



**THE BERKSHIRE BANK**

*The Bank that puts your interest first*

# Account Agreement and Disclosures

MEMBER FDIC

Welcome to The Berkshire Bank.

Thank you for opening an account with us.

This Account Agreement and Disclosures (“Agreement”) is designed to explain our accounts and services in detail. This Agreement contains information about our banking options, as well as steps that you can take to help enhance your relationship with us and get the most out of your accounts.

It is important that you carefully review this Agreement, become familiar with its content, and keep it with your records for future reference because it contains important information about your accounts and important terms and agreements that can be enforced by you and us.

Our experienced bankers and customer service representatives are ready to answer your questions and assist you with your banking needs.

This Agreement, together with the accompanying enclosures, contains the general rules, regulations, terms, conditions, and other disclosures for the accounts and services you selected and constitutes the agreement between you and The Berkshire Bank (the “Bank” or “we” or “us” or “our”). In this Agreement, “you” and “your” mean the organization on behalf of which the signature cards are signed or any individual signing other than on behalf of an organization. By signing a signature card, submitting an application, opening or maintaining an account, or using these accounts, products, or services (or additional accounts, products, or services in the future), you represent and warrant individually and in your representative capacity, if applicable, that all information provided by any accountholder, owner, or authorized signer is true, correct, and complete, and you agree that you and your heirs, successors, representatives, and beneficiaries, if any, shall be bound by the rules, regulations, terms, and conditions contained in this Agreement that are now in effect or later amended. The Bank is authorized to act based on instructions received with your signature, or by anyone else authorized on your signature card, unless the signature card for your account provides differently. Please refer to the accompanying Schedule of Fees and Service Charges for fees that apply to your account.

We have divided this Agreement into twelve separate sections as follows:

SECTION A: Regular Checking, NOW Checking, Money Market,  
Statement Super Savings, Statement Savings, Platinum  
Super Savings, Blue Ribbon Savings, and Passbook  
Savings Accounts

SECTION B: Certificates of Deposit

SECTION C: Individual Retirement Accounts

SECTION D: Basic Banking Accounts

SECTION E: New Jersey Consumer Checking Accounts

SECTION F: General Rules and Regulations of the Bank

SECTION G: General Rules for Consumer and Commercial Funds Transfers

SECTION H: Consumer Electronic Funds Transfer Act Disclosures

SECTION I: Banking By Telephone

SECTION J: Substitute Checks

SECTION K: USA PATRIOT Act Notice

SECTION L: Privacy Policy

Sections A, B, C, D, and E apply to the types of accounts described in those sections. Section F provides general rules that apply to all the deposit accounts and related services that the Bank provides. Sections G, H, and I apply to the specific types of services described in these Sections. Sections J and K apply to specific laws described in these sections. Section L explains what we do to keep information about you private and secure, and applies to nonpublic personal information about individuals who obtain financial products or services from us primarily for personal, family, or household purposes.

**SECTION A - Regular Checking, NOW Checking, Money Market, Statement Super Savings, Statement Savings, Platinum Super Savings, Blue Ribbon Savings, and Passbook Savings Accounts**

**(1) Minimum To Open:** Please refer to the accompanying Schedule of Fees and Service Charges for the minimum initial deposits to open all of these accounts. All accounts described in this Agreement may not be available at all of our branches.

**(2) Additional Deposits:** Additional deposits of \$1 or more may be made to any of these accounts at any branch, by mail, or by transfer from another account. The Bank may refuse, limit, or return any deposit.

**(3) Interest Rate:** For interest-earning accounts, the interest rate is the annual simple interest rate the account will earn without regard to compounding, shown as an annual figure. The Bank may change these interest rates at any time, without notice to you, and they are determined by the Bank at its sole discretion. Interest rates may change daily. From time to time, we may establish, change, or eliminate balance levels required to earn different rates of interest, including variable or tiered rates. The interest rate in effect when you open your account is stated on the Rate Sheet which accompanies this Agreement, and is effective only until the next interest rate change. The interest rates will be effective only for the period stated on the Rate Sheet.

**(4) Annual Percentage Yield:** The annual percentage yield reflects the total interest your money will earn if it remains on deposit for a full year with compounding, if there is no change in the annual interest rate and all interest is left in the account. A withdrawal of interest will reduce earnings. The annual percentage yield in effect when you open your account is stated on the Rate Sheet which accompanies this Agreement, and is effective only until the next interest rate change.

**(5) Interest Compounding Period:** Interest is compounded daily and computed on a 365-day basis for the actual number of days your money is on deposit.

**(6) Balance Computation Method:** The Bank uses the daily balance method to calculate interest on your account. This method applies a daily periodic rate to the principal and accrued (but not yet credited) interest in the account each day.

**(7) Paying Interest:** Interest will be paid by crediting your account at the end of each statement cycle (generally, one calendar month).

**(8) When Is Interest Earned:** Deposits to an interest-earning account begin to earn interest on the business day that the Bank receives credit for the deposit, which depends on where the item originated and how the deposit is made. Cash, wire and electronic transfer deposits, and instruments drawn on the Bank will earn interest as of the day of deposit. Generally, checks, drafts, and other payments begin to earn interest 1 to 2 days after the day of deposit. Deposits do not earn interest on the day of withdrawal. We reserve the right not to pay interest on any deposited item that is returned to us unpaid.

**(9) Withdrawals:**

**(a) Regular Checking:** You may make withdrawals or transfers by Automated Teller Machine (“ATM”), by using a withdrawal slip at

the Bank, by mail, or by writing a check. There are additional requirements for this account that are contained in the accompanying Schedule of Fees and Service Charges.

**(b) NOW Checking:** You may make withdrawals by issuing negotiable orders of withdrawal. These are similar to checks and for the purposes of this Agreement will be called “checks.” There are additional requirements for this account that are contained in the accompanying Schedule of Fees and Service Charges.

**(c) Money Market:** You are permitted to make up to 6 transfers or withdrawals per calendar month (or statement cycle of at least 4 weeks). These 6 transfers or withdrawals may be by any combination of 6 checks, point-of-sale transactions with an ATM or debit card, or drafts or orders payable to a third party, telephone, facsimile, online banking transfers or payments, Automated Clearing House (“ACH”) debits or payments, overdraft protection transfers, or preauthorized or automatic payments or transfers to a third party or another account. Withdrawals or transfers in person at the Bank, by mail, messenger, at an ATM, or by preauthorized or automatic payment of your loans to the Bank are not included in these limits. A fee will be charged for each transfer or withdrawal beyond these limits during any statement cycle. We use the date a transaction is posted to your account (and not the date the transaction is authorized) in calculating these limits. If you repeatedly exceed these limits, we will, in our sole discretion, restrict access to your Money Market account, close your Money Market account, or transfer your funds into another account that you are eligible to maintain, as will be further described in the notice that we will send you concerning excessive transaction activity.

**(d) Platinum Super Savings, Statement Super Savings and Statement Savings:** You are permitted to make up to 6 transfers or withdrawals per calendar month (or statement cycle of at least 4 weeks). These 6 transfers or withdrawals may be by any combination of 6 point-of-sale transactions with an ATM or debit card, or orders payable to a third party. Withdrawals or transfers in person at the Bank, by mail, messenger, at an ATM or by preauthorized or automatic payment of your loans to the Bank are not included in these limits. There are additional requirements for these accounts that are contained in the accompanying Schedule of Fees and Service Charges.

**(e) Passbook Savings:** You may make withdrawals from Passbook Savings accounts only when you present your passbook to the Bank. No ATM transactions or ACH or electronic debits are permitted. If your passbook is lost, stolen, or destroyed, the Bank may require you to sign an indemnification agreement and wait 30 days before you may withdraw funds. Some Passbook Savings accounts are opened as Holiday Club Passbook Savings accounts. They are governed by all the same rules as Passbook Savings accounts, except withdrawals are not permitted without a penalty, as shown on the accompanying Schedule of Fees and Service Charges, and in October of each year, the Bank will either send you a check with all funds accumulated in your account or transfer these funds to another account at the Bank. Holiday Club Passbook Savings account holders are also required to open and maintain a checking account at the Bank.

**(f) Notice:** For all savings accounts and interest-bearing checking accounts, such as the NOW Checking, Money Market, Statement Super Savings, Statement Savings, Platinum Super Savings, Blue Ribbon Savings, and Passbook Savings accounts, we reserve the right to require 7 days prior written notice of an intended withdrawal, and we will not be liable to you for dishonoring your checks during this 7 day advance notice period. Presently, we do not require this advance notice of intended withdrawals.

## **SECTION B -Certificates of Deposit**

- (1) Minimum To Open:** Please refer to the accompanying Schedule of Fees and Service Charges for the minimum balance to open, maintain, or renew a Certificate of Deposit (“CD”). Additional deposits to CDs are not permitted during the term of a CD.
- (2) Interest Rate:** The interest rate on your CD is determined by the Bank at its sole discretion and is shown on the Rate Sheet which accompanies this Agreement, or the CD Confirmation provided to you. The interest rate will not change during the term of your CD. Your CD will earn interest at that rate until its maturity date. The Bank may offer, from time to time, floating rate CDs at rates that vary on a periodic basis at the sole discretion of the Bank. The Bank will provide details on the interest rate and annual percentage yield, how the interest rate is determined, the frequency of rate changes, and any limitations on the amount that the interest rate may change.
- (3) Interest Computation Method:** Interest on CDs is compounded daily on a 365-day basis using the daily balance method for the actual number of days your money is on deposit. Interest on CDs is computed from the date of deposit to, but not including, the maturity date. The daily balance method applies a daily periodic rate to the principal (plus compounded interest, if any) in the account each day. The daily periodic rate is equal to the interest rate divided by 365.
- (4) Annual Percentage Yield:** The annual percentage yield reflects the total interest your money will earn if it remains on deposit for a full year with compounding, if there is no change in the annual interest rate and all interest is left in the account. A withdrawal of interest will reduce earnings. The annual percentage yield in effect when you open your account is stated on the Rate Sheet which accompanies this Agreement, or the CD Confirmation provided to you, and is effective only until the next interest rate change.
- (5) Term and Maturity Date:** The term of your CD is the length of time you have agreed to leave your money on deposit. The term begins on the date you deposit the funds and ends on the maturity date stated. If the maturity date falls on a Saturday, Sunday, or holiday, the next business day becomes the maturity date. The Bank will mail you a maturity notice 30 days prior to the maturity date of your CD. After termination of your CD, we will pay your deposit to you by check or transfer the funds to another account at the Bank. If your entire deposit to the CD was by wire transfer, at your written request, we will transmit funds to you by wire transfer.
- (6) Automatic Renewal:** CDs will be renewed automatically on the maturity date for the same term as the original CD beginning on the

maturity date, and all terms of the CD will be the same, except that the interest rate in effect during the renewal term will be our rate in effect for new CDs on the maturity date which have the same term, minimum or maximum balance requirements, if any, and other features of your original CD. You may prevent renewal of your CD if you withdraw the funds from your CD at maturity, or if we receive written notice from you before maturity, or during the applicable grace period, of your intention not to renew your CD.

The Bank reserves the right not to renew your CD or to renew it on different terms. If we renew your CD on different terms because we no longer offer the prior term, it will be for the standard term offered by us that comes closest to the prior term without exceeding it, and you will have the applicable grace period after such renewal to withdraw your funds without penalty. If your CD has a special CD rate, that rate applies only to the initial CD term. At the time of renewal, your CD will be renewed for the same term at the standard (non-special) interest rate in effect on the renewal date. If we elect not to renew your CD for any reason, your funds will be placed in our lowest day-to-day interest-bearing account. If you choose not to renew your CD, the principal plus interest will be credited to an account you choose, another interest-bearing account that you are eligible to maintain, or at your request, a check will be issued to you.

**(7) Grace Period:** The grace period begins on the maturity date and is 7 calendar days. The grace period ends on the day that you make any changes to your CD, and you may make only one change to your CD during the grace period. If the grace period ends on a day other than a business day, it will automatically be extended through the next business day. Should you decide within the grace period to withdraw funds, not to renew your CD, make a partial withdrawal from your CD, or you renegotiate for a rate that is different than the automatic renewal rate of your CD (such as a different rate in effect during the grace period), no interest will be earned or paid after the maturity date and during the grace period. If you renegotiate your CD for a term of maturity during the grace period that is different than the automatic renewal term of your CD, your rate will be the rate in effect as of the date of the change, and interest will be earned starting on the renewal date of your CD, which is the maturity date of your original CD.

**(8) Paying Interest:** You may choose to reinvest your interest at maturity, have your interest credited to your Regular Checking, NOW Checking, Money Market, Statement Super Savings, or Statement Savings account at maturity, or have your interest paid by check to you each month, provided that your CD has a minimum balance of \$50,000 and a minimum term of 12 months. A withdrawal of interest will reduce earnings.

**(9) Early Withdrawal Penalty:** When you open a CD, you agree to keep the principal on deposit with us for the term that you have selected. We will impose a substantial penalty if we permit you to withdraw any principal before the maturity date. The early withdrawal penalty will be one-half (1/2) the interest that would be due on the CD over the entire term of the CD, regardless of the length of time the funds remained on deposit, subject to the following limits. The minimum penalty is 7 days

simple interest. The maximum penalty is 270 days simple interest. It is possible that all or part of the penalty will be deducted from principal. No early withdrawal penalty will be assessed if the withdrawal is made because of your death or declaration of legal incompetence during the term of the CD. We require proof of death or incompetence before an early withdrawal is allowed.

### **SECTION C -Individual Retirement Accounts**

The Bank offers Individual Retirement Accounts (“IRAs”) for its qualified clients. Presently, your IRA must be in the form of a CD. Please refer to the Bank’s IRA disclosure statement, which we will give to you upon the opening of your IRA.

### **SECTION D -Basic Banking Accounts**

**(1) General:** The terms and conditions in this section apply to Basic Banking Accounts only. Sections A, F, G, H, I, J, K, and L also apply to Basic Banking Accounts, but if there is a conflict with any of those other sections, this section controls as to Basic Banking Accounts.

**(2) Initial Deposit:** The initial minimum deposit amount required to open a Basic Banking Account is \$25.

**(3) Minimum Balance:** The minimum balance required to maintain a Basic Banking Account is \$0.01.

**(4) Monthly Fee:** The charge for each periodic cycle (28 to 31 days) for the maintenance of a Basic Banking Account is \$3.

**(5) Limit on Withdrawals:** You may make 8 withdrawals from a Basic Banking Account at no additional charge during each periodic cycle. A withdrawal transaction consists of writing a check, getting cash from an ATM operated by us, or any other withdrawal from your account by means of a withdrawal slip. An extra fee may be charged if you use an ATM that we do not operate. A withdrawal is considered made when it is recorded on our books, which is not ordinarily the date on which you wrote the check or necessarily the date that you received the cash. If the number of withdrawals you make during a periodic cycle exceeds 8, we may charge an extra fee for each additional withdrawal, as shown on the accompanying Schedule of Fees and Service Charges.

**(6) Deposits:** There is no restriction on the number of deposits that may be made to a Basic Banking Account without incurring any additional charge.

**(7) Other Fees:** Fees and charges for other services that are not specified above will be charged to your account to the same extent that we charge our regular consumer transaction accountholders for such services, such as charges for printing checks and for bounced checks.

**(8) General Requirements:** The following are the requirements for opening and maintaining a Basic Banking Account:

(a) You must provide the same information and identification as other individuals that maintain regular consumer transaction accounts with us.

(b) You must be a resident of New York State.



(c) Direct deposit of recurring payments, when available to you, must be made to your Basic Banking Account. Such recurring payments include, but are not limited to, Social Security benefits, salary or wages, or pension payments.

(d) You may not maintain any transaction account other than your Basic Banking Account at the Bank or at any other bank. However, you may continue to maintain one or more other transaction accounts for up to 60 days from the date that you open your Basic Banking Account. The only exception to this one-account rule is a transaction account that is separately identified and monitored as a “burial fund account.”

(e) Prior to establishing a Basic Banking Account, you must sign a written disclosure acknowledging that you received this disclosure of the terms of the Basic Banking Account.

### **SECTION E -New Jersey Consumer Checking Accounts**

**(1) General:** The terms and conditions in this section apply to New Jersey Consumer Checking Accounts only. Sections A, F, G, H, I, J, K, and L also apply to New Jersey Consumer Checking Accounts, but if there is a conflict with any of those other sections, this section controls as to New Jersey Consumer Checking Accounts.

**(2) Initial Deposit:** The initial minimum deposit amount required to open a New Jersey Consumer Checking Account is \$50.

**(3) Minimum Balance:** The minimum balance required to maintain a New Jersey Consumer Checking Account is \$1.

**(4) Monthly Fee:** The charge for each periodic cycle (28 to 31 days) for the maintenance of a New Jersey Consumer Checking Account is \$3.

**(5) Limit on Withdrawals:** You may make 8 withdrawals by check and unlimited withdrawals by means of a withdrawal slip, from a New Jersey Consumer Checking Account at no additional charge during each periodic cycle. You will be charged a fee for each withdrawal from an ATM operated by us, in excess of the first 25 withdrawals, as shown on the accompanying Schedule of Fees and Service Charges. An extra fee may be charged if you use an ATM that we do not operate. A withdrawal is considered made when it is recorded on our books, which is not ordinarily the date on which you wrote the check or necessarily the date that you received the cash. If the number of withdrawals by check you make during a periodic cycle exceeds 8, we may charge an extra fee for each additional withdrawal by check, as shown on the accompanying Schedule of Fees and Service Charges.

**(6) Deposits:** There is no restriction on the number of deposits that may be made to a New Jersey Consumer Checking Account without incurring any additional charge.

**(7) Other Fees:** Fees and charges for other services that are not specified above will be charged to your account to the same extent that we charge our regular consumer transaction account holders for such services, such as charges for printing checks and for bounced checks.

**(8) General Requirements:** The following are the requirements for opening and maintaining a New Jersey Consumer Checking Account:

(a) You must provide the same information and identification as other individuals that maintain regular consumer transaction accounts with us.

(b) You must be a resident of New Jersey.

(c) New Jersey Consumer Checking Accounts may only be opened in our branches located in New Jersey and shall be used primarily for personal, family or household purposes.

(d) Direct deposit of recurring payments, when available to you, must be made to your New Jersey Consumer Checking Account. Such recurring payments include, but are not limited to, Social Security benefits, salary or wages, or pension payments.

(e) You may not maintain any transaction account other than your New Jersey Consumer Checking Account at the Bank or at any other bank.

(f) Prior to establishing a New Jersey Consumer Checking Account, you must sign a written disclosure acknowledging that you received this disclosure of the terms of the New Jersey Consumer Checking Account.

## **SECTION F -General Rules and Regulations of the Bank**

**(1) Applicable Laws, Rules, and Regulations:** All of your accounts at the Bank are governed by these rules and regulations, the laws of the United States, the laws of New York State, the supervisory rules and regulations of the New York State Banking Department, the Federal Deposit Insurance Corporation, the Federal Reserve System, and the general commercial banking practices in the area served by the Bank. For accounts opened in our branches in New Jersey, your accounts will also be governed by the laws of the State of New Jersey and the rules and regulations of the New Jersey Department of Banking and Insurance.

**(2) Address:** You must notify the Bank, promptly and in writing of any change in your address. All statements and notices will be sent to you by ordinary mail at the address shown on the Bank's records.

**(3) Hours:** The Bank will open its branches during the hours it finds suitable and convenient. Branches are generally open for business from Monday through Friday, although some of our branches are open Saturday or Sunday, at hours that are determined by the Bank and which may be changed at our discretion. Each branch may have its own schedule, which can be obtained at that branch. The Bank will generally be closed on legal holidays and our Brooklyn, Washington Heights, and Teaneck branches will generally be closed on certain religious holidays, which will be no more than 2 consecutive business days, excluding Saturday, Sunday, or legal holidays, and whose dates will be posted in those branches at least 2 weeks in advance. Deposits received by the Bank after 3:00 p.m. or on a Saturday, Sunday, legal holiday, or other non-business day, when the Bank is closed for business, or after the cutoff time posted at the branch where the deposit is made (which may be before 3:00 p.m.), will be considered received on the following business day.

**(4) Deposits and Endorsements:** You may make deposits in person at the Bank or by mail. The Bank may, in its sole discretion, refuse, return,

or limit the amount of any deposit to your account for any reason, including, but not limited to, checks with multiple payees or endorsements, substitute checks or checks bearing a substitute check legal equivalence statement, or checks which we have reason to doubt are collectible. We are not responsible for transactions by mail until we actually record them. We will consider and record all transactions after our daily cut-off time posted at the branch as if initiated on the next business day we are open. The Bank will chargeback or place a hold on your account, or any other accounts of yours at the Bank, for any item that is returned unpaid or dishonored for any reason, including claims that an item was altered, forged, unauthorized, has a missing signature, or should not have been paid for any reason.

The Bank may, but does not have to, endorse a deposit item for you. The Bank is required to place its endorsement stamp in specific positions on the back of a check. You must place an endorsement on the back of a check only in an area within 1.5 inches from the top edge of the check which is on the left side, looking at the check from the front. You are responsible and liable for any loss or damage that the Bank may suffer because you endorse the check in any other location or because there is any other mark in any other area on the back of the check when you deposit it, which then causes a delay in the processing of the check. The Bank has the right to refuse to accept a check for deposit when the back of the check is unreasonably obscured or marked in any way, except for a proper endorsement. If you deposit a remotely created check (i.e., a check created when an accountholder authorizes a payee to draw a check on the account, but instead of the accountholder's actual signature, the check identifies that the accountholder authorized the check), you guarantee that the check was authorized by the accountholder for the amount shown.

**(5) Direct Deposit:** You may designate the Bank to receive deposits directly into any of your accounts. These direct deposits may include, for example, your salary, Social Security benefits, or pension or annuity payments. If the Bank receives a demand for reimbursement from any entity making the direct deposit claiming that you were not entitled to the payment, the Bank has the right to deduct the amount of the claim from your accounts. The Bank then has the right to reimbursement from you for the claim and all expenses from you and from your estate, heirs, and legal representatives. The Bank may terminate or change the terms of the direct deposit service at any time without notice, unless notice is required by law.

**(6) Availability of Funds Deposited at the Bank:** The Bank's policy is to make your funds available in an expeditious manner. However, since it takes time before we are able to collect funds from your deposit, there are some minimal delays before your funds are available to you or are considered to be "collected" for the purposes of this Agreement. Prior to the time your funds are available, you may not withdraw these funds and we will not use the funds to pay checks that you have written.

**(a) Determining the Availability of a Deposit:** The length of the delay before your funds are available is counted in business days from the day of your deposit. For determining the availability of your deposits, every day is a business day except Saturdays, Sundays, and

holidays. If you make a deposit before 3:00 p.m. through one of our Automated Teller Machines that accepts deposits or directly to one of our employees on a business day that we are open, we will consider that day to be the day of your deposit. However, if you make a deposit after 3:00 p.m., or on a Saturday, Sunday, holiday, other non-business day, when the Bank is closed for business, or after the cutoff time posted at the branch or at our ATM where the deposit is made (which may be before 3:00 p.m.), we will consider that the deposit was made on the next business day we are open. The length of the delay varies depending on the type of deposit and is explained below.

**(b) Same Day Availability:** Funds from cash deposited in person to one of our employees are available on the day we receive the deposit and process it for the purpose of paying checks you have written that are presented for payment.

**(c) Next Day Availability:** Funds from the following deposits are available on the first business day after the day of deposit:

- Cash deposits not given same day availability.
- Wire transfers and electronic deposits to your account, such as ACH credits, including pre-authorized credits, Social Security benefits and payroll payments.
- Checks drawn on the Bank.
- U.S. Treasury checks that are payable to you and deposited into your account.
- Federal Reserve Bank checks, Federal Home Loan Bank checks, and U.S. Postal Service money orders that are payable to you and deposited in person to one of our employees into your account.
- State and local government checks that are payable to you and deposited in person to one of our employees into your account using a special deposit ticket which is available on request at any branch.
- Cashier's, certified, and teller's checks that are payable to you and deposited in person to one of our employees into your account using a special deposit ticket which is available on request at any branch.
- The first \$200 of all checks deposited into your account.

If you do not make your deposit (other than a U.S. Treasury check) in person to one of our employees (for example, if you mail the deposit or use an ATM), or if you do not make your deposit using a special deposit slip, funds from your deposit will be available on the second business day after the day your deposit is received by the Bank.

**(d) Second Business Day Availability:** Checks deposited without a special deposit slip and all other checks deposited to your account, except where longer holds may apply and new accounts, as explained below, are available on the second business day after the day of your deposit.

**(e) Longer Delays May Apply:** If we are not going to make all of

the funds from your deposit available on the second business day, we will notify you at the time that you make your deposit. We will also tell you when the funds will be available. If your deposit is not made directly to one of our employees, or if we decided to take this action after you have left the Bank's premises, we will mail you the notice by the business day after we receive your deposit or when facts become known to us.

If you need the funds from a deposit right away, you should ask us when the funds will be available.

Funds you deposit by check may be delayed for a longer period under the following circumstances:

- We believe a check you deposit will not be paid.
- You deposited checks totaling more than \$5,000 on any one day.
- You redeposit a check that has been returned unpaid.
- You have overdrawn your account repeatedly in the prior 6 months.
- There is an emergency, such as failure of communications or computer equipment.

We will notify you if we delay your ability to withdraw funds or use your funds to pay checks for any of these reasons, and we will tell you when the funds will be available. They will generally be available no later than 10 business days after the day of your deposit.

**(f) Special Rules For New Accounts:** If you are a new customer, the following special rules generally will apply during the first 30 days that your account is open, in addition to the longer delays described above.

- Funds from deposits of cash, wire transfers, ACH credits, and the first \$5,000 of a day's total deposits of cashier's, certified, teller's, traveler's, and federal, state, and local government checks will be available on the first business day after the day of your deposit if your deposit meets the conditions described above for accelerated availability of those types of deposits. The excess over \$5,000 will be available on the ninth business day after the day of your deposit. If your deposit of these checks (other than a U.S. Treasury check) is not made in person to one of our employees, the first \$5,000 will not be available until the second business day after the day of your deposit.
- Funds from all other check deposits will be available on the tenth business day after the day of your deposit.

**(g) Holds on Other Funds:** If we cash a check for you that is drawn on another bank, we may withhold the availability of a corresponding amount of funds that are already in your account. Those funds will be available at the time funds from the check that we cashed would have been available if you had deposited it.

If we accept for deposit a check that is drawn on another bank, we may make funds from the deposit available for withdrawal

immediately, but delay your availability to withdraw a corresponding amount of funds that you have on deposit in any other account with us, including savings accounts. The funds in the other account would then not be available for withdrawal until the time periods that are described in the Funds Availability Policy.

**(h) Cash Withdrawal Limitation:** We place certain limitations on withdrawals in cash. In general, \$200 of a deposit is available for withdrawal in cash on the first business day after the day of deposit. In addition, a total of \$400 of other funds becoming available on a given day is available for withdrawal in cash at or after 5:00 p.m. on that day. Any remaining funds will be available for withdrawal in cash on the following business day.

**(i) General Policy:** Please remember that even after we have made funds available to you, on a provisional basis, and you have withdrawn the funds, you are still responsible for checks you deposit that are returned to us unpaid and for any other problems involving your deposit, and it does not affect our right to charge back to your account, revoke the provisional settlement given to you, or obtain reimbursement for, any check that is not finally paid for any reason.

**(7) Final Payment of Checks, Drafts, and Other Instruments:** The Bank chooses the method of obtaining final payment on your deposited items for you and may use other banks in the process. The Bank is not responsible for actions taken by other banks, nor for the loss or destruction of any items in the possession of other banks or in transit. The Bank is not responsible for any act or failure to act that is in accordance with reasonable banking standards or that is reasonable under the laws, rules, regulations, or practices listed above. Any item you deposit which is not finally paid (i.e., returned unpaid) will be deducted from your account. The Bank may deduct an item from your account when it is presented to the Bank for payment or earlier if the Bank gets notice that an item drawn on your account is in the process of being collected and will be presented for payment.

**(8) Order of Payment of Items:** When checks that you have written or electronic debits that you have initiated are presented to the Bank for payment on or as of the same business day and there are insufficient available funds in your account to pay all of these transactions, generally, we process your withdrawals in the following order of categories or types, paying items (with any fees associated with the item) in each category in the order of smallest to largest dollar amount. First, we pay cashed items; second, we pay electronic debits such as ATM withdrawals and transfers, point-of-sale ("POS") transactions with an ATM or debit card, and online banking transactions; third, we pay your ACH debits (including checks presented to us electronically as ACH debits); and fourth, we pay your checks.

**(9) Automated Clearing House Entries:** From time to time, we may receive electronic directions to add to or subtract funds from your account, known as ACH credits and debits. All ACH credits and debits the Bank receives for your account will be subject to the rules of the National Automated Clearing House Association and any other applicable ACH rules. You agree to be bound by these rules. Any credit given by the Bank to you for an ACH transaction shall be provisional until the Bank receives final payment. If we give you provisional credit for an ACH transfer but do not receive final payment, the originator of the transfer is not deemed to have made payment to you, and you become obligated to us for the full amount of the provisional credit without prior

notice or demand, and we may charge the amount to your account or obtain a refund from you. Unless the Bank otherwise agrees in writing, we shall not notify you of receipt of ACH transactions, other than as may be shown in your next regular account statement. You authorize the Bank to debit or credit your account for all ACH transactions, unless you notify us in writing not to accept any ACH transactions. The Bank, in its sole discretion, may refuse to honor ACH transactions. You agree to waive all rights (other than the rights set forth under ACH rules) that you may have to assert, against the Bank, that you did not in fact authorize an ACH debit or that you did not benefit from the proceeds of an ACH debit from your account. The Bank reserves the right to require you to sign a separate authorization before honoring ACH transactions.

**(10) Insufficient Balances:** You must maintain a sufficient available balance in your account to cover the checks you write. The Bank may return any item drawn on your account if your account balance is insufficient to pay the item at any time between the presentment of the item to the Bank for payment and the return or final payment of the item. Once the Bank determines that your account balance is insufficient to pay any item, we are not required to check the balance again before returning the item. If a check is presented to the Bank for payment when there are not sufficient available funds in your account, we may pay the check or refuse payment and return it unpaid. If the Bank pays the check, you will be responsible for it. You must promptly reimburse the Bank for any insufficient balance. An insufficient balance (overdraft) could result from, among other things: (1) the payment of other checks; (2) payments authorized by you; (3) checks deposited by you that are returned to the Bank unpaid; (4) claims against the Bank regarding your account or any deposit; (5) service charges; or (6) the Bank's exercise of its right of set off. Your account may be debited on the day that an item is presented, or at such earlier time as notification is received by the Bank by electronic or other means, that an item drawn on your account has been deposited for collection in another financial institution. You understand that the Bank reserves the right to pay items into overdraft, to impose overdraft fees, and to apply later deposits into your account, or any of your accounts at the Bank, to those overdrafts or overdraft fees, by way of set off. You have no right to defer payment of this liability, and you are liable regardless of whether you signed the item or benefited from the charge or overdraft. This includes liability for our costs to collect the deficit, including, to the extent permitted by law, our reasonable attorneys' fees.

**(11) Overdrafts, Unavailable Funds, and Fees:** An overdraft occurs when you do not have enough money in your account to cover a transaction. You can avoid overdrafts by making sure you have sufficient available funds in your account to pay all your payment orders. There is a delay in the availability of checks deposited to your account and you should be familiar with our Funds Availability Policy contained in this Agreement. Overdrafts may include advances to cover a check, an in-person withdrawal, an ATM withdrawal, or a withdrawal by any electronic means from your account. There is no automatic enrollment in any optional overdraft protection product offered by the Bank. We pay overdrafts at our discretion, which means that we do not guarantee that we will always authorize and pay any type of transaction. If we do not authorize and pay an overdraft, your transaction will be denied. We will demand immediate repayment of any overdraft on your account and charge you an overdraft fee.

For personal (non-business) accounts, you may overdraw your account up to \$10 per day, non-cumulatively, without being charged a fee. If the negative balance in your account exceeds \$10 at the end of a business day, we will charge you for each transaction that overdraws your account excluding ATM and recurring debit items, up to a maximum of 6 items. You agree to pay us all of our costs of collecting an overdraft to the fullest extent permitted by applicable law. These costs include, but are not limited to, our legal fees and expenses.

**(12) Avoiding Overdrafts:** The best way to avoid an overdraft is to make sure that you always know the available balance in your account before you make a transaction, such as withdrawing cash at an ATM, making a purchase with a debit card, or writing a check. The best way to do that is to maintain a check register in which you enter every transaction that you make and then deduct each transaction that you make from the running balance in your check register. We provide monthly statements that show your balance as of the end of the statement period. You should promptly review your statement and use it to balance your check register. We also have a number of free tools, such as online banking and telephone banking that can be used to find out your balance. You must remember to always subtract from the available balance any transactions that you have made that have not yet been posted to your account.

**(13) Notification of Excessive Levels of Overdrafts:** The Bank monitors checking accounts that are overdrawn more than 6 times during a rolling 12 month period. If your account is within this category, you will receive a written notice from us. If your excessive overdrafts continue, we will call you to discuss the overdrafts and will suggest that you enroll in a financial responsibility class, as suggested by the FDIC. Excessive continued overdraft activity may result in the closure of your account.

**(14) Acceptable Form of Checks:** The Bank may return unpaid any check not drawn on a form authorized by the Bank. The Bank will not be responsible for loss, damage, inability to process, or failure to pay nonconforming checks, including, but not limited to, checks with duplicate check numbers. The Bank may require you to use checks ordered through or approved by the Bank.

**(15) Withdrawal Limitations:** The Bank may refuse to allow a withdrawal from any account if the Bank has a good faith reason to do so, including, for example: (1) there is a dispute about your account or regarding the authority of an authorized person to transact business on your account; (2) we received a legal garnishment, attachment, court order, or other legal document that does not enable us to permit the withdrawal; (3) all or part of your account is pledged as collateral for a debt or otherwise assigned; (4) the withdrawal would consist of money that the Bank has taken to pay an overdue debt to the Bank; (5) any required documentation, item, or identification that we require, or the law requires, in connection with the withdrawal, has not been presented to us;

(6) a depositor is deceased and the requisite disposition of the account has not been made; (7) you failed to repay a loan from the Bank on time; or (8) the withdrawal consists of funds deposited in the form of a check and the funds are not yet collected or available for withdrawal. You will be advised of the reason for refusal if such action is taken.



**(16) Withdrawals:** Although the Bank generally permits withdrawals at any of our branches, we reserve the right to require that withdrawals be made only at the branch at which your account is maintained, and may as a condition of withdrawal, require you to provide us with identification or information acceptable to us, and your signature on certain withdrawal documents signed in the presence of our personnel. If you request to withdraw large amounts of cash, we may place reasonable restrictions on the time and method of your withdrawal, and may require that you sign a document releasing us from any liability in case you are robbed or assaulted. We may refuse the withdrawal if you do not agree with these conditions.

**(17) Postdated Checks:** You must not date a check for a date after the date you deliver the check. If you do so, and the check is presented for payment before its date, the Bank may, at its option, either pay the check, or return it unpaid. The Bank has the right to ignore the fact that the check is postdated and charge your account without being liable to you. The Bank shall not be liable for dishonoring and returning other checks because the Bank paid a postdated check.

**(18) Stale Dated Checks:** If the date on a check is more than 6 months old, the Bank may, in its sole discretion, pay the check and charge your account for it, or dishonor the check.

**(19) Restrictive Legends:** You may not put a condition on any check which limits or conditions the right to receive payment. If you do so and the item is presented to the Bank for payment, the Bank may, in its sole discretion, pay the check or return it unpaid, whether or not the condition has been met. The Bank is not required to honor any restrictive legend on checks that you write, unless we have agreed in writing to the restriction. Examples of restrictive legends or conditional checks include checks that contain a statement that a check is not good for or after a specified number of days after the date of the check (such as “must be presented within 90 days,” “void if not presented for payment within 90 days from date of check,” “not valid after 90 days,” or “void after one year”), a check may not exceed a certain dollar amount (such as “not valid for more than \$1,000”), or other information on a check other than the identification of the paying bank and payee, the amount (we may rely upon either the numeric amount or the amount in words if contradictory), and any MICR encoded information (such as “2 signatures required”). You agree that we have no duty to honor and may disregard such limitations and that we will have no liability for paying a check even if there is printing on the check indicating conditions must be met for negotiation of the check. We may construe as “or” any symbol, mark, or word (other than the word “and” by itself) used as a connective, or may imply “or” in the absence of any connective, or if an ambiguous connective (such as “and/or” is used) on the payee line of any check containing multiple payees.

**(20) Cashing of Items:** The Bank may, in its sole discretion, refuse to cash any check payable to you or indorsed to you, or require you to deposit the check into your account. If we cash any check and it is returned unpaid, we are authorized to deduct such amount from any account maintained by you, whether individually or jointly. If we cash a check for you that is drawn on another bank, we may withhold availability of a corresponding amount of funds that are already in your

account. Those funds will be available at the time funds from the check that we cashed would have been available if you had deposited it. The Bank may, in its sole discretion, cash checks drawn by you on your account when presented by the holder. If a payee or holder who is not a deposit account customer of the Bank presents a check drawn on your account that is otherwise properly payable for cash, we may refuse to cash the check, charge a check cashing fee, or impose additional requirements that we deem necessary or desirable on a payee or holder who presents the check. If that person fails or refuses to satisfy such requirements, our refusal to cash or otherwise accept the check will not be considered wrongful. You agree, unless prohibited by law, such requirements may include, but are not limited to, physical (e.g., fingerprints) and documentary identification requirements, check cashing fees, requirements that such checks be cashed only at specific branch locations, such as the branch where your account is assigned in our records, that the signature of the endorser be guaranteed by a financial institution acceptable to the Bank, or that the check must be endorsed in the presence of our personnel.

**(21) Lien and Set Off:** By signing the signature card or opening an account, you grant us a continuing lien on and security interest in your accounts and any personal property in the Bank's possession for the amount of any and all of your liabilities and obligations to the Bank, whether now existing or incurred in the future. This security interest and lien does not apply to consumer loans unless we disclose it to you in the Truth-in-Lending disclosures for the consumer loan. In addition, the Bank may set off against your accounts any liabilities and obligations owed to the Bank, whether unmatured or contingent. The Bank will notify you, prior to or on the same business day, of the reason for the set off. The Bank will not assert, claim, or exercise any right of set off against any deposit account into which Social Security or supplemental security income payments are deposited pursuant to an agreement with the Bank which provides that such payments be deposited directly into such deposit account without presentation to you at the time of deposit.

**(22) Claims Against Your Account:** If the Bank receives a claim against funds in your account, or we know of or believe that there is a dispute over the ownership or control of funds in your account, we may, if we choose to, place a hold on your account. We can also refuse to pay out any of your funds until we are satisfied that the dispute is settled. We may also close the account and send the balance to the accountholder of record, decide to rely on our current account records, require a court order to act, or take any other actions that we feel will protect us. We will not be liable to you for taking any such action. If we receive a levy, attachment, or other court process against you or another owner of the account, we may refuse to permit withdrawals or transfers from your account until the legal action is dismissed or satisfied. Any levy, attachment, or other court process is subject to our rights of lien and set off. You are responsible for any losses, costs, or expenses that we incur as a result of any dispute or legal proceeding involving your account.

**(23) Legal Process:** The Bank is required to comply with any subpoena, restraining order, court order, administrative order, tax levy, execution, garnishment, writ of attachment, adverse claim, warrant, or other legal process that we believe (correctly or otherwise) to be valid. We are authorized to honor legal process served by ordinary mail, facsimile

transmission, electronically, or at any of our branches, even if the law requires that legal process be served by personal delivery, certified or registered mail, or at the branch where your account is maintained. We may notify you of the service of legal process in writing or by telephone, as permitted by law. A legal processing fee will be assessed to your account. If we are not fully reimbursed for our time in researching our account records, photocopying, handling costs, and other expenses incurred by us by the party that served the legal process, we may charge such costs to your account, in addition to our standard legal processing fee. We may also restrict the use of your account when we reasonably consider such action necessary to avoid a loss. This may occur if we suspect that irregular, unauthorized, or unlawful activities may be involved with your account, whether or not we suspect that you are directly or indirectly aware of these activities. Such restrictions shall be placed pending an investigation of these activities.

**(24) Joint Accounts:** An account opened by two persons is a joint account with right of survivorship. (The Bank reserves the right to open a joint account for more than two persons, and if it does, the following provisions shall apply to each of the joint tenants.) Either of you can control the account as if it were your own. All deposits and any additions such as interest shall become the property of each of you as joint tenants. Unless the Bank receives written notice signed by one of the joint depositors not to pay or deliver any amount in a joint account, the Bank will not be liable to any joint depositor for continuing to honor checks or other orders drawn by, or withdrawal requests from, any other joint depositor. In addition, the Bank may accept instructions regarding the account from either of you without liability to the other joint tenant. If the Bank receives legal process against either of you individually, it may be required to remit all of the funds held in the joint account to a third party judgment creditor. The Bank is authorized by both of you to charge the joint account up to the full balance in the account to satisfy any debt (including an overdraft on any other account, or a lien or set off) owed to the Bank or third party judgment creditor by either of you, even though only one of you is liable for the amount, and we do not determine net contributions to the account.

Ownership of this account cannot be changed by will. Upon the death of either of you, the Bank may treat the account as the sole property of the survivor. In such event, the Bank may, at its option, honor checks or other withdrawal requests from the survivor. However, the Bank may require the survivor to produce certain legal documents releasing the funds on deposit.

If either of you provides the Bank with a signed written request not to pay or release any funds in the account, the Bank may, at its option, require the written authorization of both of you before paying or releasing any funds from the account. Each of you authorizes the other to deposit checks payable to either of you or to both of you jointly to your account with or without an endorsement. If a deposited item is returned unpaid, each of you is liable to the Bank for the full amount regardless of who deposited or cashed the item. Each joint owner is responsible and agrees to reimburse the Bank for any overdrafts regardless of whether the joint owner caused or benefited from the overdraft.

**(25) Business Accounts:** Where a corporation, unincorporated association, limited liability company, partnership, limited partnership, limited liability partnership, joint venture, government entity, or sole proprietor (the “business”) is designated or appears on a signature card as the owner of an account, then the account is payable only to or on the order of the business, and not to any individual director, shareholder, member or partner of the business, except as they may be a payee on a check or other item drawn on the account, even if doing so causes an overdraft or increases an overdraft on the account. You represent and agree that the business has taken all action necessary to open and maintain banking accounts at the Bank and that all resolutions or other documentation delivered to us in connection with the account are true, accurate, complete, and will be kept up to date and may be conclusively relied upon by us. You agree to notify us in advance of any change in your form of ownership or persons authorized to act on behalf of the business in writing authenticated to the Bank’s satisfaction. You agree that each eligible signer is authorized to endorse for deposit any checks either belonging or coming into possession of the business. Each designated signer is authorized to act for and on behalf of the business in any matter involving any account of the business, including the authority to instruct us to close the account and the authority to sign and implement the terms of all agreements concerning the business. You agree that if your account is identified as one we offered to individuals or unincorporated non-business associations, it will not be used for a business purpose.

**(26) “In Trust For” Accounts:** If you open an account in your name payable on your death to another person or in trust for another person (the “beneficiary”), without presenting formal trust papers or without a reference to a trust agreement, will, court order, or other instrument, you may make deposits, withdrawals, or close the account at your discretion. Your Social Security number must be used for income tax reporting. The beneficiary will have no rights regarding the account before your death. After your death, state law will determine who may claim the funds on deposit. The Bank may require certain legal documents before releasing the funds on deposit. Except in New York, ownership of this account cannot be changed by the terms of a deceased depositor’s will. In New York, the funds will be paid to the beneficiary, unless the Bank receives actual written notice that the deceased depositor’s will has expressly revoked, terminated, or modified these directions.

**(27) Uniform Transfers to Minors:** If you open an account for a minor under the Uniform Transfers to Minors Act, then you, as custodian, control the account until the minor reaches the age of majority, but the designated minor is the owner of the funds in the account. The Social Security number of the minor is to be used for income tax reporting.

**(28) Accounts of Deceased Persons:** In case of the death of an account owner, we will continue to honor checks written on that account or other withdrawal requests until we are notified of the death. After we receive actual written notice of your death, the Bank may, in its sole discretion, pay all checks drawn on the account for up to 10 business days after notification, or restrict access to the account. The Bank may require that appropriate documents be presented to it before funds in the account can be paid out and the account closed, such as a certified copy of the death certificate, letters testamentary or letters of administration, a decree from

the Surrogates Court in New York or the Superior Court in New Jersey, documents evidencing that estate taxes are paid or not owed, or other documents that the Bank, in its sole discretion, determines are needed to satisfy the Bank that it is proper to release the funds.

**(29) Stop Payments:** You may instruct the Bank to stop payment on a check drawn on your account that has not been paid. A stop payment order will not be effective unless the Bank has a reasonable opportunity to apply the stop payment order and to verify that the check has not already been paid. You must provide us, among other information, your account number, the check number, the exact amount of the check, the date the check was written, and the payee. Without completely accurate and precise information about the check, the Bank cannot ensure that a stop payment will occur. Oral stop payment orders expire after 14 days, unless you confirm the order in writing within that period. A written stop payment order is effective for 6 months, unless you renew the order in writing, at which time, an additional stop payment fee will be charged. The Bank may stop payment on a Bank official check, at its sole discretion, if the Bank official check has been lost, stolen, or destroyed, and if you provide an affidavit of facts and a surety bond or other form of security acceptable to the Bank. The Bank shall not be liable for failure to stop payment if you do not provide the Bank with all the required information and with a reasonable time to implement the stop payment order, the Bank determines, as permitted by law, not to stop payment on a Bank official check, or the item in question is a postdated item.

**(30) Service Charges:** Your account, whether active or inactive, may be subject to service charges. The Bank may deduct service charges from your account, and it may change the amount of charges or the services for which charges will be required from time to time. A Schedule of Fees and Service Charges accompanies this Agreement, and is a part of it. You authorize the Bank to deduct service charges directly from your account. You agree to pay any additional reasonable charges for services that you request which are not covered by the Schedule of Fees and Service Charges.

**(31) Inactive or Abandoned Accounts:** Generally, state law requires the Bank to send to the applicable state as abandoned property the funds on deposit when there have been no transactions by you, or written communication from you, for a given number of years. The applicable state is generally the state of your last known address, as shown on our records, or the state of the Bank address where your account is maintained, if your address is outside the United States. For New York and New Jersey, the period is 3 years. You can prevent this turnover by making a transaction or by notifying us in writing that you know your account still exists at the Bank. Before the turnover, we may try to contact you to reactivate your account. After the turnover, rightful claimants must make their claims for the funds directly to the applicable state. Your account may be charged for certain expenses incurred in remitting funds to any state. These charges are nonrefundable. If your account has no activity other than charges assessed or interest credited by us for a period of at least 2 years, you may be unable to access your account other than by an in-person withdrawal.

**(32) Indemnity:** If you ask the Bank to follow instructions which the Bank believes may expose it to any liability, the Bank may refuse to follow your instructions, or may require a surety bond or other

protection, such as your indemnity, in a form and amount satisfactory to the Bank, before following the instructions.

**(33) Check Images:** You agree that the Bank may provide you with images of the front of your cancelled checks with your statement, that this is a reasonable manner of making the check available to you, and provides you sufficient information for you to determine the identification and authenticity of any transaction, including whether any checks are forged, altered, or unauthorized. We are under no obligation or duty to retain the original of any check that you write on your account and that we may destroy the original cancelled checks after a reasonable period of time, as determined by us.

**(34) Statements:** An account statement for checking and savings accounts will be sent to you at your current address listed on our records on a monthly basis. We will only send one statement per account, even if the account has more than one owner. You agree that this qualifies as sending the account statement to all owners of the account, even if all owners do not have access to the mailing address of record for the account. You may elect to have checking and savings accounts, including accounts with at least one common owner, appear on a single statement or in one mailing, and by doing so, you agree that information regarding your accounts may be made available to any other owner on any other of the accounts that are identified on a combined statement.

**(35) Duty to Inspect Statements and Advices:** The Bank may, from time to time, send advices and statements to you (or hold them pursuant to your instructions) which will contain a record of transactions (including service charges) during that statement period. The statements may include the cancelled checks or the images of the front of your cancelled checks that have been charged to your account. You agree to promptly examine and reconcile all advices, statements, and checks or images (if included) and notify us in writing of any errors, discrepancies, or irregularities, such as missing or forged signatures, changes in the amount of any check, unauthorized checks, transfers, or withdrawals, unauthorized, improper, or missing endorsements, improper negotiation of any item payable to you, or that a deposit was not properly credited to your account, within 60 days after the advice or statement is transmitted or otherwise mailed to you or made available to you. You must notify the Bank if you do not receive an expected statement. Statements shall be conclusively deemed to be correct in all respects, unless written notice of any discrepancies, errors, inaccuracies, or irregularities is provided to us within 60 days after the advice or statement is mailed to you (or made available to you). If you do not provide us such notice, the statement will be deemed correct and binding upon you and we will be released from all liability to you. You agree to provide us with all information necessary for us to investigate the alleged error or unauthorized item, associated police reports, supporting affidavits, and testimony we reasonably request. You may not commence any legal proceedings or action against the Bank for any claim which you may have regarding any of your accounts, including, but not limited to, errors, discrepancies, or irregularities unless: (1) you have given the written notice described above, and (2) such legal proceeding or action is commenced within one year after the date when the statement or advice reflecting or omitting the transaction giving rise to the claim was mailed or made available to you.

**(36) Lost Checks, Passbooks, and Other Instruments:** You agree to protect your blank checks, passbooks, and other instruments from theft, loss, or misuse and to prevent any check or other instrument from being forged or altered without your consent. You must notify the Bank immediately if any blank checks, passbooks, or other instruments are lost, stolen, or misused, and the circumstances resulting in such loss, theft, or misuse. All oral notifications must be promptly confirmed in writing. We are not responsible for losses you may suffer due to your failure to maintain adequate safeguards against unauthorized use, or your failure to issue checks in a manner so as to prevent unauthorized completion, alteration, or addition.

**(37) Electronic Presentment of Checks:** When you write a check to a third party, that party or its depository institution may present that check electronically for payment, instead of sending us the paper check. Since we do not receive your check, neither a cancelled check nor its image is available from us. When we receive these items in electronic form, or an electronically-created item for which a check never existed, they are debited against your account the same as if we had received the actual paper check.

**(38) Remotely Created Checks:** The Bank occasionally receives items generated by third parties for payment against your account that do not bear your signature. You warrant and authorize the Bank to pay such items if presented for payment against your account, in the amount stated on the check and to the payee stated on the check, even though they do not contain your signature and may exceed the amounts you authorized to be charged. If you voluntarily give information about your account, such as our bank routing number and your account number, to a party seeking to sell you goods and services, and you do not physically deliver a check to that party, any debit to your account initiated by that party to whom you provided the information is deemed authorized. The Bank, in its sole discretion, may refuse to honor these items. The Bank reserves the right to require you to sign a separate authorization before honoring these items.

**(39) Facsimile Signatures:** You agree that if you utilize an automatic check writing service which operates through the use of a personal computer, employ the use of a facsimile signature, or do not otherwise provide your personal signature on a check, you shall have the sole responsibility for monitoring the security of any such computer, stamp, or device by which your signature is affixed and that you shall bear the entire risk of unauthorized use of any such device or of any facsimile signature that reasonably resembles the signature that you use, whether or not you are negligent. You also agree that the treatment of each check presented against your account through the use of such a service, device, or facsimile signature that reasonably resembles the signature that you use, and our rights and obligations with regard to such check will be the same as if the check was signed or initiated personally by you. The Bank, in its sole discretion, may refuse to honor such items unless you provide us with a separate facsimile signature authorization.

**(40) Signature Verification:** You agree that the Bank has no duty to visually inspect signatures on checks to determine whether multiple signatories have executed a check and the Bank may debit your account based on a single signature of an authorized accountholder. Any multiple

signature requirement that you may have is for your internal use only, and you understand and agree that the Bank does not provide multiple signature verification services for accounts, unless we expressly agree to in writing.

**(41) Balance Information:** Balances change on a frequent basis. If you ask the Bank the amount of your balance, there is no assurance that the same balance will be in your account at any future time, such as when the checks you write are presented for payment. You will have no claims against the Bank based on information provided by the Bank, either orally, electronically, or in writing, to you or a third party, as to the balance in your account.

**(42) Telephone Communications:** For our mutual protection and to enable us to provide better service to you, we may monitor or tape record any of our telephone conversations. If you provide us with a cellular telephone number as a contact number for your account, you agree that we may call that number with service messages or with pre-recorded calls, notwithstanding any state or federal law or regulation that would otherwise prevent us from engaging in this activity without your consent.

**(43) Telephone, Facsimile, and E-Mail Instructions:** The Bank may, in its sole discretion, honor any instructions we receive verbally by telephone or in writing transmitted by facsimile, e-mail, or other electronic means, if we reasonably believe such instructions to be genuine. We may, in our sole discretion, verify such instructions by voice verification or telephonic call back confirmation with an individual purporting to be a person reflected on our records as having authority to initiate the transaction, or delay in acting on such instructions until we receive written confirmation, signed instructions, or original documents. You agree that this is a commercially reasonable security procedure for those transactions and that we may, in our sole discretion, refuse to honor any instructions we receive verbally by telephone or in writing transmitted by facsimile, e-mail, or other electronic means, even if we have honored similar instructions previously. Instructions sent by facsimile, e-mail, or other electronic means may not be immediately received by us.

**(44) Electronic Communication:** Any communication contemplated by this Agreement from us may be delivered to you by electronic means if you have agreed in writing to electronic notices rather than the use of U.S. mail or other means to the extent permitted by law. If your e-mail address provided to us changes, you must promptly notify us in writing of your new e-mail address.

**(45) Night Depository:** If you use any of the Bank's night depositories, you do so solely at your own risk. The Bank is not liable for any deposit made into a night depository until the Bank issues you a duplicate deposit ticket or other receipt acknowledging the deposit. Any two employees of the Bank may open and count the money deposited in any night depository, and the Bank's determination of the amount of money will be conclusive. You are solely responsible for any loss incurred from the disappearance, theft, or loss of any envelope, bag, or money before the Bank issues you a written receipt for the deposit.

**(46) BerkOnline®:** The Bank's *BerkOnline*® online banking services allows you to obtain account balances and other information, download



account information, transfer funds between linked accounts, place stop payment orders on checks, place new orders and reorders of checks, and contact us by e-mail. The Bank requires you to sign a separate agreement or agree to online terms and conditions before using this service.

**(47) Bank To Bank Transfers:** The Bank's bank to bank transfer service is available through *BerkOnline*®, and allows you to link your eligible accounts at the Bank to external accounts at another financial institution and schedule one-time transfers and arrange recurring transfers to and from those accounts. Funds are generally transferred between your checking account at the Bank and your linked external account within 3 business days after the transfer instructions are processed. The Bank requires you to sign a separate agreement or agree to online terms and conditions before using this service.

**(48) Bill Pay:** The Bank's bill payment service is available through *BerkOnline*®, and allows you to pay your bills online. The Bank reserves the right to require you to sign a separate agreement or agree to online terms and conditions before using this service.

**(49) Remote Deposit Capture:** The Bank's remote deposit capture service allows you to scan paper checks payable to you, convert the checks into digitized images of the checks or electronic items, and electronically transmit the electronic items to us for deposit to your account. The Bank requires you to sign a separate agreement before using this service.

**(50) Debit Card:** The Bank's debit cards allow you to withdraw cash, transfer funds between accounts at the Bank, inquire about account balances on your accounts, and purchase goods and services at participating merchant locations that have a point-of-sale terminal that accepts debit cards. The Bank requires you to sign a separate agreement before using this service.

**(51) Foreign Transactions:** Any transaction that you or a merchant completes on your card in a foreign country, outside of the U.S., Puerto Rico, or the U.S. Virgin Islands, is subject to an International Service Assessment (ISA) fee. For transactions negotiated in non-U.S. currency, the exchange rate between the transactions and billing currency will be a rate selected by Visa® from a range of rates available in the wholesale currency markets for the applicable processing date, which rate may vary from the rate Visa® itself receives, or the government-mandated rate in effect on the applicable central processing date, in each instance, plus an additional fee as described in the accompanying Schedule of Fees and Service Charges.

**(52) Overdraft Protection:** Overdraft protection helps protect you against overdrawing your account by automatically advancing funds, from your overdraft protection line of credit. Advances occur in increments of \$1 and up to the amount available on your approved line of credit. The Bank requires you to sign a separate agreement before using this service.

**(53) Assignments:** You may not assign your account to a third party, except a CD may be assigned as collateral upon the written consent of the

Bank in its sole discretion. Any other assignment is void.

**(54) Power of Attorney:** The Bank will recognize the authority of a person to whom you have given your power of attorney when you use the New York Statutory Short Form Power of Attorney, or a New Jersey Durable Power of Attorney for accounts opened in our branches located in New Jersey, and in the Bank's sole discretion, if you use a different form. Any revocation or termination of a power of attorney must be received by the Bank in writing. The Bank may continue to rely on the power of attorney until we receive such written notice and have a reasonable time to act on it. The Bank does not have to accept an out-of-state power of attorney or a power of attorney which does not comply with applicable state law, or may refuse to recognize a successor agent attorney-in-fact. You agree that we are authorized, but not required to, honor a power of attorney until we receive notice that you have revoked the power of attorney or that the power of attorney has been revoked as a matter of state law, and that we have had a reasonable opportunity to act on that written notice.

**(55) Internet Gambling:** The Unlawful Internet Gambling Enforcement Act prohibits any person engaged in the business of betting or wagering from knowingly accepting payments in connection with the participation of another person in unlawful internet gambling. As a customer of the Bank, these restricted transactions are prohibited from being processed through your account or banking relationship with us. If you do engage in an internet gambling business and open an account with us, we will ask that you provide evidence of your legal capacity to do so or we will close your account.

**(56) Termination of Account:** You may close your account at any time (except as otherwise stated in this Agreement). We reserve the right, in our sole discretion, to refuse to open or renew an account or accept further deposits in any account. We also reserve the right to close your account at any time for any reason and without providing you with prior notice. If we close your account, we will send you a check for your final balance, if any, minus applicable service fees, including set offs or other amounts you owe us. Any checks presented after your account is closed will be returned unpaid, and you agree we shall be relieved of any and all liability for refusing to honor any check drawn on a closed account. We may automatically close your account if it reaches a zero balance. We do not give advance notice of such closure. If you do not want us to close your account when the balance is \$0, you should notify us in writing before this occurs. We have the right to advise consumer reporting agencies and other third party reporting agencies of accounts closed for misuse.

**(57) Consumer Reports:** You agree that the Bank is authorized, in its discretion, to obtain credit reports and employment verifications on you and the Bank may at any time in the future obtain additional credit reports to review your account. You have the right to ask whether we obtained a credit report and, if so, the name and address of the consumer-reporting agency which gave the report.

**(58) Changes of These Provisions:** The Bank may change this Agreement at any time, except as limited by law. Except for changes that must be implemented immediately, notice of a change will be posted in our branches for at least 10 days before the change is effective, or a

notice may be sent to you by ordinary mail, which mailed notice shall be effective immediately, unless other notice is required by law. By maintaining your account after the effective date of a change, you agree to be bound by the change.

**(59) Waivers:** The Bank may waive any part of this Agreement, but the waiver will apply only on the single occasion for which the waiver is given. All waivers must be in writing and signed by an authorized officer to be valid.

**(60) Severability:** If a court decides that any provision of this Agreement is illegal or unenforceable, the rest of this Agreement shall remain effective.

**(61) Liability:** You agree that, except as required by law or specifically provided in this Agreement, the Bank shall not be liable for any damages, unless such damages are the direct result of the Bank's gross negligence or willful misconduct. **You agree that the Bank shall not be liable for indirect, special, or consequential damages, regardless of the form of the action, and even if the Bank has been advised of the possibility of such damages.** The Bank shall not be liable for any damages because the Bank closes your account. In the event of the Bank's failure to stop payment on an item when a proper stop payment order is received, or payment of an item bearing an unauthorized signature, forged drawer's signature, forged endorsement, or alteration, the Bank's liability, if any, shall be limited to the face amount of the item.

**(62) Jurisdiction and Venue:** Any action against the Bank arising from or relating to your accounts or services provided to you by the Bank must be brought by you in state or federal court located in the State of New York, County of New York. In addition, you consent to the jurisdiction and venue of the state and federal courts located within the State of New York, County of New York, for all claims made by the Bank against you arising from or relating to your account or the services provided by the Bank.

### **SECTION G -General Rules for Consumer and Commercial Funds Transfers**

This section applies to all electronic deposits, electronic payments, wire transfers, and other electronic funds transfers, initiated by, or authorized by, any customer of the Bank. Section H also governs for Consumer EFTs as defined in that section, and if there is a conflict between this section and Section H as to Consumer EFTs, Section H will govern Consumer EFTs. This section applies to transfers based on instructions received from you, or anyone else authorized on your signature card, or anyone else you authorize to conduct any transaction. The Bank may, at its option, accept transfer requests by telephone, by facsimile, or electronic transmission, or may require original written instructions from an authorized signator on a form designated by the Bank and filled out in its entirety. The Bank will use its best efforts to execute transfer requests by the end of the business day the Bank receives a completed request if the request is received before noon. Transfer requests received after noon may not be executed until the following business day. You authorize the Bank to record electronically any telephonic instructions received by the Bank; however, the Bank has no duty to record any such instructions.

You agree to indemnify and hold harmless the Bank from and against any and all claims, demands, expenses (including, but not limited to, attorney's fees and costs), losses, or damage of any nature whatsoever arising directly or indirectly from any transfer request initiated pursuant to this Agreement unless caused by gross negligence of the Bank. In no event will the Bank be liable for any consequential or special damages.

You will have no right to reverse, adjust, or revoke a transfer request after it is received by the Bank, except by mutual agreement. In the case of an erroneous or otherwise irregular transfer of funds, the Bank may, but shall not be obligated to, request the transferee to return the funds previously transferred on your behalf. A transfer request issued by you is charged against your account at the time the transfer is made.

Notwithstanding any instructions by you to the contrary, the Bank reserves the right to utilize any funds transfer system of the Bank's choosing and any intermediary bank to be used in the execution of any payment order accepted by the Bank and may otherwise use any means of executing the payment order which the Bank deems reasonable under the circumstances.

If you issue, and the Bank accepts, a payment order for payment outside the U.S. in a currency other than the U.S. dollar, the Bank shall debit your account for the U.S. dollar equivalent of the amount of the foreign currency transferred at the Bank's then prevailing rate of exchange or as otherwise agreed. In processing your funds transfers, other banks may deduct their fees from the payment orders issued to them. If the beneficiary's bank is instructed to pay in a currency other than its local currency, payment may be made by the beneficiary's bank at its rate of exchange on the date of its payment. In connection with each funds transfer, you shall be responsible for complying with all local currency restrictions and any other local laws governing the transaction.

In accepting a payment order issued in your name, the Bank may rely upon the identifying number (such as Fedwire routing number or account number) of the beneficiary, the beneficiary's bank, or any intermediary bank and use only such numbers in executing the order. Also, the beneficiary's bank named in any payment order may make payment on the basis of the identifying number even though it identifies a person differently from the named beneficiary. Accordingly, you shall be responsible for any inconsistency between the name and identifying number of any party in a payment order you give to us.

For your protection, the Bank may elect not to act upon a transfer request or other payment order if the Bank is unable to obtain satisfactory verification of the request or order; if any inconsistency appears between a transfer request or order and information previously supplied to the Bank; or if such request or order is not initiated in accordance with the Bank's transfer procedures.

In any funds transfer in which you are the recipient or beneficiary of the transfer, the Bank shall not be obligated to notify you of any such payment to your account, other than to record such payment in your next regular statement of account. You may not withdraw such funds until the Bank has received payment from the sender of such transfer.

## SECTION H -Consumer Electronic Funds Transfer Act Disclosures

This section applies to all transfers of funds initiated through an electronic terminal, telephone, computer, or magnetic tape for the purpose of ordering, instructing, or authorizing the Bank to deposit funds to or withdraw funds from a consumer's account at the Bank (known as a "Consumer EFT"). Examples of covered transactions are point-of-sale transfers ("POS Transfers"), ATM transactions, debit card transactions, direct deposits or withdrawals of funds, and certain other transfers initiated by telephone. This section does not apply to wire transfers of funds for a consumer through the Federal Reserve Communications System, to pre-arranged transfers between two accounts at the Bank held by the customer or members of his or her family or between the customer's accounts and the Bank, and to transfers of funds initiated by a telephone conversation between a consumer and an employee of the Bank that is not pursuant to a written plan that contemplates repeated transfers. Section G also applies to Consumer EFTs unless Section G conflicts with this section, in which case this section governs.

If you have a Bank ATM card, you may use your card to withdraw cash from your account, to obtain balance information on your account, and to transfer funds between accounts at the Bank. For security reasons, there are daily limits on the dollar amount of withdrawals and the countries in which you may use your ATM card. The Bank may change this amount in its sole discretion for security reasons without notice. You may also use your ATM card to purchase goods and services from certain vendors by POS Transfers or debit card transactions. When a POS Transfer or debit card transaction is made, there will be an electronic withdrawal from your account, which may occur immediately. POS Transfers and debit card transactions are subject to the cash withdrawal limit noted above. You have the right to a receipt at the time you make any transfer to or from your account using an ATM or point-of-sale terminal. Some of these services may not be available from all terminals.

Tell the Bank AT ONCE if you believe your card or code has been lost or stolen. Telephoning is the best way of keeping your possible losses down. You could lose all the money in your account (plus your maximum overdraft line of credit). If you tell us within 2 business days, you can lose no more than \$50 if someone used your card or code without your permission. If you do NOT tell us within 2 business days after you learn of the loss or theft of your card or code, and we can prove that we could have stopped someone from using your card or code without your permission if you had told us, you could lose as much as \$500.

Also, if your statement shows transfers that you did not make, tell us at once. If you do not tell us within 60 days after the statement was mailed to you, you may not get back any money you lost after the 60 days if we can prove that we could have stopped someone from taking the money if you had told us in time. If a good reason (such as a long trip or a hospital stay) kept you from telling us, we will extend the time periods.

If you believe your card or code has been lost or stolen or that someone has transferred or may transfer money from your account without your permission, call us at (212) 785-8499 or (845) 294-6151, or write to us at The Berkshire Bank, 5 Broadway, New York, New York 10004.

In case of errors or questions about your electronic transfers, call us at (212) 785-8499 or (845) 294-6151, or write to us at:

The Berkshire Bank Electronic Funds  
Transfer Department  
5 Broadway  
New York, New York 10004

as soon as you can, if you think your statement or receipt is wrong or if you need more information about a transfer listed on the statement or receipt. We must hear from you no later than 60 days after we sent the FIRST statement on which the problem or error appeared.

- (1) Tell us your name and account number.
- (2) Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.
- (3) Tell us the dollar amount of the suspected error.

If you tell us orally, we may require that you send your complaint or question in writing within 10 business days. We will determine whether an error occurred within 10 business days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 days to investigate your complaint or question. If we decide to do this, we will credit your account within 10 business days for the amount you think is in error, so that you will have use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within 10 business days, we may not credit your account.

For errors involving new accounts, point-of-sale, or foreign-initiated transactions, we may take up to 90 days to investigate your complaint or question. For new accounts, we may take up to 20 business days to credit your account for the amount you think is in error.

We will tell you the results within 3 business days after completing our investigation. If we decide that there was no error, we will send you a written explanation. You may ask for copies of the documents that we used in our investigation.

Please note, if we credit your account with an amount in dispute before we complete our investigation, the credit is provisional. This means that if our investigation reveals that there was no error or that your dispute is invalid, then we can withdraw the amount that we credited to your account. If your claim is partially valid, then we can withdraw any amount in excess of the amount of the valid claim.

If you have arranged to have direct deposits made to your account at least once every 60 days from the same person or company, you can call us at (212) 785-8499 or (845) 294-6151, to find out whether or not the deposit has been made. You will get an account statement monthly unless you request otherwise. If you have told us in advance to make regular payments out of your account, you can stop any of these payments. Here's how: Call us at (212) 785-8499 or (845) 294-6151, or write to us at The Berkshire Bank, 5 Broadway, New York, New York 10004 in time for us to receive your request 3 business days or more before the payment is scheduled to be made. If you call, we may also require that you put your request in writing and get it to us within 14 days after you call. We

will charge you for each stop payment order in the amount shown on the accompanying Schedule of Fees and Service Charges. If you order us to stop one of these payments 3 business days or more before the transfer is scheduled and we do not do so, we will be liable for your losses or damages.

If we do not complete a transfer to or from your account on time or in the correct amount according to our agreement with you, we will be liable for your losses or damages. However, there are some exceptions. We will not be liable, for instance:

- (1) If, through no fault of ours, you do not have enough money in your account to make the transfer.
- (2) If the transfer would go over the credit limit on your overdraft line.
- (3) If the ATM where you are making the transfer does not have enough cash.
- (4) If the terminal was not working properly and you knew about the breakdown when you started the transfer.
- (5) If circumstances beyond our control (such as fire or flood) prevent the transfer, despite reasonable precautions that we have taken.
- (6) If the funds are subject to legal process or other encumbrance restricting the transfer.

There may be other exceptions as stated in this Agreement.

We will disclose information to third parties about your account or the transfers you make:

- (1) Where it is necessary for completing transfers.
- (2) In order to verify the existence and condition of your account for a third party, such as a credit bureau or merchant.
- (3) In order to comply with government agency or court orders.
- (4) If you give us your written permission.
- (5) As permitted under our Privacy Policy included as Section L below.

For the purposes of these Consumer Electronic Funds Transfer disclosures, our business days are Monday through Friday. Holidays are not included.

For information on service charges for Consumer EFTs, please refer to the accompanying Schedule of Fees and Service Charges. Please note that when you use an ATM not owned by us, you may be charged a fee by the ATM operator or any network used and you may be charged a fee for a balance inquiry even if you do not complete a funds transfer.

### **SECTION I -Banking By Telephone**

Banking by Telephone allows you to transfer funds between your accounts by using a touch-tone telephone. In order to use Banking by Telephone, you must enter certain identification information to be provided by the Bank, together with a personal identification number (“PIN”). It is your responsibility to safeguard your PIN. Do not give your PIN to anyone and do not write down your PIN in any manner so that a person can determine that it is the PIN used to authorize Banking by Telephone transfers. You will be responsible for all Banking by Telephone transfers by anyone other than you who uses your PIN, unless the release of your PIN to the other person is the result of the Bank’s negligence or deliberate misconduct.

If you request a transfer between your accounts by telephone, the Bank will not be required to honor such request if there are not sufficient available funds in your account, but the Bank may do so without liability to you, and you will be required to reimburse the Bank for any overdraft or negative balance that results. Any transfer between accounts requested by 3:00 p.m. on a business day will be processed as of that business day. Transfers requested after 3:00 p.m. or on a Saturday, Sunday, holiday, or other non-business day, or when the Bank is closed for business, will be processed on the following business day.

The Bank will use reasonable care in making any transfers, but will not be liable for errors or failure to make transfers based on the failure or malfunction of any communication or computer system or for any other reason outside the Bank's control.

You must promptly examine all statements and other materials that show your Banking by Telephone transfers and you must notify the Bank promptly of any error or any claim that you did not authorize any transfer. If you fail to notify the Bank of any error or unauthorized transfer within 60 days after receiving a statement showing the error or unauthorized transfer, the Bank will not be liable for any loss you may sustain, regardless of the Bank's fault.

For information on service charges for Banking by Telephone, please refer to the accompanying Schedule of Fees and Service Charges. The Bank may discontinue allowing customers to transfer funds by telephone without notice. You authorize the Bank, at its option, to record telephone calls in order to provide a record of Banking by Telephone instructions, but the Bank is not required to do so.

If you wish to change your PIN, please contact the Bank to request an application. You understand that any changes may take 2 business days from the receipt of your completed application.

### **SECTION J -Substitute Checks (Check 21 Act)**

This section applies to substitute checks that you receive from us instead of the original check. It does not apply to original checks or electronic debits to your account. However, you have rights under other laws with respect to those transactions. Federal law permits banks to replace original checks with "substitute checks." These checks are similar in size to original checks with a slightly reduced image on the front and back of the original check. The front of a substitute check states: "This is a legal copy of your check. You can use it the same way you would use the original check." You may use a substitute check as proof of payment just like the original check. Some or all of the checks that you receive back from us may be substitute checks.

In certain cases, federal law provides a special procedure that allows you to request a refund for losses you suffer if a substitute check is erroneously posted to your consumer checking account (for example, if you think that we withdrew the wrong amount from your account or that we withdrew money from your account more than once for the same check). The losses you may attempt to recover under this procedure may include the amount that was withdrawn from your account and fees that were charged as a result of the withdrawal (for example, returned check fees). The amount of your refund under this procedure is limited to the



amount of your loss or the amount of the substitute check, whichever is less. You are also entitled to interest on the amount of your refund if your account is an interest-bearing consumer account. If your loss exceeds the amount of the substitute check, you may be able to recover additional amounts under other law.

If you use this procedure, you may receive up to \$2,500 of your refund (plus interest if your account earns interest) within 10 business days after we received your claim and the remainder of your refunds (plus interest if your account earns interest) no later than 45 calendar days after we received your claim. We may reverse the refund (including any interest on the refunds) if we later are able to demonstrate that the substitute check was correctly posted to your account. If you believe that you have suffered a loss relating to a substitute check that you received and that was posted to your account, please write to us at The Berkshire Bank, 5 Broadway, New York, New York 10004.

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

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

#### **SECTION K -USA PATRIOT Act Notice**

To help the government fight the funding of terrorism and money laundering activities, federal law requires us to obtain, verify, and record information that identifies each person that opens an account or is a beneficiary on an account. What this means to you: When you open an account we will ask for your name, residential address, date of birth, Social Security number, and other information that will allow us to verify your identity and the identity of any beneficiaries on the account. We will also ask to see and photocopy two forms of unexpired identification such as your driver's license or other identifying documents.

## SECTION L - Privacy Policy

### FACTS

#### WHAT DOES THE BERKSHIRE BANK DO WITH YOUR PERSONAL INFORMATION?

|              |  |
|--------------|--|
| <b>Why?</b>  | Financial companies choose how they share your personal information. Federal law gives consumers the right to limit some but not all sharing. Federal law also requires us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.   |
| <b>What?</b> | <p>The types of personal information we collect and share depend on the product or service you have with us. This information can include:</p> <ul style="list-style-type: none"> <li>• Social Security number and Income</li> <li>• Account Balances and Transaction history</li> <li>• Credit history and Payment history</li> </ul> <p>When you are <i>no longer</i> our customer, we continue to share your information as described in this notice.</p> |
| <b>How?</b>  | All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons The Berkshire Bank chooses to share; and whether you can limit this sharing.  |

| Reasons we can share your personal information   | Does The Berkshire Bank share? | Can you limit this sharing? |
|--|--------------------------------|-----------------------------|
| <b>For our everyday business purposes—</b> such as to process your transactions, maintain your account(s), respond to court orders and legal investigations, or report to credit bureaus | Yes                            | No                          |
| <b>For our marketing purposes—</b> to offer our products and services to you   | Yes                            | No                          |
| <b>For joint marketing with other financial companies</b>  | No                             | N/A                         |
| <b>For our affiliates' everyday business purposes—</b> information about your transactions and experiences   | Yes                            | No                          |
| <b>For our affiliates' everyday business purposes—</b> information about your creditworthiness   | No                             | N/A                         |
| <b>For our affiliates to market to you</b>   | No                             | N/A                         |
| <b>For nonaffiliates to market to you</b>  | No                             | N/A                         |

**Questions?** Call your branch or go to our website at [www.berkbank.com](http://www.berkbank.com)

#### Who we are

**Who is providing this notice?** The Berkshire Bank

#### What we do

|   |  |
|---|--|
| <b>How does The Berkshire Bank protect my personal information?</b> | To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards and secured files and buildings. We authorize our employees to obtain your information only when they need it to do their work, and we require companies that work with us to protect your information.   |
| <b>How does The Berkshire Bank collect my personal information?</b> | <p>We collect your personal information, for example, when you</p> <ul style="list-style-type: none"> <li>• open an account or make deposits or withdrawals</li> <li>• pay your bills or apply for a loan</li> <li>• use your ATM or debit card</li> </ul> <p>We also collect your personal information from others, such as credit bureaus, affiliates or other companies.</p>  |
| <b>Why can't I limit all sharing?</b>                               | <p>Federal law gives you the right to limit only</p> <ul style="list-style-type: none"> <li>• sharing for affiliates' everyday business purposes — information about your creditworthiness</li> <li>• affiliates from using your information to market to you</li> <li>• sharing for nonaffiliates to market to you</li> </ul> <p>State laws and individual companies may give you additional rights to limit sharing.</p> |

#### Definitions

|                        |  |
|------------------------|--|
| <b>Affiliates</b>      | <p>Companies related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> <li>• Our affiliates include Berkshire Bancorp Inc., Berkshire Agency, LLC, and Berkshire 1031 Exchange, LLC.</li> </ul>         |
| <b>Nonaffiliates</b>   | <p>Companies not related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> <li>• The Berkshire Bank does not share your personal information with non-affiliates.</li> </ul>                            |
| <b>Joint marketing</b> | <p>A formal agreement between nonaffiliated financial companies that together market financial products or services to you.</p> <ul style="list-style-type: none"> <li>• The Berkshire Bank does not share your personal information with joint marketing partners.</li> </ul> |





# THE BERKSHIRE BANK

*The Bank that puts your interest first*

## Corporate Headquarters

**4 East 39th Street**

**New York, NY 10016**

**(212) 802-1000**

## Branch Locations

### **39th Street Branch**

4 East 39th Street  
New York, NY 10016  
(212) 802-1000

### **Broadway Branch**

5 B Broadway  
New York, NY 10004  
(212) 785-4440

### **Washington Heights Branch**

210 Pinehurst Avenue  
New York, NY 10033  
(212) 568-0013

### **16th Avenue Branch**

4917 16th Avenue  
Brooklyn, NY 11204  
(718) 435-1284

### **13th Avenue Branch**

5010 13th Avenue  
Brooklyn, NY 11219  
(718) 437-5678

### **Avenue J Branch**

1119 Avenue J  
Brooklyn, NY 11230  
(718) 434-3479

### **Kings Highway Branch**

1421 Kings Highway  
Brooklyn, NY 11229  
(718) 336-2776

### **Harriman Branch**

80 Route 17M  
Harriman, NY 10926  
(845) 781-7922

### **Goshen Branch**

2 South Church Street  
Goshen, NY 10924  
(845) 294-6151

### **Glen Arden Branch**

214 Harriman Drive  
Goshen, NY 10924  
(845) 294-6177

### **Bloomington Branch**

60 Main Street  
Bloomington, NY 12721  
(845) 733-7737

### **Teaneck Branch**

517 Cedar Lane  
Teaneck, NJ 07666  
(201) 287-0008

## **Telephone Banking**

(212) 785-7878 & (845) 294-8787

## **Mortgage & Loan Departments**

(718) 437-9090 & (845) 294-6151

## **Website**

[www.berkbank.com](http://www.berkbank.com)

The Berkshire Bank is a wholly owned subsidiary of Berkshire Bancorp Inc., a publicly traded company, whose stock trades on the OTCQB over-the-counter market under the symbol BERK.



*Effective: November 5, 2015*