

## Akimbo Now Promo Mastercard® Cardholder Agreement

**Important: Please read this Agreement carefully and keep it for your records.**

This document constitutes the agreement (“**Agreement**”) outlining the terms and conditions under which this Akimbo Now Promo Mastercard has been issued to you. The Card is issued by Sunrise Banks N.A., Member FDIC, pursuant to a license from Mastercard International Incorporated.

**Definitions.** In this Agreement, the words “**you**” and “**your**” means the Card Owner. “**Card Owner**” means the person issued a Card. “**We**”, “**us**”, “**our**” and “**the Bank**” means **Sunrise Banks N.A.**, the issuer of the Card. “**Sponsor**” means the company named in the materials provided with the Card. “**Business days**” are Monday through Friday, excluding federal holidays. Saturday, Sunday, and federal holidays are not considered business days, even if we are open. “**Card**” means the Physical Mastercard or Virtual Mastercard, along with the expiration date and security code, that is issued to you by us. “**Card Account**” means the account we maintain on your behalf to track your Card balance on deposit with us and record transactions made using your Card or by other means authorized by this Agreement. “**Card Number**” means the 16-digit number embossed on your Physical Card or associated with the Virtual Card. “**PIN**” means personal identification number. “**Access Information**” means collectively your PIN, online username, password, challenge questions, and any other security information used to access your Card Account.

**Agreement to Terms.** By using the Card, you agree to the terms of this Agreement. If you do not agree to the terms of this Agreement or do not want to use the Card, please destroy the Physical Card at once by cutting it in half or immediately cease use of any Virtual Card and call us at 1-855-925-4626 to cancel your Card. You agree to sign the back of the Card immediately upon receipt. You should always keep a record of your Card number and the customer service phone number provided herein in case of loss or theft of your Card. **We will not be able to assist you if your Card is lost or stolen unless you have your Card number.**

**Prepaid Card.** The Physical Card is a prepaid card and the Virtual Card is a prepaid virtual card, which has all the features of a prepaid card, but a plastic card is not issued for access. The Physical Card or Virtual Card is provided to you as part of a customer incentive program sponsored by the Sponsor and is loaded by the Sponsor with a specific amount of funds. This Card is not a credit card or charge card that allows you to make purchases and pay later and using the Card will not affect your credit history. The Card is not connected in any way to any other account. You will not receive any interest on the funds on your Card. The Card will remain the property of the Bank and must be surrendered upon demand. The Card is nontransferable and may be canceled or revoked at any time without prior notice except as required by law.

Unless your Card has been registered with us, the funds on your Card will NOT be insured by the FDIC or any other federal or state agency. You may register your Card by calling us 1-855-925-4626 or visiting <https://akimbocard.com/promo> and providing us your name, address and Card number. Registering your Card will also allow you to view your Card balance and transaction history at <https://akimbocard.com/promo> and provide the additional security that may be required to allow you to use your Card for internet, mail and phone order purchases {as well as requesting a replacement Card if your Card is lost or stolen}.

**Activating Your Physical Card.** You cannot use the Physical Card until it has been activated. To activate a personalized Physical Card, login to <https://akimbocard.com/promo> or call 1-855-925-4626 and follow the instructions provided. As part of the activation, you may be required to provide your Social Security Number and date of birth. Although no credit history is required to obtain a Physical Card, you authorize us to obtain information about you from time to time from other third parties for our internal processes.

**Activating Your Virtual Card.** Virtual Cards will be activated automatically. Although no credit history is required to obtain a Virtual Card, you authorize us to obtain information about you from time to time from credit reporting agencies, your employers and other third parties for our internal processes.

**Using Your Card and Card Number.** Subject to terms and limitations set forth in this Agreement, once you have activated your Card and we have verified your identity, you may use your Card or Card Number as applicable, to purchase goods or services (via Internet, Telephone and Mail Order only for Virtual Cards) wherever your Card is honored as long as you do not exceed the value available in your Card (see “*Using Your Card for Purchases*” below), There may be fees associated with some of these transactions (see “*Card Fees*” below) for more details. Some of these services may not be available at all terminals.

You may not use your Card to obtain cash at an automated teller machine (“ATM”) or at merchants that have agreed to provide cash back at the point-of-sale (“POS”). You cannot reload the Card or transfer Card value to other payment devices.

Each time you use your Card or Card Number to purchase goods or services or initiate another type of funds transfer authorized by this Agreement, you authorize us to reduce the available balance in your Card Account by the amount of the transaction plus applicable fees, if any. You agree that you will: (i) not use your Card at gambling websites or to purchase illegal goods or services; (ii) promptly notify us of any loss or theft of your Card; (iii) promptly notify us of the loss, theft, or unauthorized disclosure of any Access Information used to access your Card Account information or Card funds; (iv) not use the Card for business purposes; and (v) use the Card only as permitted by us. The Card may not be accepted by certain merchants whose goods or services are not legal for minors. We may refuse to process any transaction that we believe violates the terms of this Agreement.

**Personal Identification Number “PIN”:** A PIN is a four-digit code that may be used to make purchase transactions instead of signing for your transaction. If you receive a Physical Card, your PIN will be set during the card activation process. If you receive a Virtual Card, your PIN will be automatically set to the last four (4) digits of the primary phone telephone number that was provided by you and is currently listed with your Virtual Card Account. Some merchants may require you to make purchases using a PIN rather than your signature. To prevent unauthorized access to your Card balance, you agree to keep your PIN confidential. We recommend that you memorize your PIN and do not write it down. If you need to reset a forgotten PIN, please call 1-855-925-4626.

Your PIN may NOT be used to obtain cash at an ATM or cash back at a POS terminal.

**Limitations on Card Usage.** Use of your Card is subject to the limitations set forth below, and no transaction may exceed the value available in your Card. For security reasons, we may further limit the amount or number of transactions you can make with your Card on a daily or monthly basis, or in the aggregate, and we may limit the dollar amount of transactions to or from your Card. We may increase or decrease these limits or add additional limits from time to time in our sole discretion without prior notice to you except as required by law.

Limitation Type	Frequency and/or Dollar Limits (for typical transactions)
<b>Card Limits</b>	
Maximum Card Account balance	\$5,000.00 at any given time
<b>Spend Limits</b>	
Card Purchases	\$5,000.00 per day

The Sponsor of this card may restrict the use of this card at certain merchants or locations. If you are having issues making a purchase, or you need assistance on where the card may be used, please contact us at 1-855-925-4626 between 7:00AM to 7:00PM CT Monday – Friday to speak with our representatives or log in to your card account at <https://akimbocard.com/promo>.

**Loading Your Card.** The Sponsor may add funds to your Card, called “loading,” at any time. The minimum load is \$1.00. The maximum load amount is \$5,000.00. The maximum amount of value that can reside on the Card at any time is \$5,000.00.

**Using Your Physical Card for Purchases.** You can use your Card to purchase goods and services everywhere Debit Mastercard is accepted, subject to the limitations (see “*Limitations on Card Usage*” above). If you do not have enough funds available in your Card Account for the entire purchase, you can instruct the merchant to charge part of the purchase to your Card Account and pay the remaining amount with other funds. These are called “split transactions” and some merchants do not permit them. If a merchant attempts to process a transaction for more than the value available in your Card Account, or if the transaction will cause the purchase limit we have established to be exceeded, then the transaction will be declined. Unusual or multiple purchases may prompt a merchant inquiry or card suspension to allow us to investigate such unusual activity.

**Using Your Virtual Card for Purchases.** You can use your Card to purchases goods and services via Internet, Telephone and Mail Order. When you use your Virtual Card Number for these purchases, the legal effect will be the same as if you used a Physical Card itself. For mail order, telephone, Internet or other card-not-present purchases, merchants may choose to route a transaction through as a PIN or signature purchase.

**Merchant Authorization Holds.** When you use your Card to pay for goods or services, certain merchants (such as restaurants and hotels) may ask us to authorize the transaction in advance and may estimate its final value up to twenty 20% (or more) to cover any tip or gratuity that you may add to the purchase. If this occurs and your total bill, after adding in the additional 20% (or more), exceeds the amount available on the Card, your transactions may be declined. Accordingly, you should ensure that the Card has an available balance that is 20% (or more) greater than your total bill prior to using the Card for these types of purchases. If you use your Card at an automated fuel dispenser (“pay at the pump”), the merchant may preauthorize the transaction amount up to \$150.00 or more. If the transaction is not approved, you will need to go inside to pay the cashier prior to pumping. When we preauthorize a transaction, we commit to make the requested funds available when the transaction finally settles and may place a temporary hold on your Card’s funds for the amount indicated by the merchant (which may be more than the final settled transaction amount). We also may add an amount for certain merchants to ensure that sufficient funds will be available to cover the final transaction. Transactions at certain merchants that authorize high dollar amounts, especially rental car companies and hotels, may cause an “authorization” or “hold” on your available balance for up to thirty (30) days. Until the transaction finally settles or we determine that it is unlikely to be processed, the funds subject to the hold will not be available to you for other purposes. We will only charge your Card for the correct amount of the final transaction, however, and will release the hold on any excess amount when the transaction finally settles.

**Available Balance.** Each time you use your Card, you authorize us to reduce the value available on your Card by the amount of the transaction and any applicable fees, taxes or other charges assessed by the merchant. Transactions that exceed the remaining balance on your Card are prohibited

and should be declined at the point of sale. If, notwithstanding an insufficient balance, an authorization is received by the merchant or the merchant uses other means to proceed with the transaction, then you agree to reimburse us for any amount in excess of the Card balance for such a transaction.

**Negative Balance.** You acknowledge and agree that the value available in your Card is limited to the funds that have been loaded to your Card on your behalf. Each time you use your Card, you authorize us to reduce the value available in your Card by the amount of the transaction and any applicable fees. You may not initiate transactions exceeding the available balance in your Card. Nevertheless, if any fees, transaction fees from merchants or other activity cause your Card to have a negative balance, you agree to pay us immediately for the full amount of the negative balance without further demand. We do not offer an overdraft or other credit feature with this Card. We may deduct the negative balance owing from any current or future funds loaded to your Card or any other account you activate or maintain with us. If your Card has a zero or negative balance, we may, at our option, cancel your Card without notice.

**Refunds for Purchases Made with the Card.** Any refund for goods or services purchased with the Card will be made in the form of a credit to the Card and pursuant to the refund policy of the merchants where such goods or services were purchased. If you receive a credit, the credit may not be added to the available funds on the Card for seven (7) business days. You are not entitled to receive a cash refund.

**Disputes with Merchants.** We are not responsible for the delivery, quality, safety, legality or any other aspect of goods and services that you purchase from others with your Card. All such disputes should be addressed to the merchants from whom the goods and services were purchased.

**Reversal.** Point of sale transactions cannot be reversed. If you authorize a transaction and then fail to make a purchase of that item as planned, the approval may result in a hold of funds equal to the estimated purchase amount, for up to seven (7) days.

#### **Card Fees.**

The following fees apply to your Card, except where prohibited or modified by applicable law:

<u>Physical Card Fee</u>	<b>\$3.00. This fee will be deducted from your Card balance if you request a physical card.</b>
<u>Card Replacement Fee</u>	<b>\$5.00. This fee will be deducted from your Card balance if you request a replacement Card prior to the expiration date of your Card.</b>
<u>International Transaction Fee</u>	<b>3% of the transaction amount as a foreign currency conversion fee. Refer to the section titled "Foreign Transactions" in this Cardholder Agreement for more information.</b>

**Receipts.** You should get a receipt from the merchant at the time you make a transaction using your Card. Please note there are some merchants that choose not to provide a receipt if the amount of the transaction is \$15 or less.

**Card Balance and Transaction History.** You are responsible for keep track of the available balance on your Card. Merchants generally will not be able to determine your available balance. You can obtain information about the current available balance on your Card and your recent transactions at no charge by calling 1-855-925-4626 or visiting <https://akimbocard.com/promo>.

**Foreign Transactions.** If you obtain your funds (or make a purchase) in a currency other than U.S. dollars, the amount deducted from your funds will be converted by Mastercard International Incorporated into U.S. dollars. Mastercard International Incorporated will establish a currency conversion rate for this convenience using a rate selected by Mastercard International Incorporated from the range of rates available in wholesale currency markets for the applicable central processing date which may vary from the rate Mastercard International Incorporated itself receives, or the government-mandated rate in effect for the applicable central processing date, in each instance. Fees may apply for foreign transactions (see "Card Fees" above).

**Change in Terms.** We may, to the extent permitted by applicable law, amend the terms and conditions of this Agreement (or add additional terms) at any time by posting the amended terms on our website, <https://akimbocard.com/promo>, and any such amendment shall be effective upon such posting to the website. However, if the change is made for security purposes, we can implement such change immediately, without prior notice to you and before such change may be posted to the website. The most up-to-date Agreement may always be found at <https://akimbocard.com/promo>.

**Suspension and Termination.** We reserve the right, in our sole discretion, to limit your use of the Card. We may refuse to issue a Card or may suspend or terminate Card privileges with or without cause or notice, other than as required by applicable law. You may terminate this Agreement by returning the Card to us. You agree not to use or allow others to use an expired, revoked, cancelled, suspended or otherwise invalid Card.

Termination of your Card privileges will not otherwise affect your rights and obligations arising under this Agreement prior to termination. If your Card privileges are suspended or terminated through no fault of yours, you may request a refund of any remaining balance on your Card by calling us at 1-855-925-4626 or writing to us at Customer Service Department PO Box 700712, San Antonio, Texas 78270-0172 and providing us with your name, address and Card number.

**Expiration of the Card and Funds.** Subject to applicable law, you may use the Card through its expiration date, which is stated on the front of the Physical Card or included when you receive your Virtual Card Number. Once this expiration date has passed, the Card will be voided and will not be replaced except in our sole discretion. If you do not spend all the funds on the Card prior to this expiration date, the remaining funds will not be available to you and will be returned to the Sponsor. You have no right to the funds except to use them for authorized purchases prior to the expiration date of the Card. The Sponsor may in its sole discretion add more funds to the Card. If additional funds are added to the Card, those funds will be subject to this Agreement and also must be used prior to the expiration date stated on the Card. We may, in our sole discretion and if requested by the Sponsor, provide a new Card to you. If we do issue a new Card to you, any unexpired funds remaining on your old Card will transfer automatically to your new Card, but only if your old Card has not already expired. That new Card also will have an expiration date and all funds on that new Card must be used prior to that expiration date.

**Information Given to Third Parties.** We may collect and disclose information (including personally identifiable information) to third parties about you, your Card and the transactions related to your Card ("Cardholder Information").

The types of information we may collect includes:

- (i) Information about purchases made with the Card, such as date of purchase, amount and place of purchase;
- (ii) Information you provide to us when you register your card, or when you contact us with customer service issues, such as name, address, and phone number; and
- (iii) Information about you provided to us by the Sponsor when they request us to provide a Card to you, such as your name and address.

We may use or disclose Cardholder Information:

- (i) where it is necessary or helpful for completing a transaction;
- (ii) in order to verify the existence and condition of the Card for a third party (e.g., a merchant);
- (iii) in order to comply with any law or to comply with requirements of any government agency or court order;
- (iv) if you give us your written consent;
- (v) to service providers who administer the Card or perform data processing, records management, collections, and other similar services for us, in order that they may perform those services;
- (vi) in order to prevent, investigate or report possible illegal activity; (vii) in order to issue authorizations for transactions on the Card; and
- (viii) as otherwise permitted by law.

When you are *no longer* our customer, we continue to share your information as described in this notice.

**Information Security:** Only those persons who need it to perform their job responsibilities are authorized to have access to Cardholder Information. In addition, we maintain physical, electronic, and procedural security measures that comply with federal regulations to safeguard Cardholder Information.

**No Warranty of Availability or Uninterrupted Use.** From time to time, services related to the Card may be inoperative. When this happens, you may be unable to use your Card or obtain information about your Card. Please notify us if you have any problems using your Card. You agree that we will not be responsible for temporary interruptions in service due to maintenance, website changes, or failures, nor shall we be liable for extended interruptions due to failures beyond our control, including but not limited to the failure of interconnecting and operating systems, computer viruses, forces of nature, labor disputes and armed conflicts.

**Lost or Stolen Card; Unauthorized Transactions or Errors.** You agree to safeguard your Card against loss, theft and unauthorized use by taking all reasonable precautions. If your Card has been lost or stolen or believe that someone has made an unauthorized transaction with your Card (or may attempt to use your Card without permission) or you believe an error has occurred with your Card, you agree to notify us IMMEDIATELY at 1-855-925-4626 and in no event later than sixty (60) days of the date of the transaction at issue. When you notify us, you must provide your name, Card number and other identifying details, and describe the error or transaction that you are unsure about (if applicable). **We cannot assist you if you do not have the Card number.** We will cancel your Card, and if our records show that available funds remain on your Card, we will issue you a replacement Card loaded with the remaining value. There may be a fee associated with ordering a replacement Card (see "Card Fees" above). We reserve the right to decline to issue you a replacement Card in accordance with applicable law. You agree to assist us in determining the facts relating to any possible unauthorized use or error associated with your Card, and to comply with the procedures we may require for our investigation. Following our investigation, if we determine that unauthorized use or an error has occurred with your Card, we will credit your Card in the amount of the unauthorized use or error. It may take up to thirty (30) days to process a request for a replacement, however, we will endeavor to provide you with a replacement Card on as timely a basis as is reasonable under the circumstances.

**Additional Limits on Liability Under Card Network Rules.** Under Mastercard Rules, you will not be liable for any unauthorized transactions using your Card Account, if you can demonstrate that you have exercised reasonable care in safeguarding your Card from risk of loss or theft. You must notify us within two (2) days after the electronic statement was made available to you showing unauthorized transaction(s) in order to take advantage of any such limited liability provisions.

**Disclaimer of Warranties.** EXCEPT AS EXPRESSLY OTHERWISE PROVIDED IN THIS AGREEMENT, WE MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND TO YOU, AND HEREBY EXPRESSLY DISCLAIM ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, REGARDING THE CARD OR RELATING TO OR ARISING OUT OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**Limitation of Liability.** We shall have no liability to you if we are unable to complete a transaction for reasons beyond our control. In no event shall we be liable to you for any indirect, consequential, exemplary or special damages (whether in contract, tort or otherwise), even if you have advised us of the possibility of such damages. You agree that your recovery for any alleged negligence or misconduct by us shall be limited to the initial value of the Card. This provision shall not be effective to the extent prohibited by law.

**Questions.** FiCentive, Inc. as the third party that administers the Card program is responsible for customer service and for resolving any errors in transactions made with your Card. If you have questions regarding your Card, you may call 1-855-925-4626 or write Customer Service Department PO Box 700712, San Antonio, Texas 78270-0172 or visit <https://akimbocard.com/promo>.

**Communications.** We may contact you from time to time regarding your Card. We may contact you in any manner we choose unless the law says that we cannot. For example, we may:

- (1) contact you by mail, telephone, email, fax, recorded message, text message or personal visit;
- (2) contact you by using an automated dialing or similar device ("Autodialer");
- (3) contact you at your home and at your place of employment;
- (4) contact you on your mobile telephone;
- (5) contact you at any time, including weekends and holidays;
- (6) contact you with any frequency;
- (7) leave prerecorded and other messages on your answering machine/service and with others; and
- (8) identify ourselves, your relationship with us and our purpose for contacting you even if others might hear or read it.

Our contacts with you about your Card Account are not unsolicited and might result from information we obtain from you or others. We may monitor or record any conversation or other communication with you. Unless the law says we cannot, we may suppress caller ID and similar services when contacting you regarding your card. When you give us your mobile telephone number, we may contact you at this number using an Autodialer and can also leave prerecorded and other messages. You may request this number not be used by calling 1-855-925-4626 or write Customer Service Department PO Box 700712, San Antonio, Texas 78270-0172

If you ask us to discuss your Card with someone else, you must provide us with documents that we ask for and that are acceptable to us.

**Governing Law, Court Proceedings, Damages, Arbitration:** Except as set forth in the Waiver of Jury Trial and Arbitration Agreement below, (1) this Agreement will be governed by, construed and enforced in accordance with federal law and the laws of the State of Minnesota; (ii) any action or proceeding with respect to this Agreement or any services hereunder shall be brought only before a federal or state court in the State of Minnesota; and (iii) you agree to pay upon demand all of our costs and expenses incurred in connection with the enforcement of this Agreement. If we are served garnishments, summonses, subpoenas, orders or legal processes of any type, we are entitled to rely on the representations therein and may comply with them in our own discretion without regard to jurisdiction.

**ARBITRATION AGREEMENT AND WAIVER OF JURY TRIAL: PLEASE READ THIS PROVISION OF THE AGREEMENT CAREFULLY. UNLESS YOU EXERCISE YOUR RIGHT TO OPT-OUT OF ARBITRATION IN THE MANNER DESCRIBED BELOW, YOU AGREE THAT ANY DISPUTE WILL BE RESOLVED BY BINDING ARBITRATION. ARBITRATION REPLACES THE RIGHT TO GO TO COURT, INCLUDING THE RIGHT TO HAVE A JURY TRIAL, TO ENGAGE IN DISCOVERY (EXCEPT AS MAY BE PROVIDED FOR IN THE ARBITRATION RULES), AND TO PARTICIPATE AS A REPRESENTATIVE OR MEMBER OF ANY CLASS OF CLAIMANTS OR IN ANY CONSOLIDATED ARBITRATION PROCEEDING OR AS A PRIVATE ATTORNEY GENERAL. OTHER RIGHTS THAT YOU WOULD HAVE IF YOU WENT TO COURT MAY ALSO BE UNAVAILABLE IN ARBITRATION.**

**Agreement to Arbitrate.** You and we (defined below) agree that any Dispute (defined below) will be resolved by Arbitration. This agreement to arbitrate is governed by the Federal Arbitration Act, 9 U.S.C. § 1 et seq., and the substantive law of the State of Minnesota (without applying its choice-of-law rules).

**What Arbitration Is.** "Arbitration" is a means of having an independent third party resolve a Dispute. A "Dispute" is any claim or controversy of any kind between you and us. The term Dispute is to be given its broadest possible meaning and includes, without limitation, all claims or demands (whether past, present, or future, including events that occurred prior to your application for a Card and whether or not a Card is provided to you, based on any legal or equitable theory (contract, tort, or otherwise) and regardless of the type of relief sought (i.e., money, injunctive relief, or declaratory relief). A Dispute includes, by way of example and without limitation, any claim based upon a federal or state constitution, statute, ordinance, regulation, or common law, and any issue concerning the validity, enforceability, or scope of this arbitration agreement.

For purposes of this arbitration agreement, the terms "you" and "your" include any authorized user and also your heirs, guardian, personal representative, or trustee in bankruptcy. The terms "we," "our," and "us" mean the Bank and include employees, officers, directors, members, managers, attorneys, affiliated companies, predecessors, and assigns the Bank as well as the marketing, servicing, and collection representatives and agents of either or both.

**How Arbitration Works.** If a Dispute arises, the party asserting the claim or demand must initiate arbitration, provided you or we may first try to resolve the matter informally or through customary business methods, including collection activity. The party filing an arbitration complaint must choose either of the following arbitration firms for initiating and pursuing arbitration: the American Arbitration Association ("AAA") or JAMS, The Resolution Experts. If the parties mutually agree, a private party, such as a retired judge, may serve as the arbitrator. If you claim you have a Dispute with us, but do not initiate arbitration or select an arbitrator, we may do so. You may obtain copies of the current rules of each of the arbitration firms and forms and instructions for initiating arbitration by contacting them as follows:

American Arbitration Association  
1633 Broadway, 10th Floor  
New York, NY 10019  
Web site: [www.adr.org](http://www.adr.org)  
Telephone (800) 778-7879

JAMS, The Resolution Experts  
1920 Main Street, Suite 300  
Irvine, CA 92614  
Web site: [www.jamsadr.com](http://www.jamsadr.com)  
Telephone (949) 224-1810 or (800) 352-5267

In the event both AAA and JAMS are unavailable to decide a Dispute, the parties agree to select another neutral party experienced in financial matters to decide the Dispute. If such an independent arbitrator cannot be found, the parties agree to submit any Dispute to a state or federal judge, sitting without a jury, for resolution on an individual and not a class-wide basis.

The policies and procedures of the selected arbitration firm will apply provided such policies and procedures are consistent with this arbitration agreement. To the extent the arbitration firm's rules or procedures are different than the terms of this arbitration agreement, the terms of this arbitration agreement will apply.

**What Arbitration Costs.** No matter which party initiates the arbitration, we will advance or reimburse filing fees and other costs or fees of arbitration, provided each party will be initially responsible for its own attorneys' fees and related costs. Unless prohibited by law, the arbitrator may award fees, costs, and reasonable attorneys' fees to the party who substantially prevails in the arbitration.

**Location of Arbitration.** Unless you and we agree to a different location, the arbitration will be conducted in the county where you reside.

**Waiver of Rights.** You are waiving your right to a jury trial, to have a court decide your Dispute, to participate in a class action lawsuit, and to certain discovery and other procedures that are available in a lawsuit. You and we agree that the arbitrator has no authority to conduct class-wide arbitration proceedings and is only authorized to resolve the individual Disputes between you and us. The validity, effect, and enforceability of this waiver of class action lawsuit and class-wide arbitration, if challenged, are to be determined solely by a court of competent jurisdiction and not by the AAA, JAMS, or an arbitrator. If such court refuses to enforce the waiver of class-wide arbitration, the Dispute will proceed in court and be decided by a judge, sitting without a jury, according to applicable court rules and procedures, and not as a class action lawsuit. The arbitrator has the ability to award all remedies available by statute, at law, or in equity to the prevailing party.

**Applicable Law and Review of Arbitrator's Award.** The arbitrator shall apply applicable federal and Minnesota substantive law and the terms of this Agreement. The arbitrator must apply the terms of this arbitration agreement, including without limitation the waiver of class-wide arbitration. The arbitrator shall make written findings and the arbitrator's award may be filed with any court having jurisdiction. The arbitration award shall be supported by substantial evidence and must be consistent with this Agreement and with applicable law, and if it is not, it may be set aside by a court. The parties shall have, in addition to the grounds referred to in the Federal Arbitration Act for vacating, modifying, or correcting an award, the right to judicial review of (a) whether the findings of fact rendered by the arbitrator are supported by substantial evidence and (b) whether the conclusions of law are erroneous under the substantive law of Minnesota and applicable federal law. Judgment confirming an award in such a proceeding may be

entered only if a court determines that the award is supported by substantial evidence and is not based on legal error under the substantive law of Minnesota and applicable federal law.

**Survival.** This arbitration provision shall survive: (1) cancellation, payment, charge-off, or assignment of this Agreement; (2) the bankruptcy of any party; and (3) any transfer, sale, or assignment of this Agreement, or any amounts owed under this Agreement, to any other person or entity.

**Right to Opt-Out.** *If you do not wish to agree to arbitrate all Disputes in accordance with the terms and conditions of this section, you must advise us in writing at the following address by either hand delivery or a letter postmarked within thirty (30) days following the date you enter into this Agreement. You may opt-out without affecting your application or cardholder status.*

Sunrise Banks, N.A.  
200 University Avenue West Suite 200  
Saint Paul, MN 55103

**Assignability.** We may assign or transfer our rights and obligations under this Agreement at any time without prior notice to you. The Card and your obligations under this Agreement may not be assigned by you. Notwithstanding the foregoing, this Agreement shall be binding on you and your heirs, your executors, administrators, guardians, personal representatives, or trustee in bankruptcy.

**Miscellaneous Provisions:** When any provision in this Agreement states that we may take certain actions, we may do so in our sole discretion. We do not waive our rights by delaying or failing to execute them at any time. To the extent permitted by law and as permitted by the Waiver of Jury Trial and Arbitration above, you agree to be liable to us for any loss, costs, or expenses that we may incur as a result of any dispute or legal proceeding involving your Card. If a court finds any provision of this Agreement invalid or unenforceable, such finding shall not make the rest of this Agreement invalid or unenforceable. To the fullest extent possible, any such provision shall be deemed to be modified so as to be rendered enforceable or valid; however, if such provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.

#### **Customer Service**

For all customer service information regarding the Card, please contact:

1-855-925-4626 or write to us at Customer Service Department PO Box 700712, San Antonio, Texas 78270-0172.

This Agreement is effective July 2020