

These Digital Banking Terms and Conditions (these "Terms and Conditions" or this "Agreement") govern your use of any information, content, products, services, transactions and other features available through the online or mobile banking channels maintained by BankUnited ("Digital Services"). These Terms and Conditions shall apply regardless of the means by which the Digital Services are accessed including, without limitation, a personal computer, mobile device, smartphone, tablet, any other eligible handheld or wearable communication device, or any other means of access. Use of the Digital Services is expressly conditioned upon your acceptance of these Terms and Conditions. Please review these Terms and Conditions carefully. By enrolling in our Digital Services, you acknowledge that you have read, understand and agree to abide by these Terms and Conditions, as well as any terms and instructions that appear on a screen when enrolling in, activating or accessing the Digital Services. If you decide not to agree to these Terms and Conditions, you may not use the Digital Services.

These Terms and Conditions supplement our applicable disclosure statements and agreements, including, without limitation, our Depositor's Agreement, Schedule of Fees, Funds Availability Disclosure, Electronic Funds Transfer Terms and Conditions and Privacy Policy (collectively "Other Agreements"), in effect from time to time. In the event that any provision of these Terms and Conditions conflict with the terms contained in any such disclosure statements and agreements, these Terms and Conditions shall control, to the extent necessary. You further agree to be bound by and comply with any and all applicable federal and state laws, rules and regulations, including but not limited to, the rules and regulations of any networks, clearinghouses or funds transfer system to which the Bank belongs, in connection with your use of the Digital Services. Additionally, if there is a conflict between what an employee of ours says and these Terms and Conditions, these Terms and Conditions will prevail.

## 1. DEFINITIONS

In this Agreement: "BankUnited", "we", "us" and "our" means BankUnited, N.A.; "you" and "your" means each owner of an eligible account, a person applying for an eligible account, each person listed as an authorized signer on the signature card for such account, or an authorized representative appointed or otherwise entitled to transact business as identified on any BankUnited account, product or service accessible, either currently or in the future, through the Digital Services; "Account" or "Accounts" means

each account, now or in the future that you maintain with us that is enrolled in one or more of our Digital Services; "Consumer Account" means an account established by an individual primarily for personal, family or household purposes; "Business Account" means any account that is not a Consumer Account; "Mobile Application" or "Mobile App" means the customized BankUnited mobile application designed specifically for smartphones and similar devices; and "Business Day" shall mean every Monday through Friday, excluding Federal Reserve holidays.

## 2. ELIGIBILITY FOR ENROLLMENT

To be eligible to register for and use our Digital Services, you must (i) maintain an Account with us, (ii) be at least eighteen (18) years of age and (iii) be a citizen or resident of the United States. If you have more than one Account that is eligible for access through our Digital Services, we will automatically link your Accounts together, and such Accounts will appear in your online banking profile, unless you request otherwise. All Accounts linked within the Digital Services must have (i) the same taxpayer identification number (TIN) and (ii) an authorized signatory that is common to all Accounts. If one or more of your Accounts is a joint account, we may act on the verbal, written or electronic instructions of any authorized signer. Please note that certain Digital Services may not be available for all of your Accounts and that certain features, information, or other Digital Services may not be available through all banking channels. Accounts that you open with us after your initial enrollment will be automatically enabled in our Digital Services. If you share your Access Information (as hereafter defined) with a third party, even a third party with whom you share an account, they will have access to view all of your linked accounts, even Accounts that are not shared with you. The Bank shall have no duty or obligation to inquire as to the appropriateness, correctness or authenticity of any transaction, order, instruction or entry performed through the linked accounts, including, without limitation, whether a transaction was authorized, the purpose of the transaction, the amount of the transfer, or the application of any funds transferred. You agree to immediately notify the Bank in writing if you desire to de-link any Account. Such notice shall include the name, account number and taxpayer identification number of the Account to be de-linked. The Bank shall not be liable to you for any transactions performed on such Account before the Bank has received such notice and has had a reasonable opportunity to act thereon.

Further, you should use your business accounts to send or receive payments for business purposes and you should use your consumer accounts to send or receive payments for personal, family, or household purposes.

### 3. ACCESS

You authorize BankUnited to provide access to your Accounts through the Digital Services. In order to access the Digital Services, you will need a username, a password, and required hardware and software as detailed below. You also have to comply with any other security procedures we may establish. In some cases, you may need a one-time authentication code (together with your user ID and password, collectively referred to as "Access Information") that will be delivered to you via a delivery channel that you will be prompted to choose. We may, at our option, change the parameters for the Access Information used to access the Digital Services without prior notice to you. If we do so, you will be required to change your Access Information the next time you access the Digital Services.

After you have successfully registered, and subject to the terms of this Agreement, you will generally be able to access your Accounts and use the Digital Services seven (7) days a week, twenty-four (24) hours a day. However, some or all of the Digital Services may be unavailable during regularly scheduled maintenance, system/network interruptions, or other circumstances beyond our control.

You are hereby granted a non-exclusive, non-transferable limited and revocable right to access and use the Digital Services as well as any technology in object code. You agree that the Bank and our suppliers or servicers retain all intellectual property rights in any hardware, software, documentation, systems or other technology or intellectual property ("Technology") that may be made available to you in connection with the Digital Services. You further agree (i) to read and comply with any license terms with respect to any Technology made available to you, (ii) to use the Technology solely for purposes of accessing the Digital Services and no other purpose, (iii) to maintain the confidentiality of the Technology and not copy, transfer or disclose the Technology, (iv) not to attempt to circumvent any use or access limitations contained in the Technology, (v) not to translate, reverse engineer, disassemble or decompile any Technology, (vi) to use the Technology in accordance with its documentation and all relevant security policies and procedures, and (vii) to return any and all copies of the Technology to us upon request. All Technology is provided to you on an "AS IS" and "AS AVAILABLE" basis.

### 4. SECURITY

You are solely responsible for keeping your Access Information confidential and agree not to give or make it

available to any person who is not authorized to access your Accounts. You agree to maintain adequate procedures to prevent unauthorized access to your Accounts. You acknowledge and accept the risk that anyone with your Access Information can log into your Accounts and read and copy your sensitive information.

You agree that the Bank is authorized to provide information to any party, and act upon all instructions or communications received using your Access Information. You further agree that use of your Access Information will have the same legal effect as your written signature authorizing the transaction, and any such transactions will be deemed valid, authentic and binding obligations. Any such instructions or communications shall also be deemed to have been "signed" and to constitute an "original" when printed from electronic files or records established and maintained in the regular course of business. If someone to whom you have granted authority to use your Access Information exceeds such authority, you, and not the Bank, shall be fully liable for all transactions initiated by such individual.

If you believe the security of your Access Information has been compromised in any way, you must notify us immediately. We reserve the right, under certain circumstances, to deny you access to any one or more Account(s), the Digital Services or any part thereof, or to deny the processing of transactions if we reasonably believe your Access Information has been compromised in any way or is being used, or might be used, by any unauthorized person(s).

For Business Customers, you agree to immediately notify us if a person with Access Information leaves your company.

### 5. SYSTEM REQUIREMENTS

To access and use the Digital Services, you must have or have access to equipment that meets these hardware and software requirements:

- Access to a device (e.g., computer, smartphone, mobile device, tablet, etc.) suitable for connecting to the internet, or downloading our mobile apps with (i) an operating system, such as Windows, Mac OS, iOS or Android, and (ii) a web browser, such as Internet Explorer®, Chrome®, Safari® or Firefox®, that we support. Note: Certain older web browsers may not be supported by BankUnited. If you are using an outdated version, you may need to update it in order to access your eligible accounts and/or eStatements via our Digital Services.
- A connection to the internet through an internet or mobile service provider;

- Local electronic storage capacity to retain applicable disclosure statements and agreements or a printer to print them;
- A valid e-mail account and software to access it;
- A program that enables you to accurately view and display PDF files (such as Adobe® Reader). If you do not have Adobe Reader you can download it at no charge from the following link: <https://www.adobe.com/products/acrobat/readstep2.html> (Note that by clicking the link, you will be taken to a third-party site not managed by BankUnited. As a result, different security or privacy practices may apply. We do not endorse, recommend or guarantee any products or services contained at the linked page);
- Access to a device with a camera function for mobile remote deposit capture purposes.

You acknowledge that we may change these requirements from time to time. You further acknowledge that there are certain security, corruption, transmission error and access availability risks associated with using open networks, such as the internet, and hereby expressly assume such risks. You further acknowledge that you are responsible for the data security of the systems used by you to access the Digital Services, and for the transmission and receipt of information using such systems. You agree that the Bank is not responsible for any errors or problems that may arise from the malfunction or failure of your computer, mobile device, internet service provider or other systems, or any virus, worm, or other problem that may enter your computer by downloading information or materials from, or otherwise related to, your use of the Digital Services. You further agree that the Bank is not responsible for notifying you of any upgrades, fixes or enhancements to, or for providing technical support or other support for, your systems.

## 6. HYPERLINKS

In connection with the Digital Services, the Bank may provide you with a link ("Hyperlink") to a third-party site. Such Hyperlinks are used at your own risk. We are not responsible for, nor do we control, the content, products or services provided through these sites. We do not endorse or guarantee the products, information or recommendations provided by any such linked sites, and are not liable for any failure of products or services advertised on such sites. We do not make any representations or warranties of any kind, express or implied, as to the operations conducted at such other third party sites, or the accuracy or completeness of any information, content, materials or products included thereat including, but not limited to, the warranties of non-infringement of third party rights, title, merchantability and fitness for a particular purpose.

## 7. ELECTRONIC MESSAGES AND OTHER COMMUNICATIONS

By enrolling in and using the Digital Services you agree all notices and other communications primarily related to your use of the Digital Services (including identity verification) or activity on your Accounts may be sent electronically to any e-mail address we have on file for you or, at our option, any other manner permitted by applicable law.

As e-mail is not a secure method of communication over the internet, we recommend that you do not use email to send confidential information, such as account numbers, personal information and financial information, or to initiate transactions on your Accounts. We also recommend that you do not send confidential or personal information to us in text messages. If you want to contact us electronically, we recommend using the Message Center function in the Digital Services which is a secure method of communication. Please be advised that we will not immediately receive an electronic message you send, and no action will be taken on any electronic message until we actually receive your message and have had a reasonable opportunity to act on it. If you need to contact us immediately, please call our Client Care Center at (877) 779-BANK (2265).

Your enrollment in the Digital Services may include access to security alerts and optional alerts and communications about your Accounts and transactions. Security alerts are provided to you for fraud protection and when certain important changes to your account occur, such as password and username updates, or changes in your physical or email address. These alerts are sent to your primary email address and/or by text message to your mobile device number, if you have provided one to us.

In addition to security alerts you may have the option to receive additional notification or communications regarding other Digital Services and account activity, delivered by email or text message. ("Optional Notifications"). You may be asked to select from contact options when you sign up for such Optional Notifications. By signing up to receive any Optional Notifications, you consent to delivery of such messages to the contact point you identify. You may discontinue or reactivate Optional Notifications sent by text message or email by editing the notification settings through the online or mobile banking channels.

In order to receive security alerts or Optional notifications via text message, your mobile device must be subscribed to a wireless service and must be able to receive text messages. By providing us with a telephone number (including a wireless/cellular, or mobile telephone number), you expressly consent to receiving calls from us and our service providers at that number including those made by use of an automatic telephone dialing system notwithstanding any federal or state law, rule or regulation

that would otherwise prevent us from engaging in this activity without your consent.. You acknowledge and agree that such telephone calls include, but are not limited to, live telephone calls, prerecorded or artificial voice message calls, text messages and calls made by an automatic telephone dialing system from us or our service providers.

These communications are provided for your convenience and do not replace your monthly account statements, which are the official record of your account. You understand and agree that the information sent through a communication may not be encrypted and may include personal or confidential information about you such as your account activity or account status, and anyone with access to your e-mail or mobile device may be able to access the contents of a communication. Additionally, communications sent via telephone may be delivered to voice mail or answering machines if no one answers the telephone. It is your responsibility to secure your devices, protect your Access Information and provide timely information about changes to your telephone number, e-mail address or other method of delivery in order to protect the confidentiality of this information.

We endeavor to provide communications to you in a timely manner; however, we do not guarantee the delivery or accuracy of any communication. Messages may be delayed or impacted by factors pertaining to your communication service provider, internet service provider or other third parties. You agree that neither we nor our service providers will be liable for any delays, failure to deliver or misdirected delivery of any communication, for any errors in the content of a communication, or for any actions taken or not taken by you or any third party in reliance on a communication.

We reserve the right, at all times and at our discretion, to provide communications in paper form, and the right to provide any information by paper in addition to (or instead of) electronically despite your enrollment in the Digital Banking Channels.

## **8. UPDATING YOUR CONTACT INFORMATION**

It is your sole responsibility to ensure that your contact information is current and accurate. This includes, but is not limited to, your name, address, telephone numbers and email addresses. In the event that your contact information is changed, you must notify us of such changes immediately by updating your profile through the Digital Services or by contacting our Client Care Center. For your protection and for security purposes, we will not accept any request to change an e-mail address via e-mail. If you do not receive an email and believe you should have, please sign into the Digital Services and verify your email address. If you fail to update or change an incorrect email address or other contact information, you understand and agree that any messages, notifications or other communications shall

nevertheless be deemed to have been provided to you if they were made available to you in electronic form through the Digital Services, emailed to the email address we have for you in our records, or sent via text message to your mobile device. The Bank is not responsible for any payment processing errors or fees incurred if you do not provide accurate contact or account information.

## **9. OBTAINING PAPER COPIES**

This Agreement is provided to you in electronic form only. We recommend that you print or download a copy of this Agreement to retain for your permanent records. You can request a paper copy of this Agreement through the Digital Services or by calling our Client Care Center at (877) 779-BANK (2265). Ordinary copy fees, as disclosed in your applicable Schedule of Fees, may apply.

## **10. DIGITAL SERVICES**

### **A. TRANSFERS**

You can use the Digital Services to make: (i) Internal Transfers; (ii) External Transfers; and (iii) person to person transfers. Internal Transfers, External Transfers and person to person transfers are collectively referred to as Funds Transfers and the services are collectively referred to as the Transfer Services.

#### **I. General Terms and Conditions Applicable to all Funds Transfers**

Transfers made using the Digital Services are included in calculating the permissible number of transfers permitted from certain accounts as described in the Other Agreements governing your Account.

We reserve the right to impose a frequency or dollar limit on transfers, or to refuse to make any transfer, between certain accounts.

In case of errors or questions about your Transfers please contact our Client Care Center at (877) 779-BANK (2265) or write to us at: BankUnited, N.A., P.O. Box 2050, Miami Lakes, FL 33016. Please refer to your Other Agreements that outlines how errors and questions on electronic funds transfers are processed.

Please see the section of this Agreement titled IN CASE OF ERRORS AND QUESTIONS ON YOUR ACCOUNTS for information regarding questions or errors about Funds Transfers made through the Digital Services.

#### **a) Our Liability for Failure to Complete Transfers**

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 actual losses or damages only. However, there are some exceptions. We will NOT be liable: (i) if, through no fault of ours, you do not have enough money in your Account to make the transfer; (ii) if circumstances beyond our control (such as, but not limited to, fire, flood, windstorm, pandemic, failure of communication services, national emergency, strikes, or other similar or dissimilar event) prevent the transfer; or (iii) for any other reason stated elsewhere in this Agreement. If we are ever obligated by law to pay interest on the amount of a transfer, you will be paid interest on a daily basis equal to the current annual percentage rate that is otherwise applicable to the account from which the funds transfer should have occurred. In no event we will be responsible for any incidental, indirect, special, punitive or consequential damages, court costs or attorneys' fees.

#### **b) Authorization to Charge Account**

You authorize us to charge your designated account with us for all transfers that you initiate through the Transfer Services. You agree that you will have sufficient Available Funds in your From Account on the Send On date to cover each Funds Transfer you schedule, plus any fees that may be associated with such transfer. We may, but will not be obligated to, initiate any Funds Transfer you may request unless there are sufficient Available Funds in your account to cover the transfer on the Send On date. If we elect to initiate the transaction, you shall remain liable for all amounts transferred in excess of the Available Funds in the account plus all applicable service fees and charges. If there are insufficient Available Funds, the transfer may be rejected and we may, but are not obligated to, retry the transaction.

You agree that we may, in our sole discretion, process a Funds Transfer request through any payment or funds transfer system we select including, without limitation, FedWire, Clearing House Interbank Payments System ("CHIPS"), or the Society for WorldWide Interbank Financial Telecommunications (S.W.I.F.T.). All Funds Transfers initiated hereunder are subject to the rules and guidelines of the National Automated Clearing House Association ("NACHA") and the applicable automated clearinghouse ("ACH") in effect from time to time (collectively, the "Rules"). You agree to be bound by the Rules. In accordance with the Rules, any credit to your BankUnited account or External Account shall be provisional until such credit has been finally settled by us or the financial institution that holds your External Account, as the case may be. You further acknowledge that if, for any reason, final settlement or credit is not received, your BankUnited account or External Account may be charged back for the amount of such transfer, together with any applicable fees or charges.

#### **c) Reliance By Bank**

We may rely on the information you provide in making a Funds Transfer. You understand and agree that any inaccuracy in any information provided by you may result in an unintended transfer of funds. We shall have no responsibility or liability for any information provided in connection with a Funds Transfer request that is inaccurate, incomplete or otherwise incorrect. We may rely on the account number and on any routing or identifying numbers that identify the financial institution(s) holding your External Account even if such numbers do not correspond to the name on the account or of the financial institution and we have no responsibility to investigate such discrepancies. You further agree that your obligation to pay the amount of a Funds Transfer is not excused in such circumstances.

#### **d) Accounts with Multiple Owners/Signatures**

Each joint owner of an account has the full and independent authority to use the Transfer Services as if they were the sole owner and without the consent or notice to any other joint owner. Any requirement of verifying multiple signatures if such a requirement exists does not apply to any transfers made using the Transfer Services. You agree to release us from any liability when making Funds Transfers from such accounts.

#### **e) Transfer Representations and Warranties**

By using the Transfer Services and with respect to each and every request for a Funds Transfer, you represent and warrant as follows:

- You are authorized to initiate such request for a Funds Transfer and hereby authorize us to initiate each Funds Transfer requested by you in the amount provided
- Such authorization is operative at all relevant times, including without limitation:
  - a. at the time you establish the pre-authorization on the Digital Channel,
  - b. at the time you initiate a Funds Transfer, and
  - c. at the time of transmittal or debiting by us as provided herein
- Your Funds Transfer is not prohibited as described hereinafter
- You have the right to authorize and permit Bank to access your accounts to effect funds transfers or for any other purpose authorized by this Agreement and by disclosing to and allowing Bank and its processing

agents to use such information you are not violating any third party rights

- Bank is authorized to use, copy, modify, display and distribute any information, data, materials or other content that you provide in connection with the Funds Transfer Services
- The information provided by you to Bank is true, current, correct and complete
- Bank is authorized to use the information you submit to perform the Funds Transfer and to configure the Transfer Services to be compatible with your accounts
- You appoint Bank as your agent with limited power of attorney to perform all necessary acts required in connection with the Transfer Services including, accessing and retrieving account information, verifying the content and authenticity of any funds transfer instruction and effecting funds transfers

#### **f) Inconsistency of Name, Account Number**

You acknowledge and agree that, if a Funds Transfer request or instruction describes the Receiver inconsistently by name or account number, the Funds Transfer may be made by the receiving depository financial institution on the basis of the account number supplied, even if it identifies a person different from the named Recipient, and that your obligation to pay the amount of the Funds Transfer to us is not excused in such circumstances.

#### **g) Our Right to Review Transfers**

As a sender of a Funds Transfer using the Transfer Services, you acknowledge and agree that we may delay, cancel or reject a request to transfer money and/or charge back the amount of such transfer to the Pay From account or other account as we determine in our sole discretion or claim a refund from you for such amount for various reasons including, fraud, duplicate payment, incorrect amount or incorrect recipient.

### **II. Internal Transfers**

You may use the Digital Services to transfer funds between your BankUnited checking, savings or money market accounts ("Internal Transfers"). To make Internal Transfers, you must have at least two eligible BankUnited accounts with us. There are no dollar limits or transfer frequency limits for Internal Transfers between your own accounts. You may make Internal Transfers up to the amount of available funds in the applicable BankUnited Account.

#### **a) Initiating, Scheduling, Processing, Cancelling or Modifying Internal Transfers**

One-time Internal Transfers may be made at any time and are immediately debited from a funding account's available balance. Once submitted, a one-time Internal Transfer cannot be canceled. Generally, one-time Internal Transfer requests received before 4:00 pm ET on a Business Day will be posted to your "To Account" the same Business Day. Internal Transfer requests received on or after the designated cut-off time on a Business Day or on a non-Business Day may not be processed until the next Business Day.

Future dated or recurring Internal Transfers will be debited from the funding account on the Business Day requested. Future dated or recurring Internal Transfers scheduled for a weekend or a non-Business Day will be debited from the funding account on the next Business Day.

If you desire to cancel or modify a recurring or future dated transfer you should do so through the Digital Services. If for any reason you are unable to modify or cancel a recurring or future dated transfer through the Digital Services, you may call our Client Care Center at (877) 779-BANK (2265). Please note that once a transfer is "In Process" you may no longer cancel or modify it.

### **III. External Transfers**

You may use the Digital Services to transfer funds between your eligible BankUnited checking, savings or money market accounts and certain deposit accounts at other U.S. financial institutions ("External Transfer Services"). An "Inbound Transfer" moves funds into an account at BankUnited from an account maintained at your other financial institution ("External Account"). An "Outbound Transfer" moves funds from an account at BankUnited to your External Account. Inbound Transfers and Outbound Transfers are collectively referred to herein as External Transfers.

You will need to register each of your External Accounts that you wish to use with the External Transfer Services. You agree that you will only attempt to register External Accounts that you own or for which you have the authority to transfer funds.

We may, but are not obligated to, verify the External Accounts that you register for the External Transfer Services from time to time through a variety of security measures to establish your identity and ownership of such accounts. Such measures include, but are not limited to, (i) the posing of a series of questions that must be satisfactorily answered; (ii) the use of test transfers, in which one or more low value payments

will be both credited to and debited from your account. The test credit will occur before the test debit and be of the same or lesser amount so that the balance in any of your accounts will never be less than the actual balance. Once the test transfers are completed, we may ask you to access your account to tell us the amount of the test credit or debit or any additional information reported by us with this test transfer; (iii) the entry of information you ordinarily use to access the External Transfer Services or Digital Services; and/or (iv) the submission by you of written proof of ownership of the accounts. We reserve the right to reject any enrollment request for any reason.

Other financial institutions may have restrictions regarding the types of accounts that may be eligible for registration in the External Transfer Services. It is your responsibility to verify with your other financial institution(s) as to whether there are any limitations or restrictions regarding transfers to or from any External Account you enroll. We are not responsible for any direct, indirect, special or consequential costs, losses, penalties, or other damages resulting from transfers that are not permitted under restrictions of another financial institution or by those imposed by applicable law.

#### **h) Initiating, Scheduling and Processing of External Funds Transfers**

Funds Transfers can be scheduled on either a one-time or recurring basis. The recurring transfer feature may be used when a set amount is transferred at regular intervals. For example, you may schedule a \$100 Inbound Transfer to your BankUnited account every month.

Inbound Transfers will typically be posted to your Account on the "Estimated Delivery" date, however the funds may not be available until the third (3rd) Business Day following such date. For Outbound Transfers, funds will typically be debited from your Account on the Business Day following the day you direct us to initiate processing the transfer and should arrive at your external financial institution on the "Estimated Delivery" date. Please consult your external financial institution for details on when funds will post to your External Account.

The cut-off time for Funds Transfer requests is 4 p.m. E.T. on Business Days, or such other cut-off time that may be established by the Bank from time to time. Funds Transfer requests received after the cut-off time on a Business Day or on a day that is not a Business Day may not be processed until the following Business Day. Cut-off times reflect the times displayed on our internal systems clocks and may not necessarily be synchronized with the internal clock displayed on your computer. For

this reason, we suggest that you transmit your Funds Transfer requests to us sufficiently in advance of the cut-off time to eliminate the possibility of missing the cut-off.

External Transfer requests are subject to the processing times of the financial institution holding your External Account. You understand and agree that at all times your relationship with each financial institution holding your External Account is independent of your relationship with us and your use of the External Transfer Services. We are not responsible for any failure of another financial institution to act in a timely manner. As a result, we cannot guarantee the timely delivery or return of funds as a result of the failure of another financial institution to act in a timely manner.

It is your responsibility to ensure that the External Account number you enter is valid and correct. External Transfers sent to invalid or incorrect account numbers may not be recoverable. If you provide an invalid or incorrect External Account number, we will NOT be responsible for returning funds due to an unrecoverable External Transfer.

We may honor but are not required to honor Outbound Transfers in excess of the collected and available funds in your Account. If your Account has insufficient funds to cover an Outbound Transfer, we may, at our sole discretion: (i) honor the funds transfer under the terms of any BankUnited overdraft protection plan you have established; (ii) honor the funds transfer and create an overdraft in your Account; (iii) hold balances in your other Accounts until the overdraft is paid; (iv) refuse to honor the funds transfer; or (v) cancel any and all Outbound Transfers to any and all External Accounts.

#### **i) Transfer Limits**

For security purposes, we may establish daily and monthly limits on the amount of External Transfers that can be made through the Digital Services. These limits may vary depending on many factors including your transfer history and the length of your relationship with us, and we reserve the right, in our sole discretion, to change these limits at any time as we continually evaluate these factors. Any decrease in these limits will be subject to notice, as required by law, but you agree that we may reduce your limits without prior notice upon the occurrence of one or more of the following events:

- Any of your deposit accounts with BankUnited are not current or are not in good standing.
- You have had an overdraft, an over-limit item, or an item returned for insufficient funds with respect to

any BankUnited account during the current or three (3) prior calendar months.

- You have had any prior transfer canceled, revoked or not completed due to insufficient funds, revoked authorization, stopped payments, frozen accounts or any similar reason.

Subject to the foregoing, External Transfers generally may be made in amounts up to a maximum of \$10,000 per day and up to \$30,000 per month. The applicable limit will be applied at the time of transfer. These daily and monthly limits apply to the total amount of External Transfers for all Accounts linked to your user profile. You may not make any Funds Transfers in excess of these limits. An External Transfer initiated on a day that is not a Business Day will count toward the applicable limit for the next Business Day.

#### **j) Modifying or Cancelling Transfers**

If you desire to cancel or modify an External Transfer you should do so through the Digital Services. If for any reason you are unable to modify or cancel a transfer through the Digital Services, you may call our Client Care Center at (877) 779-BANK (2265). If you call, we may also require that you put your request in writing. Please note however, that once an External Transfer is "In Process" you may no longer cancel or modify it.

### **IV. Person to Person Transfers**

#### **a) Description of Service**

The PayItNow™ Payment Service, also known as PIN Payment ("PIN Payment Service") enables you to transfer money between you and other users by using aliases such as email addresses and mobile phone numbers (U.S. phone numbers only). THE PIN PAYMENT SERVICE IS INTENDED TO SEND MONEY TO FRIENDS, FAMILY AND OTHERS YOU TRUST. YOU SHOULD NOT USE THE PIN PAYMENT SERVICE TO SEND MONEY TO RECIPIENTS WITH WHOM YOU ARE NOT FAMILIAR OR YOU DO NOT TRUST. All PIN Payment Instructions must be initiated through the Digital Services and are subject to the terms of this Agreement and applicable laws and regulations, in each case as in effect from time to time. The Pin Payment Service is also subject to which functions are from time to time enabled in or removed from the PIN Payment Service section of your Digital Service. Certain functions may appear in only the web or only the mobile app interface of the Digital Service. The PIN Payment Service may not enable every feature that our service providers make available, even if the feature is identified in this Agreement.

Once enrolled, you may: (i) authorize a debit of your account to send money to another User either at your initiation or at the request of that User; and (ii) receive money from another User either at that User's initiation or at your request, subject to any and all conditions set forth in this Agreement.

#### **b) Payment Authorization and Remittance:**

By enrolling and providing us with the names and mobile phone numbers and/or email addresses of the recipient to whom you wish to direct payments ("Recipient"), you authorize us to debit your BankUnited Account and remit the funds to the Recipient on your behalf ("PIN Payment Instruction"). You also authorize us to credit your Account for payments returned to us because the processing of your PIN Payment Instruction could not be completed. We will use reasonable efforts to complete all your PIN Payment Instructions properly. However, we shall incur no liability if we are unable to complete any transaction because of the existence of any one or more of the following circumstances:

- If, there are not sufficient funds in your BankUnited Account or if completing the PIN Payment Instruction would create an overdraft in your Account in excess of any applicable overdraft limits;
- The PIN Payment Service is not working properly, and you know or have been advised by us about the malfunction before you execute the PIN Payment Instruction;
- The payment is refused or returned by the Recipient or the Recipient's financial institution;
- You have not provided us with the correct information, including but not limited to the correct PIN Payment Instruction or account information, or the correct name, mobile phone number or email address of the Recipient; and/or
- Circumstances beyond our control (such as, but not limited to, fire, flood, network or system downtime, issues with the financial institution or interference from an outside force) which prevent the proper execution of the PIN Payment Instruction.

It is your responsibility to ensure the accuracy of any information entered into the PIN Payment Service (including but not limited to the PIN Payment Instructions and name, mobile phone number and/or email address for the Receiver to whom you are attempting to send the PIN Payment Instruction), and for informing us as soon as possible if you become aware that this information is inaccurate. We will make a reasonable effort to stop or recover a payment made to the wrong person or entity once informed, but we do not guarantee such stoppage



or recovery and will bear no responsibility or liability for damages resulting from incorrect information entered by the Sender or Recipient.

You agree that your authorization provided through the Digital Channel is conclusive evidence that with regard to each PIN Payment, you authorize and are empowered to authorize us to submit the PIN Payments on your behalf.

### c) Transfer Limits and Cut-Off Times

For security purposes, we may establish daily and monthly limits on the amount of PIN Payments that can be made through the Digital Services. These limits may vary depending on many factors including your transfer history and the length of your relationship with us, and we reserve the right, in our sole discretion, to change these limits at any time as we continually evaluate these factors. Any decrease in these limits will be subject to notice, as required by law, but you agree that we may reduce your limits without prior notice upon the occurrence of one or more of the following events:

- Any of your deposit accounts with BankUnited are not current or are not in good standing.
- You have had an overdraft, an over-limit item, or an item returned for insufficient funds with respect to any BankUnited account during the current or three (3) prior calendar months.
- You have had any prior transfer canceled, revoked or not completed due to insufficient funds, revoked authorization, stopped payments, frozen accounts or any similar reason.

Subject to the foregoing, PIN Payments generally may be made in amounts up to a maximum of \$2,500 per day and up to \$12,000 per month. The applicable limit will be applied at the time of transfer. These daily and monthly limits apply to the total amount of PIN Payments for all Accounts linked to your user profile. You may not make any PIN Payments in excess of these limits. A PIN Payment initiated on a day that is not a Business Day will count toward the applicable limit for the next Business Day.

The cut-off time for PIN Payment requests is 4 p.m. E.T. on Business Days, or such other cut-off time that may be established by the Bank from time to time. PIN Payment requests received after the cut-off time on a Business Day or on a day that is not a Business Day may not be processed until the following Business Day. Cut-off times reflect the times displayed on our internal systems clocks and may not necessarily be synchronized with the internal clock displayed on your computer. For this

reason, we suggest that you transmit your PIN Payment requests to us sufficiently in advance of the cut-off time to eliminate the possibility of missing the cut-off.

### d) Prohibited Payments

The following types of payments are prohibited through the PIN Payment Service ("Prohibited Payments"), and we have the right but not the obligation to monitor for, block, cancel and/or reverse such payments:

- i. Payments to persons or entities located in prohibited territories (including any territory outside of the United States);
- ii. Payments that violate any law, statute, ordinance or regulation;
- iii. Payments related to: (1) tobacco products, (2) prescription drugs and devices; (3) narcotics, steroids, controlled substances or other products that present a risk to consumer safety; (4) drug paraphernalia; (5) ammunition, firearms, or firearm parts or related accessories; (6) weapons or knives regulated under applicable law; (7) goods or services that encourage, promote, facilitate or instruct others to engage in illegal activity; (8) goods or services that are sexually oriented; (9) goods or services that promote hate, violence, racial intolerance, or the financial exploitation of a crime; (10) goods or services that defame, abuse, harass or threaten others; (11) goods or services that include any language or images that are bigoted, hateful, racially offensive, vulgar, obscene, indecent or discourteous; (12) goods or services that advertise or sell to, or solicit others; or (13) goods or services that infringe or violate any copyright, trademark, right of publicity or privacy or any other proprietary right under the laws of any jurisdiction;
- iv. Payments related to gambling, gaming and/or any other activity with an entry fee and a prize, including, but not limited to casino games, sports betting, horse or greyhound racing, lottery tickets, other ventures that facilitate gambling, games of skill (whether or not it is legally defined as a lottery) and sweepstakes;
- v. Payments relating to transactions that (1) support pyramid or Ponzi schemes, matrix programs, other "get rich quick" schemes or multi-level marketing programs, (2) are associated with purchases of real property, annuities or lottery contracts, lay-away systems, off-shore banking or transactions to finance or refinance debts funded by a credit card, (3) are for the sale of items before the seller has control or possession of the item, (4) constitute money-laundering or terrorist financing; (5) are

associated with the following “money service business” activities: the sale of traveler’s checks or money orders, currency dealers or exchanges or check cashing, or (6) provide credit repair or debt settlement services;

- vi. Tax payments and court ordered payments including but not limited to alimony and child support.
- vii. Payments that involve donations or payments to any charity or non-profit organization unless we have performed appropriate due diligence on and investigation of such charity or non-profit organization and have determined its legitimacy, in our sole discretion.

In no event shall we or our service providers be liable for any claims or damages resulting from your scheduling of any Prohibited Payments. We have no obligation to research or resolve any claim resulting from a Prohibited Payment.

## **B. BILL PAYMENT SERVICES**

### **a) General Terms Applicable to Bill Payment Services**

You may use our Bill Payment Services to make one-time or recurring payments from your designated BankUnited account to individuals or companies with a valid U.S. address (“Payees”) as set forth in these Terms and Conditions.

By using our Bill Payment Services you authorize us to process the transactions permitted under these Terms and Conditions as requested by you from time to time, and to post transactions to your account as directed. You may request a payment be delivered one time, or on an automatic recurring basis. We reserve the right to refuse payment to any Payee to which you may direct a payment. We will notify you if we decide to refuse to pay a Payee designated by you. This notification is not required, however, if you attempt to make a payment under the section of this Agreement titled “Prohibited Payments”.

Notwithstanding the foregoing, you understand and agree that Bill Payments can only be processed on Business Days.

### **b) Bill Payment Authorization and Payment Remittance**

By providing us with names and account information of Payees to whom you wish to direct payments, you authorize us to follow your bill payment instructions (“Bill Payment Instructions”). In order to process payments more efficiently and effectively, we may edit

or alter payment data or data formats in accordance with instructions we receive from your Payees.

Our receipt of your Bill Payment Instructions authorizes us to debit the account you have designated for your bill payments (“Bill Payment Account”) and remit funds on your behalf to the intended Payee to allow the funds to arrive at the Payee’s location as near as reasonably possible to the scheduled payment date (“Send Date”). You also authorize us to credit your Billing Account for payments returned to us by the United States Postal Service or any Payee. You further authorize us to debit your Bill Payment Account for such bill payments as well as any and all fees that may be incurred in connection with your use of the Bill Payment Services. All payments and fees incurred through the use of the Bill Payment Services will appear on the statement for your respective account(s).

You acknowledge and agree that we do not have any duty to monitor the payments that are made through the Bill Payment Services. You further understand and agree that you assume the entire risk of loss if an Authorized Person uses your Bill Payment Account to pay bills which are not yours and you agree to indemnify and hold us and our directors, employees, officers, servicers, agents, successors and assigns from all loss, liability, claims, demands, judgments and expenses (including attorney’s fees) arising out of or in any way connected with such use.

To use the Bill Payment Services you must provide sufficient information for us to properly identify your Payees, direct your payment and permit the Payee to identify you as the payment source upon receipt of a payment. You must complete all required fields with accurate information, as directed by the Bill Payment Services screen messages. By providing us with the names and account information of those Payees to whom you wish us to direct payment, you authorize us to follow the Payment Instructions we receive through the Bill Payment Services. You further authorize us to update or change any of your Payee information as requested or provided by your Payee. In order to process payments more efficiently and effectively, we may edit or alter payment data or data formats in accordance with instructions we receive from your designated Payees.

We shall use reasonable efforts to make all your payments properly, however, we shall incur no liability, and any Service Guarantee shall be void, if we are unable to complete any payments initiated by you because of the existence of any one or more of the circumstances set forth in the Service Guarantee section of these Terms and Conditions.

Provided none of the foregoing exceptions are applicable, if we cause an incorrect amount of funds to be removed from your Bill Payment Account or cause funds from your Bill Payment Account to be directed to a Payee which does not comply with your Payment Instructions, we shall be responsible for returning the improperly transferred funds to your Bill Payment Account, and for directing to the proper Payee any previously misdirected transactions, and, if applicable, we shall reimburse you for any late payment related charges you have incurred.

Please see the section of this Agreement titled IN CASE OF ERRORS AND QUESTIONS ON YOUR ACCOUNTS for information regarding questions or errors about bill payments made through the Digital Services.

EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED FOR HEREIN, WE SHALL NOT BE RESPONSIBLE FOR ANY CHARGES IMPOSED, OR ANY OTHER ACTION, BY A PAYEE RESULTING FROM A LATE PAYMENT, INCLUDING ANY APPLICABLE FINANCE CHARGES AND/OR LATE FEES ASSESSED BY ANY OF YOUR PAYEES.

#### **c) Payment Scheduling**

When you are setting up your Bill Payment Instructions, the Bill Payment Service will indicate the earliest possible Send Date for each Payee. You will not be able to select a Send Date prior to this earliest possible date. When scheduling payments, you must select a Send Date that is no later than the actual due date reflected on your Payee statement unless the due date falls on a non-Business Day. If the actual due date falls on a non-Business Day, you must select a Send Date that is at least one (1) Business Day before the actual due date. Send Dates must be prior to any late date or grace period. Payments cannot be scheduled more than 365 days in advance.

We reserve the right to select the method by which to remit funds to your Payees. We may remit payments on your behalf to your Payees by paper check, electronic funds transfer or by other means. The date your Bill Payment Account will be debited will vary depending on the payment method. Depending on the method of payment, your Billing Account may be debited prior to the Send Date. For example, if the selected method of payment is a draft, and the draft arrives earlier than the Send Date due to expedited delivery by the postal service, and the Payee immediately deposits the draft, your Billing Account may be debited earlier than the Send Date.

You agree to have sufficient collected and available funds in your Bill Payment Account on the Send Date for transactions you schedule. We will not be obligated to

follow any Payment Instructions unless and until there are sufficient collected and available funds in your Bill Payment Account. You understand that if at the time funds are to be debited from your Bill Payment Account, there are insufficient funds, and we pay the bill, you are responsible for reimbursing us for the amount of the bill, along with any additional fees in accordance with the applicable Fee Schedule. You further understand that any and all payments by BankUnited in these circumstances are purely at our discretion and that the payment by BankUnited of any bills under these circumstances in no way obligates us to pay the same or similar bills in the future.

#### **d) Dollar Limits**

For security purposes, we may establish daily and monthly limits on the amount of Bill Payments that can be made through the Digital Services. These limits may vary depending on many factors including your transfer history and the length of your relationship with us, and we reserve the right, in our sole discretion, to change these limits at any time as we continually evaluate these factors. Any decrease in these limits will be subject to notice, as required by law, but you agree that we may reduce your limits without prior notice upon the occurrence of one or more of the following events:

- Any of your deposit accounts with BankUnited are not current or are not in good standing.
- You have had an overdraft, an over-limit item, or an item returned for insufficient funds with respect to any BankUnited account during the current or three (3) prior calendar months.
- You have had any prior transfer canceled, revoked or not completed due to insufficient funds, revoked authorization, stopped payments, frozen accounts or any similar reason.

Subject to the foregoing, generally, there is a \$500,000 daily and monthly limit on the amount of Bill Payments. The applicable limit will be applied at the time of transfer. These daily and monthly limits apply to the total amount of Bill Payments for all Accounts linked to your user profile. You may not make any Bill Payments in excess of these limits. A Bill Payment initiated on a day that is not a Business Day will count toward the applicable limit for the next Business Day.

#### **e) Online Bill Pay Service Guarantee**

Due to circumstances beyond our control, including, without limitation, delays in handling and posting payments by Payees or financial institutions, you understand that some transactions may take longer than expected to be credited to your Payee account. You

understand that we will bear responsibility for any late payment related charges which have not been waived by the Payee, up to a maximum of \$50.00, should a payment post after its Due Date as long as the payment was scheduled in accordance with the guidelines described under the Payment Scheduling section of these Terms and Conditions, the payment is not either an Exception Payment or a Prohibited Payment, and you otherwise comply with this Agreement. In no event shall we be liable in any way for any failure or delay in completing any transaction if:

1. Through no fault of ours, your Bill Payment Account does not contain sufficient funds to complete the transaction or the transaction would exceed the credit limit of any overdraft service applicable to such account;
2. Our payment processing center is not working properly, and you know or have been advised by us about the malfunction before you execute the transaction;
3. Your computer was not functioning properly at the time you attempted to initiate the transaction;
4. You have not provided us with complete and correct Bill Payment or Payee information, including, without limitation, the correct name, address, account number, or phone number, or if you otherwise do not give complete and correct instructions so that a Bill Payment can be made;
5. You do not authorize a Bill Payment timely for your payment to be made and properly credited by the Payee by the Due Date;
6. A timely Bill Payment is made but the Payee does not credit your payment promptly after receipt;
7. We reasonably believe that a transaction may be unauthorized, including without limitation, transactions that may be prohibited by a court order or other legal process; or
8. Circumstances beyond our control including, but not limited to, fire, flood, acts of God, power outages, strikes, terrorism, acts of war or other similar circumstances, prevent the making of a Bill Payment.

#### **f) Payment Cancellation Requests**

You may use the Bill Payment Services to cancel or edit a Scheduled Payment (including recurring payments). There is no charge for canceling or editing a Scheduled Payment prior to such payment being processed by us. You acknowledge and agree that once we have begun to process a Bill Payment it cannot be cancelled or edited. In such event, you must submit a stop payment request to us.

#### **g) Stop Payment Requests**

You acknowledge and understand that our ability to process a stop payment request will depend on the payment method and whether or not a payment has cleared your Bill Payment Account. You understand that we may not have a reasonable opportunity to act on any stop payment request after a payment has been processed. If you desire to stop any payment that has already been processed, but not yet cleared, you must contact our Client Care Center at (877) 779-BANK (2265). You further understand that although we will make every effort to accommodate your stop payment request, we will have no liability for failing to do so. We may also require you to present your request in writing within fourteen (14) days. The charge for each stop payment request will be the current charge for such service as set out in our applicable fee schedule.

#### **h) Prohibited Payments**

Payments to Payees outside of the United States or its territories are prohibited. Additionally, any single or aggregate payments in a single day greater than \$1,000,000 or payments otherwise prohibited by law cannot be scheduled. Prohibited Payments include, but are not limited to, the following types of payments and we have the right but not the obligation to monitor for, block, cancel and/or reverse such payments: (a) payments to or from persons or entities located in prohibited territories (including any territory outside of the United States); (b) payments that violate any law, statute, ordinance or regulation, (c) payments related to: (i) tobacco products, (ii) prescription drugs and services, (iii) narcotics, steroids, controlled substances or other products that present a risk to consumer safety, (iv) drug paraphernalia, (v) ammunition, firearms or firearm parts or related accessories, (vi) weapons, (vii) goods or services that are sexually oriented, (viii) goods or services that promote hate, violence, racial intolerance or the financial exploitation of a crime, (viii) goods or services that defame, abuse, harass, or threaten others, (ix) goods or services that include any language or images that are bigoted, hateful, racially offensive, vulgar, obscene, or indecent, or (x) goods or services that infringe or violate any copyright, trademark, right of publicity or privacy or any other proprietary right under the laws of any jurisdiction; (c) payments that violate any law, statute, ordinance or regulation; (d) payments related to gambling, gaming and/or any other activity with an entry fee and a prize including, without limitation, casino games, sports betting, horse or dog racing, lottery tickets other ventures that facilitate gambling, games of skill (whether or not it is legally defined as a lottery) and sweepstakes; (e) payments relating to transactions that (i) support pyramid or ponzi schemes, matrix programs, other "get rich quick" schemes or multi-level marketing

programs, (ii) are associated with purchases of real property, annuities, off-shore banking or transactions to finance or refinance debts funded by a credit card, (iii) constitute money-laundering or terrorist financing, (iv) are associated with money services business activities such as the sale of traveler's checks or money orders, currency dealers or exchanges or check cashing, or (v) provider credit repair or debt settlement services; and (f) payments that involve donations or payments to an unauthorized charity or non-profit organization. In no event shall we be liable for any claims or damages resulting from your scheduling of prohibited payments. We have no obligation to research or resolve any claim resulting from a prohibited payment. All research and resolution for any misapplied, mis-posted or misdirected prohibited payment will be your sole responsibility.

#### **i) Exception Payments**

Exception Payments (e.g. tax payments and court ordered payments) may be scheduled through the Service, however such payments are discouraged and must be scheduled at your own risk. In no event shall we be liable for any claims or damages resulting from your scheduling of these types of payments. The Service Guarantee as it applies to any late payment related changes is void when these types of payments are scheduled and/or processed through the Bill Payment Services. We have no obligation to research or resolve any claim resulting from your scheduling one of these types of payments. All research and resolution for any misapplied, mis-posted or misdirected payments will be your sole responsibility.

#### **j) Electronic Bill Delivery and Presentment**

This feature permits you to receive electronic bills from participating Payees. A separate registration is required for each participating Payee. If you elect to activate the electronic bill service option, you agree to the following:

Upon activation of the electronic bill feature, the Bill Payment Services may notify the Payee of your request to receive electronic billing information. You understand that it is in the Payee's sole discretion as to whether to accept or decline your request. The presentment of your first electronic bill may vary from Payee to Payee and may take up to sixty (60) days, depending on the billing cycle of each Payee. While your electronic bill feature is being activated it is your responsibility to keep your accounts current. When you elect to receive electronic bills from a Payee you may be presented with terms from that Payee for your acceptance. We are not a party to such terms. Additionally, the ability to receive a paper copy of your statement(s) is at the sole discretion of the Payee. Check with the individual Payee regarding your

ability to obtain paper copies of electronic bills on a regular or as-requested basis.

Your activation of the electronic bill feature for a Payee shall be deemed by us to be your authorization for us to obtain bill data from the Payee on your behalf. For some Payees, you will be asked to provide us with your username and password for that Payee. By providing us with such information, you authorize us to use the information to obtain your bill data.

You understand that the Bill Payment Services are unable to update or change your personal information such as, but not limited to, name, address, phone numbers and e-mail addresses, with the electronic Payee. Any changes will need to be made by contacting the Payee directly. Additionally, it is your responsibility to maintain all usernames and passwords for all electronic Payee sites. You also agree not to use someone else's information to gain unauthorized access to another person's bill. The Bill Payment Services may, at the request of the Payee, provide to the Payee your e-mail address, service address, or other data specifically requested by the Payee at the time of activating the electronic bill for that Payee, for purposes of the Payee informing you about service and/or bill information.

You understand that presentment of electronic bills is dependent upon delivery of your billing information from the Payee. In addition to notification within the Bill Payment Services, we may send an e-mail notification to the e-mail address listed for your account. It is your sole responsibility to ensure that this information is accurate. In the event you do not receive notification, it is your responsibility to periodically logon to the Bill Payment Services and check on the delivery of new electronic bills. The time for notification may vary from Payee to Payee. You are solely responsible for ensuring timely payment of all bills.

You acknowledge that a Payee reserves the right to cancel the presentment of electronic bills at any time. You may cancel electronic bill presentment at any time. The timeframe for cancellation of your electronic bill presentment may vary from Payee to Payee. It may take up to sixty (60) days, depending on the billing cycle of each Payee to process your request. The Bill Payment Services will notify your electronic Payee(s) as to the change in status of your account and it is your sole responsibility to make arrangements for an alternative form of bill delivery. We will not be responsible for presenting any electronic bills that are already in process at the time of cancellation.

You agree to hold us harmless should the Payee fail to deliver your electronic bill statement(s). You are responsible for ensuring timely payment of all bills.

If you do not receive an electronic bill, it is your sole responsibility to contact the Payee directly. Copies of previously delivered bills must be requested from the Payee directly.

We are not responsible for the accuracy of your electronic bill(s). We are only responsible for presenting the information we receive from the Payee. Any discrepancies or disputes regarding the accuracy of your electronic bill summary or detail must be addressed with the Payee directly.

This Agreement does not alter your liability or obligations that currently exist between you and your Payees.

#### **k) Service Fees and Additional Charges**

You agree to pay any applicable fees and charges that may be assessed in connection with the Bill Payment Services. You acknowledge and agree that there may be a charge for additional or other optional services (i.e. if you request a stop payment order) you may request in connection with your use of the Bill Payment Services. You authorize us to deduct the amount of any Bill Payment fees, together with any applicable transaction fees and charges from your designated Billing Account, or in the event that such designated Billing Account lacks sufficient funds, from any of your other accounts maintained with us. Fees are subject to change and we may impose additional fees or charges in connection with your use of the Bill Payment Services at any time, subject to the provisions hereof. Additionally, you are responsible for any and all telephone access fees and/or Internet service fees that may be assessed by your telephone and/or Internet service provider.

#### **l) Failed or Returned Transactions**

By using the Bill Payment Services, you are requesting us to make payments for you from your Bill Payment Account. If we are unable to complete the transaction for any reason associated with your Bill Payment Account (for example, there are insufficient funds in your Bill Payment Account to cover the transaction), the transaction may not be completed. In some instances, you will receive a return notice from the Bill Payment Services. We and our service provider are authorized to report the facts concerning the return to any credit reporting agency,

#### **m) Bill Payment Service Termination, Cancellation, or Suspension**

In the event you wish to cancel your Bill Payment Services, you may do so through the Bill Payment

Services, or you may contact Client Care Center via one of the following methods:

1. Contact us at (877) 779-BANK (2265); and/or
2. Writing us at: BankUnited, N.A.  
P.O. Box 2050  
Miami Lakes, FL 33016

Any payment(s) that has already processed before the requested cancellation date will be completed. All Scheduled Payments including recurring payments will not be processed once the Bill Payment Services are cancelled. We reserve the right to terminate or suspend the Bill Payment Services at any time. Neither termination nor suspension shall affect your liability or obligations under these Terms and Conditions.

#### **n) Returned Payments**

You understand that Payees and/or the United States Postal Service may return payments to us for various reasons such as, but not limited to, Payee's forwarding address expired; Payee account number is not valid; Payee is unable to locate account; or Payee account is paid in full. In the event that a Bill Payment is returned, you authorize us to research and correct the returned payment and resubmit it to your Payee, or void the payment and credit your Bill Payment Account, in our discretion.

#### **o) Information Authorization**

Your use of the Bill Payment Service may not be allowed if the Bill Payment Service cannot verify your identity or other necessary information. In order to verify ownership of the Bill Payment Account(s) and/or Billing Account, the Bill Payment Service may issue offsetting debits and credits to the Payment Account(s) and/or Billing Account and require confirmation of such from you. (This text may be removed for Clients who do not offer this functionality.) Through your use of the Bill Payment Service, you agree that the Bill Payment Service reserves the right to request a review of your credit rating at its own expense through an authorized bureau. In addition, you agree that the Bill Payment Service reserves the right to obtain financial information regarding your account from a Payee or your financial institution (for example, to resolve payment posting problems or for verification).

#### **p) Accounts with Multiple Owners/Signatures**

Each joint owner of an account has the full and independent authority to use the Bill Pay Services as if they were the sole owner and without the consent or notice to any other joint owner. Any requirement of

verifying multiple signatures if such a requirement exists does not apply to any transfers made using the Bill Pay Services. You agree to release us from any liability when making Funds Transfers from such accounts.

## C. MOBILE DEPOSIT SERVICE

### a) Description of Service

Our Mobile Deposit Service allows you to make single item deposits electronically to your checking, savings or money market accounts by using a supported mobile device with a camera to create an image of a paper check and transmit it and the related deposit information to us using the BankUnited Mobile App. Except as expressly set forth in these Terms and Conditions, deposits made through the Mobile Deposit Service are subject to all limitations and terms set forth in the applicable account documentation governing your Account (as it may be modified from time to time) including, but not limited to, those related to deposit, acceptance, crediting, collection, endorsement, processing order and errors.

### b) Service Requirements

Use of the Mobile Deposit Service requires that you have (i) an internet enabled mobile telephone, computer, tablet or other device with a camera that has the ability to capture images of sufficient quality in order to complete a deposit, (ii) enrolled in our Digital Services, and (iii) downloaded the latest version of our Mobile Banking App. You are responsible for all costs of using our Mobile Deposit Service and operating your device, including any cellular and internet service charges. The Bank is not responsible for any third-party software that you may need to use the Mobile Deposit Service. Any such software is accepted by you as is and is subject to the terms and conditions of the software agreement you enter into directly with the third-party software provider at time of download and installation.

### c) Eligible Items for the Service

You agree to scan and transmit only "checks" as that term is defined in the Federal Reserve Regulation CC ("Reg. CC") and only those checks that are permissible under this Agreement or such other items as we, in our sole discretion, elect to include in the Mobile Deposit Service. You agree that the image of the check transmitted to us shall be deemed an "item" within the meaning of Articles 3 and 4 of the applicable Uniform Commercial Code. You agree that you will not scan and deposit any of the following types of checks or other items which shall be considered ineligible items:

- checks payable to any person or entity other than the person or entity that owns the account that the check is being deposited into
- checks containing an alteration on the front of the check or item (including the MICR line), or which you know or suspect, or should know or suspect are fraudulent or otherwise not authorized by the owner of the account on which the check or item is drawn
- checks payable jointly unless deposited into an account in the name of all payees
- checks drawn on the account into which the check is being deposited
- checks previously converted to a substitute check as defined in Reg. CC
- checks drawn on a financial institution located outside the United States
- checks that are remotely created checks, as defined in Reg. CC
- checks not payable in United States currency
- checks dated more than 6 months prior to the date of deposit
- checks that have previously been submitted through the Mobile Deposit Service or through a remote deposit capture service offered at any other financial institution
- traveler's checks, money orders or savings bonds
- checks payable on sight or payable through drafts, as defined in Reg. CC
- checks prohibited by the Bank's current procedures relating to the Mobile Deposit Service or which are otherwise not acceptable under the terms of the Other Agreements.

### d) Image Quality

All images you transmit to us using the Mobile Deposit Service must be legible. Without limiting the foregoing, the image quality of the items must comply with the standards established from time to time by the Bank, the American National Standards Institute (ANSI), the Board of Governors of the Federal Reserve Board or any other regulatory agency, clearinghouse or association. You agree that the Bank shall not be liable for any damages resulting from an item's poor image quality including, without limitation, those related to rejection of, or the delayed or improper crediting of, such a check, or from any inaccurate information you supply regarding the check.

## **e) Endorsements and Processing**

You agree to restrictively endorse any item transmitted through the Mobile Deposit Service as "For Mobile Deposit Only at BankUnited, account #\_\_\_\_\_ " or as otherwise instructed by the Bank. After an item has been scanned and submitted for deposit, you shall not otherwise transfer or negotiate the original item, substitute check or any other image thereof. You agree to promptly supply any information in your possession that we request regarding an item deposited or attempted to be deposited through the Mobile Deposit Service including the original item. You agree to follow any and all other procedures and instructions for use of the Mobile Deposit Service as the Bank may establish from time to time.

## **f) Receipt of Items**

We reserve the right to reject any item transmitted through the Mobile Deposit Service, at our discretion, without liability to you even if such action causes outstanding checks or other debits to your Account to be dishonored and returned. We are not responsible for items that we do not receive or for images that are dropped during transmission. An image of an item shall be deemed received when you receive a confirmation from the Bank that we have received the image. Receipt of such confirmation does not mean that the transmission was error free, complete, or will be considered a deposit and credited to your Account. If there is a discrepancy between the entered and confirmed amount and the amount on the scanned image, we will credit the account based on the scanned image. If the image transmitted to us does not comply with our requirements for content and/or format, we may, in our sole discretion: (i) further transmit the image and data in the form received from you; (ii) repair or attempt to repair the image or data and then further transmit; (iii) process the item as photocopies in lieu of originals; or (iv) return the image and data to you unprocessed and chargeback your account.

## **g) Retention of Original Items**

Once an item has been credited to your account, you must mark the original item on the front as "Deposited and the Date". You agree to retain the original item for at least sixty (60) days from the date of the image transmission. During this sixty (60) day period you must store the original paper item securely using precautions at least as secure as those you would use to protect a blank check. During this sixty (60) day period, you agree to promptly provide the original item to the Bank upon request. After sixty (60) days, you agree to

destroy the original item, mark it "VOID", or otherwise render it incapable of further transmission, deposit or presentment.

## **h) Chargebacks**

We reserve the right to chargeback your account, or any other deposit account you maintain with us, at any time, for any item that is: (i) rejected by us for any reason including, without limitation, an item that we believe is not an eligible item, or has been previously submitted or deposited with us or with another financial institution, or (ii) returned to us. We can also charge fees connected to the chargeback as described in your Other Agreements with us. You agree that we are not liable for any loss, costs or fees you may incur as a result of our chargeback of an item.

## **i) Deposit Limits**

We may establish limits on the dollar amount and/or number of items or deposits that you can transmit using the Mobile Deposit Service from time to time. We can modify these limits and add other limits at any time at our sole discretion. Your limits will be displayed within the Mobile Deposit Service prior to each deposit. If you attempt to initiate a transmission in excess of these limits, we may reject your deposit without liability hereunder. If we permit you to make a deposit in excess of these limits, such deposit will still be subject to the terms of this Agreement, and we will not be obligated or required to allow such a deposit at other times.

## **j) Funds Availability**

The funds availability requirements of Reg. CC do not apply when you transmit electronic images of items to us. In general, if an image of an item you transmit through the Mobile Deposit Service is received and accepted before 5:00 p.m. ET on a business day that we are open, we will consider that day to be the day of deposit. If an image is received and accepted after 5:00 p.m. ET on a business day that we are open or on a non-business day, we will consider the deposit to be made on the next business day we are open. Funds from deposits made using the Mobile Deposit Service will generally be made available in accordance with the time frames set forth in our Funds Availability Policy. We, however, may apply additional delays on the availability of funds based on any other factors as determined by us in our sole discretion. We will generally notify you if we delay your ability to withdraw or transfer funds and will attempt to tell you when such funds will be available.



## **k) Presentment**

The manner in which the items are cleared, presented for payment and collected shall be in our sole discretion subject to the terms of the Depositor's Agreement governing your account with us.

## **l) Fees**

Currently there is no charge for the Mobile Deposit Service. We may, upon at least thirty (30) days prior notice to you, to the extent permitted by applicable law, charge a fee for use of the Mobile Deposit Service. If you continue to use the Mobile Deposit Service after the fee becomes effective you agree to pay the service fee that has been disclosed to you, as amended from time to time. You authorize the Bank to deduct such fees from any account you maintain with us.

## **m) Your Responsibilities and Promises to Us**

You represent and warrant to the Bank that:

- You will only transmit eligible items through the Mobile Deposit Service.
- Any image we receive accurately and legibly represents all of the information on the front and back of the original item as originally drawn.
- The item has not been previously submitted or deposited with us or with another financial institution.
- You will not re-deposit or re-present the original item unless we advise you otherwise.
- All information you provide to us in connection with the transmission of an item through the Mobile Deposit Service is accurate, true and complete.
- You will comply with this Agreement and all laws, rules and regulations applicable to your use of the Mobile Deposit Service and not use the Mobile Deposit Service for any purpose prohibited by law.
- You will employ commercially reasonable security measures and firewalls sufficient to protect transmissions and storage to ensure no unauthorized access or duplicate presentment.
- You are not aware of any factor which may impair the collectability of the item.

## **n) Errors in Transmission**

When using the Mobile Deposit Service, you may experience technical or other difficulties including without limitation, that an item may be intercepted or misdirected during transmission. We cannot assume responsibility for any technical or other difficulties or any resulting damages that you may incur. You acknowledge

that the Mobile Deposit Service is provided to you 'as is' and your use is at your own risk.

## **o) Service Changes and Discontinuance**

We may modify, add or remove features from, discontinue, or suspend the Mobile Deposit Service at any time in our sole discretion, with or without notice, and without liability to you. Your use of the Mobile Deposit Service is subject to and conditioned upon your complete compliance with this Agreement. Notwithstanding anything to the contrary contained in this Agreement, you may not use the Mobile Deposit Service (i) in any anti-competitive manner, (ii) for any purpose which would be contrary to the Bank's business interest, or (iii) to the Bank's actual or potential economic disadvantage in any aspect. We reserve the right, subject to applicable law and regulation, to terminate your right to use the Mobile Deposit Service at any time and for any reason including, without limitation, if we, in our sole discretion, believe that you have engaged in conduct or activities that violate any of the terms of this Agreement or, if you provide us with false or misleading information or if you interfere with other users or in the administration of the Mobile Deposit Service.

## **p) Service Cancellation**

You may cancel the Mobile Deposit Service at any time by notifying us in writing and discontinuing your use of the Mobile Deposit Service. Any pending transactions may be completed or cancelled by us, in our discretion, upon your cancellation of the Mobile Deposit Service. Cancellation of your BankUnited Digital Services or closure of your Account that you use in connection with the Mobile Deposit Service will result in the cancellation of the Mobile Deposit Service. No cancellation of the Mobile Deposit Service will affect your liability or obligations under this Agreement accruing prior to the date of cancellation or any provisions of this Agreement which, by their nature or by express provision, are intended to survive termination.

## **11. STOP PAYMENTS**

Through the Digital Services, you may request us to stop payment on any check you write from your checking account. You cannot stop payment on a check if we have accepted, certified, paid or otherwise become accountable for the check, except to the extent required by law. To be effective, your stop payment request must precisely identify the number, date and amount of the item, and the payee (or such lesser combination as we may specify at the time). All stop payment requests entered through the Digital Services shall be deemed a written stop payment within the meaning of the UCC and shall remain in effect for a period of one (1) year from the date entered. All such

renewals must be in writing and shall be in the form and substance required by the Bank. A fee in accordance with the Bank's Schedule of Fees will be assessed to the Account for each stop payment request. No stop payment request will be effective against a check that has been paid prior to the time that the Bank has both received the request and has had a reasonable period of time to act upon the request. The stop payment feature may not be used with respect to any payment or transfer scheduled through the Digital Services. You agree to indemnify and hold the Bank harmless from and against any and all costs and expenses including, without limitation, attorney's fees, court costs and related litigation costs and expenses, incurred by the Bank for refusing payment on all items upon which a stop payment is placed and further agree not to hold the Bank liable for payment contrary to any such request if the same occurs through inadvertence, accident or oversight.

## 12. TRANSACTION LIMITATIONS

We may limit the number of withdrawals and/or transfers you may make from a savings or money market account. Any imposed limits would apply to withdrawals and/or transfers made during any one (1) calendar month or monthly statement cycle by means of a preauthorized or automatic transfer (including online transfers, wire transfers or ACH payments), telephone transfer (including data transmission by computer or other electronic device), or by check, draft or debit card. For purposes of the transaction limitations we count a transaction as of the date we debit it from your Account, which may be different from the date you authorize, transfer or write the transaction. An Excessive Transaction Fee (see account documentation for the current fee amount) may be assessed for each transaction in excess of these limitations. If you exceed the transaction limitations on more than an occasional basis, we may close your Account. If we close your Account, you will receive a separate communication from us informing you of our actions.

Please note that there will be no limit on the number of withdrawals or transfers from your Account if initiated in person, by ATM, by mail or by telephone instruction for us to mail a check payable to you. There are no limitations on the number of deposits that can be made to an Account by any method. Please refer to our Depositor's Agreement for further details.

Additionally, we reserve the right to place limits on the frequency and dollar amounts of any transfers or refuse to make transfers between certain accounts. We will notify you if we determine that we cannot carry out your transfer instructions; provided, however, notification is not required if your transfer instructions are prohibited by these Terms and Conditions or applicable law.

## 13. ACCOUNT INFORMATION

Account information provided to you as part of the Digital Services is not the official record of your account or its activity. Your account statement (whether provided to you by mail or, if you have chosen to stop receiving paper statements, electronically) will remain the official record of your account. You agree to review your statement promptly after you receive it. If your statement shows transactions that you did not authorize, you must notify us immediately. Additionally, you are responsible for reviewing any other account communications sent to you by postal mail. Such communications will contain important information about your accounts regardless of whether you access your accounts through the Digital Services or whether you have chosen to receive your statements electronically.

## 14. NEW FEATURES

We may, from time to time, in our sole discretion, introduce new products, services and features to the Digital Services or modify or delete existing features. We shall notify you of any of these changes if we are legally required to do so. By using any new or modified products, services or features when they become available, you agree to be bound by these Terms and Conditions, as well as any additional terms and conditions specifically applicable to these new offerings.

## 15. ONLINE SERVICE FEES

Currently, we do not charge a fee for use of the Digital Services. There may, however, be a charge in connection with your use of some of the features available through the Digital Services (i.e. if you request a stop payment of a check). Please refer to the Schedule of Fees applicable to your accounts for more information. We reserve the right at any time to change, add or modify any fees and charges and will give you notice of such changes in accordance with applicable law. By continuing to utilize the Digital Services after such fee changes become effective, you are deemed to have accepted such fee changes.

You agree to pay such fees and authorize us to deduct such fees from any accounts you maintain with us. If there are insufficient funds in your accounts to pay these fees, you agree to promptly remit payment to the Bank upon demand.

## 16. LIABILITY FOR UNAUTHORIZED TRANSFERS OR PAYMENTS-FOR CONSUMER ACCOUNTS ONLY

Each time you use the Digital Services to process a transfer or payment transaction, you warrant that you are an owner or authorized signer on the Account from which the funds are being drawn to make such transfer or payment. The Bank is entitled to act on instructions received using

your Access Information and you agree that the use of your Access Information will have the same effect as your signature authorizing the transaction.

If we do not complete a transfer or payment from your Account on time or in the correct amount in accordance with our agreement with you, we will be liable for your losses or damages as required by applicable law. We will not, however, be liable in any way for any failure or delay in completing any such transaction if:

- (i) through no fault of ours, your Account does not contain sufficient funds to make the transfer or payment, or the transfer or payment would exceed any applicable overdraft protection for such Account;
- (ii) the Digital Services, your computer, mobile device or software was not functioning properly at the time you attempted to initiate the transaction and it was evident to you at the time you began the transaction;
- (iii) circumstances beyond our control prevent us from making the transfer or payment such as acts of God, natural disasters, fires, floods, acts of government authority, terrorist acts, acts of public enemy or war, riot, civil disturbance, insurrection, labor difficulty, power outages or interruptions, telecommunications failure, severe adverse weather conditions, postal strikes, or other causes beyond our reasonable control;
- (iv) you do not provide us with complete and correct payment or transfer information, or you do not follow the instructions in these Terms and Conditions or any other agreement with us for requesting a transfer or payment;
- (v) the funds in your Account are subject to legal process or other encumbrance restricting the transfer or payment;
- (vi) a timely payment or transfer was made but the payee fails to timely credit your account after receipt.

This list is meant to illustrate circumstances under which we would not be liable for failing to make a transfer or payment and is not intended to list all of the circumstances where we would not be liable.

## 17. UNAUTHORIZED TRANSACTIONS

### A. FOR CONSUMER ACCOUNTS ONLY

You must tell us AT ONCE if you believe your Access Information has been stolen or used without your permission, or if you believe that an unauthorized online

transaction or payment has been made from any of your Accounts. Telephoning us is the best and fastest way of keeping your possible losses to a minimum. If you do not do so, you could lose all the money in each of your Accounts, as well as all of the available funds in any overdraft protection account. If you tell us within two (2) Business Days after you discover the loss or theft, you can lose no more than \$50 if someone uses your Access Information without your permission. If you do not tell us within two (2) Business Days after you discover the loss or theft or unauthorized use, and we can prove we could have stopped someone from making a transfer or payment without your authorization if you had told us, you could lose as much as \$500.

Also, if your statement shows transactions that you did not authorize, tell us AT ONCE. If you do not tell us within sixty (60) days after a statement showing such a transfer or payment was transmitted to you, you may not get back any money lost after the sixty (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) prevented you from telling us, we may extend the time periods.

### B. FOR BUSINESS ACCOUNTS ONLY

You are responsible for all transfers and payments that are made using your Access Information. We shall have no liability to you for any errors or losses you sustain in using the Digital Services except where we fail to exercise ordinary care in processing any transaction. Without regard to care or lack of care of either of us, a failure to report to us any unauthorized transfer, payment or error from any of your Accounts within sixty (60) days of our providing or making available to you your account statement reflecting such unauthorized transfer, payment or error shall relieve us of any liability for any losses sustained after the expiration of such sixty (60) day period and you shall thereafter be precluded from asserting any such claim or error.

## 18. IN CASE OF ERRORS AND QUESTIONS ON YOUR ACCOUNTS

### A. FOR CONSUMER ACCOUNTS ONLY

In case of errors or questions about transfers or payments made through the Digital Services, you should contact us, as soon as possible, by calling us at (877) 779-BANK (2265) or writing to us at the following address:

BANKUNITED OPERATIONS/EFT ERROR  
7815 NW 148th Street  
Miami Lakes, Florida 33016

If you think your statement is incorrect or you need more information about a transaction performed through the Digital Services that is listed on the statement, we must hear from you no later than sixty (60) days after the FIRST statement was sent to you on which the problem or error appears. You must:

1. Tell us your name and account number;
2. Describe the error or the transaction in question, and explain as clearly as you can why you believe it is an error or why you need more information; and
3. Tell us the dollar amount of the suspected error.

If you tell us orally, we may require that you send your complaint in writing within ten (10) Business Days. We will determine whether an error occurred within ten (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 forty-five (45) days (or ninety (90) days if your account was opened less than thirty (30) days prior to the date of the suspected error) to investigate your complaint or question. If we decide to do this, we will provisionally credit your account within ten (10) Business Days (or twenty (20) Business Days if your account was opened less than thirty (30) days prior to the date of the suspected error) 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 ten (10) Business Days, we may not provisionally credit your account.

We will tell you the results within three (3) Business Days after completing our investigation. If we determine that there was no error, we will send you a written explanation. You may ask for copies of documents that we used in our investigation. We may revoke any provisional credit provided to you if we find an error did not occur.

## **B. FOR BUSINESS ACCOUNTS ONLY**

In case of errors or questions about transfers or payments made through the Digital Services, you should contact us, as soon as possible by calling us at (877) 779-BANK (2265) or writing to us at the following address: BANKUNITED OPERATIONS/EFT ERROR, 7815 NW 148th Street, Miami Lakes, Florida 33016. If you think that your statement is wrong or you need more information about a transfer or payment listed on the statement, we must hear from you no later than sixty (60) days after we sent or otherwise made available to you the FIRST statement on which the problem or error appeared. Failure to so notify us will preclude you from

being able to assert a claim based on such problem or error. Any errors reported to us will be investigated by us and we will advise you of the results of our investigation.

## **19. REPRESENTATIONS AND WARRANTIES; LIMITATION OF LIABILITY**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE DIGITAL SERVICES IS AT YOUR SOLE RISK. THE DIGITAL SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. WE EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND RELATING TO THE DIGITAL SERVICES, WHETHER EXPRESS OR IMPLIED INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND ANY IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE.

WE MAKE NO REPRESENTATION OR WARRANTY THAT THE DIGITAL SERVICES WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, OR THAT THE DIGITAL SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE. WE FURTHER DISCLAIM ANY REPRESENTATION OR WARRANTY THAT ANY ERRORS IN TECHNOLOGY WILL BE CORRECTED. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE DIGITAL SERVICES IS OBTAINED AT YOUR OWN DISCRETION AND RISK, AND WE ARE NOT RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL, WHETHER DUE TO COMPUTER VIRUS OR OTHERWISE. WE MAKE NO REPRESENTATION OR WARRANTY AS TO THE COMPLETENESS, ACCURACY OR RELIABILITY OF ANY THIRD-PARTY INFORMATION OR DATA THAT YOU OBTAIN THROUGH THE USE OF THE DIGITAL SERVICES.

WE MAY PERIODICALLY AMEND, ADD, DELETE, UPDATE OR ALTER THE DIGITAL SERVICES INCLUDING, WITHOUT LIMITATION, THESE TERMS AND CONDITIONS. EXCEPT AS OTHERWISE REQUIRED BY APPLICABLE LAW, WE ASSUME NO LIABILITY OR RESPONSIBILITY FOR ANY ERRORS OR OMISSIONS IN THE CONTENT OF THE DIGITAL CHANNELS AND WE SPECIFICALLY DISCLAIM ANY DUTY TO UPDATE THE INFORMATION ON THE DIGITAL CHANNELS.

YOU AGREE THAT NEITHER WE NOR ANY OF OUR OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, PARENTS, SUBSIDIARIES, AFFILIATES, AGENTS OR THIRD PARTY SERVICE PROVIDERS WILL BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY SPECIAL, INCIDENTAL, DIRECT, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION, LOST PROFITS, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, WARRANTY, TORT,

STRICT LIABILITY OR OTHERWISE, ARISING OUT OF YOUR ACCESS TO OR USE OF THE DIGITAL SERVICES OR THE INABILITY TO ACCESS OR USE THE DIGITAL SERVICES. THIS SECTION SHALL SURVIVE TERMINATION OF YOUR USE OF THE DIGITAL SERVICES.

## 20. SERVICE DISRUPTION

Maintenance to the Digital Services may be performed from time-to-time resulting in interrupted service, delays or errors. The Bank shall have no liability for any such interruptions, delays or errors. We will attempt to provide prior notice of scheduled maintenance, but we cannot guarantee that such notice will be provided.

## 21. LIMITATIONS OF SERVICE

You agree that we shall not be responsible for any delay or other difficulties you may experience when using the Digital Services arising out of the acts or omissions of any third parties, including, but not limited to, various communication services, courier services, the Federal Reserve System, any other bank or any third party, fire, mechanical, computer or electrical failures or other unforeseen contingencies, strikes or any similar or dissimilar cause beyond our reasonable control.

## 22. GEOGRAPHIC CONSTRAINTS

You agree that you will not use the Digital Services in locations that are prohibited under United States laws and regulations including, without limitation, laws and regulations issued and administered by the United States Treasury Office of Foreign Assets Control.

## 23. INDEMNIFICATION

You acknowledge and agree that you are personally responsible for your conduct while using the Digital Services and agree to indemnify and hold us and our officers, directors, employees, shareholders, parents, subsidiaries, affiliates, agents and third party service providers harmless from and against any losses, damages, liabilities, costs or expenses of any kind including, without limitation, reasonable attorney's fees, court costs and related litigation costs and expenses, that we may incur in connection with any third party claim or otherwise, arising out of or concerning your use of the Digital Services or the use of the Digital Services by anyone using your Access Information, or your violation of these Terms and Conditions. Your obligations under this section shall survive termination of these Terms and Conditions.

## 24. DISCLOSURE OF ACCOUNT INFORMATION TO THIRD PARTIES

It is our general policy to treat your account information as confidential. However, we will disclose information to third parties about your account or the transactions you make ONLY in the following situations:

- where it is necessary for completing transactions;
- where it is necessary for activating additional services;
- in order to verify the existence and condition of your account to a third party, such as a credit bureau or merchant;
- to a consumer reporting agency for research purposes only;
- in order to comply with a governmental agency or court order;
- if you give us your written permission; and
- in accordance with our Privacy Policy.

## 25. UNLAWFUL TRANSACTIONS

You agree not to use the Digital Services for any illegal or unlawful purpose. You acknowledge and agree that we have no obligation to monitor or review your transactions for legality and that we may presume that all of your transactions are legal in all applicable jurisdictions. We reserve the right, however, to decline any transaction that we believe is an illegal transaction or a high-risk transaction in any applicable jurisdiction. We are not responsible for the recovery or reimbursement to you of any funds transferred in connection with any authorized transaction that is determined to be illegal.

You further agree not to use your Account or any of the Digital Services to engage in any internet or online gambling transaction including, without limitation, those activities prohibited by the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. Section 5361 et seq. We reserve the right to decline any transaction that we believe is an internet or online gambling transaction.

You agree not to attempt to log on to the Digital Services from any country under sanctions by the Office of Foreign Assets Control (OFAC). Information regarding which countries are under sanctions may be obtained on the United States Department of Treasury website. Any attempt to log on to the Digital Services from one of these countries may result in your access being restricted and/ or terminated.

## 26. TERMINATION

We may terminate your use of the Digital Services, in whole or in part, at any time and for any reason without prior notice including, without limitation, your failure to access the Digital Services for a period of three consecutive months or longer.

You may terminate your rights to use the Digital Services by notifying us in writing. You authorize us to continue making transfers, payments and other transactions you have previously authorized through the Digital Services until such time as we have had a reasonable opportunity to act upon your instructions. It is your responsibility to cancel any recurring or future dated transfers prior to cancelling the Digital Services as these transfers will not be terminated unless you do so. Notwithstanding the foregoing, all recurring transfers and payments must be cancelled prior to terminating the Digital Services.

Upon any termination you shall immediately discontinue use of the Digital Services. Any termination shall not affect your liabilities or obligations under these Terms and Conditions for any transactions initiated prior to such termination.

## 27. AREA OF SERVICE

Unless otherwise agreed to by the Bank, the Digital Services described in this Agreement are offered to citizens and legal residents of the United States of America.

## 28. SERVICE PROVIDERS

You acknowledge that the Bank may engage third party service providers to provide some or all of the Digital Services. The Bank shall have no obligation to disclose any such arrangements with third parties to you or obtain your consent thereto. You agree that we have the right to delegate to such service providers all of the rights and performance obligations that we have under this Agreement and that such service providers will be third party beneficiaries of this Agreement and will be entitled to all the rights and protections that this Agreement provides to us.

## 29. AMENDMENT

We may amend, revise or modify these Terms and Conditions at any time and from time to time in our sole discretion. We will post the amended terms and conditions on the Digital Services, together with a notice that these Terms and Conditions have been amended. Any use of the Digital Services following such notice will constitute your agreement to such change(s). The revised version will be effective at the time it is posted unless a delayed effective date is required by law and is expressly stated in the revision. You understand and agree that notwithstanding

the foregoing, we reserve the right to provide any such notice of change to you in printed form. Further, we may, from time to time, revise or update the applications, services, and/or related material, which may render all such prior versions obsolete. Consequently, we reserve the right to terminate these Terms and Conditions as to all such prior versions of the applications, services, and/or related material and limit access to only the most recent revisions and updates.

## 30. ASSIGNMENT

You may not assign any of your rights and obligations under these Terms and Conditions. We may assign our rights and obligations under these Terms and Conditions with no further liability.

## 31. DATA RECORDING

When you contact us, the communication or the information you provide may be recorded or otherwise retained by us or our service providers for quality assurance and compliance purposes. You agree and consent to the recording of such communications our employees or service providers have with you or your agents related to the Digital Services.

## 32. NO WAIVER

Neither the course of conduct between the parties nor trade practice shall act to modify any provision of these Terms and Conditions. Our failure to insist upon or enforce strict performance of any provision of these Terms and Conditions shall not be construed as a waiver of any of our rights or remedies hereunder, unless such waiver is in writing and signed by us. No delay or omission on our part in exercising any rights or remedies shall operate as a waiver of such rights or remedies or any other rights or remedies. A waiver on any one occasion shall not be construed as a bar or waiver of any rights or remedies on future occasions.

## 33. INTELLECTUAL PROPERTY

All marks and logos related to the Digital Services are either our trademarks or registered trademarks of our third-party service providers or licensors. In addition, all page headers, custom graphics, button icons, and scripts are our service marks, trademarks, and/or trade dress or those of our third-party service providers or licensors. You may not copy, imitate or use any of the above marks without our prior written consent, which we may withhold in our sole discretion, and you may not use them in a manner that is disparaging to us or the Digital Services or display them in any manner that implies our sponsorship or endorsement. All right, title and interest in and to the Digital Services, the technology related to the Digital Services, and any and all technology and any content created or derived from

any of the foregoing, is our exclusive property or that of our third party service providers or licensors. You may not copy, reproduce, distribute or create derivative works, reverse engineer or reverse compile the technology for the Digital Services or any other services or technology used in connection with the Digital Services. Moreover, any suggestions, ideas, notes, drawings, concepts or other information you may send to us through the Digital Services shall be considered an uncompensated contribution of intellectual property to us and our third party services providers or licensors, shall also be deemed our and our third party service providers and licensors' exclusive intellectual property and shall not be subject to any obligation of confidentiality on our part. By submitting any such materials to us, you automatically grant (or warrant that the owner of such materials has expressly granted) to us and our third party service providers and licensors a perpetual, royalty-free, irrevocable, non-exclusive right and license to us, reproduce, modify, adapt, publish, translate, publicly perform and display, create derivative works from and distribute such materials or incorporate such materials into any form, medium or technology now known or later developed, and you warrant that all so-called "moral rights" in those materials have been waived, and you warrant that you have the right to make these warranties and transfers of rights.

#### **34. GOVERNING LAW**

These Terms and Conditions shall be governed by and interpreted in accordance with all applicable federal laws, rules and regulations, and as this Agreement applies to each individual account that you may access using the Digital Services, by the applicable state laws, rules and regulations governing such account or the account agreement for such account (to the extent the state laws are not superseded by federal law). Please refer to your Other Agreements to determine in which state your account is located.

#### **35. JURY TRIAL WAIVER**

YOU HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT TO ANY LEGAL PROCEEDING RELATING TO THESE TERMS AND CONDITIONS OR YOUR USE OF THE DIGITAL SERVICES.

#### **36. RISK OF LOSS**

In the event of a system failure or interruption, your data may be lost or destroyed. Any transaction(s) that you were in the process of completing or completed shortly before a system failure or interruption should be verified by you through means other than the Digital Services to ensure the accuracy and completeness of such transaction(s). You assume the risk of loss and shall bear sole liability for any error or loss of your data, information, transactions or other losses which may be due to any system failure or interruption and the responsibility to verify the accuracy and completeness of any transaction(s) so affected.

#### **37. FORCE MAJEURE**

You agree that we shall have no responsibility or liability to you or any third party for failure or delay in our performance under these Terms and Conditions or for any losses due to causes or conditions beyond our control including, without limitation, delays and/or interruptions of business due to any act of God, natural disaster, fire, flood, terrorist act, act of government authority, act of public enemy or war, riot, civil disturbance, insurrection, labor difficulty, power outage or interruption, telecommunications failure, postal strike, severe adverse weather condition, public health emergency, or other causes beyond our reasonable control. The time, if any, required for our performance under these Terms and Conditions shall be automatically extended during the period of such delay or interruption.

#### **38. SEVERABILITY**

If any provision of these Terms and Conditions is determined to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of these Terms and Conditions will not be affected thereby, and each of those provisions will be valid and enforceable to the fullest extent permitted by law.

#### **39. CAPTION HEADINGS AND INTERPRETATION**

The caption headings are for convenience or reference purposes only and are not to be construed as a summary of each provision of this Agreement. Unless it would be inconsistent to do so, words and phrases used in this document should be construed so that the singular includes the plural and the plural includes the singular.

**1-877-779-BANK (2265)**  
**Visit our website at [www.bankunited.com](http://www.bankunited.com)**