

# OVERDRAFT PROTECTION TERMS AND CONDITIONS

These Cadence Bank ("Bank") Overdraft Protection Service Terms and Conditions ("Terms and Conditions") set forth the terms and conditions for the overdraft protection service (the "Service") for the Bank checking account (the "Account") that you have selected in your Overdraft Protection Service Authorization ("Authorization"). In these Terms and Conditions, the terms "you" and "your" refer to each Bank customer who signs the Authorization; the terms "we", "us" and "our" refer to the Bank.

## 1. Definitions of Capitalized Words Used in these Terms and Conditions.

### **Account:**

This is the Bank checking Account you have designated in your Authorization that you want to protect against Overdrafts. It is not necessary that you are the owner of the Account in order to designate the Account for the Service. Examples of designation of an Account not owned by you include, but are not necessarily limited to, where the Account is owned by a relative, such as a child, parent, or spouse, and you wish to help protect that owner against Overdrafts on the Account.

### **Source:**

This is the Source designated by you in your Authorization from which funds will be obtained to protect the Account against Overdrafts. Sources can be your Bank checking account, your Bank savings account, your Bank line of credit (other than a Texas home equity line of credit), or your Bank credit card account. You can designate one or more Sources in your Authorization. The account number for each Source you have selected is set forth in your Authorization.

### **Overdraft Protection Service Authorization:**

This is your signed authorization in which you enroll the Account in the Service and give us certain particulars needed to provide the Service to you. These particulars include the account number for each Source you have designated. Your signature on your Authorization is your agreement to be bound by these Terms and Conditions.

### **Overdraft; Transaction:**

An "Overdraft" occurs any time a check, automated clearing house (ACH), automated teller machine (ATM), debit card, bank fee (including any Overdraft-related Fee, or any Transfer Fee arising from these Terms and Conditions) or any other transaction (each a "Transaction" and collectively, "Transactions") is presented for payment against the Account and the available balance<sup>1</sup> of the Account is insufficient to pay the Transaction.

### **Overdraft-related Fee:**

An "Overdraft-related Fee" is any fee that we charge an account *not* covered by the Service and which becomes overdrawn. Our Overdraft paid item fee, as shown in the Account Information Statement (if account opened online) (AIS), or in the Account Disclosure and Common Features, Limits and fees (if account opened in branch) (the Disclosure and Common Features), is an Overdraft-related Fee and is charged for each Transaction paid into Overdraft at our discretion. The AIS, Disclosure and Common Features are collectively the "Account Disclosures", all as may be amended from time to time. We do not charge for Transactions presented against an insufficient balance that are returned unpaid. The amounts of Overdraft-related fees which apply to the Account are set forth in the Account Disclosures.

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<sup>1</sup> "Available balance" is the most current record we have about the funds that are available for your use or withdrawal. It includes all deposits and withdrawals that have been posted to your Account, then adjusts for any holds on recent deposits and any pending transactions that are known to us. This balance may not reflect all of your Transactions, such as checks you have written, ACH transactions we have not received, or debit card transactions that have been approved but not yet submitted for payment by a merchant. For more information on how we calculate your available balance, please refer to the Terms & Conditions of Your Account.

**Transfer Fee:**

A "Transfer Fee" is a fee we charge to the Account for making a deposit to the Account from any Source other than a credit card account. The amount of the Transfer Fee, if any, is set forth in the Account Disclosures. If applicable, we will charge one Transfer Fee on each day that the Service is used. However, if use of the Service on any day involves deposits from more than one Source, we will charge a separate Transfer Fee for each Source other than a credit card account utilized on that day. A Transfer Fee could be a part of the Overdraft amount. The amount of Transfer Fee will always be deposited into the Account from the Source.

**Cash Advance Transaction Fee:**

A "Cash Advance Transaction Fee" is charged when the Source utilized is a credit card account. If the Source is a credit card account, the deposit will be made from a cash advance on the credit card account, and the credit card account will be charged a Cash Advance Transaction Fee in accordance with the terms and conditions of the cardholder agreement which applies to the credit card account. Interest will accrue on the credit card account balance for the amount of the cash advance and Cash Advance Transaction Fee in accordance with the terms and conditions of the cardholder agreement.

**2. The Service.**

By signing and giving us your Authorization, you request us to use the Source to protect the Account from Overdraft and Overdraft-related Fees by depositing to the Account the amount necessary to cover any Overdraft (including any Transfer Fee) which would be created without the Service. If the Source is another Bank checking or savings account, you authorize us to automatically transfer from the Source to the Account the amount necessary to cover the Overdraft up to the available balance of the Source. If the Source is a Bank line of credit, you authorize us to automatically make a draw on the line of credit in the amount of the Overdraft and to deposit that amount to the Account, up to the available credit limit of the line of credit. You will be obligated to repay draws on the line of credit in accordance with the terms and conditions of the promissory note or other credit agreement which applies to the line of credit. You will incur a Transfer Fee for any deposit to the Account from a Source which is a Bank line of credit. If the Source is a Bank credit card, you authorize us to automatically make a cash advance on the credit card account in the amount of the Overdraft and to deposit that amount to the Account, up to the available cash advance credit limit of the credit card account. You will be obligated to repay cash advances on the credit card account in accordance with the terms and conditions of the cardholder agreement which applies to the credit card account. You will incur a Cash Advance Transaction Fee for any deposit from a Source which is a Bank credit card. If you have selected more than one Source, we will utilize the Sources in this order: (1) checking account, (2) savings account, (3) line of credit, and (4) credit card account.

**3. Use of the Service.**

Every person who has transactional authority on the Account will have access to the Service, including any such person who has not signed your Authorization. For example, if Customer A and Customer B each have transactional authority on the Account, and only Customer A signs the Authorization and selects Customer A's credit card as the Source, Overdrafts created by Customer B will be paid by the Service on these Terms and Conditions, and Customer A will be responsible for paying the resulting cash advances on Customer A's credit card. Similarly, if you do not own or do not have transactional authority on the Account, Overdrafts created by any person who owns the Account or who has transactional authority on the Account will be paid by the Service on these Terms and Conditions, and you will be responsible for transfers made from the Source as a result.

#### **4. Limitations on the Service; Source availability.**

Availability of the Service is limited to the availability of the Source. If the Source has insufficient availability (for example, if a Source checking or savings account does not have a sufficient available balance to cover the Overdraft, or if a Source line of credit does not have a sufficient available credit limit to cover an Overdraft, or if a Source credit card account does not have a sufficient available cash advance limit to cover an Overdraft), then the Overdraft will be covered only to the extent that the Source has availability. A Transaction must either be paid in full or refused in full. Accordingly, if there is Source availability but that availability is insufficient to cover an Overdraft, then the corresponding Transaction will be refused and an Overdraft may occur and Overdraft-related Fees may be incurred. For example, if the Account has a \$100 balance, the Source has \$300 of availability, and a Transaction in the amount of \$500 is presented for payment against the Account, the Transaction may be refused and Overdraft-related Fees may be incurred. Source availability is determined by the separate agreements governing your Source product (in the case of a checking or savings account, the Terms and Conditions of Your Account; in the case of a line of credit, the promissory note or credit agreement; or in the case of a credit card, the cardholder agreement). Where the Source is a savings account which has a periodic limitation on the number of withdrawals permitted, each transfer from such Source account to the Account to cover an Overdraft will count as a withdrawal and may result in excessive withdrawal fees. The Service may not be available if the Account or a Source becomes subject to levy, attachment, garnishment, execution or other legal process. If the Overdraft is caused by a bank fee, a credit card account may not be available as the Source.

#### **5. Payment of Overdrafts when the Service is not available.**

The Service will not be available when you have no Source availability. In those situations, subject to certain exceptions described in Section 6 below, we may nevertheless decide to pay Overdrafts on the Account. The decision of whether to pay Overdrafts on the Account when the Service is not available is strictly discretionary with us. We are not required to pay any Transaction in Overdraft when the Service is not available, even if we have paid Overdrafts many times previously and even if we have permitted the Account to remain in an overdrawn status for an extended period. We use a variety of factors in determining whether to pay a Transaction in Overdraft when the Service is not available, including, but not necessarily limited to, how long the Account has been open, how many times and in what amounts the Account has been previously overdrawn, how much money is in the Account on average, whether the Account is or has been subject to garnishment or other legal action, and whether you or any owner of the Account have defaulted on any agreements with us (including loan agreements). When we decide to pay Transactions in Overdraft when the Service is not available, Overdraft-related Fees will be charged to the Account. Only the owner of the Account can give direction not to pay Transactions in Overdraft when the Service is not available. Where that direction applies, we will refuse to pay most Transactions drawn against insufficient funds. The owner of the Account can direct us not to pay Transactions in Overdraft when the Service is not available by calling a Bank representative at 1-888-797-7711. Your directing us not to pay Transactions in Overdraft when the Service is not available applies only to Transactions made after we process your direction and does not guarantee that the Account cannot be overdrawn. For example, certain Transactions such as pre-authorized electronic debits and bank fees may continue to be paid from the Account and may cause the Account to be overdrawn. If you are not the owner of the Account, we may pay Overdrafts on the Account when the Service is not available according to the discretionary manner described above, regardless of any direction you may give us. We are not required to give you or any other person notice of the unavailability of any Source.

## **6. Payment of ATM and one-time debit card Transactions when the Service is not available.**

When the Service is not available, and if the Account is a consumer account, federal regulations prohibit us from charging Overdraft Item fees on the Account for ATM Transactions and one-time debit card Transactions unless an owner of the account has authorized us in advance to consider the approval and payment of those types of Transactions when there is insufficient available balance in the account to do so. If approved, an Overdraft Item fee may be assessed upon their subsequent payment into the Account if it results in the Account being overdrawn when the Transaction is paid. Authorization to charge Overdraft Item fees on the Account which result from ATM Transactions and one-time debit card Transactions must be given separately by an owner of the account. Authorization may be given by calling us during regular business hours at 1-888-797-7711. If such authorization is given, an owner of the Account may change his or her mind at any time by calling us at the same number and telling us that you no longer want the Bank to consider approval of ATM and one-time debit card Transactions against an insufficient available balance and the possible assessment of an Overdraft Item Fee for their subsequent payment into the account if it results in the Account being overdrawn when the Transaction is paid. For more information about authorizing Overdraft Item fees for ATM and one time debit card Transactions, please see the form titled "What You Need to Know about Overdrafts and Overdraft Fees." Please be aware, even if you have not asked us to consider doing so, circumstances can arise within payment networks where we are required to pay ATM and one-time debit card Transactions that overdraw your account.

## **7. Failure of Service.**

We will not be liable for failing to provide the Service if such failure is caused by any telephone, electronic, hardware or software program, network, Internet or computer malfunction, failure, interruption or difficulty of any kind; by legal constraint; by war or disturbance; by emergency conditions; or by any other circumstances beyond our control, whether pertaining to the Account, any Source or otherwise. Under no circumstances will we be liable for any consequential, special, punitive or indirect loss or damage which you or any other person may sustain in connection with the Service or any failure thereof, including, without limitation, loss or damage from subsequent dishonor resulting from any failure of the Service.

## **8. Other Agreements.**

These Terms and Conditions are supplemental to, and do not supersede or replace, any agreement with us pertaining to (a) the Account (including, but not limited to, Terms and Conditions of Your Account, Account Disclosures, Funds Availability Disclosure and Electronic Funds Transfer Services, all as may be amended or restated from time to time); (b) any Bank checking or savings account which is a Source (including, but not limited to, Terms and Conditions of Your Account, Account Disclosures, Funds Availability Disclosure and Electronic Funds Transfer Services, all as may be amended or restated from time to time); (c) any Bank line of credit which is a Source (including, but not limited to, the promissory note or other credit agreement which is applicable to the line of credit and the security agreements, if any, which secure payment of the line of credit); and (d) any Bank credit card which is a Source (including, but not limited to, the cardholder agreement which is applicable to the credit card as may be amended or restated from time to time).

## **9. Changes to these Terms and Conditions.**

Subject to any advance notice requirements imposed by any applicable law, we may change these Terms and Conditions at any time by adding, deleting, or modifying any provision, by notifying you of such changes by any means. Such changes will be effective upon the date we specify, and any use of the Service by any person on or after such date will constitute your acceptance of the changes.

## **10. Termination of the Service.**

You may terminate the Service by calling us during regular business hours at 1-888-797-7711. We will have a reasonable time to act on your call terminating the Service, and we may additionally require you to confirm your termination in writing. We may terminate or stop providing the Service to you at any time. Any termination of the Service will not relieve you of any obligation you owe to us under any agreement pertaining to any Source, nor will it relieve you or any other owner of the Account from any obligation owed to us on the Account.

## **11. Miscellaneous.**

If any provision of these Terms and Conditions is held to be invalid or unenforceable under any applicable law or regulation, the validity and enforceability of the remaining provisions of these Terms and Conditions shall not be affected, and in place of each such invalid or unenforceable provision will be deemed added automatically as a part of these Terms and Conditions a provision that is valid and enforceable in as similar terms to such replaced provision as is possible. You agree that the Service is performed at Tupelo, Mississippi.