



***First PREMIER Bank***

**Member FDIC**

# **Consumer Deposit Account Terms and Conditions**

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Visit [firstpremier.com](http://firstpremier.com) for a listing of all First PREMIER Bank locations.

# Consumer Deposit Account Terms and Conditions

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# Consumer Deposit Account Terms and Conditions

These Consumer Deposit Account Terms and Conditions govern your consumer deposit account(s) with us. By signing an Account Agreement or using any our deposit account services, you and anyone else identified an owner of the account agree to the terms in this Agreement, as may be amended from time to time. Business customers will get a different agreement and their accounts will be governed by that agreement instead of this one. If you have a product that is not a deposit account, such as a credit card, this agreement does not apply to that product. Other products or services, such as online banking, may have additional agreements.

"You" and "your" means each account owner, authorized signer, and any other person authorized to act on your account. First PREMIER Bank, the holder of the account, is referred to herein as "we," "our," and "us." The term "Agreement" means the Consumer Deposit Account Agreement governing your Account which includes the Account Agreement you signed at the time you opened the account along with these terms and conditions, our Privacy Policy and Notice, the Consumer Deposit Account Fee Schedule (or the "Fee Schedule"), the Truth In Savings Disclosure, the Consumer Deposit Account Rate Schedule (or the "Rate Disclosure"), the Electronic Funds Transfer Disclosure, the Overdraft Opt In Form, the Time Certificate of Deposit and Confirmation of Time Deposit, as applicable, and other disclosures, such as an Online Banking Agreement, that may be provided to you in connection with your account.

Each consumer deposit account is subject to the applicable terms of this Agreement, and any specific terms and conditions relating to that type of account. To determine the type of account you have with us, consult the information provided to you at account-opening, access your account online at [www.firstpremier.com](http://www.firstpremier.com) or contact our Customer Care telephone number. Each of you will be jointly and severally liable to us for any negative account balance, including without limitation overdrafts and account charges, and promise to pay, upon demand in connection with your account(s), any and all negative balances, fees and charges, and our reasonable attorneys' fees, costs, and expenses of collection including, but not limited to, those incurred at trial and on any appeal.

## OPENING & OWNERSHIP

### Important Information About Procedures for Opening a New Account

To help the government fight the funding or terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account.

**What this means for you:** When you open an account, we will ask for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents.

## **Credit Verification**

You authorize us to request and obtain one or more credit reports about you from one or more credit reporting agencies for the purposes of considering your application for the account, reviewing or collecting any account opened for you, or for any other legitimate business purpose. You authorize us to disclose information about your account(s) to one or more credit reporting agencies including, but not limited to, if your account was closed because you have abused it.

## **Consumer Accounts – Ownership and Beneficiaries**

If your account is a consumer account subject to this Agreement, you agree not to use it for business purposes. The type of account ownership may determine how your funds are paid if you die. We make no representations as to the appropriateness or effect of the ownership and beneficiary designations, except as they determine to whom we pay the account funds. The ownership of your account will be determined by the most current Account Agreement signed by you.

If your Account Agreement identifies individuals authorized to sign checks or otherwise initiate transactions on your account, that person is an authorized signer.

The following provisions explain the rules applicable to your account depending on the ownership. Only the portion corresponding to the form of ownership will apply.

### ***Individual Accounts***

An individual account is owned by one depositor only.

### ***Joint Accounts***

An account with two or more people listed as owners is a joint account. Each joint owner has complete control over all of the funds in the account to make any transaction permitted under this Agreement, including without limitation: to withdraw all or any part of the account funds, to pledge the account funds as collateral to us for any obligation, to endorse and deposit checks and other items payable to any joint account owner, to give stop payment orders on any check or item (whether drawn by that account owner or not), to consent to or revoke consent to the payment of overdrafts, overdraft fees, or service charges. If a joint account becomes overdrawn, each joint owner is liable for the full amount of the overdrawn balance, regardless of who initiated or benefited from the transaction. Any joint owner may close the account without the consent from any other joint owners. Each joint account is authorized to act for the other account owner(s) and we may accept orders and instructions regarding the account from any joint account owner. We may also pay all or any part of the funds in the joint account to a court or government agency if we receive a garnishment, levy or similar legal process.

If we believe there is a dispute between joint account owners or we receive inconsistent instructions from the account owners, we may suspend or close the

account, require a court order to act, and/or require that all joint account owners agree in writing to any transaction concerning the account.

Unless you clearly designate otherwise on the Account Agreement at the time the account is established, joint accounts will be considered joint tenants with right of survivorship.

#### ***Joint Tenants With Right of Survivorship***

If your account is a joint account with right of survivorship, upon death of one of the joint account owners, the deceased account owner's interest in the account will immediately pass to the other joint owner(s). The estate of the deceased owner will have no rights to the account. If there is more than one surviving joint owner, the account will continue as a joint account with rights of survivorship among the remaining owners.

#### ***Joint With No Right of Survivorship***

If a joint account does not have rights of survivorship (i.e., joint tenants in common), and one joint owner dies, that owner's proportionate ownership interest will pass to the owner's estate. We have no responsibility for determining the respective interests of the owners.

#### ***Payable On Death (P.O.D.) Designation***

If you establish your account payable on death to one or more beneficiaries, the beneficiaries have no rights to your account as long as you are alive. To change the beneficiary, all account owners must sign our documentation naming the new beneficiary(ies). If we receive proof you've died, we will pay the balance of the account to the beneficiary or beneficiaries you have designated. We may determine the beneficiary or beneficiaries based on our records including but not limited to the account Agreement and our deposit system. Multiple beneficiaries will be paid in equal shares unless our records provide otherwise. We will have no liability for our determination or release of funds to a beneficiary or beneficiaries pursuant to this provision.

#### ***Trust Accounts***

A Trust Account is an account held by one or more trustees for the benefit of one or more beneficiaries according to a written trust agreement. Upon our request, the trustee(s) will supply to us a copy of any trust agreement covering the account. We act only as custodian of the trust funds and are under no obligation to act as a trustee or to inquire as to the powers or duties of the trustee(s). The trustee(s) and/or any person opening the account, in their individual capacity and jointly and severally, agree to indemnify and hold us harmless from and against any and all losses, costs, damages, liabilities, or exposures, including reasonable attorney's fees, we may suffer or incur arising out of any action or claim by any beneficiary or other trustee with respect to the authority or actions taken by the trustee(s) in handling or dealing with the account.

### ***Uniform Transfer to Minors***

If you have established the account as a custodian for a minor beneficiary under the South Dakota version of the Uniform Transfers to Minors Act or the Uniform Gifts to Minors Act, your rights and duties are governed by the Act. You will not be allowed to pledge the account as collateral for any loan to you. Deposits in the account will be held by us for the exclusive right and benefit of the minor. The custodian and/or any person opening the account, in their individual capacity, agree to indemnify and hold us harmless from and against any and all loss, costs, damage, liability, or exposure, including reasonable attorney's fees, we may suffer or incur arising out of any action or claim by any beneficiary or other custodian with respect to the authority or actions taken by the custodian in handling or dealing with the account.

### ***Fiduciary Accounts***

With respect to all fiduciary accounts, including but not limited to estate accounts, guardianship accounts, representative payee accounts, and conservatorship account, any trust account, Uniform Transfers to Minors Act account, or agency account, we reserve the right to require such documents and authorizations as we may deem necessary or appropriate to satisfy that the person(s) requesting or directing the withdrawal of funds held in the account have the authority to withdraw such funds. This applies at the time of account opening and at all times thereafter.

## **ACCOUNT TYPES, INTEREST INFORMATION, AND MINIMUM BALANCE REQUIREMENTS**

To determine the type of account you have with us, refer to your Account Agreement provided to you at account-opening, access your account online at [www.firstpremier.com](http://www.firstpremier.com) or contact our Customer Care telephone number.

When you open a checking or savings account that pays interest, we will provide you with the Rate Disclosure stating the current interest rate and Annual Percentage Yield for your account. The Rate Disclosure is considered part of your Account Agreement. We may change the interest rate(s) and annual percentage yield(s) at any time at our discretion in accordance with applicable law.

We use the daily balance method to calculate interest on your account. This method applies a daily periodic rate to the principal balance in your account at the end of each day. If your account earns interest, we will pay interest at the rate specified for your account on the Rate Disclosure, which does not reflect compounding. Compounding generally means that interest is being accrued on earned interest. Interest may be compounded more frequently than interest is credited to your account. We may accrue interest on your account more frequently than we pay or credit interest. The interest that has been calculated, but not credited to the account, is called accrued unpaid interest.

The Rate Disclosure may specify a minimum balance that you are required to maintain in your account. If the minimum balance is not maintained during a specified period, we may not, at our option, pay interest on your account and/or we may charge a fee for that period.

## **USING YOUR ACCOUNT**

### **Fees and Charges**

When you open a checking or savings account, we will provide you with the Fee Schedule stating the fees applicable to your account. The Fee Schedule is considered part of your Account Agreement. You agree to pay all fees applicable to your account as set forth in the Fee Schedule. You authorize us to deduct all applicable fees from your account, even if such fees and charges result in an overdraft of your account. Our waiver of any fee will not change the terms of your Account Agreement, and we will not be required to waive that fee again in the future. The fees may be changed at any time, subject to us giving you any notice required by law.

### **Deposit Rules**

The following terms apply to deposits made to your account:

#### ***Endorsements***

You authorize us to accept transfers, checks, and other items for deposit to your account if they are made payable to, or to the order of, any one or more of you, whether or not they are endorsed by you. You authorize us to supply missing endorsements, and you warrant that all endorsements are genuine.

All checks and other items deposited to your account should be endorsed payable to the order of us for deposit only, followed by your signature and account number, and all remotely deposited checks or other items should specify in the endorsement that the check or item is "for mobile deposit only at First PREMIER Bank." You may not deposit remotely created checks or demand drafts to an account with us without our prior written consent. Upon our request, you agree to provide us with evidence of your authorization to create and/or deposit such items. You also agree to indemnify, defend and hold us harmless from every loss, expense, cost (including attorney's fees), claim and liability related to or arising from such items, including (without limitation) claims that they were not authorized by the persons on whose accounts the items were drawn.

All endorsements must appear on the back of the check or other item within the first 1.5 inches from the left side of the item when looking at it from the front. Endorsements should be in black or blue ink. While we may accept



non-conforming endorsements, you will be responsible for any loss incurred by us relating to a non-conforming endorsement, including but not limited to, any loss incurred due to a delay in processing or return of the item for payment.

### ***Acceptance of Deposits***

All non-cash items (for example, checks) deposited to your account are posted subject to our receipt of final payment by the payor bank. Upon receipt of final payment, the item becomes a collected item. If final payment is not received, or if any item you have deposited or cashed is returned or charged back to us for any reason, you authorize us to deduct the following from any of your accounts at any time without prior notice: (i) the amount of the returned item, (ii) our Returned Item Fee (see the Fee Schedule for details about the Returned Item Fee), and (iii) any interest paid on that item, (iv) and any other fee we pay or incur. If an item to be returned or charged back is lost in the process of collection or unavailable for return, we may rely upon a photo or electronic copy of the item or upon any other generally accepted notification of return of the item in charging you or any of your accounts for the amount of the returned item. We reserve the right to refuse a deposit, or part of a deposit, into your account at any time.

### ***Direct Deposits***

We will notify you of the receipt of ACH or wire deposits in the periodic account statements we provide to you. You acknowledge that we will not give next day notice to you of receipt of an ACH or wire funds transfer items.

The attached Electronic Funds Transfer Disclosure reflects our policies relating to electronic funds transfers. If any amount deposited to your account by direct deposit from the U.S. Treasury Department must be returned to the Treasury Department for any reason, you authorize us to deduct the amount returned from your account as provided in the Final Payment section above. If we receive an electronic direct deposit to your account and the bank that sent the electronic deposit to your account tells us it was sent by mistake, or was intended for another account, we may deduct the amount from your balance without investigating.

### ***Crediting of Deposits***

This section reflects our policies relating to the availability of deposited funds.

### ***Availability of Deposits***

This section outlines when deposits to your checking or savings account(s) will be available to you. Our policy is to make funds from your cash and check deposits available to you on the first business day after the day we receive your deposit.



However, funds from electronic direct deposits, except for International ACH Transactions, will be available on the day we receive the deposit. Once the funds are available, you can withdraw them in cash and/or we will use the funds to pay checks that you have written. For determining the availability of your deposits, every day is a business day, except Saturdays, Sundays and federal holidays. We have different cut-off hours for different First PREMIER Bank locations. Our cut-off hours are as follows:

(All time in Central Time Zone)

5:30 P.M. All Sioux Falls, Madison and Watertown locations

4:30 P.M. Castlewood – 202 E. Main

3:00 P.M. Kranzburg – 102 Dakota Ave.

4:00 P.M. Lake Norden – 503 Main Ave.

3:30 P.M. (5:30 P.M. Fridays) Wakonda – 115 Ohio St.

6:00 P.M. First PREMIER Bank Mobile Deposits

If you make a deposit before our cut-off hour 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 our cut-off hour or on a day we are not open, we will consider that the deposit was made on the next business day we are open.

Financial institutions are required by law to scrutinize and verify any International ACH Transactions (IAT) that they receive against the Specially Designated Nationals (SDN) list of the Office of Foreign Assets Control (OFAC). This action may, from time to time, cause First PREMIER Bank to temporarily suspend or delay processing of an IAT and potentially affect the posting, settlement and/or availability of such payments.

### **Reservation of Right to Hold**

In some cases, we will not make all of the funds that you deposit by check available to you on the first business day after the day of your deposit. Depending on the type of check that you deposit, funds may not be available until the second business day after the day of your deposit. The first \$275 of your deposit, however, may be available on the first business day after the day of your deposit. If we are not going to make all of the funds from your deposit available on the first business day, we will notify you at the time you make your deposit. We will also tell you when the funds will be available. If your deposit is not made directly to one of our employees, or if we decide to take this action after you have left the premises, we will mail you the notice by the business day after we receive your deposit. If you need the funds from a deposit right away, you should ask us when the funds will be available.

### **Longer Delays May Apply**

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

- You deposit checks totaling more than \$6,725 on any one day.
- You redeposit a check that has been returned unpaid.
- You have overdrawn your account repeatedly in the last six months.
- We believe a check you deposit will not be paid.
- There is an emergency, such as failure of computer or communications equipment.

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

### **Holds on Other Funds**

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

### **Deposits at Automated Teller Machines**

Cash deposits made at the following ATM locations will be immediately available:

- |              |  |
|--------------|--|
| Sioux Falls: | 500 S. Minnesota Avenue, 6010 S. Minnesota Avenue, 6701 W. 41st Street, 3401 S. Kiwanis Avenue, 536 N. Sycamore Avenue, 4001 W. Benson |
| Watertown:   | 824 34th Street S.E.   |
| Madison:     | 202 NW 2nd Street  |

Funds from deposits (cash or checks) made at First PREMIER Bank automated teller machines (ATMs) made prior to 2:00 pm will not be available until the first business day after the day of your deposit. Deposits made after 2:00 pm will not be made available until the second business day after the day of your deposit.

PREMIER owns and operates ATMs at the following locations:

Sioux Falls: 500 S. Minnesota Avenue, 6010 S. Minnesota Avenue,  
6701 W. 41st Street, 4001 W. Benson Road,  
3401 S. Kiwanis Avenue, 4000 S. Southeastern Avenue,  
536 N. Sycamore Avenue

Watertown: 824 34th Street S.E.

Madison: 202 NW 2nd Street

Visit [firstpremier.com](http://firstpremier.com) for additional locations. Your Debit Mastercard® is also good at any MoneyPass®, Maestro® or PULSE® ATM Worldwide.

Funds from any deposits (cash or checks) made at ATMs we do not own or operate will not be available until the fifth business day after the day of your deposit. This rule does not apply at ATMs that we own or operate.

### **Special Rules for New Accounts**

If you are a new customer, the following special rules will apply during the first 30 days your account is open: Funds from electronic direct deposits to your account will be available on the day we receive the deposit. Funds from deposits of cash, wire transfers, and the first \$6,725 of a day's total deposits of cashier's, certified, teller's, traveler's, federal state and local government checks will be available on the first business day after the day of your deposit if the deposit meet certain conditions. For example, the checks must be payable to you (and you may have to use a special deposit slip). The excess over \$6,725 will be available on the seventh 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 \$6,725 will not be available until the second business day after the day of your deposit.

Funds from deposits of checks drawn on First PREMIER Bank will be available on the first business day after the day of your deposit.

Funds from all other check deposits will be available on the seventh business day after the day of your deposit.

### **Withdrawal Rules**

The following terms apply to withdrawals from your account:

#### ***Manner of Withdrawal***

You may make withdrawals from your account in any manner that is permitted by us for the type of account that you have opened. Withdrawals by mail will be posted to your account as of the day the transaction is processed by us. We may refuse to accept any check other than standard checks provided by us or approved by us in advance. Withdrawals and transfers from your

account may be restricted as provided in the Account Agreement or by applicable law.

### ***Savings and Money Market Deposit Account Restrictions***

Savings and Money Market Deposit Accounts are intended to be used primarily for savings. We do not limit your withdrawals; however, if your transaction activity appears inconsistent with that purpose, we may contact you to determine if another type of account would be more appropriate for your needs.

### ***Notice Requirements***

We expressly retain the right to require you to give at least seven (7) days' notice in writing prior to any intended withdrawal from a savings or money market account. Although we usually pay withdrawals or checks without prior notice on these accounts, doing so does not mean that we give up this right.

### ***Checks***

You agree that when you write a check, you will not date the check in the future. If you do and the check is presented for payment before the date of the check, we may pay it or return it unpaid. You agree that if we pay the check, the check will be posted to your account on the date we pay the check, even though the posting date is prior to the date of the check. You further agree that we are not responsible for any loss to you in doing so. You agree that we may return a postdated check to the presenter.

We may disregard information on any check or item other than the signature of the drawer, the identification of the drawee financial institution and payee, the amount, the endorsements, and any other information that appears on the MICR line. In addition, we are not responsible to take action on, or for failure to notify you of restrictive language placed on checks or other items, including but not limited to terms such as, "Void after 90 Days," "Paid in Full," "Two Signatures Required," "Void Over \$100" or similar statements. In accordance with reasonable banking standards, most checks and other items are processed through automated processing and, except in limited circumstances and in our discretion, most items are not individually examined. You agree that we act within reasonable banking standards by processing most checks and other items through automated processing systems.

We reserve the right to pay or dishonor a check more than six (6) months old without prior notice to you.

### ***Remotely Created Checks***

If you provide your account number to a third party in order to charge your account by means of one or more remotely created checks or demand drafts

(i.e., items which do not bear the maker's signature, but purport to be drawn with the maker's authorization), you authorize us to pay such items, even though they do not contain your signature and may exceed the amount you authorized to be charged. This provision shall not obligate us to honor such items. We may refuse to honor such items without cause or prior notice, even if we have honored similar items in the past.

### ***Stop Payment Orders***

Subject to certain limitations and payment of the Stop Payment Fee identified in the Fee Schedule, you may order us to stop payment on any check, automated clearing house/pre-authorized electronic funds transfer ("ACH/EFT"), or other item payable from your account, whether drawn or authorized by you or any other account holder, as follows:

- **Stop Payment against a Check or Other Item.** A stop payment request against a check or other item payable from your account will be effective if we receive the order at such time and in such manner as to afford us a reasonable opportunity to act upon the order. A stop payment order against a check or other item payable from your account is effective for six (6) months. A stop payment order against a check or other item payable from your account may be renewed for additional six (6) month periods if renewed during a period within which the stop payment order is effective.
- **Stop Payment against an ACH or electronic funds transfer.** Please refer to the Electronic Funds Transfer Disclosure.

### ***Substitute Checks and Your Rights***

#### **What is a substitute check?**

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

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

#### **What are your rights as a consumer regarding substitute checks?**

In certain cases, federal law provides a special procedure that allows you to request a refund for losses you suffer if a substitute check is posted to your account (for example, if you think that we withdrew the wrong amount

from your account or that we withdrew money from your account more than once for the same check). The losses you may attempt to recover under this procedure may include the amount that was withdrawn from your account and fees that were charged as a result of the withdrawal (for example, bounced 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 also are entitled to interest on the amount of your refund if your account is an interest-bearing account. If your loss exceeds the amount of the substitute check, you may be able to recover additional amounts under other law. If you use this procedure, you may receive up to \$2,500.00 of your refund (plus interest if your account earns interest) within 10 business days after we received your claim and the remainder of your refund (plus interest if your account earns interest) not later than 45 calendar days after we received your claim.

We may revise the refund (including any interest on the refund) if we later are able to demonstrate that the substitute check was correctly posted to your account.

#### **How do I make a claim for a refund?**

If you believe that you have suffered a loss relating to a substitute check that you received and that was posted to your account, please contact us at First PREMIER Bank, Attention: Customer Care, P.O. Box 1348, Sioux Falls, SD 57101-1348, 1-605-357-3002 or 1-800-501-6535 or within your secure Online/ Mobile Banking. 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 of 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 –

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

#### ***Foreign Transactions***

You may be able to use your debit card for transactions in a different country or with a foreign merchant. We may block transactions in certain



countries. The exchange rate applied to these transactions will be selected by the network that processes the transaction. The network will select from the range of rates available in wholesale currency markets or a rate mandated by the government that issues or controls the currency in that country on the date it processes the transaction. The date on which the exchange rate is applied may differ from the date that you used your card. Except for ATM withdrawals, when the transaction is posted to your account, we will charge a Foreign Transaction Fee on the card transaction amount after conversion to U.S. dollars. For ATM withdrawals, the Foreign Transaction Fee may be applied prior to the conversion to U.S. dollars.

### ***Wire Transfers***

With respect to wire transfers or other transfers of funds not governed by the Electronic Funds Transfer Act, you agree to enter into and comply with our wire transfer (if applicable) agreement and to comply with our security procedures and this section. We advise you that any receiving financial institution (including us) is entitled to rely on any account or bank number you have provided even though that account or bank number may identify a party different from the person or entity you have described by name in any transfer order.

### ***Withdrawal Restrictions and Overdraft***

We may, but do not have to, pay transactions or withdrawal requests from your account if you do not have enough funds to cover the full amount of the transaction (this is called an overdraft).

- We do not authorize and pay ATM or one-time debit card transactions that would result in an overdraft to your account unless you opt in. If you opt in, we will establish an overdraft limit and may, in our sole discretion, pay overdrafts up to the limit subject to your Account Agreement.
- We may pay overdrafts for checks, ACH and other non-ATM or one-time debit card transactions made using your checking account even if you do not opt in.

If you have opted into overdrafts for ATM and one-time debit card transactions, or we pay an overdraft for a check, ACH, or other non-ATM or one-time debit card transaction, then (i) we may charge a non-sufficient funds fee ("NSF Fee") for each such transaction that overdraws the available balance in your account, and (ii) we may charge a Continuous Overdraft Fee if your account remains overdrawn. You can avoid the Continuous Overdraft Fee by depositing sufficient funds into your account to cover the negative balance created by the overdraft by the end of the second business day (see the Fee Schedule for additional details about these charges). It is possible for your account to be overdrawn as a result of the assessment of a fee. Payment of an overdraft once does not mean we will pay any future overdrafts. We will



apply credits to your account in accordance with the Funds Availability Policy and we may apply debits to your account in any manner that we choose. Transactions may not be processed in the order in which they occur. The order in which transactions are received and processed may impact the total amount of fees incurred. We also offer optional overdraft protection account transfers as further set forth below.

### **Optional Overdraft Protection**

To help prevent overdrafts and avoid the fees associated with an overdraft, you may sign up for overdraft protection. Overdraft Protection allows you to link one of your accounts as a backup account to help pay an overdraft. If you link an account to serve as a backup and you overdraw the account, we will transfer available funds from your linked account(s) in the order you linked them to cover the overdraft. You can contact our Customer Care if you want to change the order of your linked accounts. As long as there are sufficient funds in your linked accounts to cover an overdraft, you will avoid the NSF Fees and Continuous Overdraft Fees. Each time we transfer funds from a linked account, we may charge an Overdraft Protection Transfer Fee (see Fee Schedule for additional details). If the funds in the linked account(s) are not sufficient to cover the overdraft, we will transfer the funds available and we may charge the Overdraft Protection Transfer Fee in addition to the NSF Fee and the Continuous Overdraft Fee, if permitted by applicable law.

Even if you choose to sign up for Overdraft Protection, we may refuse to pay an overdraft at any time. This is true even though we may have previously transferred funds from the linked accounts to pay overdrafts.

#### **1) Transfers from Linked Deposit Account**

We may charge an Overdraft Protection Transfer Fee for each transfer from a linked deposit account. Unless you request otherwise, the amount of each overdraft transfer from a linked deposit account will be in \$50 increments or the total amount available, if less than \$50. For example, if you sign up for Overdraft Protection and you overdraw your account by \$75, we will transfer \$100 from the linked deposit account. Deposits to your linked deposit account may not be immediately available for transfer to cover an overdraft.

#### **2) Transfers from Linked Line of Credit**

We may charge an Overdraft Protection Transfer Fee for each transfer from a linked line of credit in addition to the fees and finance charges under the terms of your line of credit agreement. Unless your line of credit agreement specifies otherwise, the amount of each overdraft transfer from a linked line of credit will be in \$300 increments up to your available credit, if less than \$300. For example, if you sign up for Overdraft Protection and you overdraw your account by \$40 and your linked line of credit has \$30 in available credit, we will transfer \$30 from the linked line of credit to your account and the

Overdraft Protection Transfer Fee, NSF Fee, and Continuous Overdraft Fee may apply, if permitted by applicable law. Advances from your linked line of credit will be subject to the terms and conditions of your line of credit agreement. Please see your line of credit agreement for additional details.

### **Inactive Accounts**

Accounts with balances below \$50 that do not have any customer-initiated transactions for twenty-four (24) consecutive months will become inactive and the Inactivity Fee will apply.

## **MANAGING YOUR ACCOUNT**

### **Fraud Prevention and Security**

It is your responsibility to protect your account number, checks, personal identification number (PIN), and electronic access devices we provide you for your account(s). Do not share your PIN or account number with anyone unless you are willing to give them use of the money in your account. If you provide your access device to another person to make transactions, and they exceed the authority that you provided, you will be responsible for the transactions unless we have been notified that the transactions by that person are no longer authorized in which case, we may require that your card be replaced.

### **Provisional Credit**

Credit given by us to you with respect to an ACH credit or wire funds transfer entry is provisional until we receive final settlement for such entry through a Federal Reserve Bank. If we do not receive final settlement, you are hereby notified and agree that we are entitled to a refund of the amount credited to your account in connection with such entry, and the party (the originator of the entry) making payment to you via such entry shall not be deemed to have paid you the amount of such entry.

### **Account Statements**

You are responsible for promptly examining your statement each statement period and reporting any irregularities to us. Each statement will be considered to correctly reflect your transactions, such as deposits, withdrawals, credits, refunds, imposition of fees, interest or dividends, and other additions to and subtractions from your account, unless you notify us in writing within certain time limits after the statement that incorrectly reflects your transactions is made available to you. The Electronic Fund Transfer Disclosure sets forth your liability for failing to report unauthorized electronic fund transfers to your account in a timely manner. We will not be liable for any item that is altered, counterfeit, fraudulent, or unauthorized, or any signature that is forged unless you notify us within thirty (30) calendar days after the statement and the altered counterfeit, fraudulent, or unauthorized or

forged item(s) are made available. Also, we will not be liable for any subsequent items paid, in good faith, that are altered, counterfeit, fraudulent, or unauthorized, or forged by the same wrongdoer unless you notify us within ten (10) calendar days after the statement and first altered counterfeit, fraudulent, or unauthorized or forged item(s) were made available. You must report any other account problem including encoding errors and errors involving additions or subtractions (debits and credits) not otherwise covered herein, including electronic transactions not covered by the Electronic Fund Transfer Disclosure, within sixty (60) calendar days. If the suspected problem involves a substitute check that you receive, you may (under some circumstances) be entitled to make a claim for an expedited refund. Such a claim may be subject to different notification timeframes (see the section related to Substitute Checks and Your Rights for further information). If you have requested us to hold your account statements, we have the right to mail your statements if you have not claimed them within thirty (30) calendar days. You understand that your original checks will not be returned to you with your statement. You agree that our retention of checks does not alter or waive your responsibility to examine your statements or change the time limits for notifying us of any errors.

### **Agents and Power of Attorney**

Each owner of an account is independently permitted to authorize someone else to access your account. This may include any person listed on the Account Agreement as being authorized to make withdrawals or transfers, by check, pre-authorized withdrawals, debit or ATM card, wire transfer, or by any other means the account allows or any person you give right to act on your behalf, such as a power of attorney.

Any person you authorize to act on your behalf, which will be referred to as your "agent," (for example, by designating an authorized signer on your Account Agreement) may be required to complete certain forms that we require and approve to be effective. The powers and any limitation on those powers that you give to your agent are between you and your agent and we have no duty or responsibility to monitor the acts of your agent or ensure that the acts of your agent are for your benefit. You agree not to hold us responsible for any loss or damage you incur as a result of us following instructions by your agent. You, and any joint owners, are responsible to us for any actions of an agent on an account, whether those actions exceed the authority given or whether the agent is appointed by all of the account owners. The agency will end if the owner(s) die and we have actual knowledge of that death and a reasonable opportunity to act on it. You agree to assume full responsibility for any actions or errors performed by or caused by any agent on your account.

A power of attorney is a document you sign that authorizes someone else, called the agent, to act on your behalf. If you sign a power of attorney, the agent can sign on your behalf and do anything you could do regarding the account,

including withdrawing or spending all of the money in the account. Do not sign a power of attorney unless you trust the agent to act in your best interest. If you choose to add an agent, you must provide a power of attorney form that we agree to accept and it must be acknowledged before a notary public or other individual authorized to take acknowledgements. We may rely on a copy of an original power of attorney. We are not required to investigate the facts relating to any power of attorney provided to us on your behalf, including whether your signature on the power of attorney is authentic or whether the agent continues to have authority. We may follow or refuse to follow the agent's request to become a joint owner or a beneficiary of an account, but we have no liability to anyone if we do so (for example, if your agent misuses the authority you have given them). We may refuse to comply with a power of attorney for reasonable cause permitted under South Dakota law. An agent's power of attorney on an account is terminated when the account owner dies.

## **Communications**

You hereby expressly authorize us (i) to monitor and/or record calls with you; (ii) to contact you using text messages or with an automated dialing and announcing or similar device and/or an artificial voice or prerecorded message; (iii) to contact you at any telephone number you provide to us, whether a residential or business number, even if that number is a wireless, cellular or mobile number, is converted to a mobile/wireless number, or connects to any type of mobile/wireless device; and (iv) to contact you at any email address you provide to us. We may use such means of communication to send you electronic correspondence and/or advertisements, even if you will incur costs to receive such phone messages, text messages, emails or other communications. This authorization extends to our third-party service providers working on our behalf to service your account. If you change your name, address, email address or phone number, you will notify us immediately. You further authorize us to contact you about other products and services that we offer.

## **Consumer Reports Disputes**

If you believe that we have reported inaccurate or incomplete information about your account to a consumer reporting agency, you have the right to file a dispute with that consumer reporting agency. You may also submit a dispute directly to us by writing to us and providing your name, address and telephone number, account number, the specific information that you are disputing and an explanation of why it is inaccurate, along with any supporting documentation.

## **Notices**

The following terms apply to notices relating to your account(s).

### ***Notice of Amendments***

You agree that the terms and conditions of this Agreement including, without limitation, all rates, fees, and charges, may be amended by us from time to

time. We will notify you of amendments as required by applicable law. Your continued use of the account evidences your agreement to any amendment. Notices will be sent to the most recent address shown on our records for your account. Only one notice will be sent in the case of joint account owners.

### ***Account Changes***

You must notify us if you change the form of ownership of your account or any signers. It is your responsibility to notify us of any change in your name or contact information. We are only required to communicate with you at the most recent address provided to us.

### **Unauthorized Items**

You acknowledge that there is a growing risk of losses resulting from unauthorized transactions. We may recommend various fraud prevention practices to reduce your exposure to fraud. If we have expressly recommended that you utilize any of these products or practices and you do not implement the product or practice, or if you fail to utilize the product or practice as intended, we may not be liable for any losses that could have been prevented if you had implemented or utilized the recommended product or practice.

### **Inactive/Dormant Accounts**

In addition to the Inactivity Fee that may apply to an inactive account (see the Fee Schedule for additional details), an inactive account may be considered dormant or abandoned under state law and become subject to escheatment. State laws vary as to when an account is presumed abandoned, and we may be required to send the balance in the account to the state of your last known address. You will then need to contact the state for the return of your funds.

## **CLOSING YOUR ACCOUNT**

Either you or we may close your account (other than a CD) at any time for any reason or no reason without prior notice. We are not required to close your account at your request if you have pending transactions, the account is overdrawn, your account is subject to legal process (such as garnishment, attachment, execution or levy) or any type of holds (such as a collateral hold, decedent hold, or deposit hold). In those cases, we will limit the types of transaction that you can make until pending transaction are paid or returned, the balance is no longer negative and any legal restriction/hold has been released. We may automatically close your account if the balance is \$0 or negative. Either you or we may close your CD account on any maturity date without cause. For security reasons, we may require you to close your account and to open a new account if there is a change in authorized signers, there has been a forgery or fraud reported or committed involving your account, there has been a loss of checks or account information.



We may send you written notice that we have closed or will close your account and return the balance less any fees, claims, setoffs or other amounts if the balance is greater than \$1. After your account is closed, we have no obligation to accept deposits or to pay any outstanding checks, but we may reopen your account if we receive a deposit. We will have no liability for refusing to honor any check drawn on a closed account. We may advise consumer reporting agencies of accounts closed for misuse, such as overdrafts. This agreement continues to apply to your account even after it closes.

## **ADDITIONAL TERMS**

### **Changes to Agreement**

We may change the terms of your Account Agreement, including fees and features of your account at any time. We will notify you in advance if any change would adversely impact you. You may contact our Customer Care for a copy of your Account Agreement.

### **Governing Law**

This Agreement shall be governed by and construed in accordance with all applicable federal laws and all applicable substantive laws of the State of South Dakota in which we are located and where you opened your account. In addition, we are subject to certain federal and state regulations and clearinghouse rules governing the subject matter of this Agreement. You understand that we must comply with these laws, regulations, and rules. You agree that if there is any inconsistency between the terms of this Agreement and any applicable law, regulation, or rule, the terms of the Agreement will prevail to the extent any such law, regulation, or rule may be modified by agreement. If a court finds any provision of the Agreement to be invalid or unenforceable, that provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of the Agreement in all other respects shall remain valid and enforceable.

### **Financial Institution Liability**

You agree that if we do not properly complete a transaction according to the Account Agreement, we will not be liable in any event for losses or damages in excess of the amount of the transaction, and we will not be liable if circumstances beyond our control prevent the transaction, or the funds in your account are or may be subject to legal process or other claim. In no event will we be liable for consequential damages. In receiving items from you for withdrawal or deposit, we act only as your agent. You are responsible for the condition of a check or item when you issue it. If a check or item is returned or payment is delayed as a result of any writing or marking that you or a prior endorser placed on the front or back of the check or item, you will be responsible for any cost and liabilities

associated with such return or delay. We reserve the right to refuse any item for deposit or to reverse credit for any deposited items or to charge your account for items should they become lost in the collection process.

### **Legal Process and Requests for Information**

Any document that appears to have the force of law regarding restricting, holding or paying out funds from your account, including a garnishment, attachment, execution, levy or similar order may instruct us to take certain actions with respect to your account, which may pose risk to us if we fail to comply. You agree that it is your responsibility to consult with an attorney and/or to initiate or participate in such legal proceedings if you do not believe such orders are valid. You further agree that we will have no obligation to initiate any legal proceedings, or seek clarification, of any kind regarding such legal processes. We do not determine whether the order was validly issued and we will have no liability for any action that we take as directed by such legal process.

You agree to be liable to us, to the extent permitted by law, for any loss, costs, or expenses that we may incur as a result of any dispute or legal proceeding involving your account. You authorize us to deduct any such loss, costs, or expenses from your account without prior notice to you or to bill you separately. This obligation includes, without limitation, disputes between you and us involving your account and situations where we become involved in disputes between you and an authorized signer, a joint owner, or a third party claiming an interest in your account. It also includes situations where any action taken on your account by you, an authorized signer, a joint owner, or a third party causes us to seek the advice of an attorney, whether or not we actually become involved in a dispute. Any action by us for reimbursement from you for any costs or expenses may also be made against your estate, heirs and legal representatives, who shall be liable for any claims made against and expenses incurred by us.

In the event we bring a legal action to enforce the Account Agreement or collect amounts owed to us as a result of any account transaction, we shall be entitled to reasonable attorneys' fees and costs, including fees on any appeal, subject to any limits under applicable law.

### **Privacy**

You authorize us to share information about you and your account with affiliates and third parties in accordance with our Privacy Notice.

### **Prohibited Activities**

You agree that you and your agents will not use your account, access device or banking relationship with us to facilitate illegal transactions such as those prohibited by the Unlawful Internet Gambling Act of 2006, or otherwise violate



any law, rule or regulation applicable to you. If we suspect an illegal transaction, we may block or deny such transactions, restrict access to your account, or close your account and terminate our banking relationship with you.

### **Right of Setoff**

Subject to applicable law, we may exercise our right of setoff or security interest against any and all of your accounts (except IRA, HSA, Keogh plan, and Trust account) without notice, for any liability or debt of any of you, whether joint or individual, whether direct or contingent, whether now or hereafter existing, and whether arising from overdrafts, endorsements, guarantees, loans, attachments, garnishments, levies, attorneys' fees, or other obligations. If the account is a joint or multiple-party account, each joint or multiple-party account holder authorizes us to exercise our right of setoff against any and all accounts of each account holder.

### **Signatures**

You recognize that we have adopted automated collection and payment procedures so that we can process the greatest volume of items at the lowest possible cost to our customers. In light of this, you agree that we do not fail to exercise ordinary care in paying an item solely because our procedures do not provide for the sight examination of items with a face amount below an amount specified by us from time to time. You authorize us to store and use Account Agreement information in any reasonable form we deem necessary, including any digitized signature capture process. If you use a facsimile signature or other form of mechanically reproduced signature (such as, but not limited to, desktop publishing, digitized, or computer software generated signature), you agree you shall have the sole responsibility for maintaining security of the facsimile or mechanically reproduced signature and the device by which the facsimile or mechanically reproduced signature is affixed and you shall bear the entire risk for unauthorized use thereof whether or not you are negligent. You agree that no facsimile or mechanically reproduced signature we have been authorized to honor may be considered a forgery or an unauthorized signature, but that such facsimile or mechanically reproduced signature shall be effective as your signature or endorsement whether or not you have been negligent. You further agree to indemnify and hold us harmless from and against any and all loss, costs, damage, liability, or exposure (including reasonable attorney's fees) we or you may suffer or incur as a result of the unlawful use, unauthorized use, or misuse by any person of any such facsimile or mechanically reproduced signature or the device by which it is affixed. If you use any form of facsimile or mechanically reproduced signature device, you agree to deliver a sample to us if we request it.

### **Systems and Software**

We will not be responsible to you for any loss or damages suffered by you as a result of the failure of systems and software used by you to interface with our systems, or systems and software utilized by you to initiate or process banking

transactions whether such transactions are initiated or processed directly with our systems or through a third-party service provider. You acknowledge that you are solely responsible for the adequacy of systems and software utilized by you to conduct banking transactions.

### **Assignment of Agreement**

This Agreement will be binding on your personal representative, executors, administrators and successors, and on our successors and assigns. You may not assign, transfer or grant a security interest in your account to anyone other than us without our written consent. No Assignment will be valid or binding on us and we will not be considered to have knowledge of it, until we consent and note the assignment in our records. However, by noting the assignment, we do not have any responsibility to assure that the assignment is valid. Any permitted assignment of your account is subject to our right of setoff.

### **No Waiver**

If we fail to exercise any right, that does not mean that we waive that right or any other right, and we may still enforce all of our rights in the future.



***First PREMIER Bank***

**Member FDIC**

CBPBK7950