These rights apply to, among other things, direct deposits of government benefits, wire transfers into your account(s), other direct deposits coming from third parties, deposits made after your death (including deposits of checks made payable to you), and deposits that are claimed to have been altered, improperly endorsed, miscoded or otherwise in violation

of applicable warranties under the Uniform Commercial Code. Your estate is responsible for this claim if you are deceased. If we are required to reimburse the government or any other third party for the amount of any benefit payments deposited into your account, you agree that we may, without prior notice to you, deduct that amount from your account or from any other account you have with us, unless the deduction is prohibited by law. This right is in addition to any other rights we have under these Terms and Conditions.

**15. Claims concerning Transfers.** Unless applicable law gives you the right to raise the issue with us, if you have a dispute with a third party, you agree to resolve that dispute directly with the third party even though we handled the transfer or Incoming Item by which the third party was paid. If a claim is made that any transfer was not properly payable, we may deduct and/or withhold the amount from your account(s) until final determination of the claim.

**16. Garnishment, Legal Process, Disputes.** You agree that we will not be responsible for complying or refusing to comply with any garnishment, levy, subpoena or other judicial, administrative or legal process we receive regarding your account(s), any funds in your account(s), or any item deposited thereto (even if the same is only applicable to one of you if yours is a multiple-party account). We may impose a reasonable processing charge in such circumstances. In addition, if the foregoing should occur or if there is any dispute regarding your account(s) (such as a dispute regarding ownership of the account or the authority of any person to take action on the account), or your instructions to us regarding an account (such as stop payment orders), you agree that we may place a hold on your account(s) (i.e., not allow further transfers) until the situation is resolved to our satisfaction. We are not required to determine the merits of any such disputes. In any of the preceding situations, we may interplead or take similar action with respect to the funds in dispute and you agree to reimburse our costs and expenses (including reasonable attorneys' fees) in doing so. In the event a claim on your account is made following your death (such as a claim made by a personal representative or successor), we may require the claimant to provide the documentation we deem necessary (such documentation may be based upon Nebraska law notwithstanding the state in which you were domiciled prior to death). You hereby agree, on behalf of your heirs, successors, representatives and others who may be entitled to assert a claim with respect to this account or your estate (collectively, "Other

Claimants"), that if we pay a claimant that has submitted the documentation we require, we shall be deemed released from any and all claims of Other Claimants with respect to this account or your estate.

**17. Our Obligations.** We have certain obligations to you under applicable law, including the obligation to exercise ordinary care. That obligation shall be measured by the reasonableness of banking procedures established for the transaction involved and general banking usage in the local area served by us; clerical error, inadvertence or oversight, or an honest mistake of judgment shall not constitute a failure to exercise ordinary care. You agree that we shall have no liability to you other than liability imposed by statute, which cannot be waived and liability for direct damages resulting from our gross negligence or willful misconduct. THE ACCOUNTS AND ANY RELATED PRODUCTS OR SERVICES THAT WE PROVIDE ARE PROVIDED "AS IS." WE DISCLAIM, TO THE EXTENT PERMITTED BY LAW, ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. We are not liable for losses due to interruption of communications, computer facilities, failure of equipment, emergency conditions or other circumstances beyond our control. IN NO EVENT SHALL WE BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER THEY ARE FORESEEABLE. The preceding limitations apply to all claims, regardless of whether asserted in contract, tort, or otherwise. We are not responsible for information contained on the back of checks that you deposit. Your death or legal incompetence does not revoke our authority with regard to items drawn on or deposited to your account(s) until we have actual knowledge thereof and a reasonable opportunity to act (and we may, even with knowledge of your death, pay transfers and payments for up to ten days after the date of death). You also agree that we will not be liable for and you will hold us harmless from claims arising out of third party inquiries about the existence and status of your accounts. We may, but have no obligation to, respond to such third party inquiries. We may refuse to take any action which we believe violates applicable laws, rules or regulations.

**18. Your Obligations.** You agree to use reasonable care in handling your accounts, authorizing transfers from your accounts, and in reviewing your statements. If a member of your immediate family uses your account(s) we may consider that action as having been authorized by you. You: (i) are responsible for complying with applicable laws, rules

and regulations in using your account(s) and in making deposits thereto and transfers therefrom, this includes your agreement not to initiate transactions that violate the laws of the United States (IMPORTANT: These laws include, but are not limited to, sanctions enforced by the Office of Foreign Assets Control (OFAC). It is your responsibility to obtain information regarding OFAC enforced sanctions. You may obtain further information from the OFAC Compliance Hotline at (800)540-OFAC); (ii) agree not to use your account(s) in any manner or in furtherance of any activity that constitutes a violation of any law or regulation or that may reasonably be expected to subject us to investigation, prosecution or legal action; and (iii) agree to be bound by the rules of the National Automated Clearinghouse Association and other relevant clearing house associations as in effect from time to time, to the extent that we process transactions for you that are subject to those rules. If you receive funds from us based on our error or mistake you agree to immediately notify us and return those funds.

19. **Indemnity.** You agree, to the fullest extent permitted by law, to indemnify, defend and hold us harmless from and against all third party claims asserted against us that arise out of or are related to: (i) our receipt, handling, presentment, payment or return of any item drawn on or deposited in your account(s); (ii) our maintenance of your account(s); (iii) us following your requests or instructions (including stop payment orders); (iv) your breach of these Terms & Conditions or any other agreement; or (v) your acts or omissions. We have no right to be indemnified for our own gross negligence or willful misconduct.
20. **Privacy.** Protecting our customers' privacy and the information they provide is a high priority of First National Bank of Omaha. For detailed information regarding First National Bank of Omaha's privacy policy, refer to the "Privacy Disclosure".
21. **Miscellaneous.** The Terms & Conditions, your accounts, the deposits you make and the services we provide will be governed by federal laws and regulations, applicable clearinghouse rules, and such additional rules, regulations and policies (including banking days and cut-off times) as we may establish from time to time. To the extent, if any, that state law is applicable to these Terms and Conditions, Nebraska state law (excluding conflict of law principles) shall apply. Any actions arising out of or related to these Terms & Conditions shall be commenced and maintained solely and exclusively in the federal or state courts located in Douglas County, Nebraska. These Terms & Conditions shall be construed to vary,

by agreement, applicable law to the maximum extent permitted by law. If a provision of law cannot be varied by agreement, that provision of law shall supersede the conflicting variation to the minimum extent required by such law. If any provision of these Terms & Conditions shall be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other term hereof. If any term is held to be unreasonable in time, scope, or otherwise, it shall be construed by limiting it to a minimum extent so as to be enforceable. No waiver of the terms of these Terms & Conditions by us will be effective unless signed by one of our authorized officers. We reserve the right to waive the enforcement of any of the terms of these Terms & Conditions with you with respect to any transaction or series of transactions. Any such waiver will not affect our right to enforce any of our rights with respect to our other customers, or to enforce any of our rights with respect to later transactions with you, and is not sufficient to modify these Terms & Conditions on a going forward basis. You agree to promptly and directly notify us of any change in your email address. If three consecutive statements are returned to us and there is still activity by you on your account(s), we may stop sending statements to that address. You agree that we may accept requests to make changes to your account(s) (e.g., change of address, change in the type of account, etc.) without requiring your signature or a written confirmation. Your accounts are not transferable. As used in these Terms & Conditions, the term "including" means "including, but not limited to". We are entitled to use such agents, contractors, service providers, networks and other third parties as we may deem appropriate in maintaining your account(s) and processing transactions in connection therewith. You agree not to pledge or grant a security interest in your accounts without our consent. If we consent (which we are not obligated to do), our set off and security interest rights will have priority over the rights of any third party unless we expressly agree otherwise in a writing executed by an authorized officer. You agree that we may contact any source necessary and may obtain credit reports in connection with opening, maintaining and servicing your accounts and providing services to you. We may also contact third parties in connection with resolving problems with your accounts or the services (e.g., in connection with delayed or incorrectly executed transfers) We may monitor or record any telephone calls or other communications between you and us. You agree that we may maintain a copy of these Terms & Conditions and any and all other documentation related to your accounts in electronic form and that we may destroy the originals. You agree that a copy produced from such electronic form or

by any other reliable means (for example, photocopy, image or facsimile) shall in all respects be considered equivalent to an original and you waive any objection to our use of such copies. These Terms & Conditions supersede any previous terms and conditions applicable to your accounts (but does not supersede agreements for services for which the parties have executed written agreements, provided, however, that the provisions of these Terms & Conditions shall not be deemed superseded by other agreements, even if those agreements contain general contract integration clauses, to the extent that these Terms & Conditions contain additional protections for the parties). Notices to us shall not be considered effective until they are actually received by an employee with responsibility to act thereon. We shall be afforded a reasonable opportunity to act on all notices. You may not transfer, assign or delegate your rights or duties under these Terms & Conditions. Do not use an aggregator or screen scraper service provider. If you choose to use an aggregator or screen scraper service provider, you are authorizing them to act on your behalf. These Terms & Conditions are solely for the benefit of you and us; there are no third party beneficiaries of these Terms & Conditions.

**22. Defined Terms relating to Claims.** When these Terms and Conditions refer to a "Claim" it means any pre-existing, present or future claim, dispute or controversy that arises from or in any way relates to: (a) these Terms and Conditions, any prior deposit agreement, your deposit account, any items drawn on or deposited to your account, any transfers to or from your account, any advertising or application for your deposit account, or the benefits, rewards or other products or services that are offered in connection with your deposit account; or (b) the acts or omissions of you, of us, or of Related Parties if those acts or omissions affect or relate to your deposit account, any items drawn on or deposited to your account, any transfers to or from your account, or any benefits, rewards or other products or services related to your deposit account. Claims include, but are not limited to, claims based on contract and tort (including intentional torts), claims made in law or in equity, claims based on constitutional, statutory, regulatory and common law rights, and claims for damages, penalties and injunctive, declaratory or equitable relief. When the term "you" is used in this provision on "Claims" or in the provisions on "Limitations on Claims" or "Arbitration," that term means you and any of the following people who will be considered "Your Related Parties": any joint account holders, any beneficiary or POD payee of your account, your heirs and your trustee in

bankruptcy. References to "Our Related Parties" in these Terms and Conditions includes affiliated third parties such as our parent, subsidiaries, and affiliates and our and their officers, directors, agents, employees, representatives, successors and assigns. "Our Related Parties" also include unaffiliated third parties that provide products, services or benefits (to you or to us) in connection with your deposit account or that have otherwise participated in the marketing or servicing of your deposit account. Any Claim or Claims brought by or on behalf of a class, brought in a representative capacity or otherwise on a class basis, or brought in the form of a private attorney general action are referred to as "Class Proceedings" regardless of whether they are commenced in court or in arbitration.

**23. Limitations on Claims.** Before we bring a Claim against you, we must notify you in writing of our Claim, including the amount of the Claim. Before you bring a Claim against us, you must notify us in writing of your Claim, including the amount of the Claim. If we have a Claim based on a payment obligation that you may have to us: (1) our notification requirement will be considered satisfied by sending you a statement within the time required by applicable law and regulation; and (2) you will be afforded the period of time allowed by these Terms and Conditions and applicable law to make the payment before we commence court proceedings or arbitration, if no period of time is specifically allowed by these Terms and Conditions, you shall have 30 days to make the payment. If you have a Claim based on something we or Our Related Parties may have done or failed to do: (1) you agree to provide your notification to us within 90 days after the time you could have first learned what we or Our Related Parties did or failed to do; and (2) we will be afforded a reasonable period of time not less than 30 days to take corrective action before you commence court proceedings or arbitration.

**24. Class Action Waiver.** You and we both agree, to the fullest extent allowed by law, that: (i) Claims will not under any circumstances be pursued in Class Proceedings; (ii) we waive the right to bring or to participate in Class Proceedings against you; and (iii) you waive the right to bring or to participate in Class Proceedings against us. If some other person initiates a Class Proceeding against you, we may not join that proceeding or participate as a member of that class. If some other person initiates a Class Proceeding against us, you may not join that proceeding or participate as a member of that class. This paragraph is

referred to below as the "Class Action Waiver."

## 25. Arbitration.

**THIS CONTRACT CONTAINS AN ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES. PLEASE READ THE FOLLOWING PARAGRAPHS CAREFULLY:**

**WITH LIMITED EXCEPTIONS, THIS ARBITRATION PROVISION ALLOWS EITHER PARTY TO REQUIRE THAT ANY "CLAIM" (AS DEFINED ABOVE) BE RESOLVED BY BINDING ARBITRATION.**

**ARBITRATION REPLACES THE RIGHT TO GO TO COURT AND TO HAVE A CLAIM DETERMINED BY A JURY. OTHER RIGHTS YOU MAY HAVE IN COURT, SUCH AS DISCOVERY OR APPEAL RIGHTS, MAY NOT BE AVAILABLE OR MAY BE MORE LIMITED IN ARBITRATION. EXCEPT AS PROVIDED BELOW, THOSE OTHER RIGHTS ARE WAIVED.**

**YOU WILL NOT BE ABLE TO DO THESE TWO THINGS (IN COURT OR IN ARBITRATION): (1) BRING A CLAIM AS A CLASS ACTION OR IN A REPRESENTATIVE CAPACITY; OR (2) PARTICIPATE IN A CLAIM AS A CLASS MEMBER.**

Except as provided below: (1) you may unilaterally choose to have any Claim that we bring against you resolved through binding arbitration; and (2) we may unilaterally choose to have any Claim that you bring against us (or us and any of Our Related Parties) resolved through binding arbitration. If you assert a Claim against any of Our Related Parties, but you do not also assert that Claim against us, the Related Party (or whoever will be defending the Related Party) may unilaterally choose to have that Claim resolved through binding arbitration. If a court proceeding is commenced, the party that commenced that court proceeding may unilaterally choose to have any counterclaim, cross-claim, or third party claim brought in that proceeding resolved through binding arbitration. **If a party chooses to have a Claim resolved by arbitration pursuant to this arbitration provision, neither you nor we will have the right to litigate that Claim in court, have a jury trial on that Claim, or engage in pre-arbitration discovery, except as provided for in the applicable Arbitration Rules of the selected Arbitrator(s) and as otherwise set forth in this arbitration provision.**

"Ordinary Claims" are not subject to this arbitration provision and may be resolved through litigation. A Claim will be considered an "Ordinary Claim" if all three of the following are true: (1) the only remedy being sought for the Claim is monetary damages; (2) the recovery being sought for the Claim is less than \$25,000, excluding interest and costs; and (3) the only parties to litigation to resolve the Claim will be you, us and/or Related Parties.

The arbitration administrator (an "Administrator") shall be either the American Arbitration Association ("AAA") or National Arbitration Forum ("NAF"). Arbitrations shall be conducted in accordance with the arbitration rules and procedures of the AAA or NAF which are applicable and in effect when the Claim is initiated (the "Arbitration Rules"). However, if the Arbitration Rules are inconsistent with this arbitration provision, this provision will prevail. If neither the AAA nor the NAF are available, Claims shall be submitted to one or more comparable organizations. The parties shall agree in writing on which comparable organization they wish to use. No other organization may be used.

Arbitrations may be initiated pursuant to the Arbitration Rules of the selected Administrator. One or more impartial arbitrators (the "Arbitrator(s)") will be selected pursuant to the Arbitration Rules, but any arbitrator must be either a lawyer with at least ten years experience or a former judge. You or we may choose to have an arbitration hearing. You and we may be represented by counsel throughout any arbitration. Arbitration hearings will take place in the federal judicial district where you reside at the time the Claim is initiated or some other place to which you and we agree in writing. The decision of the Arbitrator(s) will be final and binding. Any final decision of the Arbitrator(s) is subject to judicial review only as set forth in the Federal Arbitration Act. Judgment upon an award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction.

If there is a dispute as to whether any claim, dispute or controversy is a "Claim" subject to this provision, that dispute shall be resolved solely by the Arbitrator(s) (except as noted below with reference to Class Proceedings and except that a court may decide whether a Claim is an Ordinary Claim).

An arbitration pursuant to this provision may decide only your Claims, our Claims or Claims of Related Parties. The Arbitrator(s) shall have no

authority to entertain or determine Class Proceedings. If the Arbitrator(s) decide they have authority to entertain or determine any Claim brought in a Class Proceeding, that decision may be appealed to a court of competent jurisdiction. If, despite these Terms and Conditions, Class Proceedings are allowed, those proceedings shall be conducted only in a court of competent jurisdiction. The claims of other persons who may (or may not) have similar claims may not be consolidated with any Claim. No arbitration will be consolidated with any other arbitration proceeding without the consent of all parties. The only Claims that may be joined under this arbitration provision are (1) those brought by us and Our Related Parties against you and Your Related Parties; or (2) those brought by you and Your Related Parties against us and Our Related Parties.

The Arbitrator(s) shall have no authority to award punitive damages.

If any portion of this arbitration provision shall be found to be unenforceable, that portion will be severed, and the rest of this arbitration provision will remain in effect. However, if the Class Action Waiver is held to be invalid with respect to any Class Proceeding, the entire arbitration provision shall be null and void.

We will reimburse you for the initial arbitration filing fee up to \$350 upon receipt of proof of payment, provided that you have initiated an individualized proceeding in good faith and in accordance with these Terms and Conditions and provided that you have not initiated your proceeding in concert with any other cardmember(s). All other fees will be allocated in keeping with the applicable Arbitration Rules and applicable law. We will also advance or reimburse other fees if the Administrator or Arbitrator(s) determine there is good reason for requiring us to do so or if you ask us and we determine there is good cause for doing so. Each party will bear the expense of the fees and costs of that party's own attorneys, experts, witnesses, documents and other expenses, regardless of which party prevails.

This arbitration provision shall survive closure of your account, changes to your account and these Terms and Conditions (although this provision itself may be changed in accordance with the Changes in Terms provision), our transfer or assignment of your deposit account, the transfer of the balance in one account to another, and the bankruptcy (or similar proceeding) of any party.

This arbitration provision is made in connection with a transaction involving interstate commerce, and shall be governed by and enforceable under the Federal Arbitration Act, 9 U.S.C. §§ 1 through 16, as amended. The Arbitrator(s) shall apply applicable substantive law consistent with the Federal Arbitration Act, the National Bank Act and OCC regulations and applicable statutes of limitations, and shall honor claims of privilege recognized at law.

You may obtain AAA rules and forms by contacting the AAA at 1633 Broadway, 10th Floor, New York, NY 10019, by visiting their web site at [www.adr.org](http://www.adr.org), or, if you cannot access the AAA web site, by calling the AAA at 800-778-7879. You may obtain NAF rules and forms by contacting the NAF at P.O. Box. 50191, Minneapolis, MN 55405, by visiting their web site at [www.arb-forum.com](http://www.arb-forum.com), or, if you cannot access the NAF web site, by calling the NAF at 800 474 2371.

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