

TERMS OF USE (for Popmoney® Personal Payments Service)

Last Updated August 26, 2012

1. Introduction. This Terms of Use document (hereinafter "Agreement") is a contract between you and West Gate Bank® (hereinafter "we" or "us") in connection with the Popmoney® Personal Payments Service (the "Popmoney Service" or "Service") offered through our online banking site or mobile applications (the "Site") (the "Service"). This Agreement applies to your use of the Service and the portion of the Site through which the Service is offered.

2. Description Of Service. The Popmoney Service enables you: (1) to initiate a Payment Instruction from an Eligible Transaction Account to an account at a U.S. financial institution; and/or (2) to receive a payment from another person into an Eligible Transaction Account, in U.S. dollars (or in gift card value, if applicable). Although the ACH Network is often used to execute Popmoney Service Payment Instructions for the Popmoney Service, other Payment Networks may be used to facilitate the execution and transmission of Payment Instructions. All payments must be made through the Site and are subject to the terms of this Agreement and applicable laws and regulations, in each case as in effect from time to time. Receipt of payments may be made through the Site and is subject to the terms of this Agreement and applicable laws and regulations, in each case as in effect from time to time. In some instances, receipt of payments may be made through www.Popmoney.com (the "Popmoney Website") and if you choose to initiate or receive a payment at the Popmoney Website you acknowledge and agree that you shall be subject to the terms of other agreements, including, but not limited to, the "terms of use" for the Popmoney Website and applicable laws and regulations, in each case as in effect from time to time.

3. Service Providers. We are offering you the Service through one or more Service Providers that we have engaged to render some or all of the Service to you on our behalf. However, notwithstanding that we have engaged such a Service Provider to render some or all of the Service to you, we are the sole party liable to you for any payments or transfers conducted using the Popmoney Service and we are solely responsible to you and any Sender, Receiver and Requestor to the extent any liability attaches in connection with the Popmoney Service. You agree that we have the right under this Agreement to delegate to Service Providers all of the rights and performance obligations that we have under this Agreement, and that the Service Providers will be third party beneficiaries of this Agreement and will be entitled to all the rights and protections that this Agreement provides to us. Service Provider and certain other capitalized terms are defined in a "Definitions" section at the bottom of this Agreement.

4. Amendments. We may amend this Agreement and any applicable fees and charges for the Service at any time by posting a revised version on the Site. The revised version will be effective at the time it is posted unless a delayed effective date is expressly stated in the revision. Any use of the Service after a notice of change or after the posting of a revised version of this Agreement on the Site will constitute your agreement to such changes and revised versions. Further, we may, from time to time, revise, update, upgrade or enhance the Service and/or related applications or material, which may render all such prior versions obsolete. Consequently, we reserve the right to terminate this Agreement as to all

such prior versions of the Service, and/or related applications and material, and limit access to only the Services more recent revisions, updates, upgrades or enhancements.

5. Our Relationship With You. We are an independent contractor for all purposes, except that we act as your agent with respect to the custody of your funds for the Service. We do not have control of, or liability for, any products or services that are paid for with our Service. We also do not guarantee the identity of any user of the Service (including but not limited to Receivers to whom you send payments).

6. Assignment. You may not transfer or assign any rights or obligations you have under this Agreement without our prior written consent, which we may withhold in our sole discretion. We reserve the right to transfer or assign this Agreement or any right or obligation under this Agreement at any time to any party. We may also assign or delegate certain of our rights and responsibilities under this Agreement to independent contractors or other third parties.

7. Notices to Us Regarding the Service. Except as otherwise stated below, notice to us concerning the Site or the Service must be sent by postal mail to: West Gate Bank® P.O. Box 82603 Lincoln, NE 68501-2603

8. We may also be reached at 402-434-3456 for questions and other purposes concerning the Service, but such telephone calls will not constitute legal notices under this Agreement.

9. Notices to You. You agree that we may provide notice to you by posting it on the Site, sending you an in-product message within the Service, emailing it to an email address that you have provided us, mailing it to any postal address that you have provided us, or by sending it as a text message to any mobile phone number that you have provided us, including but not limited to the mobile phone number that you have listed in your Service setup or customer profile. For example, users of the Service may receive certain notices (such as notices of processed Payment Instructions, alerts for validation and notices of receipt of payments) as text messages on their mobile phones. All notices by any of these methods shall be deemed received by you no later than twenty-four (24) hours after they are sent or posted, except for notice by postal mail, which shall be deemed received by you no later than three (3) business days after it is mailed. You may request a paper copy of any legally required disclosures and you may terminate your consent to receive required disclosures through electronic communications by contacting us as described in section 7 above. We reserve the right to charge you a reasonable fee not to exceed twenty (20) dollars to respond to each such request. We reserve the right to terminate your use of the Service if you withdraw your consent to receive electronic communications.

10. Text Messages, Calls and/or Emails to You. By providing us with a telephone number (including a wireless/cellular, mobile telephone number and/or email address), you consent to receiving calls from us at that number and/or e-mails from us for our everyday business purposes (including identify verification). You further consent to receiving text messages from us at that number, and/or e-mails from us for marketing purposes. Please review our Privacy Policy for more information.

11. **Receipts and Transaction History.** You may view your Popmoney transaction history by logging into the Service and looking at your transaction history. You agree to review your transactions by this method instead of receiving receipts or periodic statements by mail.

12. **Your Privacy.** Protecting your privacy is very important to us. Please review our Privacy Policy in order to better understand our commitment to maintaining your privacy, as well as our use and disclosure of your information.

13. **Privacy of Others.** If you receive information about another person through the Service, you agree to keep the information confidential and only use it in connection with the Service.

14. **Eligibility.** The Service is offered only to individual residents of the United States who can form legally binding contracts under applicable law. Without limiting the foregoing, the Service is not offered to minors unless the minor is using an Eligible Transaction Account in the name of the minor with a parent or guardian as a co-signor or guarantor. By using the Service, you represent that you meet these requirements and that you agree to be bound by this Agreement.

15. **Prohibited Payments.** The following types of payments are prohibited through the Service, and we have the right but not the obligation to monitor for, block, cancel and/or reverse such payments:

a. Payments to or from persons or entities located in prohibited territories (including any territory outside of the United States); and

b. Payments that violate any law, statute, ordinance or regulation; and

c. Payments that violate the Acceptable Use terms in section 15 below; and

d. Payments related to: (1) tobacco products, (2) prescription drugs and devices; (3) narcotics, steroids, controlled substances or other products that present a risk to consumer safety; (4) drug paraphernalia; (5) ammunition, firearms, or firearm parts or related accessories; (6) weapons or knives regulated under applicable law; (7) goods or services that encourage, promote, facilitate or instruct others to engage in illegal activity; (8) goods or services that are sexually oriented; (9) goods or services that promote hate, violence, racial intolerance, or the financial exploitation of a crime; (10) goods or services that defame, abuse, harass or threaten others; (11) goods or services that include any language or images that are bigoted, hateful, racially offensive, vulgar, obscene, indecent or discourteous; (12) goods or services that advertise or sell to, or solicit others; or (13) goods or services that infringe or violate any copyright, trademark, right of publicity or privacy or any other proprietary right under the laws of any jurisdiction; and

e. Payments related to gambling, gaming and/or any other activity with an entry fee and a prize, including, but not limited to casino games, sports betting, horse or greyhound racing, lottery tickets, other ventures that facilitate gambling, games of skill (whether or not it is legally defined as a lottery) and sweepstakes; and

f. Payments relating to transactions that (1) support pyramid or ponzi schemes, matrix programs, other "get rich quick" schemes or multi-level marketing programs, (2) are associated with purchases of real property, annuities or lottery contracts, lay-away systems, off-shore banking or transactions to finance or refinance debts funded by a credit card, (3) are for the sale of items before the seller has control or possession of the item, (4) constitute money-laundering or terrorist financing; (5) are associated with the following "money service business" activities: the sale of traveler's checks or money orders, currency dealers or exchanges or check cashing, or (6) provide credit repair or debt settlement services; and

g. Tax payments and court ordered payments.

In addition to the above-referenced prohibited payments, we may also block and/or reverse payments that involve donations or payments to an unauthorized charity or non-profit organization, unless we have performed appropriate due diligence on and investigation of such charity or non-profit organization and have determined its legitimacy, in our sole discretion. In no event shall we or our Service Providers be liable for any claims or damages resulting from your scheduling of prohibited payments. We have no obligation to research or resolve any claim resulting from a prohibited payment. All research and resolution for any misapplied, mis-posted or misdirected prohibited payments will be your sole responsibility and not ours. We encourage you to provide notice to us by the methods described in section 7 above of any violations of this section or the Agreement generally.

16. Acceptable Use. You agree that you are independently responsible for complying with all applicable laws in all of your activities related to your use of the Service, regardless of the purpose of the use, and for all communications you send through the Service. We and our Service Providers have the right but not the obligation to monitor and remove communications content that we find in our sole discretion to be objectionable in any way. In addition, you are prohibited from using the Service for communications or activities that: (a) violate any law, statute, ordinance or regulation; (b) promote hate, violence, racial intolerance, or the financial exploitation of a crime; (c) defame, abuse, harass or threaten others; (d) include any language or images that are bigoted, hateful, racially offensive, vulgar, obscene, indecent or discourteous; (e) infringe or violate any copyright, trademark, right of publicity or privacy or any other proprietary right under the laws of any jurisdiction; (f) impose an unreasonable or disproportionately large load on our infrastructure; (g) facilitate any viruses, trojan horses, worms or other computer programming routines that may damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or information; (h) constitute use of any robot, spider, other automatic device, or manual process to monitor or copy the Service or the portion of the Site through which the Service is offered without our prior written permission; (i) constitute use of any device, software or routine to bypass technology protecting the Site or Service, or interfere or attempt to interfere, with the Site or the Service; or (j) may cause us or our Service Providers to lose any of the services from our internet service providers, payment processors, or other vendors. We encourage you to provide notice to us by the methods described in section 7 above of any violations of this section or the Agreement generally.

17. Payment Authorization and Payment Remittance.

a. By providing us with names and telephone numbers, email addresses, and/or bank account information of Receivers to whom you wish to direct payments, you authorize us to follow the Payment Instructions that we receive through the Service. Once registered, you authorize us to credit your Eligible Transaction

Account for payments remitted to you on behalf of a Sender without further approval from you.

b. When we receive a Payment Instruction from you, you authorize us to debit your Eligible Transaction Account for the amount of any such Payment Instruction plus any related fees in effect (and as disclosed on the Site) at the time you initiate the Payment Instruction, and to remit funds on your behalf. You acknowledge and agree that any applicable fees will be charged when we receive a Payment Instruction from you, regardless of whether the Payment Instruction is ultimately completed. You also authorize us to credit your Eligible Transaction Account for the receipt of payments, including but not limited to those payments returned to us from Receivers to whom you sent payment(s) and those payments that were cancelled and returned to you because the processing of the Payment Instruction could not be completed.

c. You acknowledge and agree that if your Payment Instructions identify an account by name and account number, the relevant financial institution may execute those Payment Instructions by reference to the account number only, even if such account number does not correspond to the account name. You further acknowledge and agree that financial institutions holding the account may choose to not investigate discrepancies between account names and account numbers and that we have no responsibility to investigate discrepancies between account names and account numbers.

d. You agree that we will not be liable in any way for any payments that you may receive, regardless of whether you authorized the Sender to send them to you.

e. We will use reasonable efforts to complete all your Payment Instructions properly. However, we shall incur no liability if we are unable to complete any transaction because of the existence of any one or more of the following circumstances:

1. If, through no fault of ours, the Eligible Transaction Account does not contain sufficient funds to complete the Payment Instruction or the Payment Instruction would exceed the credit limit of your overdraft account;
2. The Service is not working properly and you know or have been advised by us about the malfunction before you execute the Payment Instruction;
3. The payment is refused as described in Section 20 below;
4. You have not provided us with the correct information, including but not limited to the correct Payment Instructions or Eligible Transaction Account information, or the correct name and address or mobile phone number of the Receiver to whom you are initiating a Payment Instruction; and/or,

5. Circumstances beyond our control (such as, but not limited to, fire, flood, network or system down time, issues with the financial institution, or interference from an outside force) prevent the proper execution of the Payment Instruction.

f. It is the responsibility of the Sender and the Receiver to ensure the accuracy of any information that they enter into the Service (including but not limited to the Payment Instructions and name, telephone number and/or email address for the

Receiver to whom you are attempting to send a payment), and for informing us as soon as possible if they become aware that this information is inaccurate. We will make a reasonable effort to stop or recover a payment made to the wrong person or entity once informed, but we do not guarantee such stoppage or recovery and will bear no responsibility or liability for damages resulting from incorrect information entered by the Sender or Receiver.

18. Initiation of Payment Instructions. You may initiate (a) a one-time Payment Instruction to a Receiver for which processing shall be initiated immediately, (b) a one-time Payment Instruction to a Receiver for which processing shall be initiated at a later specified date up to one (1) year, and (c) a recurring series of Payment Instructions to a Receiver for which processing shall be initiated on the specified dates. Further details about each of these options can be found on the Site.

Payment Instructions initiated to Receivers are processed in two ways. You can provide all the required information about the Receiver, including his/her Eligible Transaction Account, necessary to complete a transfer of funds. Alternatively, you can provide contact information about the Receiver (including an email address and/or mobile telephone number) and the Popmoney Service may contact the Receiver and request that the Receiver (i) provide information so that we may validate the identity of the Receiver at the Popmoney Website and then (ii) provide Eligible Transaction Account information in order to complete the Payment Instruction (a "Two-Step Transfer"). If the Receiver maintains an Eligible Transaction Account with an institution that participates in or offers the Popmoney Service, the Receiver may access the Popmoney Service at his or her financial institution's website or mobile application to complete the Payment Instruction and receive the payment.

You understand and agree that when you initiate a Payment Instruction from an Eligible Transaction Account using the Popmoney Service, the processing of the Payment Instruction will begin and the debiting of your Eligible Transaction Account will occur as early as the day of such initiation. However, the payment funds will be transferred into the Receiver's Eligible Transaction Account no earlier than the next Business Day after you initiated the Payment Instruction. If you request a one-time Payment Instruction to be initiated on a specified date or a recurring series of Payment Instruction to be initiated on specified dates, then the processing of the Payment Instruction will begin on the specified date and the debiting of your Eligible Transaction Account will occur as early as the specified date(s). However, the payment funds will be transferred into the Receiver's Eligible Transaction Account no earlier than the next Business Day following the specified date. In addition, in the case of all Two-Step Transfers, the deposit of the payment funds into the Receiver's Eligible Transaction Account (even if debited or withdrawn from your Eligible Transaction Account) , or receipt of a gift card, if applicable, may be

delayed if the Receiver has not provided the Popmoney Service with certain required information such as his or her Eligible Transaction Account information, or, in the case of a gift card, if applicable, a valid U.S. street address for gift cards that are physically delivered. The Site may contain additional information regarding the delivery of a payment to an Eligible Transaction Account or the delivery of a gift card, if applicable.

You acknowledge and agree that we will begin to process the requested transfer of funds once the Receiver has provided (or we otherwise obtain) all required information, and you hereby authorize and direct us to retain such funds until the earlier of such time as the Receiver has provided (or we otherwise obtain) all required information or ten (10) business days. You further acknowledge and agree that our receipt of money to be transmitted to a Receiver shall not be deemed to have occurred and our obligation to complete a Payment Instruction shall not begin until such time as the Receiver provides us with (or we otherwise obtain) all required information necessary to process the related Payment Instruction in accordance with this Agreement. Any cancellation of a Payment Instruction prior to the Receiver providing us with such information shall be subject to the provisions of section 20, below.

19. Receiving Payments. If another person wants to initiate a Payment Instruction (including in response to a Popmoney Request, if applicable) using the Popmoney Service to an Eligible Transaction Account you hold or, as applicable, if you as a Requestor want to initiate a Popmoney Request, he, she or you can do that from the Site or from an Eligible Transaction Account at a financial institution that participates in the Popmoney Service or at the Popmoney Website. Or, as applicable, if another person wants to send you a gift card using the Service, he or she can do that from an Eligible Transaction Account at a financial institution that participates in the Service and makes available the purchase of gift cards through the Service.

You understand and agree that there may be a delay between the time you are notified of the pending Payment Instruction and the deposit of the payment funds into your Eligible Transaction Account, and you may be required to take additional steps to facilitate the deposit of the payment of funds into your Eligible Transaction Account. You authorize the Sender, the financial institution which holds the Sender's Eligible Transaction Account and us (including through the Site) to send emails to you and text messages to your mobile phone in connection with the Sender's initiation of Payment Instructions to you, and, as a Receiver, you may also receive gift cards or Popmoney Requests, each as applicable, from others through the Service.

You acknowledge and agree that in the event that funds are transferred into your Eligible Transaction Account as a result of a Payment Instruction and it is determined that such transfer was improper because it was not authorized by the sender, because there were not sufficient funds in the sender's account, or for any other reason, then you hereby authorize us or our Service Provider to withdraw from your Eligible Transaction Account an amount equal to the amount of funds improperly transferred to you.

If applicable, if you as a Requestor initiate a Popmoney Request using the Service you acknowledge and agree that as disclosed on the Site (a) the applicable service fee will be deducted from payments

received by you from a Sender(s), and (b) no service fee will be charged if you as the Requestor do not receive any payments from the individuals to whom the Popmoney Request is sent. Further details about the foregoing can be found on the Site. You acknowledge and agree that individuals to whom you send a Popmoney Request may not receive, or otherwise may reject or ignore, your Popmoney Request. We do not guarantee that you will receive any payments from individuals by initiating a Popmoney Request.

20. Payment Methods and Amounts. There are limits on the amount of money or gift card value you can send or receive through our Service. Your limits may be adjusted from time-to-time at our sole discretion. You may log in to the Site to view your individual transaction limits. We also reserve the right to select the method in which to remit funds on your behalf, and the method to return funds to you in the event that your Eligible Transaction Account is closed or otherwise unavailable to us. These payment methods may include, but may not be limited to, an electronic or paper check payment.

21. Payment Cancellation, Stop Payment Requests and Refused Payments. Sender may cancel the initiation of a Payment Instruction or stop a Payment Instruction at any time until the processing of the Payment Instruction into the Receiver's Eligible Transaction Account has begun. Our ability to stop a Payment Instruction or recover funds associated with an unauthorized Payment Instruction will depend on the manner in which the Payment Instruction was initiated, and whether the Payment Instruction to the Receiver's Eligible Transaction Account has begun processing. Although we will make a reasonable effort to accommodate a stop payment request and to recover funds associated with an unauthorized Payment Instruction, we will have no liability for failing to do so. We may also require you to present your stop payment request or request to recover funds in writing within fourteen (14) days after contacting customer care. The charge for each stop payment or fund recovery request will be the current charge for such stop payment or funds recovery service as set out in the applicable fee schedule or as disclosed through the Site. Payments not claimed by a Receiver will be automatically cancelled ten (10) days after the processing of the payment begins. When a Sender initiates a Payment Instruction, the Receiver is not required to accept the payment. You agree that you as a Sender will not hold us liable for any damages resulting from a Receiver's decision to accept or not to accept a Payment Instruction initiated or attempted through the Service. We will, to the extent permitted by law, make reasonable attempts to return any unclaimed, refused, refunded, prohibited, or denied payment to your Eligible Transaction Account or use other reasonable efforts to return such payment to you as permitted by law.

22. Your Liability For Unauthorized Transfers. Immediately following your discovery of an unauthorized Payment Instruction, you shall communicate with customer care for the Service in the manner set forth in section 7, above. You acknowledge and agree that time is of the essence such situations. If you tell us within two (2) Business Days after you discover your password or other means to access your account through which you access the Service has been lost or stolen, your liability is no more than \$50.00 should someone access your account without your permission. If you do not tell us within two (2) Business Days after you learn of such loss or theft, and we can prove that we could have prevented the unauthorized use of your password or other means to access your account if you had told us, you could be liable for as much as \$500.00. If your monthly financial institution statement contains payments that

you did not authorize, you must tell us at once. If you do not tell us within sixty (60) days after the statement was sent to you, you may lose any amount transferred without your authorization after the sixty (60) days if we can prove that we could have stopped someone from taking the money had you told us in time. If a good reason (such as a long trip or a hospital stay) prevented you from telling us, we may in our sole discretion extend the period.

23. Mobile Phone Users. Your phone service provider is not the provider of the Service. Users of the Service will receive text messages relating to their Payment Instructions and other notices from time to time if a mobile phone number is provided. Data and messaging charges from your telecommunications provider may apply, and you are responsible for any such charges. In the event your enrolled mobile device is lost or stolen, you agree to update your enrollment information and make the appropriate changes to disable the use of such device. You understand that there are risks associated with using a mobile device, and that in the event of theft or loss, your confidential information could be compromised. If you have questions about mobile service, you may send a text message with the word "HELP" to this number: 767666. To stop receiving text messages on your mobile phone, text "STOP" to this number: 767666.

24. Taxes. It is your responsibility to determine what, if any, taxes apply to the transactions you make or receive, and it is your responsibility to collect, report and remit the correct tax to the appropriate tax authority. We are not responsible for determining whether taxes apply to your transaction, or for collecting, reporting or remitting any taxes arising from any transaction.

25. Service Fees and Additional Charges. You understand and agree that you are responsible for paying all fees associated with your use of the Service. Applicable fees will be disclosed in the user interface for, or elsewhere within, the Service or Site. **YOU FURTHER ACKNOWLEDGE AND AGREE THAT ANY APPLICABLE FEES WILL BE CHARGED REGARDLESS OF WHETHER THE PAYMENT**

INSTRUCTION IS COMPLETED, UNLESS THE FAILURE TO COMPLETE THE INSTRUCTION IS SOLELY DUE TO OUR FAULT, except for those fees that are specifically use-based, such as Request Money, if applicable. There may be a charge for additional transactions and other optional services. You agree to pay such charges and authorize us to deduct the calculated amount from your designated Eligible Transaction Account for these amounts and any additional charges that may be incurred by you. Any financial fees associated with your standard deposit accounts (or Other Eligible Transaction Accounts) will continue to apply. You are responsible for any and all telephone access fees and/or Internet service fees that may be assessed by your telephone and/or Internet service provider.

26. Failed Or Returned Payment Instructions. In using the Service, you are requesting us to attempt to make payments for you from your Eligible Transaction Account. If we are unable to complete the Payment Instruction for any reason associated with your Eligible Transaction Account (for example, there are insufficient funds in your Eligible Transaction Account, or the Payment Instruction would exceed the credit or overdraft protection limit of your Eligible Transaction Account, to cover the payment), the Payment Instruction may not be completed. In some instances, you will receive a return notice from us. In each such case, you agree that:

- a. You will reimburse us immediately upon demand the amount of the Payment Instruction if we have delivered the payment to the Receiver but there are insufficient funds in, or insufficient overdraft credits associated with, your Eligible Transaction Account to allow us to complete the debit processing;
- b. For any amount not reimbursed to us within fifteen (15) days of the initial notification, a late charge equal to one and a half percent (1.5%) monthly interest or the legal maximum, whichever rate is lower, for any unpaid amounts may be imposed;
- c. You may be assessed a fee by our Service Provider and by us if the Payment Instruction cannot be debited because you have insufficient funds in your Eligible Transaction Account, or the transaction would exceed the credit or overdraft protection limit of your Eligible Transaction Account, to cover the payment, or if we cannot otherwise collect the funds from you; the fee amount will be as set forth in your fee schedule from us (including as disclosed on the Site) or your account agreement with us. You hereby authorize us to deduct these amounts from your designated Eligible Transaction Account, including by ACH debit;
- d. You will reimburse us for any fees or costs we incur in attempting to collect any amounts from you; and
- e. We are authorized to report the facts concerning the return to any credit reporting agency.

27. Address or Banking Changes. It is your sole responsibility and you agree to ensure that the contact information in your user profile is current and accurate. This includes, but is not limited to, name, physical address, phone numbers and email addresses. Changes can be made within the user interface of the Service or by contacting customer care for the Service as set forth in section 7 above. We are not responsible for any payment processing errors or fees incurred if you do not provide accurate Eligible Transaction Account, Payment Instructions or contact information.

28. Refused Payments. We reserve the right to refuse to pay any Receiver. We will attempt to notify the Sender promptly if we decide to refuse to pay a Receiver designated by the Sender. This notification is not required if you attempt to make a prohibited payment under this Agreement.

29. Returned Payments. In using the Service, you understand that Receivers may reject Payment Instructions or otherwise return payments. We will use reasonable efforts to complete Payment Instructions initiated through the Service.

30. Information Authorization. Your enrollment in the Service may not be fulfilled if we cannot verify your identity or other necessary information. Through your enrollment in the Service as a Sender, you agree that we reserve the right to request a review of your credit rating at our own expense through an authorized bureau. In addition, and in accordance with our Privacy Policy, you agree that we reserve the right to obtain personal information about you, including without limitation, financial information and transaction history regarding your Eligible Transaction Account. You further understand and agree that we reserve the right to use personal information about you for our and our Service Providers' everyday business purposes, such as to maintain your ability to access the Service, to authenticate you when you

log in, to send you information about the Service, to perform fraud screening, to verify your identity, to determine your transaction limits, to perform collections, to comply with laws, regulations, court orders and lawful instructions from government agencies, to protect the personal safety of subscribers or the public, to defend claims, to resolve disputes, to troubleshoot problems, to enforce this Agreement, to protect our rights and property, and to customize, measure, and improve the Service and the content and layout of the Site. Additionally, we and our Service Providers may use your information for risk management purposes and may use, store and disclose your information acquired in connection with this Agreement as permitted by law, including (without limitation) any use to effect, administer or enforce a transaction or to protect against or prevent actual or potential fraud, unauthorized transactions, claims or other liability. We and our Service Providers shall have the right to retain such data even after termination or expiration of this Agreement for risk management, regulatory compliance, audit reasons and as permitted by applicable law for everyday business purposes. In addition we and our Service Providers may use, store and disclose such information acquired in connection with the Services in statistical form for pattern recognition, modeling, enhancement and improvement, system analysis and to analyze the performance of the Services.

31. Service Termination, Cancellation, or Suspension. If you wish to cancel the Service, you may contact us as set forth in section 7 above. Any payment(s) that have begun processing before the requested cancellation date will be processed by us. You agree that we may terminate or suspend your use of the Service at any time and for any reason or no reason. Neither termination nor suspension shall affect your liability or obligations under this Agreement.

32. Errors, Questions, and Complaints.

a. In case of errors or questions about your transactions, you should as soon as possible contact us as set forth in section 7 above.

b. If you think your transaction history is incorrect or you need more information about a transaction listed in the transaction history, we must hear from you no later than sixty (60) days after the transaction in which the problem or error appears is first posted in the transaction history. You must:

1. Tell us your name;

2. Describe the error or the transaction in question, and explain as clearly as possible why you believe it is an error or why you need more information; and,

3. Tell us the dollar amount of the suspected error.

c. If you tell us verbally, we may require that you send your complaint in writing within ten (10) Business Days after your verbal notification. We will tell you the results of our investigation within ten (10) Business Days after we hear from you, and will correct any error promptly. However, if we require more time to confirm the nature of your complaint or question, we reserve the right to take up to forty-five (45) days to complete our investigation. If we decide to do this, we will provisionally credit your Eligible Transaction Account within ten (10) Business Days for the amount you think is in error. If we ask you to

submit your complaint or question in writing and we do not receive it within ten (10) Business Days, we may not provisionally credit your Eligible Transaction Account. If it is determined there was no error we will mail you a written explanation within three (3) Business Days after completion of our investigation. You may ask for copies of documents used in our investigation. We may revoke any provisional credit provided to you if we find an error did not occur.

33. Intellectual Property. "Popmoney" is a trademark of CashEdge Inc. or its Affiliates. All other marks and logos related to the Service are either trademarks or registered trademarks of us or our licensors. In addition, all page headers, custom graphics, button icons, and scripts are our service marks, trademarks, and/or trade dress or those of our licensors. You may not copy, imitate, or use any of the above without our prior written consent, which we may withhold in our sole discretion, and you may not use them in a manner that is disparaging to us or the Service or display them in any manner that implies our sponsorship or endorsement. All right, title and interest in and to the Service, the portion of the Site through which the Service is offered, the technology related to the Site and Service, and any and all technology and any content created or derived from any of the foregoing, is our exclusive property or that of our licensors. Moreover, any suggestions, ideas, notes, drawings, concepts, or other information you may send to us through or regarding the Site or Service shall be considered an uncompensated contribution of intellectual property to us and our licensors, shall also be deemed our and our licensors' exclusive intellectual property, and shall not be subject to any obligation of confidentiality on our part. By submitting any such materials to us, you automatically grant (or warrant that the owner of such materials has expressly granted) to us and our licensors a perpetual, royalty-free, irrevocable, non-exclusive right and license to use, reproduce, modify, adapt, publish, translate, publicly perform and display, create derivative works from and distribute such materials or incorporate such materials into any form, medium, or technology now known or later developed, and you warrant that all so-called "moral rights" in those materials have been waived, and you warrant that you have the right to make these warranties and transfers of rights.

34. Links and Frames. Links to other sites may be provided on the portion of the Site through which the Service is offered for your convenience. By providing these links, we are not endorsing, sponsoring or recommending such sites or the materials disseminated by or services provided by them, and are not responsible for the materials, services or other situations at or related to or from any other site, and make no representations concerning the content of sites listed in any of the Service web pages. Consequently, we cannot be held responsible for the accuracy, relevancy, copyright compliance, legality or decency of material contained in sites listed in any search results or otherwise linked to the Site. For example, if you "click" on a banner advertisement or a search result, your "click" may take you off the Site. This may include links from advertisers, sponsors, and content partners that may use our logo(s) as part of a co-branding agreement. These other sites may send their own cookies to users, collect data, solicit personal information, or contain information that you may find inappropriate or offensive. In addition, advertisers on the Site may send cookies to users that we do not control. You may link to the home page of our Site. However, you may not link to other pages of our Site without our express written permission. You also may not "frame" material on our Site without our express written permission. We reserve the right to disable links from any third party sites to the Site.

35. **Password and Security.** If you are issued or create any password or other credentials to access the Service or the portion of the Site through which the Service is offered, you agree not to give or make available your password or credentials to any unauthorized individuals, and you agree to be responsible for all actions taken by anyone to whom you have provided such credentials. If you believe that your credentials have been lost or stolen or that someone may attempt to use them to access the Site or Service without your consent, you must inform us at once at the telephone number provided in section 7 above. See also section 21 above regarding how the timeliness of your notice impacts your liability for unauthorized transfers.

36. **Remedies.** If we have reason to believe that you have engaged in any of the prohibited or unauthorized activities described in this Agreement or have otherwise breached your obligations under this Agreement, we may terminate, suspend or limit your access to or use of the Site or the Service; notify law enforcement, regulatory authorities, impacted third parties, and others as we deem appropriate; refuse to provide our services to you in the future; and/or take legal action against you. In addition, we, in our sole discretion, reserve the right to terminate this Agreement, access to the Site and/or use of the Service for any reason or no reason and at any time. The remedies contained in this section 36 are cumulative and are in addition to the other rights and remedies available to us under this Agreement, by law or otherwise.

37. **Disputes.** In the event of a dispute regarding the Service, you and we agree to resolve the dispute by looking to this Agreement.

38. **Arbitration.** For any claim (excluding claims for injunctive or other equitable relief) where the total amount of the award sought is less than \$10,000.00 USD, the party requesting relief may elect to resolve the dispute in a cost effective manner through binding non-appearance-based arbitration. If a party elects arbitration, that party will initiate such arbitration through Judicial Arbitration and Mediation Services ("JAMS"), the American Arbitration Association ("AAA"), or an established alternative dispute resolution (ADR) administrator mutually agreed upon by the parties. The parties agree that the following rules shall apply: (a) the arbitration may be conducted telephonically, online and/or be solely based on written submissions, at the election of the party initiating the arbitration; (b) the arbitration shall not involve any personal appearance by the parties, their representatives or witnesses unless otherwise mutually agreed by the parties; (c) discovery shall not be permitted; (d) the matter shall be submitted for decision within ninety (90) days of initiation of arbitration, unless otherwise agreed by the parties, and the arbitrator must render a decision within thirty (30) days of submission; and (e) any award in such arbitration shall be final and binding upon the parties and may be submitted to any court of competent jurisdiction for confirmation. The parties acknowledge that remedies available under federal, state and local laws remain available through arbitration. **NO CLASS ACTION, OTHER REPRESENTATIVE ACTION, OR PRIVATE ATTORNEY GENERAL ACTION, OR JOINDER OR CONSOLIDATION OF ANY CLAIM WITH A CLAIM OF ANOTHER PERSON SHALL BE ALLOWABLE IN ARBITRATION.**

39. **Law and Forum for Disputes.** Unless our account agreement with you states otherwise, this Agreement shall be governed by and construed in accordance with the laws of the State in which you

reside, without regard to its conflicts of laws provisions. To the extent that the terms of this Agreement conflict with applicable state or federal law, such state or federal law shall replace such conflicting terms only to the extent required by law. Unless expressly stated otherwise, all other terms of this Agreement shall remain in full force and effect. Unless our account agreement with you states otherwise, you agree that any claim or dispute you may have against us (other than those which are arbitrated under section 37 above) must be resolved by a court located in the county in which you reside. You agree to submit to the personal jurisdiction of such courts for the purpose of litigating all claims or disputes unless said claim is submitted to arbitration under section 37 of this Agreement. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Both parties agree to waive any right to have a jury participate in the resolution of any dispute or claim between the parties or any of their respective Affiliates arising under this Agreement.

40. Indemnification. You agree to defend, indemnify and hold harmless us and our Affiliates and Service Providers and their Affiliates and the employees and contractors of each of these, from any loss, damage, claim or demand (including attorneys fees) made or incurred by any third party due to or arising out of your breach of this Agreement and/or your use of the Site or the Service.

41. Release. You release us and our Affiliates and Service Providers and the employees and contractors of each of these, from any and all claims, demands and damages (actual and consequential) of every kind and nature arising out of or in any way connected with any dispute that may arise between you or one or more other users of the Site or the Service. In addition, you waive California Civil Code §1542, which states that a general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if not known by him must have materially affected his settlement with the debtor.

42. No Waiver. We shall not be deemed to have waived any rights or remedies hereunder unless such waiver is in writing and signed by one of our authorized representatives. No delay or omission on our part in exercising any rights or remedies shall operate as a waiver of such rights or remedies or any other rights or remedies. A waiver on any one occasion shall not be construed as a bar or waiver of any rights or remedies on future occasions.

43. Exclusions of Warranties. THE SITE AND SERVICE AND RELATED DOCUMENTATION ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. IN PARTICULAR, WE DO NOT GUARANTEE CONTINUOUS, UNINTERRUPTED OR SECURE ACCESS TO ANY PART OF OUR SERVICE, AND OPERATION OF OUR SITE MAY BE INTERFERED WITH BY NUMEROUS FACTORS OUTSIDE OF OUR CONTROL. SOME STATES DO NOT ALLOW THE DISCLAIMER OF CERTAIN IMPLIED WARRANTIES, SO THE FOREGOING DISCLAIMERS MAY NOT APPLY TO YOU. THIS PARAGRAPH GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY ALSO HAVE OTHER LEGAL RIGHTS THAT VARY FROM STATE TO STATE.

44. Limitation of Liability. THE FOREGOING SHALL CONSTITUTE YOUR EXCLUSIVE REMEDIES AND THE ENTIRE LIABILITY OF US AND OUR AFFILIATES AND SERVICE PROVIDERS AND THE EMPLOYEES AND

CONTRACTORS OF EACH OF THESE, FOR THE SERVICE AND THE PORTION OF THE SITE THROUGH WHICH THE SERVICE IS OFFERED. YOU ACKNOWLEDGE AND AGREE THAT FROM TIME TO TIME, THE SERVICE MAY BE DELAYED, INTERRUPTED OR DISRUPTED PERIODICALLY FOR AN INDETERMINATE AMOUNT OF TIME DUE TO CIRCUMSTANCES BEYOND OUR REASONABLE CONTROL, INCLUDING BUT NOT LIMITED TO ANY INTERRUPTION, DISRUPTION OR FAILURE IN THE PROVISION OF THE SERVICE, WHETHER CAUSED BY STRIKES, POWER FAILURES, EQUIPMENT MALFUNCTIONS INTERNET DISRUPTION OR OTHER REASONS. IN NO EVENT SHALL WE OR OUR AFFILIATES OR SERVICE PROVIDERS OR THE EMPLOYEES OR CONTRACTORS OF ANY OF THESE, BE LIABLE FOR ANY CLAIM ARISING FROM OR RELATED TO THE SERVICE CAUSED BY OR ARISING OUT OF ANY SUCH DELAY, INTERRUPTION, DISRUPTION OR SIMILAR FAILURE. IN NO EVENT SHALL WE OR OUR AFFILIATES OR SERVICE PROVIDERS OR THE EMPLOYEES OR CONTRACTORS OF ANY OF THESE, BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING LOSS OF GOODWILL OR LOST PROFITS (EVEN IF ADVISED OF THE POSSIBILITY THEREOF) ARISING IN ANY WAY OUT OF THE INSTALLATION, USE, OR MAINTENANCE OF THE SERVICE OR THE PORTION OF THE SITE THROUGH WHICH THE SERVICE IS OFFERED, EVEN IF SUCH DAMAGES WERE REASONABLY FORESEEABLE AND NOTICE WAS GIVEN REGARDING THEM. IN NO EVENT SHALL WE OR OUR AFFILIATES OR SERVICE PROVIDERS OR THE EMPLOYEES OR CONTRACTORS OF ANY OF THESE BE LIABLE FOR ANY CLAIM ARISING FROM OR RELATED TO THE SERVICE OR THE PORTION OF THE SITE THROUGH WHICH THE SERVICE IS OFFERED THAT YOU DO NOT STATE IN WRITING IN A COMPLAINT FILED IN A COURT OR ARBITRATION PROCEEDING AS DESCRIBED IN SECTIONS 37 AND 38 ABOVE WITHIN TWO (2) YEARS OF THE DATE THAT THE EVENT GIVING RISE TO THE CLAIM OCCURRED. THESE LIMITATIONS WILL APPLY TO ALL CAUSES OF ACTION, WHETHER ARISING FROM BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL THEORY. OUR AGGREGATE LIABILITY, AND THE AGGREGATE LIABILITY OF OUR AFFILIATES AND SERVICE PROVIDERS AND THE EMPLOYEES AND CONTRACTORS OF EACH OF THESE, TO YOU AND ANY THIRD PARTY FOR ANY AND ALL CLAIMS OR OBLIGATIONS RELATING TO THIS AGREEMENT SHALL BE LIMITED TO DIRECT OUT OF POCKET DAMAGES UP TO A MAXIMUM OF \$500 (FIVE HUNDRED DOLLARS). SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

45. Complete Agreement, Severability, Captions, and Survival. You agree that this Agreement is the complete and exclusive statement of the agreement between us, sets forth the entire understanding between us and you with respect to the Services and the portion of the Site through which the Services are offered and supersedes any proposal or prior agreement, oral or written, and any other communications between us. If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced. The captions of sections hereof are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement. Sections 3, 6-9, 12, 23, 25, 32 and 35-44, as well as any other terms which by their nature should survive, will survive the termination of this Agreement. If there is a conflict between the terms of this Agreement and something stated by an employee or contractor of ours (including but not limited to its customer care personnel), the terms of the Agreement will prevail.

46. Definitions.

- a. "ACH Network" means the funds transfer system, governed by the NACHA Rules, that provides funds transfer services to participating financial institutions.
- b. "Affiliates" are companies related by common ownership or control.
- c. "Business Day" is every Monday through Friday, excluding Federal Reserve holidays or other days that banks are legally closed
- d. "Eligible Transaction Account" is a transaction account from which your payments will be debited, your Popmoney Services fees will be automatically debited, or to which payments and credits to you will be credited. An Eligible Transaction Account may include a checking, money market or other direct deposit account, credit card account, or debit card account, including any required routing information.
- e. "Payment Instruction" is the information provided by the Sender to the Popmoney Service for a payment to be made to a Receiver (such as, but not limited to, name, mobile telephone number, email address, and bank account and routing number information).
- f. "Payment Network" means a debit or credit network (such as the ACH Network or ACCEL / Exchange payment network) through which funds may be transferred.
- g. "Popmoney Request" means functionality that, if provided to you, allows a Requestor to request that another individual initiate a Payment Instruction to the Requestor through the Popmoney Service.
- h. "Receiver" is a person or business entity that is sent a Payment Instruction through the Service.
- i. "Requestor" is a person that requests an individual to initiate a Payment Instruction through the Popmoney Service.
- j. "Sender" is a person or business entity that sends a Payment Instruction through the Service.
- k. "Service Provider" means companies that we have engaged (and their Affiliates) to render some or all of the Service to you on our behalf.



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