



# Deposit Account Agreement

## July 1, 2020

**Welcome to First Bank.** This entire document is your Account Agreement which, together with your signature card or electronic consent, rate and fee schedules, deposit disclosures and time deposit disclosures that you receive when you open your account, together with any account service agreements entered into in writing (including, but not limited to, Treasury Management or eBanking agreements) represent our agreement with you and contain important information about your account. Please read them carefully. By signing our signature card or by your electronic consent, requesting an account, or maintaining an account, you acknowledge that you have reviewed, understand and agree to be governed by these terms, including the DISPUTE RESOLUTION provisions (see "DISPUTE RESOLUTION").

**Terms.** In this booklet, the words "you" and "your" refer to the owners and authorized signers of an account; "we", "us", "our" and "Bank" refer to First Bank. The word "Agreement" refers to this Account Agreement.

**Our Relationship.** Unless otherwise expressly agreed in writing, our relationship with you will be that of debtor and creditor. No fiduciary, quasi-fiduciary or other special relationship exists between you and us. We owe you a duty of ordinary care. Any internal policies or procedures that we may maintain in excess of reasonable commercial standards and general banking usage are solely for our own benefit and shall not impose a higher standard of care than otherwise would apply in their absence. There are no third party beneficiaries to this agreement. If you open a business account, you agree not to use it primarily for personal, family or household purposes.

**Identification.** To help the government fight the funding of terrorism and money laundering activities, Federal law requires us to obtain, verify, and record information that identifies each person who opens an account. When you apply for an account, we will ask for your name, address, date of birth and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

**Amendments/Changes in Account Terms.** We may add to, delete or change the terms of our Agreement with you, of your account, or of the service in question, by mailing or delivering a notice, a statement message or an amended Agreement to any of you at the last physical or electronic address on file for at least one of you. At our option, unless otherwise required by law, we may amend the Agreement without prior notice (e.g., by posting the information in our offices or otherwise making it available to you). Your continued use of your account evidences your agreement to any amendment. We may substitute similar services or discontinue currently offered services for certain accounts by giving you prior notice. Unless required by law, we do not have to notify you, however, of any changes that are beneficial to you (e.g., a reduction or waiver of any fees or the addition of services) or if the change is required for security reasons.

**Governing Law.** Unless we notify you otherwise, and except as otherwise provided in this Agreement, this Agreement and your account will be governed by Federal law and the laws of the state where we opened your account, without regard to its choice of law principles. We may comply with clearinghouse, Federal Reserve Bank and correspondent bank rules in processing your transactions. You agree that we do not have to notify you of a change in those rules, except to the extent required by law.

**Venue.** Any arbitrations or lawsuits regarding this Agreement or your account will be brought only in the state in which we opened your account.

### Definitions.

- **"Item"** means any check, substitute check, remotely created check, draft, preauthorized draft, image replacement document, withdrawal slip, deposit adjustment or other order or instruction for payment, transfer or withdrawal of funds from your account, any photocopy or electronic image of, or presentment notice relating to, any of the foregoing, or any electronic payment transaction including Automated Clearing House ("ACH"), Automated Teller Machine ("ATM"), recurring debit card transactions, and everyday (one-time) debit card Point-of-Sale ("POS") transactions. The word "item" also includes any document created or authorized in your name that would be a check or draft but for the fact that it has not been signed.
- **"Ledger Balance"** means the amount of funds in your account reflecting deposits and withdrawals made to date. Also, this is referred to as your Current Balance and is shown on your account statement. It does not reflect holds, outstanding checks, or any transactions we have committed to pay, but which have not yet been paid from your account. Your Ledger Balance only changes once at the end of each business day.
- **"Available Balance"** means the amount of funds available for withdrawal and authorization of transactions. The Available Balance is updated throughout the day and may be different than your Ledger Balance because it reflects holds and any transactions we have committed to pay. See more details in the section "INSUFFICIENT FUNDS AND OVERDRAFTS".
- A **"banking day"** is Monday through Friday, excluding bank holidays.
- A **"business day"** means a calendar day other than a Saturday or a Sunday, January 1, the third Monday in January, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, the fourth Thursday in November, or December 25. If January 1, July 4, November 11, or December 25 fall on a Sunday, the next Monday is not a business day.
- A **"consumer account"** means any deposit account which is held or maintained primarily for personal, family, or household purposes.
- A **"non-consumer account"** means any business deposit account not used primarily for personal, family, or household purposes.
- An **"Authorized Account Signer"** means any person authorized to transact on the account.

### DEPOSITS

**Source.** We may accept items payable to any of you for deposit to your account from any source without questioning the authority of the person making the deposit. We also may give cash back to any authorized account signer(s) or agent(s) in connection with items payable to any owner, whether or not the items have been endorsed by the owner. If you make a deposit or payment that is not accompanied by instructions indicating how or where it is to be credited, we may apply it at our discretion to any loan or deposit account any of you maintains with us. If you deposit funds belonging to third parties in an analyzed account, you represent that your use of any related earnings credit will not violate any law, regulation, obligation, or agreement with such parties. Our employees cannot promise that checks drawn on or issued by other institutions, including cashier's checks, will be paid.

**Cashing Checks for Others.** You should not use your account to cash checks for others who are not well known to you. Although we may make funds provisionally available to you and may take steps to determine whether a check will be paid, you are responsible for any loss that occurs if the check is returned to us for any reason (e.g., because it is counterfeit).

**Endorsements.** We may endorse and/or collect items deposited to your account without your endorsement, but reserve the right to require your personal endorsement prior to accepting an item for deposit. If you deposit an item that bears the endorsements of any person or persons who are not our clients or known to us, we may refuse the item, require all endorser(s) to be present, or require that the endorsements be guaranteed by another financial institution acceptable to us before we accept the item.

**Cutoff Hour.** If we receive an item for deposit on a weekend, a holiday or after close of business on a banking day at the location where received, we may treat it as if we had received it on the next banking day.

**Verification and Collection.** We may refuse to accept an item for deposit or may accept it on a collection basis only (See "Items Sent For Collection" in the "ADDITIONAL TERMS, SERVICES, AND CONDITIONS" section). Any item that we accept for deposit or to exchange for cash is subject to later verification and final payment. We may deduct funds from your account if an item is lost, stolen or destroyed in the collection process, or if it is returned to us unpaid, even if you have already used the funds. Cash deposits are also subject to later verification. We may charge back an item that has already been paid if we are charged back for that item.

**ACH Provisional Credits.** Credit for an ACH transfer is provisional until the receiving financial institution obtains final settlement. If final settlement does not occur, the originator of the transfer is not deemed to have made payment to the beneficiary, and the beneficiary's bank is entitled to a refund of the provisional credit. If we give you provisional credit for an ACH transfer, but do not receive final payment, you become obligated to us for the full amount without prior notice or demand.

**Notice of Incoming Transfer.** We are not required to give you a separate notice of our receipt of an ACH transfer. If we accept ACH credits to your account, you will receive notice of the credit on your next regular periodic statement. Although we may send notice of a non-ACH incoming funds transfer (e.g., a wire), we assume no obligation to do so. Transfers to your account will be reflected on your regular periodic statement. You also can contact your office of account or call us at 1-800-760-BANK (2265) during normal business hours to determine if a transfer has been credited to your account.

**Limitations.** We may refuse to accept a deposit or an addition to an account, limit its size, or return all or part of it to you. We reserve the right to limit the amount of funds that may be maintained in an account.

**FDIC Insurance.** Your accounts with us are insured to the regulatory limits by the Federal Deposit Insurance Corporation (FDIC). For further information regarding insurance of accounts, you may write to the FDIC, Division of Depositor and Consumer Protection, 550 17th Street, N.W., Washington, D.C. 20429, call the FDIC's toll-free number at 1-877-275-3342, or visit its website at <https://www.fdic.gov/deposit/>.

#### FUNDS AVAILABILITY POLICY

**Your Ability to Withdraw Funds.** For consumers, our policy is to make funds from your cash and check deposits available to you on the first business day after the day on which we receive your deposit. Electronic direct deposits will be available on the day we receive the deposit. Once they are available, you can withdraw the funds in cash and we will use the funds to pay checks that you have written.

For business accounts, our policy is to provide availability of funds for your deposits based on the collection of the deposited items from the paying institution. Please call your Business Banker for further information.

If you make a deposit before close of business at the location where received on a banking day that we are open, we will consider that day to be the day of your deposit. If you make a deposit (including electronic direct deposits) after close of business at the location where received or on a day we are not open, we will consider that the deposit was made on the next banking day we are open for the conduct of the majority of our business.

**Longer Delays May Apply.** In some cases, we will not make all of the funds that you deposit by check available to you on the first business day after the day of your deposit. Depending on the type of check that you deposit, funds may not be available until the second business day after the day of your deposit. The first \$225 of your deposits, however, may be available on the first business day after the day of deposit. If we are not going to make all of the funds from your deposit available on the first business day, we will notify you at the time you make your deposit. We will also tell you when the funds will be available. If your deposit is not made directly to one of our employees, or if we decide to take this action after you have left the premises, we will mail you the notice by the day after we receive your deposit.

If you have a question about the availability of deposited funds, you should ask us when we will make the funds available.

In addition, funds you deposit by check may be delayed for a longer period under the following circumstances:

- We believe a check you deposit will not be paid.
- You deposit checks totaling more than \$5,525 on any one day.
- You redeposit a check that has been returned unpaid.
- You have overdrawn your account repeatedly in the last six months.
- There is an emergency, such as failure of computer or communications equipment.

We will notify you if we delay your ability to withdraw funds for any of these reasons, and we will tell you when the funds will be available. They will generally be available no later than the fourth business day after the day of your deposit.

**Special Rules for New Accounts.** If you are a new client, the following special rules will apply during the first 30 days your account is open. Funds from electronic direct deposits to your account will be available on the day we receive the deposit. Funds from deposits of cash, wire transfers and the first \$5,525 of a day's total deposits of cashier's, certified, teller's, traveler's, and Federal, state and local government checks will be available on the first business day after the day of your deposit if the deposit meets certain conditions. For example, the checks must be payable to you. The excess over \$5,525 will be available on the fourth business day after the day of your deposit. If your deposit of these checks (other than a U.S. Treasury check) is not made in person to one of our employees, the first \$5,525 will not be available until the second business day after the day of your deposit. Funds from all other check deposits will be available on the fourth business day after the day of your deposit.

**Holds on Other Funds.** If we cash a check for you that is drawn on another bank, we may withhold the availability of a corresponding amount of funds that are already in your account. Those funds will be available at the time funds from the check we cashed would have been available if you had deposited it. If we accept for deposit a check that is drawn on another bank, we may make funds from the deposit available for withdrawal immediately, but delay your availability to withdraw a corresponding amount of funds that you have on deposit in another account with us. The funds in the other account would then not be available for withdrawal until the time periods that are described elsewhere in this disclosure for the type of check that you deposited.

#### WITHDRAWALS

**Authorized Signers.** Except as otherwise stated in this section, your signature card or electronic consent identifies who is authorized to make withdrawals, write checks, transfer funds, stop payments, obtain ancillary services, and otherwise give us instructions regarding your account. However, any notation that two or more signatures are required is for your own internal purposes only: We do not assume a duty to enforce multiple signature requirements. Although we may attempt on occasion to enforce the multiple signature requirement (e.g., by refusing to permit a transaction by fewer than the stated number of authorized signers), we may cease doing so at any time and without prior notice to you.

We may pay any item that bears a signature or endorsement (including a facsimile signature) resembling an authorized signature on file with us. You agree that signatures by your authorized agents (e.g., persons acting under a power of attorney) are valid, even if the principal-agent relationship is not indicated on the item or instruction. We may honor items drawn against your account by any authorized signer, even if the items are made payable to them, to cash, or for deposit to their personal accounts. We have no duty to investigate or question withdrawals or the application of funds. We are not required to notify any of you about the actions of the others.

**Requirements.** We may refuse to pay any item that bears a signature that in our opinion does not satisfactorily compare with the specimen signature on file with us. All items written on your account must be drawn in U.S. Dollars. If your items are presented for payment or acceptance on a weekend, a holiday, or after our processing cutoff hour, we may treat them as if we had received them on the next banking day.

**Discrepancies.** If there is a discrepancy in an item you have written between the amount in numbers and the amount in words or embossed numbers, we may utilize either amount in paying the item or may dishonor the item, without liability.

**Limitations.** We may, but are not obligated to, require suitable identification and/or presentation of account ownership records for any withdrawal or account closure. At our discretion, we may require all of your signatures for the withdrawal of funds and/or the closing of an account. We also may require non-clients to present us with suitable identification, including, but not limited to, valid photo identification and a fingerprint, in connection with cashing your checks at one of our offices. Certain accounts are subject to transaction limitations and penalties for early withdrawal. We may refuse to honor any withdrawal or order if there is a dispute or question as to the ownership of account funds (See "Conflicting Demands/Disputes" in "ADDITIONAL TERMS, SERVICES, AND CONDITIONS"). You may not use your account or any account-related service to conduct illegal Internet gambling transactions or any activity that would violate applicable law.

**Advance Notice.** As required by Federal law, we reserve the right to require 7 days advance written notice of an intended transfer or withdrawal of funds from any savings account, money market deposit account, or interest-bearing checking account. As of the revision date on this Agreement, we do not exercise this right and have not exercised it in the past.

**Cutoff Hour.** If we receive an item for payment on a weekend or a holiday, we may treat it as if we had received it on the next banking day.

**Time Deposits.** Unless our written agreement with you says otherwise, you do not have a right to make early or partial withdrawals from, or additional deposits to, an existing time deposit. Early withdrawals may be subject to a penalty.

### ACCOUNT LIMITATIONS

**Cash Withdrawals.** In addition to the limitations set forth below and in the "WITHDRAWAL" and "ELECTRONIC FUND TRANSFERS" sections, cash withdrawals or payments at any branch may be restricted due to the limited amount of currency on hand. If we do not have sufficient cash for a large withdrawal or payment, we may make arrangements for a later cash payment or offer to make payment with a Bank check. We assume no responsibility to provide personal protection for clients who elect to carry large sums of money while at or departing our premises.

**Money Market and Savings Accounts.** Transactions involving these accounts are limited by law. You may only make up to six withdrawals and/or transfers each monthly statement cycle by check (for accounts with check privileges), preauthorized or automatic transfer (e.g., automatic payments to an insurance company), draft, point-of-sale debit card and/or telephone and/or electronic banking. If you exceed these limitations, we may refuse to honor the excessive transactions, remove your transfer privileges, close the account without prior notice, convert it to another type of account, and/or impose a fee for exceeding the limits (See the applicable Schedule of Fees). Note: We count checks for purposes of the transaction limitation as of the date we post them to your account (not as of the date you write them). For that reason, a check you write during one statement period may not be counted until a subsequent statement period. We may refuse or limit telephone and mail withdrawals, at our discretion. The law does not limit the number of withdrawals you can make in person at a branch or at an ATM, nor is there any limit on the number of deposits that can be made to your account each month (e.g., in person or by preauthorized or automatic transfer).

### FEES

Our rate and fee schedules describe the most frequently encountered fees associated with our accounts and services. When you open your account, you receive a Schedule of Fees and a Product Sheet that includes certain terms of your account and interest rate information, if applicable. Some services are negotiated separately and may be subject to other written agreements with us. Information on fees for services not covered by the schedules is available upon request. In addition to fees, you agree to pay for all taxes, tariffs and assessments levied or imposed by any government agency in connection with your account or account-related services (excluding any income tax payable by us). Certain fees may change without specific notice to you. Account owners must promptly pay the fees and charges associated with their accounts and services, and are jointly and severally liable for such fees. We may deduct account fees automatically from your accounts. Monthly service charges are assessed the first day of the statement period and collected on the last day of the statement period or the date the account is closed. Service charges are not prorated for partial months.

### BUSINESS ACCOUNT ANALYSIS SERVICE

**Business Account Analysis Service ("Service").** Our Service allows you to offset certain service charges with an earnings credit that is based on the balances that you maintain with us. We analyze only the accounts and the services that are linked to our account analysis system. Not all accounts or charges may be analyzed. We calculate an "Earnings Credit" based on the funds in your analyzed accounts and apply that credit as an offset against service charges. We do not calculate an Earnings Credit for accounts that are not linked to the Service or allow an Earnings Credit to offset charges against unanalyzed accounts.

**Earnings Credit.** We determine an account's Earnings Credit by multiplying its adjusted average ledger balance by an Earnings Credit Rate (which may change from time to time). We arrive at the adjusted average ledger balance each month by: (a) adding together the ending ledger balances of the account for each day of the month, (b) subtracting float, based on our most current availability schedule, (c) reducing this balance by 10%; and (d) dividing the result by the number of days in the month. Note: checks and other items may be subtracted from your daily balance on the date they are presented to us electronically or otherwise, even though final acceptance may not occur until later.

**Deposit Balance Fee.** The Deposit Balance Fee is based on the amount of the ledger balances of your analyzed accounts. Although the fee is based, in part, on the cost of FDIC premiums, it may be higher or lower than our actual FDIC premium since it is not tied to the same assessment base, may change at a different time than premium assessments, and may not reflect any FDIC rebate, credit or exception. The fee is subject to change without notice. Current fee information is available from your account officer.

**Use of Earnings Credit.** Unlike interest, Earnings Credit is not paid to you and does not accumulate. Earnings Credit may only be used to offset charges that are subject to analysis and that are incurred during the month covered by analysis. Unless we agree otherwise in writing, excess Earnings Credit is not carried forward or backward to other billing periods. If Earnings Credit is insufficient to cover service charges during any period, we may charge the difference to your account. If you have several analyzed accounts, you can designate which account should be charged. We may stop calculating Earnings Credit and applying it against service charges for any analyzed account that becomes inactive (i.e., has no deposits or withdrawals for 12 months). Your Account Officer can give you an estimate of the balances that may be needed to compensate for the type and volume of services that you use. The actual amount may vary, however, due to changes in the earnings credit rate, service charges, the services used, or other aspects of analysis.

**Earnings Credit Rate/Service Charges.** Account analysis charges and the Earnings Credit Rate are subject to change from time to time without prior notice. Current rate and service charge information is available from your Account Officer.

**Exceptions.** The analysis system may not always change simultaneously with changes in compensating balances, Deposit Balance Fees, reserves or other factors. We reserve the right to input changes in our system as of the beginning or end of any statement or analysis cycle. As a result, some changes input at the end of a cycle may relate back to the entire cycle.

**Third Party Funds.** If you deposit funds that belong to others ("beneficial owners") in an analyzed account, you represent to us that: (a) you are authorized by the beneficial owners to benefit from the use of any associated Earnings Credit, and (b) your use of the Earnings Credit will not violate any contract, law or regulation. You also agree to indemnify, defend and hold us harmless from and against any and all claims, actions, proceedings, losses, costs (including attorney fees and other charges), liabilities and/or damages that arise from your use of the Service or the manner in which you compensate or charge beneficial owners for your use of our services.

### ELECTRONIC FUND TRANSFERS

The following terms apply to electronic fund transfers governed by the Electronic Fund Transfer Act (e.g., telephone and internet banking, debit card transactions, and ACH transfers). They also apply to debit card services made available to businesses and other non-consumer accounts. Any authorized signer on an account may apply for electronic fund transfer services on behalf of all authorized signers. Once an electronic fund transfer service is established, any authorized signer on your account may act alone in conducting or cancelling electronic fund transactions, regardless of the number of required signers indicated on the account's signature card or separate agreement.

**Debit Cards ("Cards").** You can perform the following transactions with a Card:

- Withdraw cash from your checking or savings account;
- Make deposits to your checking or savings account at one of our ATMs;
- Transfer funds between your checking and savings accounts;
- Pay for purchases at places that honor our Card; and
- Obtain account balance information (may not reflect recent transactions and may include funds that are not available for immediate withdrawal).

Some of these services may not be available at all terminals, and all deposits and payments are subject to later verification by us. If you have more than one account linked to your Card, you may designate the account for a withdrawal transaction. If you want to designate a different account for withdrawal transactions, contact a Financial Services Representative at any of our branches. You should note that we generally do not allow point-of-sale payments to be made to merchants from savings accounts or money market accounts. Your Card cannot be used to transfer money into or out of your account without a personal identification number ("PIN") at ATMs and most POS terminals. You may be asked to sign a sales slip or provide identification, rather than enter your PIN, for certain Card transactions. At some merchants, such as gas stations, you may not be required to sign your name or enter your PIN for a Card purchase. You can select your own PIN at any of our offices or call our automated voice system at 1-800-760-BANK (2265). If you forget your PIN, please visit one of our branches and request another one. If you decide you do not want to use your Card, destroy it at once by cutting it in half and notify us in writing.

**ATM Safety. We do not guarantee your safety while using the ATM.** You agree to exercise caution when using ATMs. If there are any suspicious circumstances, do not use the ATM. If you notice anything suspicious while transacting business at the ATM, cancel the transaction, pocket your Card and leave. Be careful when using the ATM and be aware of the surroundings, especially at night or in isolated areas. Park near the ATM in a well-lighted area. At night have someone accompany you when possible. Do not approach the ATM if the lighting is not working. Do not accept assistance from anyone while using the ATM. Do not display your cash; pocket it and count it later in the safety of your office or home. Be sure to save your transaction slips. Check them against your statements regularly. Prepare deposits at home to minimize your time at the ATM. Always secure your Card just like you would your cash, checks and credit cards. Report all crimes to the ATM operator and local law enforcement officials immediately.

**Card and PIN Security.** You agree not to disclose or otherwise make your Card or PIN available to others without our prior written consent. For security reasons, you agree not to write your PIN on your Card or keep it in the same location as your Card. Your Cards must be returned to us upon request. To reduce the potential for fraud on your account, First Bank may review transactions performed with your Card for potential irregularities in your normal spending habits. These may include times when your Card is used more often or if we see a geographic shift in where your Card is being used. As a best practice, we recommend that you contact us if you know you are going to be traveling. We reserve the right to restrict your Card from use at any time.

**Fees.** If you conduct a transaction at an ATM that is not operated by us, the operator of the ATM or any network utilized to effect the transaction may impose a fee and you may be charged a fee for a balance inquiry, even if you do not complete a funds transfer.

**POS Purchases and Authorization Holds.** You may use your Card to pay for goods and services at retail locations displaying the symbols of the networks in which we participate. We will charge the amount of your purchases to the account designated for the POS service. If your Card is linked to a savings and a checking account, the checking account will be charged.

**Signature-Based and PIN-Based Transactions.** A POS purchase may be processed as a POS signature-based transaction or a POS PIN-based transaction. A POS signature-based transaction occurs when you swipe your Card through a credit card terminal and then you may have the option to sign a printed receipt or a digital signature capture device to verify the transaction, and it is processed through a credit card network (a signature is optional for processing). Online debit card transactions and recurring debit card transactions are treated as POS signature-based transactions. A POS PIN-based transaction occurs when you swipe your Card through a credit card terminal and then enter your PIN on a keypad to verify the transaction, and it is processed by an ATM/banking network.

**Electronic Authorization Request.** When you use your Card for payment, the merchant requests First Bank to authorize the transaction amount to confirm a valid method of payment before the merchant provides goods or services. At the time of this electronic authorization request, we will either authorize (promise to pay) or decline the merchant's request after comparing amount of the authorization request to your Available Balance at the time of the authorization request. (NOTE: See "Overdraft Privilege Service" in the "INSUFFICIENT FUNDS AND OVERDRAFTS" section for its impact on the electronic authorization request). If we authorize the transaction, we may place a temporary hold on some or all of the funds in the account linked to your Card. When we obtain an authorization request, we refer to this temporary hold as a debit card authorization hold. The funds subject to the debit card authorization hold will be subtracted from your Available Balance.

**Merchant Authorization Amount.** Some merchants (e.g., hotels, restaurants, gas stations and car rental agencies) request an authorization amount that is an estimated amount of the anticipated purchase, instead of the actual purchase amount. For example, a restaurant may submit the authorization request for your meal before you add a tip. Depending on the merchant's practice, the authorization hold may be for the actual amount of the purchase or for the anticipated amount (which may be greater than or less than the actual amount of the purchase). First Bank does not control the amount of the authorization hold.

**Authorization Hold.** We can place an authorization hold on your account generally for up to three business days from the time of the authorization request or until the transaction is paid from your account. At the Bank's discretion, a longer authorization hold time may be established for certain types of debit card transactions, including, but not limited to, international car rental, international hotel, and transactions where the debit card was not present at the point of sale (e.g., online debit card transactions and recurring debit card transactions).

**Electronic Settlement Request.** After receiving the electronic authorization request, the Bank will generally receive an electronic settlement request later the same day (generally for a PIN-based transaction) or within three business days (generally for a POS signature-based transaction). It is important to note that your Available Balance may change between the time a debit card transaction is authorized and when the debit card transaction is presented for payment (i.e. settlement).

**Expiration of Authorization Hold.** If the merchant does not submit the transaction for payment before the expiration of the authorization hold, it will be removed from your pending transactions, we will release the authorization hold, and your Available Balance will no longer be reduced by the authorization hold amount. This means your Available Balance will increase until the transaction is submitted for payment by the merchant and posted to your account. In addition, the debit card authorization hold does not prevent other items from posting to your account, such as checks and ACH withdrawals, and your Available Balance will be further reduced by the amount of such posted items.

**Promise to Pay.** Due to our prior authorization (promise to pay), if the debit card transaction is presented for payment at a later date, we will pay the item regardless of your Available Balance at the time of the electronic settlement request. See "Fee Information" in the "INSUFFICIENT FUNDS AND OVERDRAFTS" section.

**Refunds on Purchases.** Cash refunds will not be made to you for purchases made with your Card. If a merchant gives you a credit for merchandise returns or adjustments, it may do so by processing a credit adjustment, which we will apply as a credit to your account.

**Foreign Transactions.** If you conduct a transaction in a currency other than U.S. Dollars, the merchant, network or Card association that processes the transaction may convert any related debit or credit into U.S. Dollars in accordance with its then-current policies. As of the date of this Agreement, MasterCard uses a conversion rate that is either: (a) selected from a range of rates available in the wholesale currency markets (note: this rate may be different from the rate the association itself receives), or (b) the government-mandated rate. The conversion rate may be different from the rate in effect on the date of your transaction and the date it is posted to your account. As of the date of this Agreement, a charge will be imposed equal to 3% of the transaction amount (including credits and reversals) for each transaction (U.S. or foreign currency) that you conduct outside the 50 United States or Washington, D.C. Please refer to the most recent Schedule of Fees for all current International fees, including international ATM withdrawal. Transactions may be restricted in certain countries.

**Transaction Limitations.** Your Card has a daily maximum limitation in the amount of cash you can obtain and the amount of purchases you can conduct at merchant locations. These limits vary based upon the type of Card that you have. Please visit your nearest First Bank location or contact us at 1-800-760-BANK (2265) for information on your transaction limitations.

**Preauthorized/Automatic Transfers.** Pre-authorized electronic fund transfers may be made to or from First Bank checking and savings accounts, including preauthorized electronic fund transfers made to your account from a third party (e.g., Social Security, a pension fund or your employer) or from your account to a third party (e.g., checks converted to electronic ACH transactions, and recurring mortgage or insurance payments through the ACH). Pre-authorized transfers do not include: (a) transactions initiated by check, draft or similar paper instrument, (b) transfers to or from business or other non-personal accounts, (c) individual transfers we initiate under an agreement with you, but without your specific request (e.g., automatic savings and automatic loan payments to us from your account), or (d) transfers initiated by telephone. Please note: If Federal recurring or other electronic payments are made into your account, the payments may be affected by a change in account status or transfer (e.g., to another office). If you plan to transfer your account or change its status, please speak with us in advance about the impact the change may have on your electronic fund transfer services.

**Telephone Transfer Service.** With this service, you can call us toll free at 1-800-760-BANK (2265) to transfer funds between your savings and checking accounts with us and obtain account information. A representative is available Monday through Friday between the hours of 7:00 a.m. and 9:00 p.m. Central Standard Time and from 9:00 a.m. to 5:30 p.m. Central Standard Time on Saturday. You will need to provide us with identifying information in order to access the service. If we issue an

automated telephone passcode to you in connection with the service, you agree not to disclose it to others and to safeguard its confidentiality. We will transfer funds between your First Bank accounts that have been tied to this service. Transfers will be made only from a positive Available Balance and will be available for withdrawal at the opening of the Bank's next banking day. You can ask a representative to place a stop payment on a check by calling our toll free number (See "Stop Payment Orders" in the "ADDITIONAL TERMS, SERVICES, AND CONDITIONS" for additional information.) Telephone transfer requests must be received on or before 8:00 p.m. Central Standard Time on a banking day to ensure processing on the same day. Transactions occurring after that hour or on a Saturday, Sunday or Federal holiday may be processed on the next banking day.

**Electronic Check Conversion.** You may authorize a merchant or other payee to make a one-time electronic payment from your checking account using information from your check to pay for purchases or pay bills.

**Consumer Electronic Banking.** We may choose only to provide certain information, such as payee account numbers, to the accountholder who has enrolled in Consumer Electronic Banking. Banking transactions conducted via Consumer Electronic Banking are governed by a separate agreement in addition to this Agreement.

**Business Electronic Banking.** Banking transactions conducted via the Business Electronic Banking system are governed by a separate agreement in addition to this Agreement.

**Record of Your Transaction Receipts.** You can get a receipt at the time you make any transfer to or from your account using one of our ATMs. All ATM transactions are subject to later verification by us.

**Preauthorized Credits.** If you have arranged to have direct deposits made to your account at least once every 60 days from the same person or company, you can call your branch to find out whether or not the deposit has been made.

**Account Statements.** You will get a monthly account statement unless there are no transfers in a particular month. In any case you will get a statement at least quarterly. This does not apply to time deposits.

**Preauthorized Transfers.** If you have arranged in advance to make regular payments out of your account and they may vary in amount, the person you are going to pay will tell you 10 days before each payment when it will be made and how much it will be. You may choose instead to get this notice only when the payment would differ by more than a certain amount from the previous payment or when the amount would fall outside certain limits that you set.

**Our Liability for Failing to Make Transfers (Consumers Only).** If we do not complete an electronic fund transfer to or from your account on time or in the correct amount according to our agreement with you, we will be liable for your direct losses or damages. There are some exceptions, however. We will not be liable, for example, if:

- Through no fault of ours, you do not have enough of an Available Balance in your account to make the transfer;
- The transfer would exceed the available credit on your Preferred Credit Loan you have with us;
- Circumstances beyond our control (such as fire, flood, water damage, power failure, pandemic, strike, labor dispute, computer breakdown, rolling blackout, telephone line disruption or a natural disaster) prevent or delay the transfer despite reasonable precautions taken by us;
- The system, ATM or POS terminal was not working properly and you knew about the problem when you started the transaction;
- The transaction cannot be completed because your Card is damaged;
- The funds in your account are subject to any of the following holds: debit card authorization holds, holds in accordance with our Funds Availability Policy, loan collateral holds, or legal holds, or are otherwise not available for withdrawal;
- The information supplied by you or a third party is incorrect, incomplete, ambiguous or untimely; or
- We have reason to believe the transaction may not have been authorized by you.

There may be other exceptions stated in our agreement with you.

**Your Liability for Unauthorized Electronic Fund Transfers (Consumers Only).** Tell us AT ONCE if you believe your Card, PIN, User ID or Password has been lost or stolen, or if you believe that an electronic fund transfer has been made without your permission using information from your check. Contacting us by telephone is the best way of keeping your possible losses down. You could lose all the money in your account (plus your maximum overdraft line of credit). If you tell us within two business days after you learn of the loss or theft of your Card, PIN, User ID, or Password, you can lose no more than \$50 if someone used your Card, PIN, User ID, or Password without your permission. If you do NOT tell us within two business days after you learn of the loss or theft of your Card, PIN, User ID or Password and we can prove we could have stopped someone from using your Card, PIN, User ID or Password without your permission if you had told us, you could lose as much as \$500.

Also, if your statement shows transfers that you did not make, tell us at once. If you do not tell us within 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 stopped someone from taking the money if you had told us in time. If a good reason such as a long trip, a hospital stay, or the illness of a family member, kept you from telling us, we will extend the time periods.

**In Case of Errors or Questions About Your Electronic Transfers (Consumers Only).** Call or write to us by contacting your local First Bank office at the phone number or address shown on your periodic statement as soon as you can if you think your statement or receipt is wrong or if you need more information about an electronic transaction. We must hear from you no later than 60 days after we sent 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 business 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 credit your account within 10 business days for the amount you think is in error, so that you will have the use of the money during the time that it takes us to complete our investigation. In certain instances, we may provide credit sooner. 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.

**Business and Other Non-Consumer Accounts.** The provisions in this Electronic Fund Transfers section dealing with "Our Liability for Failing to Make Transfers," "Your Liability for Unauthorized Electronic Fund Transfers," and "In Case of Errors or Questions About Your Electronic Fund Transfers" (and related provisions on the back of periodic statements) do not apply to business or other non-consumer accounts. Under no circumstances will we be liable for any special or consequential damages involving such accounts. You should notify us immediately if you discover any unauthorized transactions or errors involving your Card or account. You must confirm any verbal notice by sending us a written notice of the problem within a reasonable time, not to exceed 14 days from the date of discovery or your receipt of the first statement or notice reflecting the problem, whichever occurs first.

Card transactions are not considered unauthorized if they are made by a business co-owner or any other person with an interest in or authority to transact business on your account, even if the person exceeds any authority given by you.

**How to Stop Preauthorized Transfers from Your Account.** If you have told us in advance to make regular payments out of your account, you can stop any of these payments by contacting your local First Bank office at the phone number or address shown on your periodic statement. We must receive your request at least three banking days before the payment is scheduled to be made. If you fail to give us your request at least three banking days prior to a transfer, we may attempt, at our sole

discretion, to stop the payment. We assume no responsibility for our failure or refusal to do so, however, even if we accept the request for processing. If you call, we may require you to put your request in writing to us and to provide us with a copy of your notice to the payee, revoking the payee's authority to originate debits to your account, within 14 days after you call. If we do not receive the written confirmation within 14 days, we may honor subsequent debits to your account. For individual payments, your request should specify the exact amount (dollars and cents) of the transfer you want to stop, the date of the transfer, and the identity of the payee. Unless you tell us that all future transfers to a specific recipient are to be stopped, we may treat your stop payment order as a request concerning the one transfer only. If you order us to stop one of these payments at least three banking days before the transfer is scheduled and we do not do so, we will be liable for your losses or damages.

**Lost or Stolen PIN or Password.** If you believe your Personal Identification Number or Password has been lost or stolen or that someone has transferred or may transfer money from your account without your permission, call us or write us at the phone number or address shown on your periodic statement. You should also call the number or write to the address if you believe a transfer has been made using the information from your check without your permission.

**Limitations.** Electronic transactions on Money Market Deposit and Savings Accounts are subject to limitations (See "ACCOUNT LIMITATIONS").

**Change in Terms/Termination of Service.** We may add to, delete or change the terms or terminate your use of our electronic fund transfer services at any time, with or without cause. We may terminate or suspend your electronic fund transfer service immediately if: any of you breach this or any other agreement with us; we have reason to believe that there has been or may be an unauthorized use of your account, Card or PIN; there are conflicting claims to the funds in your account; or any of you requests that we do so.

### INSUFFICIENT FUNDS AND OVERDRAFTS

**Definitions.** Please keep in mind the following definitions:

**"Ledger Balance"** means the amount of funds in your account reflecting deposits and withdrawals made to date. Also, this is referred to as your Current Balance and is shown on your account statement. It does not reflect holds, outstanding checks, or any transactions we have committed to pay, but which have not yet been paid from your account. Your Ledger Balance only changes once at the end of each business day.

**"Available Balance"** means the amount of funds available for withdrawal and authorization of transactions. The Available Balance is updated throughout the day and may be different than your Ledger Balance. The following activities may result in a change in your Available Balance:

- Funds on hold in accordance with our Funds Availability Policy;
- Our receipt of notice that a transaction will be presented or returned;
- Our receipt of a legal process relating to your account (i.e., a legal hold);
- Your use of your account as security for a loan (i.e., a loan collateral hold);
- Deposits made available for your immediate use, such as electronic direct deposits;
- Withdrawals which have been authorized or otherwise known to us, such as checks and preauthorized automatic ACH withdrawals that we receive for payment from your account but have not yet processed;
- Pending debit card and ATM transactions:
  - Generally, debit card purchases and ATM transactions have a two-step process that may impact your Available Balance. These transactions usually begin with an electronic authorization request which is followed by an electronic settlement request later the same day or within three business days. If we authorize the transaction, we may place an authorization hold on the amount of funds necessary to cover the authorization. The amount of the debit card authorization hold will reduce your Available Balance. See "POS Purchases and Authorization Holds" in the "ELECTRONIC FUND TRANSFERS" section.

**"Insufficient Funds"** or **"Non-sufficient Funds (NSF)"** means you do not have enough of an Available Balance in your account to pay the withdrawals you are attempting from that account.

**"Overdraft"** means a transaction that has caused the Available Balance on an account to become a negative number or a transaction that occurs while the Available Balance on the account is negative.

**Processing Transactions.** At the end of each business day, we calculate your Ledger Balance (after all transactions have been posted to your account). Also at this time, we calculate your Available Balance that can be used to pay your transactions and to determine overdraft status. This Available Balance calculation starts with your Ledger Balance and we subtract the amount of funds that are subject to the following types of holds: debit card authorization holds, holds in accordance with our Funds Availability Policy, loan collateral holds, and legal holds. During our day-end processing, if an item causes this Available Balance to become negative or adds to your negative Available Balance, we reserve the right to pay the item (which may result in an Overdraft Fee) or return the item (which may result in an NSF Return Item Fee).

**Responsibilities.** It is your responsibility to know if there are sufficient funds in your account before you write a check, make a cash withdrawal at an ATM, make a purchase with your debit card, or issue, initiate or authorize any other item for payment from your account. Even if we've paid insufficient funds items before, we are not required to do it in the future. It is important that you carefully monitor the funds in your account, and promptly record in your account register all of your deposits to, and items that you issue, initiate or authorize for payment from, your account. You should never assume that you can make a covering deposit to your account before an item will be presented to us for payment because items are often presented to us for payment very quickly, and also because funds from your covering deposit may not be immediately available for withdrawal.

It is the policy of First Bank to comply with applicable laws and regulations, and to conduct business in accordance with applicable safety and soundness standards. If we permit an overdraft or otherwise allow your Available Balance to drop below zero, you agree to pay the amount of the overdraft immediately, without notice or demand from us. In addition, if permitted by law, you agree to reimburse us for all claims, costs, losses, and damages (including fees paid for collection) we may incur with respect to your overdrafts. Each account owner is jointly and severally responsible for paying any overdrafts created by any authorized signer(s) or party to the account, whether or not the owner participates in the transaction or benefits from its proceeds. You agree that subsequent deposits and other credits to the account may be used to satisfy an overdraft, regardless of the source of such deposit including, without limitation, deposits comprised of government, welfare, retirement or social security benefits. If your account is overdrawn when it is closed, you agree to pay immediately all amounts you owe us, with or without notice or demand from us.

**Standard Overdraft Coverage.** Under our Standard Overdraft Coverage, we may authorize and pay overdrafts for these types of transactions at our discretion:

- Checks and other transactions (including electronic funds transfer) using your checking account number;
- Automatic bill payments; and
- Recurring debit card transactions (for example, setting up your debit card to pay your monthly insurance premium or health club membership).

We may charge an Overdraft Fee for each item or transaction we pay that causes the Available Balance to become negative or occurs while the Available Balance on the account is negative. If we return an item rather than paying it, we may charge an NSF Return Item Fee.

#### **ATM and Everyday Debit Card Standard Overdraft Coverage.**

**Consumer Accounts.** Subject to your authorization, we may authorize and pay overdrafts created by ATM and everyday debit card transactions at our discretion. Federal regulations require that if you wish these transactions to be eligible for overdraft coverage, you must specifically choose to have us authorize and pay ATM and everyday debit card transactions. When you open an account, you will receive a notice describing your options. If you wish to take advantage of this coverage, you can complete an authorization form, provide your electronic consent online, or you can speak to a Financial Services Representative and verbally provide your consent. If you opt to have First Bank authorize and pay ATM and everyday debit card transactions, when a paid item causes your Available Balance to become negative or occurs while the Available Balance on the account is negative, we may charge an Overdraft Fee for each item.

**Non-Consumer Accounts.** When you open an account, you will receive a notice describing the coverage that comes with your account, whereby, First Bank may authorize and pay ATM and everyday debit card transactions, and when a paid item causes your Available Balance to become negative or occurs while the Available Balance on

the account is negative, we may charge an Overdraft Fee for each item.

**Consumer and Non-Consumer Accounts.** You may choose at any time not to participate in the ATM and Everyday Debit Card Standard Overdraft Coverage option by notifying one of our Financial Services Representatives verbally, in writing, or by logging into eBanking under the "Customer Service" tab, and selecting "Change ATM/Debit Card Overdraft". If you opt to not have First Bank authorize and pay ATM and everyday debit card transactions that cause your Available Balance to become negative, your ATM or everyday debit card transaction will be declined, and you will not be charged a fee.

**Fee Information.** For detailed amounts of fees, please see the applicable Schedule of Fees for the type of account you received when you opened your account. The following apply to fees charged in conjunction with insufficient funds and overdrafts:

- We may charge an Overdraft Fee for each item or transaction we pay that causes the Available Balance to become negative or occurs while the Available Balance on the account is negative.
- If we return an item because you do not have enough of an Available Balance in your account to pay the withdrawal you are attempting from that account, we may charge an NSF Return Item Fee.
- For consumer accounts, if your Available Balance at the end of the business day is negative \$5.01 or more, we may charge you an Overdraft Fee for each paid item that causes the Available Balance to become negative or occurs while the Available Balance on the account is negative. In other words, if your Available Balance at the end of the business day is negative \$5.00 or less, we will not charge you an Overdraft Fee for any item.
- For non-consumer accounts, if your Available Balance at the end of the business day is negative \$1.01 or more, we may charge you an Overdraft Fee for each paid item that causes the Available Balance to become negative or occurs while the Available Balance on the account is negative. In other words, if your Available Balance at the end of the business day is negative \$1.00 or less, we will not charge you an Overdraft Fee for any item.
- For consumer accounts, there is a daily limit of five (5) combined Overdraft Fees and NSF Return Item Fees.
- For non-consumer accounts, there is a daily limit of fifteen (15) combined Overdraft Fees and NSF Return Item Fees.
- For a POS signature-based transaction, the electronic authorization request and the electronic settlement request may be up to three business days apart. If an authorization request was approved by us and provided to the merchant because you had a positive Available Balance at the time of the authorization request, we will not charge an Overdraft Fee if the electronic settlement request occurs on a business day where your Available Balance is negative during our day-end processing. We do this because the amount of funds subject to the authorization hold has already been deducted in the calculation of your Available Balance used to determine Overdraft status. See above section for "Processing Transactions" and definition of "Available Balance." See "POS Purchases and Authorization Holds" in the "ELECTRONIC FUND TRANSFERS" section.

**Overdraft Protection Services.** The following are options for overdraft protection that are in addition to our Standard Overdraft Coverage. Overdraft Transfer Service and Overdraft Preferred Credit Loan Service may be less expensive than our Standard Overdraft Coverage and the Overdraft Privilege Service, and these will only be provided if you have agreed to receive them.

If more than one of these overdraft protection services are selected, in addition to the Overdraft Privilege Service, they are generally provided in this order:

1. Overdraft Transfer Service
2. Overdraft Preferred Credit Loan Service
3. Overdraft Privilege Service

**Overdraft Transfer Service.** Under the Overdraft Transfer Service, you give us the authority to link your primary account with a secondary account for overdraft protection. If your Available Balance at the end of the business day is negative \$5.01 or more (consumers) or \$1.01 or more (non-consumers) in your primary account, the Overdraft Transfer Service will automatically transfer enough funds from the secondary account's Available Balance to your primary account to cover the negative Available Balance plus the Transfer Charge. Please see the Schedule of Fees for your consumer or non-consumer account to obtain the Transfer Charge amount.

**Secondary Deposit Account.** An eligible secondary deposit account for the Overdraft Transfer Service is a checking, savings, or money market account where at least one of the owners of the primary checking account is also an owner of the secondary deposit account. You may have as many as five secondary deposit accounts linked to your primary account for the Overdraft Transfer Service, and you designate the order in which the accounts will be selected for transfer to cover overdrafts. The Overdraft Transfer Service relies on the Available Balance of each secondary account that is linked to the primary account, and an automatic transfer will only occur if there is a positive Available Balance at the end of the business day.

**Multiple Secondary Accounts.** When more than one secondary account is linked to your primary account, if the first secondary account that you linked to your primary account does not have enough of an Available Balance as needed in the primary account, then the Overdraft Transfer Service will only transfer as much as it can, leaving the first secondary account at a zero balance. The primary account is charged the Transfer Charge for this transfer. The Overdraft Transfer Service will then go to the next secondary accounts linked to your primary account and only transfer as much as it can from each account (based on the Available Balance in each secondary account at the end of the business day). The primary account is charged the Transfer Charge for each transfer.

**Account Limitations.** If your secondary deposit account is a savings or money market account, transfers from such accounts are considered pre-authorized transfers and are limited by Federal regulation to six pre-authorized transfers (including telephone and automatic transfers) during each month. Any rules, including fees assessed for excessive transactions from your savings or money market account will apply so that you may be assessed both an Excessive Transaction Fee and a Transfer Charge or your account may be closed.

**Covering Overdraft Balance.** If there is not enough of an Available Balance in the secondary account(s) linked to cover the entire negative Available Balance in the primary account, the Overdraft Transfer Service will transfer as much as possible from each account, waive the Transfer Charge(s) to the primary account [for each transfer], and the remaining negative Available Balance in the primary account may be assessed Overdraft Fees or NSF Return Item Fees. It is important to only link secondary account(s) that generally have an Available Balance that could reasonably cover overdraft balances in your primary account.

**Overdraft Preferred Credit Loan Service.** Under the Overdraft Preferred Credit Loan Service, you give us the authority to link your primary account with your Preferred Credit Loan for overdraft protection. If your Available Balance in your primary account at the end of the business day is negative \$5.01 or more (consumers) or \$1.01 or more (non-consumers), then the Overdraft Preferred Credit Loan Service will automatically advance enough funds on the Preferred Credit Loan and transfer the funds to your primary account to cover the negative Available Balance (in increments of \$100).

**Approval.** You must apply for and be approved for a Preferred Credit Loan before the Overdraft Preferred Credit Loan Service can be activated. Please refer to the Loan Rate Sheets to find current rates for Preferred Credit Loans.

**Preferred Credit Loan Agreement.** The advance is made under, and is subject to, the terms and conditions described in the Preferred Credit Loan agreement. We generally make the advance as long as you are not in default under the Preferred Credit Loan agreement and as long as the advance does not cause you to exceed the amount of your available credit on this line of credit. The funds advanced are subject to fees and finance charges under the Preferred Credit Loan agreement. Please see your Preferred Credit Loan agreement for more information about overdraft protection from your line of credit.

**Overdraft Privilege Service.** This is a non-contractual service we provide on eligible consumer and non-consumer checking accounts for overdraft coverage. The Overdraft Privilege Service does not constitute either a written agreement of an obligation or a prearranged agreement for First Bank to pay overdrafts, and we may withdraw this privilege at any time. Payment of an overdraft will continue to be at the discretion of First Bank, and payment of an overdraft does not obligate us to pay future overdrafts.

**Eligibility.** For your consumer account to be eligible, it must be open for 30 calendar days and you must not have any loans with First Bank that are past due 45 days or more; to remain eligible, you must make one deposit every thirty-two (32) days, and the bank must not receive a notice of bankruptcy, levy, lien, or garnishment related to

your account. For your non-consumer account to be eligible, it must be open for 30 calendar days, you must not have any type of business lending relationship already established with us (including a Preferred Credit Loan), your account must be designated with a specific small-business product type code, and you must not have more than four accounts opened with this specific small-business product type code; to remain eligible, you must make one deposit every thirty-two (32) days, and the bank must not receive a notice of bankruptcy, levy, lien, or garnishment related to your account. Once eligible, you are provided with an Overdraft Privilege Limit of \$750 (consumer accounts) and \$1,000 (non-consumer accounts).

**Description of Overdraft Privilege Service:** With the Overdraft Privilege Service, First Bank has the discretion of authorizing and paying transactions that cause your Available Balance to be negative (up to your Overdraft Privilege Limit). The Overdraft Privilege Limit includes your negative Available Balance and any Overdraft Fees that are assessed.

We may charge an Overdraft Fee for each item or transaction we pay that causes the Available Balance to become negative or occurs while the Available Balance on the account is negative, and the limitations described above in "Fee Information" apply to the Overdraft Privilege Service.

Utilizing the Overdraft Privilege Limit, under our Standard Overdraft Coverage, we may authorize and pay overdrafts for these types of transactions at our discretion:

- Checks and other transactions (including electronic funds transfer) using your checking account number;
- Automatic bill payments; and
- Recurring debit card transactions (for example, setting up your debit card to pay your monthly insurance premium or health club membership).

Utilizing the Overdraft Privilege Limit, for consumer accounts that have specifically chosen to have ATM and Everyday Debit Card Standard Overdraft Coverage and for all non-consumer accounts, we may authorize and pay overdrafts for these types of transactions at our discretion:

- ATM transactions
- Everyday debit card transactions.

Overdraft Privilege Service is a service, not a line of credit. You will receive a disclosure describing the Overdraft Privilege Service when you open your account. Once your account is eligible, you will be automatically enrolled in the Overdraft Privilege Service (but, for consumers, ATM and everyday debit card transactions will only be covered at your request). You may choose at any time not to participate in the Overdraft Privilege Service by notifying one of our Financial Services Representatives verbally or in writing.

#### **ADDITIONAL TERMS, SERVICES, AND CONDITIONS**

**Adjustments.** We may make adjustments to your account whenever a correction or change is required. Adjustments might occur, for example, if deposits are recorded in the wrong amount or items you deposit are returned unpaid. We may elect, at our discretion, not to make an adjustment to your account to correct an error which you or a third party (e.g., another financial institution) cause if the adjustment is less than \$1.00 or our cost to make the adjustment is greater than the amount in question.

**Assignment of Your Account.** We reserve the right to sell, assign or transfer your account, any amounts owed, this Agreement, or our rights or obligations under your account or this Agreement to any person or entity. You acknowledge that the recipient shall be entitled to enforce all of our rights and perform all of the obligations that we sell, assign or transfer, without any further rights or obligations on our part.

**Attorney-Client Trust Accounts.** Attorneys may establish unsegregated client trust accounts, as required by law, for the purpose of receiving and disbursing client funds that are nominal in amount or on deposit for a short time. Interest on these "IOLTA" or "IOTA" accounts is paid to the appropriate state bar or foundation or trust established by such State. If you want to open an IOLTA or IOTA account, you must indicate that on your signature card. Otherwise, we may assume that it is not an IOLTA or IOTA account.

**Cashing Items for Non-Account Holders.** From time to time, a person who does not have an account at First Bank may attempt to cash an item drawn on First Bank. Cashing an item for a non-account holder involves certain risks for us that are not present if the item is deposited at another financial institution and presented to us through normal item collection channels. As a result, you agree that we may charge a non-account holder a fee to cash a check or other item (including a payroll check) that is drawn on the Bank. These fees may be imposed without prior notice to you and may be applied to items that are drawn on your account or that are issued by the Bank.

**Changes in Account Ownership, Address and Authorized Signers.** You agree to notify us immediately in writing of any change in your name, address, email address, business capacity (e.g., sole proprietor to corporation), or the authorized signers on your account. We may require a new signature card or other documentation before giving effect to any change in ownership or authorized signers. Pursuant to state law, you may also be required to notify us in writing of any change in physical address of the business, the home address of the owner of the business, the driver's license number of the business owner or personal identification card number issued to the business owner by the State, and the certificate of incorporation or comparable document and assumed name certificate, if any.

If the authorized persons on your account change, we may continue to honor items and instructions given earlier by any previously authorized person(s) until we receive specific notice from you in writing not to do so. (Note: A new or updated signature card, by itself, does not constitute notice to terminate any pre-existing payment or transfer plan.) In some instances we may require you to close your account or provide us with stop payment orders in order to prevent transactions from occurring. There may be a delay in implementing a change in the authorized persons on our records, and you agree that we will be given a reasonable opportunity to make the changes necessary.

**Checks.** Check prices vary according to the types of checks you select. You can obtain information on the current price of checks by contacting your office of account. Check charges may vary from time to time without specific notice to you. You are responsible for verifying the accuracy of all information shown on your checks and deposit tickets. If you find an error, please notify us immediately. We are not liable for losses resulting from incorrectly printed checks or deposit tickets.

If you arrange for the printing of your own checks, the form, encoding and format of the checks must follow our check specification requirements and be approved by us in advance. The name(s) printed on your checks must agree with the name(s) on our account records. If you do not purchase your checks through us, we may charge a fee for each check that is rejected during processing due to poor print quality, or failure to meet our specifications. You agree not to issue checks with features or marks that obscure, alter or impair information on the front or back of a check or that otherwise prevents us or another bank from capturing such information during automated check processing.

We make checks available that include fraud prevention features. If you choose not to use these or other checks that include fraud prevention features, you agree to assume a heightened degree of responsibility for safeguarding your checks, and for reviewing all returned checks and statements as soon as you receive them.

**Checks Bearing Notations.** Although we are not obligated to, we may pay or accept checks and other items bearing restrictions or notations (e.g., "Void after 6 months", "Void over \$50.00", "Payment in Full," and the like), whether on the front or back, in any form or format. If you cash or deposit an item or write a check with such a notation, you agree that it applies only between you and the payee or maker. The notation will have no effect on us, and you agree to accept responsibility for payment of the item. You agree to indemnify and hold us harmless from any claim or alleged loss of any maker or payee involving such notations, whether you are the maker or payee or the funds are otherwise deposited into an account in which you have an interest.

**Check Endorsement.** Federal regulations provide that the top 1-1/2 inches on the back of a check (when read vertically from the trailing edge) is designated for your endorsement as payee. If you endorse a check in the area outside of the endorsement area, mark or otherwise obscure the other area, or make an endorsement which is illegible or incomplete, you agree to hold us harmless from any loss, delay, liability, claim, or damage which occurs as a result.

**Check Imaging.** If you receive our check imaging service, we will send images of your canceled checks to you with your monthly statements. Your canceled checks will not be returned to you, but will be destroyed shortly after we process your statement. We will maintain an image of each check for seven years. In some cases, checks you write may be converted into electronic images (truncated) during the check collection and return process and we will receive copies of your checks, rather than originals.



You can obtain copies of your checks by sending us a written request with the following information: your name, account number, check number, the amount of the check, and (if known) the date the check was paid. We will not be responsible for any indirect, special or consequential damages under any circumstances for our inability to provide copies of checks. Our liability, if any, will not exceed the face amount of the check in question. You agree to provide us with reasonable proof of any loss.

**Cutoff Hour.** Our processing cutoff hour with respect to any knowledge, notice, stop payment or postdated item order, or legal process received by us involving an item is one hour after the opening of the banking day following the banking day on which we receive the item. The cutoff hour with respect to setoffs exercised by us is midnight of the banking day following the banking day we receive an item, or such later time by which we must return the item. The cutoff hour determines our obligation under state law to pay or return certain items that have been received (but not finally paid) by us on the previous banking day.

**Check Examination.** We process checks by automated means based on information encoded on the checks. We may not physically examine all checks to determine if they are properly signed or completed. You agree that we may rely on such a process and that it will be deemed an acceptable standard of care on our part.

**Checks Lost or Stolen.** You agree to safeguard your blank and canceled checks, and to take reasonable steps to prevent their unauthorized use. If you are a business, you should store them under dual control in a secure, locked location that is accessible only to authorized personnel. If your checks are lost or stolen, you agree to notify us immediately. For security reasons, we reserve the right to close your account and transfer the balance to a new account. If we do, all checks written but not yet paid may be returned to payees as "Account Closed" or "Refer to Maker". You will be responsible for issuing any replacement checks. When you cash or deposit a check or other item with us, we act as your agent to collect the item. The risk of loss on an item in the process of collection is on you. We may reverse any credit given and any interest earned or accrued for a deposited item that is lost in transit and we may recover from any account you maintain with us the funds given to you for a cashed item which is lost in transit. You will do everything reasonably within your ability to promptly assist us to find, identify or replace a lost item, including but not limited to maintaining a record of the maker of items delivered to us for deposit and collection. We shall not be liable to you if an item is lost in the process of collection provided we exercised ordinary care in handling the item. In no event shall we be liable to you if you cannot identify the maker of the lost item.

**Compliance With Applicable Law.** You agree to comply with applicable law including without limitation, the economic sanctions administered by the U.S. Treasury's Office of Foreign Asset Control. You may not use your account or any account-related service to conduct transactions that are prohibited by the Unlawful Internet Gambling Enforcement Act. You may not use your account or services for any illegal activity. You agree to indemnify, defend and hold us harmless from every action, proceeding, claim, loss, cost and expense (including attorney's fees) suffered or incurred by you or us due to any U.S. or foreign government entity seizing, freezing or otherwise asserting or causing us to assert control over any account or funds in an account of yours (or ours) when purportedly caused by or arising out of your action or inaction. This will apply whether or not such action is ultimately determined to be authorized under the laws of the U.S. or its territories, or of any foreign jurisdiction. We are not required to inquire or determine the authority of any action taken by the U.S. or foreign government entity prior to acceding to any legal process initiated by it.

**Conflicting Demands/Disputes.** If (i) there is any uncertainty regarding the ownership of an account or its funds, (ii) there are conflicting demands over its ownership or control, (iii) we are unable to determine any person's authority to give us instructions regarding the account, (iv) we are requested by Adult Protective Services, law enforcement, or any similar state or local agency to freeze the account or reject a transaction due to the suspected financial abuse of an elder or dependent adult, or (v) we believe a transaction may be fraudulent or may violate any law, we may at our sole discretion: (1) freeze the account and refuse transactions until we receive written proof, in form and substance satisfactory to us, of each person's right and authority over the account and its funds; (2) require the signatures of all of you for the withdrawal of funds, the closing of an account, or any change in the account regardless of the number of authorized signers on the account; (3) request instructions from a court of competent jurisdiction at your expense regarding the ownership or control of the account; (4) continue to honor items and other instructions given to us by the individuals who appear as authorized signers according to our records; and/or (5) require a bond indemnifying us from any and all loss, liability, damages, costs and expenses for and on account of the payment of an adverse claim, dishonor of an item or the execution of any other order by any adverse claimant or you. In no event will we be liable for any delay or refusal to follow instructions that occurs as a result of a dispute or uncertainty over the ownership or control of your account. We may return checks and other items, marked "Refer to Maker" (or similar language), in the event there is a dispute or uncertainty over an account's ownership or control. The existence of the rights set forth above shall not impose an obligation on us to assert such rights or to deny a transaction.

**Consent to Gather Information.** Each of you authorizes us to obtain information from time to time regarding your credit history from credit reporting agencies and other third parties.

**Death or Adjudication of Incompetence.** You agree to notify us immediately of the death or court-declared incompetence of any owner, authorized signer or designated beneficiary on your account. You agree that we may disregard any notice of incompetence unless the person in question has been declared incompetent by a court of appropriate jurisdiction and we receive written notice and instructions from the court regarding the account. We also may freeze, offset, refuse and/or reverse deposits and transactions (e.g., governmental or retirement benefit payments payable to the deceased) if an owner dies or is adjudicated incompetent. If a joint account is owned solely by joint tenants who are husband and wife residing in Missouri then the owners will be treated as owning the joint account as tenants by the entirety. Upon the death of a tenant by the entirety, the surviving spouse has the right to all the funds in the account, subject to rights of setoff and security interests in the account. If the account is held by a husband and wife as "community property", ownership of the account will be determined by applicable community property law and may be affected by a will. If the account is held as "tenants in common", a deceased owner's share passes to the estate or other legal representative of the deceased tenant. "Pay On Death" and informal trust accounts established for one owner pass to the named beneficiaries who survive the owner. "Pay on Death" accounts established for joint accounts pass to the surviving owner(s), if any, then automatically to the named beneficiaries who survive the last surviving owner. The surviving named beneficiaries are entitled to withdraw funds in the account only if all account owners are deceased. If there is more than one surviving beneficiary, each will receive an equal share of the funds, unless, where permitted by law, the account documentation indicates otherwise. In all states, the owner(s) may change beneficiaries during their lifetimes by updating our account documentation. Owners should keep us informed about each beneficiary's address. If we have any question as to the ownership of funds or the amount of funds that belong to any person upon the death of an owner, we may freeze all or part of the account, pending receipt of proof (satisfactory to us) of each person's right to the funds. The rights of the designated beneficiary of the account are subordinate to any rights of First Bank or any other creditor to whom such account has been pledged or who may otherwise have a lien interest or right of setoff in such account. No amounts will be payable to any designated beneficiary until any indebtedness of the owner(s) of the account to First Bank has been paid in full. We shall be entitled to be reimbursed from the funds in any of your accounts for any costs incurred by the Bank, including legal fees, as a result of our paying or refusing to pay any amounts hereunder, unless such costs are incurred as a result of the Bank's intentional wrongful refusal to make payments as required under the pay on death designation.

**Demand Drafts.** If you provide your account number to a third party in order to charge your account by means of one or more demand drafts or remotely created checks, you authorize us to pay such drafts, even though they do not contain your signature and may exceed the amounts you authorized to be charged. A "remotely created check" is a check that you are authorized to create and present payment by an authorized signer on the account on which the check is drawn and which does not bear the signature of an authorized signer on that account and includes checks that are defined under state and Federal laws as "remotely created checks." This provision shall not obligate us to honor demand drafts or remotely created checks. We may refuse to honor demand drafts or remotely created checks without cause or prior notice, even if we have honored similar items previously. We are not under any obligation to verify whether the name and account number shown on a demand draft are consistent. If you deposit a remotely created check you represent, warrant and guarantee to us that the check is authorized to be paid in the amount stated on the check and to the payee named on the check. We may discontinue accepting demand drafts and remotely created checks at any time, without cause or prior notice. You agree to indemnify us for any loss that we may incur directly or indirectly from your deposit of a remotely created check in violation of the terms set forth in this section. You further agree that all of the terms in this Agreement and under applicable laws that apply to remotely created checks, including without limitation substitute checks created from remotely created checks and check images of remotely created checks, except that remotely created checks will not be signed by an authorized signer on the account on which the check is drawn. If you deposit demand drafts or remotely created checks to an account with us, you will remain liable for the amount of the draft or check that is returned to us at any time and for any reason.

**Entire Agreement.** This Agreement constitutes the entire agreement between you and us with respect to the account(s) for which this Agreement has been provided, and supersedes all prior written or oral discussions, negotiations, representations, warranties and agreements, including any and all prior deposit account agreements with respect to such account(s). Additional and/or specific rules, regulations, disclosures, and/or agreements may be applicable to certain or particular accounts or specialized account programs and/or to bank services linked to an account. You agree that the terms and conditions set forth in such rules, regulations, disclosures, and other agreements continue in effect and are intended to be in addition to and not as substitution for the terms and conditions set forth in this Agreement.

**Facsimile Signatures.** We may refuse to accept or may pay items bearing facsimile signatures. You agree to assume full responsibility for any and all payments made by us in reliance upon signatures that resemble the actual or facsimile signature(s) (without regard to variation in color or size) that any of you provide to us in connection with your accounts or services. You authorize us to pay any item that appears to bear your authorized facsimile signature, without further inquiry. You agree to indemnify, defend and hold us harmless from any and all actions, claims, losses, damages, liabilities and expenses (including attorney's fees) arising directly or indirectly from the misuse or the unlawful or unauthorized use or copying of facsimile signatures (whether affixed manually, by stamp, mechanically, electronically or otherwise).

**Fax Instructions/Voice Mail/E-Mail.** Subject to applicable laws, we may, but are not required to, act upon instructions received by fax transmission, voice mail or e-mail. We may not review your message until the banking day after its receipt. For that reason, it may not be appropriate to use these methods of communication if you need to reach us with time-sensitive information.

**Financial Statement.** You agree to provide us with a current financial statement upon request.

**Force Majeure.** We shall not be liable for any loss, expense, failure to perform, or delay caused by failure of communication systems, accidents, strikes, fire, flood, pandemic, war, riot, civil strife, terrorist attack, earthquake, power outage, funds transfer system or government rules, acts of third parties, or any cause that is beyond our reasonable control.

**Foreign Items.** We may refuse to accept items for deposit or collection if they are payable in a foreign currency. If we accept a foreign item, you assume all the risk of loss associated with currency value fluctuations and late returns. We may use our current buying or selling rate, as applicable, when processing foreign currency items and may recover from your account any loss incurred in connection with our processing of such items.

**Foreign Language Checks.** If you write or deposit a check on which the amount is written in a language other than English, we reserve the right, at our option, to rely on the dollar amount expressed in numbers, rather than translating the amount written in a foreign language into English.

**Full Satisfaction Payments.** Any payments made in full satisfaction of any dispute you have about amounts you owe us under this Agreement or any other agreement must be mailed or delivered to us at the address noted in the DISPUTE RESOLUTION section of this booklet, with a description (on a separate page) of the dispute, the loan or deposit account number in question, and a conspicuous statement that the payment is being tendered in settlement of the dispute.

**Indemnification.** Except as otherwise set forth in this Agreement, you agree to indemnify, defend and hold us harmless from all claims, actions, proceedings, fines, costs and expenses (including, without limitation, attorney fees) related to or arising out of: (a) your actions or omissions in connection with your accounts or our services, or (b) our actions or omissions, provided that they are taken/omitted in accordance with this Agreement or your instructions.

**Inactive Accounts.** Unless otherwise provided in our Schedule of Fees, service charges for "inactive accounts" are the same as service charges for active accounts. Charges are not reimbursed for inactive accounts that are later reclassified as "active". If your account is inactive for more than one year, we may, at our option, provide quarterly (rather than monthly) statements for your account and/or close your account and forward the account balance to you. After your account has been inactive for an extended length of time, which is determined in First Bank's sole discretion, it will be considered dormant. For security reasons, we may refuse a withdrawal or transfer from dormant accounts if we cannot reach you in a timely fashion to confirm that the transaction is authorized. After your account has been dormant for a certain period of time, as determined by applicable law, and we have been unsuccessful in contacting you, we will be required to turn over the balance in the account to the applicable state agency, and we will have no further obligation to you regarding the account.

**Items Sent For Collection.** We and other institutions may refuse to accept an item for deposit or may accept it on a collection basis only. This often occurs with foreign or damaged items. If we accept an item for collection, we will send it to the institution upon which it is drawn, but will not credit your account for the amount until we receive the funds from the other institution. If we elect to credit your account before then, we may charge the amount back against your account if we do not receive payment for any reason. We may impose a fee in connection with sending and receiving items for collection (e.g., by charging your account or deducting the fee from the amount remitted). Other institutions that send or receive items for collection involving your account also may impose a fee for their services.

**Legal Fees.** Except in California, we shall be entitled to be reimbursed from the funds in your account for any costs incurred by the Bank, including legal fees, as the result of our consulting outside counsel in connection with paying or refusing to pay any amounts from any of your accounts, unless such costs are incurred as a result of the Bank's intentional wrongful refusal to make payment.

**Legal Process.** We may comply with any writ of attachment, execution, garnishment, tax levy, restraining order, subpoena, warrant or other legal process which we believe (correctly or otherwise) to be valid. If permitted by law, we may notify you of such process by telephone, electronically, or in writing. If we are not fully reimbursed for our record research, photocopying and handling costs by the party that served the process, we may charge such costs to your account, in addition to our minimum legal process fee. You agree to indemnify, defend and hold us harmless from all actions, claims, liabilities, losses, costs, attorney's fees, and damages associated with our compliance with any process that we believe to be valid. Accounts opened with trust or fiduciary designations (e.g., "XYZ, Inc. — Client Trust Account") may be subject to levies and other legal process against your property unless our records clearly reflect the existence of an express written trust or court order. We may not pay interest on funds that we hold or set aside in response to legal process. You agree that we may honor legal process that is served personally, by mail, or by facsimile transmission at any of our offices (including locations other than where the funds, records or property sought is held), even if the law requires personal delivery at the office where your account or records are maintained.

**Limitation of Liability.** We will not be liable under any circumstances for special, indirect, consequential, incidental, exemplary, or punitive damages or losses, or for attorney's fees incurred by you, or for lost opportunity or lost profits, or related to our actions or omissions, even if we were aware of the possibility of such losses or damages. In no event will our liability exceed the total amount of any fees paid by you in the year preceding the alleged action or omission or, in the case of our business account analysis service, the amount of any Earnings Credit which we fail to apply against a service charge. We will not be liable for delays or mistakes which happen because of circumstances beyond our control, including, but not limited to, national emergencies, natural disaster, legal constraint, war, terrorism, Acts of God, failure of transportation, communication or power supply, malfunction of or difficulties with the bank's equipment, or acts of banking authorities. You agree to review account notices and statements immediately upon receipt and to send us a written notice of any problem within a reasonable time (not to exceed 14 days from the date you receive the first notice or statement reflecting the problem).

**Limitation on Time to Sue.** Unless otherwise required by law, an action or proceeding by you to enforce an obligation, duty or right arising under this Agreement or by law with respect to your account or any account service must be commenced within one year after the cause of action accrues.

**Night Depositories.** If you have entered into a night depository agreement with us, the terms and conditions of that agreement supersede the terms of this section. You must make deposits in our night depository only by use of securely sealed envelopes. We are not responsible for deposits that are not in securely sealed envelopes. You will not receive a deposit receipt if you use the night depository. All night depository transactions are subject to later verification by us. You must be certain that your deposit has entered the interior vault of the night depository. We are not responsible for any deposits until the envelope and its contents have fallen down the interior chute of the night depository and landed on the floor of the interior vault. Placing an envelope or other materials in the exterior door of the night depository or in the mouth or upper portion of the interior chute is not a deposit. The relationship established by each use of the night depository is a separate bailment. You must give us written notice of any irregularity or loss of any envelope or contents within thirty (30) calendar days of the day on which the envelope is alleged to have been delivered to us. After that

time, our records as to the receipt or non-receipt of the envelope or the amount of the contents of the envelope shall be conclusively presumed to be correct. If you give such notice, you must prove by clear and convincing evidence (a) that the envelope and its contents were delivered into our exclusive custody and control; (b) the exact dollar amount of the money and items in the envelope; and (c) that we were negligent. You must also take all reasonable steps to mitigate any loss or damages. We do not insure the night depository or anything you put in it. We are responsible only for using ordinary care for items placed in the night depository. We will not be responsible for any loss caused by fire, flood, vandalism, burglary, acts of God or water damage. In no event will we be responsible for consequential damages or lost profits. We do not have guards or cameras at night depository locations. We do not guarantee your safety at the night depository. When making deposits you should exercise due care and assess the risks associated with the time of day, lighting, the location of the night depository and other factors affecting personal safety. We recommend that you do not use the night depository at night without adequate protection or if there are any suspicious circumstances. Please refer to the section entitled "ATM Safety" for additional recommendations regarding safety at unstaffed locations.

**Order of Posting Transactions.** This paragraph describes, generally, how we post transactions to accounts, and this may not be the order in which you conducted them. Your account statement may not necessarily report credits and debits in the order in which we posted them to your account. Please note that this process may change from time to time, without prior notice to you. Our order of posting depends on a number of factors, including when a transaction occurs, the order in which it is presented, the amount, system availability, potential risk of loss to the Bank, and the type of transaction, among other variables. Generally, we post the following transaction types at the end of each business day in the following order:

1. Credits and deposits are posted to your account with the highest transaction amount first to the lowest transaction amount.
2. ATM and debit card transactions are posted in chronological order using the authorization date/time of each transaction (if there is a tie with authorization date/time, then they are posted with the lowest transaction amount first to the highest transaction amount).
3. The following types of debits are posted with the lowest transaction amount first to the highest transaction amount:
  - We believe a check you deposit will not be paid.
  - A check written that was cashed partially or in full at a First Bank branch
  - An outgoing wire transfer
  - A withdrawal made at a First Bank branch
  - A transfer to another First Bank account (including online transfers)
4. The following types of debits are posted with the lowest transaction amount first to the highest transaction amount:
  - A miscellaneous debit memo or safe deposit box payment
  - An automatic loan payment
  - A telephone transfer to another First Bank account.
5. The following types of debits are posted with the lowest serial number on the item first to the highest serial number (the serial number for an online Bill Pay check generally starts with 9000 for the first check generated and is incremented as subsequent checks are generated). In the event there is no serial number, then they are posted with the lowest transaction amount first to the highest transaction amount:
  - A transfer to a wealth management account
  - A check (including a check generated through online Bill Pay)
  - A check that was converted into an ACH withdrawal.
6. Pre-authorized automatic ACH withdrawals are posted with the lowest transaction amount first to the highest transaction amount (including a payment generated through online Bill Pay).
7. Finally, maintenance fees, service charges, and most other bank fees are posted based on the date/time they were assessed.

There are exceptions to this general rule, as well. We always reserve the right to post transactions that are payable to us first, and we may post any transaction earlier or later in the process than indicated. If you want to avoid an overdraft or the possibility of a returned transaction, you should take steps to ensure that your account has sufficient funds to cover each of your transactions and our fees. The order in which we post your transactions may affect your Available Balance, and therefore, may have an impact on your account being charged Overdraft Fees and/or NSF Return Item Fees. See above section "INSUFFICIENT FUNDS AND OVERDRAFTS".

**Other Agreements.** You may have another agreement with us which, by its terms, supersedes this Agreement in whole or in part. For example, if you are a governmental unit or a business client, certain provisions of your other agreements with us (e.g., involving Treasury Management services) may supersede some of the terms of this Agreement, to the extent that they are inconsistent.

**Photocopies.** Checks and other items are sometimes lost during processing or while in transit. If a photocopy of a check or other item that appears to be drawn on your account is presented to us for payment in place of the original, we may pay the photocopy if it is accompanied by a representation from another financial institution that the original item has been lost or destroyed. We will not incur any liability in the event the original item is later presented to and paid by us, unless a stop payment order is in effect for the item.

**Postdated Checks.** Unless you provide your branch of account with a written postdated check order that describes a postdated check with reasonable certainty, we may pay or return the check at our discretion before the date stated on the check. Your order must include the exact amount (dollars and cents), account number, check number, date of check and the name of payee. If you provide us with a postdated check order in a time and in a manner which affords us a reasonable opportunity to act on it, we will not pay the item and may return it (marked "payment stopped", "postdated" or otherwise) if it is presented to us prior to the date indicated in the order (up to six months from the date of the order). After six months, an order is no longer effective and must be renewed. We may impose a fee for each order. If we re-credit your account after paying a postdated check over a valid and timely postdated check notice, you agree to transfer to us all of your related rights against the payee or other holder of the check, and to assist us in legal action taken against that person. You further agree that if we pay an item subject to a valid and timely postdated order, our liability is limited to the actual loss suffered up to the amount of the item and that we are not liable for any incidental, special or consequential damages.

**Power of Attorney.** Any account owner may provide us with a power of attorney. We generally will accept a statutory form power of attorney that complies with applicable state law. Upon request, we may provide you with a power of attorney form for transactions with First Bank. Unless prohibited by law, we may refuse to accept other forms of powers of attorney, however, with or without cause. You should notify us in advance if you plan to create a power of attorney involving your account. We may act on the instructions of an attorney-in-fact whether or not the attorney-in-fact relationship is noted in the instruction (e.g., on any item signed by the attorney-in-fact). You can revoke your power of attorney by sending a written notice to us at your branch of account. We assume no duty to monitor the actions of your attorney-in-fact to ensure (s)he acts for your benefit.

**Records.** We may in our discretion retain records in any form including, without limit, paper, film, fiche, digitalized or other electronic medium. All recordings and discs, magnetic tapes, security reports and related media and records used by us for transactions contemplated by this Agreement shall remain our property. If we are not able to produce the original or a copy of your signature card or any other document relating to your account or service, our records (including our electronic records) will be deemed conclusive. If there is a discrepancy between your records and our records, you agree our records will be deemed conclusive.

**Release of Account Information.** We may release information about your deposit, investment and loan accounts and the transactions you perform to third parties: where it is necessary to verify or complete a transaction; to our affiliates and to other financial institutions with whom we have a joint marketing agreement, unless prohibited by applicable law; to disclose the existence, history, and condition of your account to consumer reporting agencies; when you give us your consent; to comply with the law or a court or governmental order; to local, state and Federal authorities if we believe a crime may have been committed involving your account; as permitted by law; and, if you are a business, in response to trade inquiries.

If we close your account because of unsatisfactory handling, we generally report the reason we closed the account to account information services. The information service may supply this information to others. This may adversely impact your ability to establish another account at a financial institution for an extended period. We may also report to credit bureaus that your account has been charged off as a loss to the Bank, which may affect your credit for an extended period.

Please see our Consumer Privacy Notice for additional details.

**Returned Items/Transactions.** If we are notified that an item you cashed or deposited is being returned unpaid, we may attempt to re-clear the item, place a hold on the funds in question (see "FUNDS AVAILABILITY POLICY"), or charge your account for the amount (and any interest earned on it), whether or not the return or notice of non-payment is proper or timely. This also applies to items that are drawn on us which are not paid for any reason, and to items and other transactions that are returned or charged back to us in accordance with any law, regulation or rule (including a funds transfer system or clearinghouse rule). We may assess a fee for each returned item and notify you of the return orally, electronically, or in writing.

If we receive an affidavit or a declaration under penalty of perjury stating that an endorsement on an item deposited to your account is forged, that the item contains an alteration, or that there has been a breach of warranty in connection with the item, we may charge the item back against your account or place a hold on the funds pending an investigation, without prior notice to you.

If an item deposited in your account or cashed for you was initially paid by the financial institution on which it is drawn and that institution later returns that item to us claiming that it was altered, forged, unauthorized, has a missing endorsement, an encoding error, or should not have been paid for any other reason, we may debit your account for the amount of the item.

You are responsible for returned items. Note that the return of an item can occur after the item has "cleared" and you have withdrawn the funds from your account. If a cashed or deposited item is returned to us we may accept the return, pay the claiming party and charge the item to your account regardless of the timing or reason for such return and regardless of whether you have sufficient funds in the account. If you do not have enough of an Available Balance to cover a charged-back, returned item, we may overdraw your account. We are not liable to you if there are insufficient funds because we overdraw your account. You agree to repay immediately the overdraft caused by a return of a cashed or deposited item.

Any credit we give you with respect to an ACH entry is provisional until we receive final settlement for the entry. If we do not receive final settlement, you understand and agree that we may charge your account for the amount, and that the party making payment to you (i.e., the originator of the transfer) shall not be deemed to have paid you the amount of the transfer. If you give us an item in payment of an obligation that you owe us, and it is returned for insufficient or uncollected funds, you authorize us, at our discretion, to resubmit the item electronically through the automated clearing house to the institution upon which it is drawn. You agree that any restrictive endorsement on such items is void and ineffective.

In addition, if permitted by law, you agree to reimburse us for all claims, costs, losses, and damages (including fees paid for collection) we may incur with respect to your returned deposited items.

**Setoff and Security Interest.** We may charge or set off funds in your account for any direct, indirect and/or acquired obligations that any owner owes us, regardless of the source of the funds in the account, to the fullest extent permitted by law. You grant us a security interest in your account for amounts owing to us by any owner. If we take or set off funds from a time deposit account, we may charge an early withdrawal penalty on the funds withdrawn. We may take or set off from your account before we pay items drawn on the account. We are not liable to you for dishonoring items where our action results in insufficient funds in your account to pay your items.

If the law imposes conditions or limits on our ability to take or set off funds in your accounts, to the extent that you may do so by contract, you waive those conditions and limits and you authorize us to apply funds, including Federal and state benefit payments, in any or all of your accounts with us and with our affiliates to obligations you owe us.

This provision does not apply to IRA or tax-qualified retirement accounts, to consumer credit card obligations or where otherwise prohibited by law. This section does not limit or reduce our rights under applicable law to charge or set off funds in your accounts with us for direct, indirect and acquired obligations you owe us.

**Severability.** If any of the provisions of this Agreement are determined to be void or invalid, such provision shall be deemed automatically reformed and amended to the extent necessary to render it valid and enforceable, and the remainder of the Agreement shall remain in full force and effect.

**Stale-Dated Checks.** You agree that we may pay or reject a check which is presented to us for payment more than six months after its date (a "stale-dated" check), even if the presentation occurs after the expiration of a stop payment order. We normally do not examine the date on checks presented for payment. You agree that we are not required to identify stale-dated checks or to seek your permission to pay them.

**Statements, Communications, Notices and Items.** If we provide you with a statement or notice, electronically or otherwise, you must promptly and carefully review it to determine if any errors or problems exist. You agree to notify us immediately of any error, discrepancy or unauthorized transaction you discover on any statement, notice or item. If you fail to do so, you may become responsible for the losses resulting from such failure. If you are a business, you agree not to entrust the writing of checks or the authorization of other items and the reconciliation and review of your account statements and notices to the same person without frequent monitoring. We may deny a claim for monetary loss due to forged, altered or unauthorized checks if you fail to follow these procedures.

Statements and notices are normally sent to the last address or email address listed with us for your account. If you ask us to hold statements and notices for you, we may send them to you or destroy them if they are not picked up within a reasonable time. Notify us promptly if you do not receive your statement by the date you normally would expect to receive it. Statements and notices sent or made available to any of you are deemed to be received by all of you. If we hold them at your request or because you fail to provide us with a current address, they will be deemed delivered to you when they are prepared (for held statements), mailed (for returned mail) or otherwise made available to you (e.g., at a website or email address). We may hold statements if the Post Office notifies us that your mail is undeliverable. At our discretion, we may destroy mail that is returned to us or determined to be undeliverable. You must mail or deliver all notices to us in writing at the branch (es) where you maintain your account(s) or at such other address (es) as we designate (e.g., in connection with Treasury Management services). Notices sent elsewhere may be delayed or may not reach the correct office.

You agree that we or any of our agents may contact you at any telephone number (including place of employment and cellular numbers) that you or any account holder supplies to us or is captured when you place a call to us or any of our agents. In addition, we or any of our agents may send notices, statements and other communications to you at the electronic or street address we have in our records for your account, as well as through cellular text messaging. You also consent and agree that those calls or messages may be automatically dialed and/or recorded. You understand that your service provider may charge you for these calls/messages.

**Stop Payment Orders.** Any owner or authorized signer on your account may request us to stop payment on a check or transaction. Your stop payment order must include the account number, check number, exact amount (dollars and cents), check or transaction date and the name of the payee. We will not be liable for paying a check or transaction over a stop payment order if the order is incomplete or incorrect. We must receive stop payment orders at a time and in a manner which affords us a reasonable opportunity to act upon them. There is a per-check/transaction charge for each stop payment order. Stop payment orders are valid for six months. After that time, the check may be paid and charged to your account unless you renew the stop payment order for an additional fee. We may accept oral stop payment orders. If we act upon an oral stop payment order, however, you agree to promptly confirm the order in writing and deliver it to us. If you fail to do so within 14 calendar days, we may release the stop payment. Our records will be conclusive evidence of the existence, details of, and our decision regarding any oral stop payment order or its revocation.

You may not stop payment on electronic point-of-sale Card transactions, official or cashier's checks, or checks or payments guaranteed by us. Under certain circumstances, however, you may be able to claim a refund on lost, stolen or destroyed official or cashier's checks 90 days following the date of their issuance.

Please note that electronic stop payment requests (through our Consumer Electronic Banking System or Business Electronic Banking System) may not be effective in stopping the payment of checks that have been posted to, but not finally paid from, your account on the preceding day. In order to ensure that those checks are not paid, you must contact one of our client representatives in person, by telephone or in writing within one hour after we open on the day following the day we post the items to your account. You also should contact a representative if you wish to stop the payment of a check that has been converted to an electronic transaction by a merchant.

**Subaccounts.** For regulatory reporting and reserve purposes, we divide checking accounts into two subaccounts: a checking subaccount and a savings subaccount. If your checking account earns interest, we will pay the same interest rate on both subaccounts. If it does not earn interest, no interest will be paid on either subaccount. In either case, your account will continue to operate, from your perspective, as one account.

We may establish a threshold for the balance maintained in the checking subaccount and may transfer funds periodically from one subaccount to the other to meet that threshold and cover transactions against your account. Your account statements will not reflect the existence of the subaccounts, and our periodic reallocation of funds between subaccounts will not affect your ability to withdraw funds, the interest rate (if any), fees, or other features of your checking account. You agree that we may treat the subaccounts as one and the same account if we receive a levy, subpoena or other legal process regarding either subaccount or your checking account.

**Substitute Checks.** You agree not to deposit substitute checks, as described below, or checks bearing a substitute check legal equivalence statement (e.g. "This is a legal copy of your check. You can use it the same way you would use the original check") to your account without our prior written consent. Unless we agree otherwise in writing, our acceptance of such checks shall not obligate us to accept such items at a later time, and we may cease doing so without prior notice. If we approve the deposit of substitute checks, you agree to indemnify, defend and hold us harmless from all losses, costs, claims, actions, proceedings and attorney's fees that we incur as a result of such checks, including without limitation, any indemnity or warranty claim that is made against us because: (a) the check fails to meet the requirements for legal equivalence, (b) a claimant makes a duplicate payment based on the original check, the substitute check, or a paper or electronic copy of either; or you agree to provide us promptly with the original check or a copy that accurately reflects all of the information on the front and back of the original check when it was truncated. We may convert original checks to substitute checks.

The following notice applies to consumer accounts and supersedes, where inconsistent, other terms in this agreement with respect to substitute checks:

**Substitute Checks and Your Rights – Important Information About Your Account**

What is a Substitute Check? To make check processing faster, Federal law permits banks to replace original checks with "substitute checks". These checks are similar in size to original checks with a slightly reduced image of the front and back of the original check. The front of a substitute check states: "This is a legal copy of your check. You can use it the same way you would use the original check." You may use a substitute check as proof of payment just like the original check.

Some or all of the checks that you receive back from us may be substitute checks. This notice describes rights you have when you receive substitute checks from us. The rights in this notice do not apply to original checks or to electronic debits to your account. However, you have rights under other laws with respect to those transactions.

**What Are My Rights Regarding Substitute Checks?**

In certain cases, Federal law provides a special procedure that allows you to request a refund for losses you suffer if a substitute check is posted to your account (for example, if you think that we withdrew the wrong amount from your account or that we withdrew money from your account more than once for the same check). The losses you may attempt to recover under this procedure may include the amount that was withdrawn from your account and fees that were charged as a result of the withdrawal (for example, an Overdraft Fee). The amount of your refund under this procedure is limited to the amount of your loss or the amount of the substitute check, whichever is less. You also are entitled to interest on the amount of your refund if your account is an interest-bearing account. If your loss exceeds the amount of the substitute check, you may be able to recover additional amounts under other law. If you use this procedure, you may receive up to \$2,500 of your refund (plus interest if your account earns interest) within 10 business days after we received your claim and the remainder of your refund (plus interest if your account earns interest) not later than 45 calendar days after we received your claim. We may reverse the refund (including any interest on the refund) if we later are able to demonstrate that the substitute check was correctly posted to your account.

**How Do I Make a Claim for a Refund?**

If you believe that you have suffered a loss relating to a substitute check that you received and that was posted to your account, please go to your local First Bank office or contact us at the First Bank Client ServiceCenter: 1-800-760-BANK (2265) or  
First Bank Expedited Re-Credit  
M1-199-042  
600 James S. McDonnell Blvd.  
Hazelwood, MO 63042

You must contact us within 40 calendar days of the date that we mailed (or otherwise delivered by a means to which you agreed) the substitute check in question or the account statement showing that the substitute check was posted to your account, whichever is later. We will extend this time period if you were not able to make a timely claim because of extraordinary circumstances.

Your claim must include:

1. Your name and account number;
2. A description of why you have suffered a loss (for example, you think the amount withdrawn was incorrect);
3. An estimate of the amount of your loss;
4. An explanation of why the substitute check you received is insufficient to confirm that you suffered a loss; and
5. A copy of the substitute check and/or the following information to help us identify the substitute check: the check number; the date of the check; the name of the person to whom you wrote the check; the exact amount of the check (dollars and cents); and the date the check posted to your account.

**Taxable Benefits.** From time to time, we may offer products or services with reduced or waived fees, or that include premiums. The benefit to you of our waiving such fees or providing such premiums may be taxable income for you. Depending on the amount of the benefit, we may be required to report the amount of any such benefit to the Internal Revenue Service. You will be solely responsible for paying all applicable Federal, state and local taxes on the benefit received; if applicable, you may receive an IRS Form 1099 for the total value of the benefit. All Federal, state and local laws and regulations apply. Please consult your tax advisor for additional information.

**Telephone Instructions.** At our discretion, we may accept or refuse telephonic instructions from you in connection with your account. Our understanding of instructions and our records shall be conclusive evidence of the actual instructions given. We are not required to accept instructions or permit withdrawals by telephone, and this does not constitute an agreement by us to do so. Telephone transactions involving certain accounts are also subject to transaction limitations (See "ACCOUNT LIMITATIONS").

**Telephone and Electronic Communication Monitoring/Recording.** We sometimes monitor telephone conversations and electronic communications for quality and control purposes. We do not record conversations without notice to you. You acknowledge and agree on behalf of yourself, your employees and your agents, that we may monitor and record communications at any time. We will inform you, at the beginning of a telephone call, if we are recording the telephone call.

**Termination/Closing Your Account.** Any authorized signer(s) may close your account at any time, with or without cause. We are not required to provide notice of such closure to the other authorized signers on the account. We may automatically close your account if the account balance is zero. We may terminate your account relationship with us at any time, with or without cause, by giving oral, electronic or written notice to any of you. If the funds are not withdrawn, we may send a check for the collected account balance to any of you at the last address we have on file for the account. Thereafter, the funds will stop earning interest (even if

the check is returned or remains uncashed for any reason). We may dishonor any check, item or transaction presented for payment after an account is closed. At our sole discretion, we may honor checks, items and orders presented or occurring after an account is closed if the transaction is guaranteed by us to third parties (e.g., under a check guarantee or as part of an electronic fund transfer arrangement) or you fail to give us a timely stop payment order for any outstanding checks. You remain responsible for such items and transactions, which may be treated as overdrafts. You should notify the Bank in person or in writing when attempting to close an account so the appropriate status can be placed on the account. The provisions set forth in this Agreement shall survive the closing of your account or any termination of the relationship between us, including the termination of the Agreement, and shall survive bankruptcy to the extent allowed under applicable law.

**Transfers/Assignments.** Unless otherwise agreed by us in writing, you may not grant, transfer or assign or negotiate any of your rights to an account without our prior written consent. We are not required to accept or recognize an attempted assignment of your account or any interest in it, including a notice of security interest.

**Unauthorized Transactions and Errors.** If you discover an error, forgery, alteration or other unauthorized activity involving your account, you must notify us immediately by telephone, and promptly notify your branch of account in writing of the relevant facts, including a description of the transaction or error and the identity of any suspected perpetrator. You agree to maintain a current check register and to carefully and promptly review all statements and notices we send or make available to you. If you participate in our check imaging service, your statements will be deemed to provide sufficient information about your checks and other transactions for you to determine whether there was an error or unauthorized transaction if the statements provide you with the check or transaction number, the amount, and the date of payment.

You are in the best position to discover and report any errors or unauthorized transactions involving your account. If you fail to notify us within a reasonable time (not exceeding 21 days after your statement date) of an unauthorized signature, alteration, forgery, counterfeit item, or other unauthorized debit to your account, we will not be responsible for subsequent unauthorized transactions by the same wrongdoer. Without regard to care or lack of care of either you or us, if you do not discover and report an error or an unauthorized signature, alteration, forgery, counterfeit item, or other unauthorized debit to your account within 60 days after the date of your statement or the date the information about the item or transaction is made available to you, whichever is earlier, you are precluded from asserting the error or unauthorized transaction against us.

If you claim a credit or refund because of an error or unauthorized transaction, you agree to provide us with a declaration containing whatever reasonable information we require regarding your account, the transaction and the circumstances surrounding the claimed loss. We must receive your declaration within 10 days of our request. If applicable, you also agree to make a report to the police and to provide us with a copy of the report, upon request. We will have a reasonable period of time to investigate the circumstances surrounding any claimed loss. During our investigation, we will have no obligation to provisionally credit your account, unless otherwise required by law (e.g., in connection with certain consumer electronic fund transfer services).

Our maximum liability will never exceed the amount of actual damages proven by you. Our liability will be reduced: (a) by the amount of the loss that is caused by your own negligence or lack of care; (b) to the extent that damages could not have been avoided by our exercise of ordinary care; and (c) by any loss recovery that you obtain from third parties (apportioned in accordance with this provision). We will not be liable for any loss that is caused in part by your negligence if we acted with ordinary care. Unless otherwise required by law, we will not be liable for incidental, special or consequential damages, including loss of profits and/or opportunity, or for attorney's fees incurred by you, even if we were aware of the possibility of such damages.

You agree to pursue all rights you may have under any insurance policy you maintain in connection with any loss associated with your account and to provide us with information regarding coverage. Our liability will be reduced, proportionately in accordance with our responsibility for any loss, by the amount of any insurance proceeds you receive or are entitled to receive for the loss. If we reimburse you for a loss and the loss is covered by insurance, you agree to assign us your rights under the insurance policy to the extent of our reimbursement, in accordance with this provision (Note: Different notice and liability rules apply to certain electronic fund transfers. See "Our Liability for Failing to Make Transfers (Consumers Only)"; "Your Liability for Unauthorized Electronic Fund Transfers (Consumers Only)"; "In Case of Errors or Questions About Your Electronic Transfers (Consumers Only)"; "Business and Other Non-Consumer Accounts") in the "ELECTRONIC FUND TRANSFERS" section.

**Waivers.** We may delay enforcing our rights under this Agreement without losing them. Any waiver by us shall not be deemed a waiver of other rights or of the same right at another time. You waive diligence, demand, presentment, protest and notice of every kind, except as set forth in this Agreement.

**Withholding of Income Tax.** Unless you are exempt under Federal law, we are required to withhold a portion of your taxable interest and certain other payments (this is referred to as backup withholding) if: (1) you fail to supply us, under penalties of perjury, with your correct taxpayer identification number (TIN); (2) you fail to provide us with the required certified information; (3) the IRS instructs us to withhold; or (4) the IRS notifies you that you are subject to backup withholding. You must provide your TIN whether or not you are required to file a tax return and regardless of whether your account earns interest. For most individual taxpayers, the TIN is their Social Security Number.

We may report interest and other payments to you to the Internal Revenue Service (IRS), along with your TIN.

We may refuse to open, and we may close, any account for which you do not provide a certified TIN, even if you are exempt from backup withholding and information reporting. To avoid possible erroneous backup withholding, an exempt payee should furnish its TIN and indicate on the signature card that it is exempt.

A non-resident alien or foreign entity not subject to information reporting must certify its exempt status by completing an appropriate IRS certification form (e.g., W-8 BEN). Non-resident aliens may be required to certify their exempt status every three years (or earlier upon request) to avoid backup withholding. You may be subject to civil and criminal penalties if you fail to provide us with a correct TIN or falsify withholding information. For additional information on interest reporting and withholding, contact your tax advisor or the IRS. If you don't have a TIN or you don't know your number, apply for one on Form SS-5, Application for Social Security Number Card, or Form SS-4, Application for Employer Identification Number, at the local office of the Social Security Administration or the IRS.

#### DISPUTE RESOLUTION

In this "Dispute Resolution" section, the words "First Bank", "we", "us" and "our" shall include First Bank and all of its employees, officers, directors, parents, controlling persons, subsidiaries, affiliates, predecessors, acquired entities, successors and assigns. The words "you," and "your," shall include all authorized or unauthorized account holders, cardholders, custodians, users or beneficiaries of accounts maintained under this Agreement or any prior agreements between you and us, as applicable.

**Resolving Disputes.** We encourage you to attempt to resolve any "Claim" you may have with us by first discussing the matter with your primary contact at First Bank. A "Claim" is any dispute or controversy between you and us arising out of or relating to your account, this Agreement or its enforcement, the events leading up to you becoming an account holder, or our account services. If we are not able to informally resolve the Claim in that manner, then you and we agree that the Claim will be resolved as set forth in this section.

**Notice of Claim.** Any party who wishes to pursue a Claim must first send a Notice of Claim to the other party. A Notice of Claim sent to First Bank should be addressed to:

Legal Department  
11901 Olive Blvd.  
Creve Coeur, MO 63141

A Notice of Claim sent to you by First Bank will be sent to your last known address as maintained in our records. Any Notice of Claim must set forth the basic nature of the Claim as well as the requested relief. After receipt of a Notice of Claim, you and we agree that we will attempt to mutually resolve the Claim. If the Claim cannot be so resolved within 45 days of receipt of the Notice of Claim, then either party may pursue additional dispute resolution procedures as set forth in this section.

**Binding Arbitration.** You have the right to compel us, and we have the right to compel you, to resolve a Claim by binding arbitration. This Agreement evidences a transaction in interstate commerce, and you and we agree that the Federal Arbitration Act, 9 U.S.C. § 1 et seq., governs the interpretation and enforcement of this section as it pertains to arbitration.

**Arbitration Procedures.** If either party compels arbitration with respect to a Claim, you and we agree that all decisions of fact and law will be decided in a binding arbitration. The administrator of the arbitration will be JAMS if you opened your account in California; otherwise it will be the American Arbitration Association ("AAA"). If the administrator is JAMS, the arbitration will proceed in accordance with JAMS Comprehensive Arbitration Rules, but not JAMS Optional Arbitration Appeal Procedures, ("JAMS Rules"), as modified by this section. If the administrator is the AAA, the arbitration will proceed in accordance with the AAA's Commercial Arbitration Rules, but not the AAA's Optional Appellate Arbitration Rules, ("AAA Rules"), as modified by this section. If there is an inconsistency between the AAA Rules or JAMS Rules and this section, this section will control. If neither you nor we decide to compel arbitration, then the Claim will be resolved in court by a judge or by a judicial referee.

Claims shall be heard by a single arbitrator, unless the Claim amount exceeds \$500,000. A claim involving an amount exceeding \$500,000 will be heard by a panel of three arbitrators. An arbitrator must be a retired judge unless no such retired judges are available, in which case the arbitrator must be an attorney with 15 or more years of experience in the areas of banking or finance. If we cannot agree on an arbitrator, one will be appointed pursuant to JAMS Rules or AAA Rules, as appropriate.

Arbitration fees and their payment shall be determined pursuant to JAMS Rules (including, if applicable, the cost restrictions set forth in JAMS Consumer Minimum Standards of Procedural Fairness) or the AAA Rules, as applicable. However, if you are an individual consumer and you prevail, we will reimburse you for the arbitration fees you paid. In any event, each party will bear the expense of its own attorneys, experts and other costs. Each party must bring all related or similar Claims in a single arbitration proceeding. At the request of either party made prior to the closing of the hearing, the award of the arbitrator(s) shall be accompanied by a reasoned opinion. The arbitration proceeding and the results thereof shall be confidential and may not be disclosed unless required under applicable law. The award shall be final and binding, except that for any award greater than \$500,000 or an award that provides injunctive relief, any party may, within 30 days of the award, request a new arbitration by a panel of three different arbitrators. The party requesting the new arbitration shall be responsible for paying the arbitration fees for the new arbitration. The new panel will reconsider all factual and legal issues, and no party or administrator shall provide the prior award to the new panel, nor discuss the prior award with the new panel. The award of the new panel shall be final and binding. Any final arbitration award will be enforceable by any court having jurisdiction. Notwithstanding the provisions of this section, if it is determined that under an applicable statute that you or we are entitled to recover attorneys' fees incurred in arbitration, you and we specifically agree that the arbitrator will decide all issues of entitlement to, and the amount of, attorneys' fees.

You and we agree that all issues are for the arbitrator(s) to decide, including the validity of the Agreement and any dispute with regard to the enforceability of this Agreement to arbitrate, except that issues relating to the validity or scope or enforceability of the Class Action Waiver or Jury Trial Waiver are to be decided only by a judicial referee or a court. The arbitrator(s) will follow applicable substantive law and decide the substance of all Claims in accordance with that law, including recognized principles of equity and statutes of limitations, and will honor all claims of privilege recognized by law. The arbitrator(s) is bound by the terms of this section and the Agreement and has no authority to conduct any arbitration in violation of these terms. No arbitrator shall have any authority to proceed with or rule on a class action, private attorney general or other representative action, or any Claim on behalf of a person who is not a named party, or award non-individualized injunctive relief.

**Class Action Waiver.** If either party elects to arbitrate a Claim, neither you nor we will have the right to participate in a class action, private attorney general action, or other representative action, either as a member or a representative, nor to act in the interest of the general public, nor to join or consolidate a Claim with the Claim of any other person, nor seek an award or remedy against or on behalf of anyone who is not a named party to the arbitration. If this Class Action Waiver is found to be legally unenforceable or limited for any reason with respect to a Claim for which a party seeks class, private attorney general or representative relief, then this agreement to arbitrate will be inapplicable with respect to that Claim, and the Claim will instead be handled through courts of competent jurisdiction or judicial reference, rather than by arbitration, and you and we agree this section will be read as if the provisions regarding arbitration were not present. The parties acknowledge that this Class Action Waiver is material and essential to the arbitration of any Claim and, notwithstanding any provision to the contrary, is not severable from the agreement to arbitrate Claims.

**Jury Trial Waiver.** If neither you nor we decide to compel arbitration, then you and we also agree and understand that we each waive our respective rights to a trial before a jury in connection with any Claim, unless your account was opened in a state where a jury trial waiver is prohibited by law.

**Remedies/Small Claims Court.** Notwithstanding any provision to the contrary, without waiving the right to compel arbitration or judicial reference, either party may exercise self-help remedies such as set off, replevin, repossession, attachment, or recoupment, obtain provisional or ancillary remedies such as injunctive relief or the appointment of a receiver, foreclose or obtain possession of real or personal property, interplead funds in the event of a dispute, exercise any right or remedy as a secured party against any collateral pursuant to the terms of the Agreement, or comply with legal process involving accounts or other property. Notwithstanding any provision to the contrary, disputes filed by you or us that remain in small claims court and that seek only individual claim relief are not subject to arbitration.

**Judicial Reference.** If neither party compels arbitration and your account was opened at a branch in California, then either you or we have the right to compel the other to have the Claim resolved by judicial reference in accordance with California Code of Civil Procedure, Sections 638, et seq. A case sent to judicial reference is heard by a neutral judicial referee, but remains in the court system. The referee shall be a retired judge, sitting alone without a jury. The referee shall be agreed upon by the parties or appointed by the court if the parties cannot agree. The costs of the reference procedure, including the fee for the court reporter, shall be paid equally by all parties as the costs are incurred. The referee shall hear all pre-trial, trial and post-trial matters, including the applicability of this section and the validity of this Agreement. The referee will decide all requests for equitable relief, prepare an award with written findings of fact and conclusions of law, and apportion costs as appropriate. Judgment upon the award shall be entered in the court in which such proceeding was commenced and all parties reserve the right to seek appellate review of any judgment or order to the same extent permitted in a court of law.

#### QUESTIONS OR COMMENTS

If you have any questions or comments, you can contact us at:

Bank Address: First Bank  
600 James S. McDonnell Blvd.  
Hazelwood, MO 63042  
Bank Telephone Number: 1-800-760-BANK (2265)

**Note:** The fees, rates and benefits described in this document and in the accompanying Schedule of Fees were current as of the date of publication, but are subject to change. Prices listed are subject to sales tax wherever applicable.